

Filed December 23, 1998
Barbara Bloodsworth
By Shirley McNeal, Chief Deputy

BEFORE THE MORROW COUNTY COURT
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW COUNTY)
ZONING ORDINANCE SECTIONS 3.010 (EFU),)
3.042 (SF-40) AND 3.020 (FU), IN ORDER)
TO CODIFY OREGON ADMINISTRATIVE RULES)
FOR GOALS 3 AND 4 (AGRICULTURAL AND FOREST)
LANDS) WHICH BECAME EFFECTIVE June 1, 1998,)
AND TO CODIFY OREGON REVISED STATUTES)
REQUIREMENTS THAT HAVE OCCURRED SINCE THE)
ZONING ORDINANCE WAS ACKNOWLEDGED IN 1985.)

ORDINANCE NUMBER MC-C-9-98

The County of Morrow does ordain as follows;

WHEREAS, the Morrow County Planning Commission reviewed the new Oregon Administrative Rules which became effective June 1, 1998; and

WHEREAS, the Morrow County Planning Commission recognized the need to update the Zoning Ordinance to be in compliance with Oregon Revised Statutes; and

WHEREAS, the Morrow County Planning Commission held public hearings on October 26, 1998 at Irrigon, Oregon and November 30, 1998 at Lexington, Oregon;

WHEREAS, the Morrow County Planning Commission voted unanimously to recommend the zoning code amendments be approved; and

WHEREAS, the Morrow County Court reviewed the recommendation for approval by the Morrow County Planning Commission and voted unanimously to uphold the decision of the Planning Commission; and

WHEREAS, the Morrow County Court held a public hearing on December 9, 1998 at Irrigon, Oregon.

NOW THEREFORE, THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

SECTION 1. TITLE OF ORDINANCE.

This ordinance shall be known, and may be cited as, "the 1998 Goal 3 and 4 Zoning Ordinance update."

SECTION 2. TEXT AMENDMENT.

Reference Exhibit A (Exclusive Farm Use Zone)
Exhibit B (Small Farm, SF-40 Zone)
Exhibit C (Forest Zone)

SECTION 3. EFFECTIVE DATE.

This ordinance shall become effective 90 days after the date of its adoption by the Morrow County Court.

DATE OF FIRST READING: December 9, 1998

DATE OF SECOND READING: December 23, 1998

DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 23 DAY OF Dec. 1998.



ATTEST:

Dorinda Hopewell
County Clerk

Louis A. Carlson
Louis A. Carlson, Judge

Raymond J. French
Raymond J. French, Commissioner

John E. Wenzel
John E. Wenzel, Commissioner

APPROVED AS TO FORM:

County Counsel

Section 3.020. FOREST USE, FU ZONE. In an FU Zone, the following regulations shall apply:

(A) USES PERMITTED OUTRIGHT. In an FU Zone, the following uses and accessory uses thereof are permitted outright:

(1) Forest operations or forest practices as defined in Section 1.030 of this ordinance including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, disposal of slash and livestock grazing.

(2) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.

(3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

(4) For the purposes of section (2) above "auxiliary" means 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.

(5) Farm use as defined in ORS 215.203.

(6) Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.

(7) Temporary portable facility for the primary processing of forest products.

(8) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.

(9) Private hunting and fishing operations without any lodging accommodations.

(10) Towers and fire stations for forest fire protection.

(11) Widening of roads within existing rights-of-way in conformance with the County Transportation System Plan including public road and highway projects as described in ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n).

(12) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

(13) Caretaker residences for public parks and fish hatcheries.

(14) Uninhabitable structures accessory to fish and wildlife enhancement.

(15) Temporary forest labor camps.

(16) 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.

(17) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structures.

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system.

(C) Has interior wiring for interior lights.

(D) has a heating system.

(E) 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.

(B) **CONDITIONAL USES PERMITTED.** In an FU Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Section © below and Article 6 of this ordinance.

(1) Permanent facility for the primary processing of forest products.

(2) Permanent logging equipment repair and storage.

(3) Log scaling and weigh stations.

(4) Disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

(5) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.

(6) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8.

(7) Private parks and campgrounds as defined in OAR 660-006-0025(4)(e). Campgrounds in private parks shall only be those allowed by this exception. Except on a lot or parcel contiguous to a lake or reservoir, 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.

(8) Public parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization, including only those uses specified in OAR 660-034-0035.

(9) Television, microwave and radio communication facilities and transmission towers.

(10) Fire stations for rural fire protection.

(11) Aids to navigation and aviation.

(12) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

(13) Reservoirs and water impoundments.

(14) Firearms training facility.

(15) Utility facility 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 Chapter 660, Division 4.

(16) Aggregate, mineral, or other resource exploration, mining and processing as defined in ORS Chapter 520, and not otherwise permitted outright, and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

(17) Private seasonal accommodations for fee hunting operations subject to Section © below, OAR 660-006-0029, and 660-006-0035 and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.

(B) Only minor incidental and accessory retail sales are permitted.

© 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.

(D) Other conditions as the county deems necessary.

(18) Cemeteries.

(19) New electric transmission lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.

(20) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

(21) A 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 as defined in ORS 215.213 and 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

(22) Public road and highway projects as described in ORS 215.213(2)(q) through (s) and (10) and 215.283(2)(p) through (r) and (3).

(23) Private accommodations for fishing occupied on a temporary basis subject to Section (D) below, OAR 660-0060-0029, and 660-060-0035 and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.

(B) Only minor incidental and accessory retail sales are permitted.

© Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission.

(D) Accommodations must be located within 1/4 mile of fish bearing Class I waters.

(E) Other conditions as deemed necessary.

(24) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(25) Expansion of existing airports.

(26) Home occupation as defined in ORS 215.448 carried on by the resident as an accessory use within dwellings or other buildings

(27) Dwellings authorized by ORS 215.720 to 215.750, subject to Section (D) below.

© LIMITATIONS ON CONDITIONAL USES. In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided in Article 6 of this ordinance, the following shall apply to a conditional use permitted in Section (B) above:

(1) Is compatible with farm and forest use, is consistent with the intent and purposes set forth in the State Forest Practices Act, the County's Comprehensive Plan and this ordinance.

(2) Does not interfere seriously with forest uses, accepted forest management practices and farming uses, on adjacent lands devoted to farm and forest use; and

(3) Does not materially alter the stability of the overall land use pattern of the area; and

(4) A written statement recorded with the deed 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 allowed in (B)(7),(13),19),(21) and (24)of this Section.

(5) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. Complies with the minimum fire safety standards listed in the Oregon Department of Forestry's publication, "Fire Safety Considerations for Development of Forested Areas."

(6) Complies with such other conditions as the Commission and/or governing body of the County consider necessary.

(D) MINIMUM SITING STANDARDS FOR DWELLINGS. A dwelling permitted in Section (B) may be allowed if it meets the criteria set forth in subsection (1), (2) or (3) below. Criteria set forth in subsections (4) thru (9) and Sections (E) and (F) applies to all dwellings in the FU Zone.

(1) Lot of record dwelling:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:

(i) Since prior to January 1, 1985, or

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

(B) the tract on which the dwelling will be sited does not include a dwelling.

© The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exist is on another lot or parcel that was part of that tract.

(D) For purposes of this section, "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 a business entity owned by any one or combination of these family members.

(2) Acreage Test: If a dwelling is not allowed pursuant to subsection (1), a dwelling may be allowed if it complies with other provisions of law and is sited on a tract that does not include a dwelling and meets the following criteria:

(A) Of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this paragraph.

(3) Soils productivity and developed parcels test: A single family dwelling may be permitted on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(A) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:

(I) all or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(ii) At least three dwelling existed on January 1, 1993, and continue to exist on the other lots or parcels.

(B) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(I) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract;

(ii) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

© Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(I) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(ii) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(4) A proposed dwelling provided for by this Section is not allowed if the tract on which the dwelling will be sited includes a dwelling.

(5) If a tract 60 acres or larger described in subsection (3) above abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road or stream. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

(a) Be located within a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is, to the maximum extent possible

aligned with the road or stream;

(b) Be within 1/4 mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

(6) If the tract under subsection (3) above abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(7) A proposed dwelling under this section is not allowed:

(a) If it is prohibited by or will not comply with the requirements of the Comprehensive Plan;

(b) Unless it complies with the requirements of OAR 660-060-0029 and 660-060-0035;

© Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under subsection (9) below.

(8) The following definitions shall apply to this Section:

(a) "Tract" means one or more contiguous lots or parcels in 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;

(b) "Commercial Tree Species" means trees recognized under rules adopted under ORS 527.715 for commercial production.

(9) (a) The applicant for a dwelling authorized under Section (3) above that requires one or more lot or parcel to meet the minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the Morrow County Clerk. (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

(E) SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN FOREST ZONES

The following siting criteria or their equivalent shall apply to all new dwellings and structures in the forest zone. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands.

(1) Dwellings and structures shall be sited on the parcel so that:

(a) They have the least impact on nearby or adjoining forest or agricultural lands;

(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

© The amount of forest lands used to site access roads, service corridors, the

dwelling and structures is minimized; and

(d) The risks associated with wildfire are minimized.

(2) Siting criteria for Uses Permitted Outright in Section (1)

may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR Chapter 629). For purposes of this section, evidence of a domestic water supply means:

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

© Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

(4) As a condition of approval, if a road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(5) Approval of a dwelling shall be subject to the following requirements:

(a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;

(b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

© If The lot or parcel is more than 30 acres, as defined in ORS 321.405, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forest rules.

(d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

(e) The county shall require as a condition of approval of a single-family dwelling

under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(F) FIRE SITING STANDARDS FOR DWELLING AND STRUCTURES

The following fire siting standards or their equivalent shall apply to new dwelling or structures in a forest zone:

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included with the nearest such district. If the county determines that inclusions within a fire protection district or contracting for residential fire protection is impracticable, the county may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be 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 continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

(2) Road access to the dwelling shall meet road design standards described in Morrow County Transportation System Plan.

(3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" date March 1, 1991 and published by the Oregon Department of forestry.

(4) The dwelling shall have a fire retardant roof.

(5) The dwelling shall not be sited on a slope of greater than 40 percent.

(6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

(G) DIMENSIONAL STANDARDS. In an FU Zone, the following dimensional standards apply:

(1) The minimum lot size for new lots or parcels in the FU Zone shall be 160 acres. (Note:

minimum lot size for purposes of siting a dwelling is 240 acres.) A parcel 80 acres in size or larger may also be considered.

(H) NEW LAND DIVISION REQUIREMENTS IN THE FOREST ZONE.

All land partitions in the forest zone must meet the 80 acre minimum lot size and must comply with land partition standards of the Subdivision Ordinance.

(1) New land divisions less than the minimum parcel size may be approved for any of the following circumstances:

(a) For the uses listed in Section (B) (1) through (17) provided that such uses have been approved pursuant to Section C and the land division created is the minimum size necessary for the use.

(b) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1). Parcels created pursuant to this subsection:

(A) Shall not be eligible for siting of new dwelling;

(B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) Shall not result in a parcel of less than 35 acres, except:

(i) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or

(ii) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

(D) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone.

(I) SETBACK REQUIREMENTS. In an FU Zone, the minimum yard and setback requirements shall be as follows:

(1) The front yard setback from the property line shall be 20 feet for property on a local street and 40 feet on a minor collector, 60 feet from a property line fronting on a major collector ROW, and 100 feet from a property line fronting on an arterial.

(2) Each side yard setback shall be a minimum of 25 feet, and for parcels or lots with side yards adjacent to forest lands the adjacent side yards shall be a minimum of 200 feet, except as approved by the Commission.

(3) Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to forest lands, side yard setbacks shall be a minimum of 100 feet, except as approved by the Commission.

(4) Stream Setback. All sewage disposal installations such as outhouses, septic tank and drain field systems shall be set back from the high-water line or mark along

all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

(5) Big Game Range Restrictions. In the case of Forest Use areas identified as Big Game Habitat, no dwellings will be authorized where the overall density within a square mile exceed one dwelling per 160 acres. Section 3.200 also applies to the siting of a dwelling on Big Game Habitat.

End Forest Use Zone
12/21/98

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ARTICLE 3. USE ZONES

Section 3.042. SMALL FARM, SF-40 ZONE. In an SF-40 Zone, the following regulations shall apply:

A. PURPOSE

The purpose of the Small Farm, SF-40 Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing and future needs, including economic needs that pertain to the production of agricultural products, and to permit the establishment of only those uses that are compatible with agricultural activities.

Although the Small Farm, SF-40 Zone was acknowledged as an SF-40 Zone with a 40 acre minimum lot size in the County's Comprehensive Plan in 1985, Oregon Revised Statutes passed subsequently by the Oregon Legislature require the minimum lot size in all SF-40 Zones to be 80 acres.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Exclusive Farm Use Zone shall comply with the following regulations.

B. DEFINITIONS

(1) Agricultural Land: as defined in Oregon Administrative Rule 660-33-020.

(2) Farm Use: as defined in ORS 215.203 and in Article 1 of this Ordinance.

(3) High Value Farmland: as defined in ORS 215.710. (For information about soil classification, refer also to the "Soil Survey of Morrow County, Oregon.)

(4) Date of Creation and Existence: When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

(5) Tract: one or more contiguous lots or parcels under the same ownership, including lots or parcels divided by a County or Public Road, or contiguous at a common point. Lots divided by a State Highway are not considered contiguous.

(6) Golf Course: an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(e) is more clearly defined in OAR 660-033-130(20).

(7) Irrigated: land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, or receives water for irrigation from a water or irrigation district or other provider.

(8) Farm Stand: a use or structure designed and used for sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(9) Owner: For purposes of a Lot of Record Dwelling, "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, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(C) USES PERMITTED OUTRIGHT. In an SF-40 Zone the following uses and their accessory uses are permitted subject to the applicable provisions set forth by this ordinance.

(1) Farm use as defined by ORS 215.203 and Article 1 of this ordinance, except a use specified in subsection (2) of this section.

(2) Propagation or harvesting of a forest product.

(3) Buildings other than dwellings customarily provided in conjunction with farm use.

(4) One single family dwelling subject to Section (E) below and Section 4.110, customarily provided in conjunction with farm use.

(5) A single family dwelling for an agricultural operator's help (accessory farm dwelling) subject to Section (E) below.

(6) A replacement dwelling may be sited on any part of the same lot or parcel, subject to siting standards in this ordinance. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SF-40, the applicant, as a condition of approval, shall execute and record a deed with the County Clerk, a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the Planning Director and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section.

(7) Creation, restoration and enhancement of wetlands.

(8) Creation, restoration and enhancement of wildlife habitat.

(9) Climbing and passing lanes within a highway right-of-way existing as of July 1, 1987.

(10) Reconstruction or modification of public roads and highways not including additional travel lanes, where no removal or displacement of structures would occur and not resulting in any new land parcels.

(11) Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.

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

(13) Alteration, restoration or replacement of a lawfully established dwelling that meets all the following criteria:

- a. Has intact interior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring or interior lights;
- d. Has a heating system; and
- e. In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.

(14) Restoration or replacement of the lawful use of any building, structure or land may be permitted when the restoration is made necessary by fire, other casualty or natural disaster, and shall meet the following:

- a. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- b. Any use interrupted or abandoned by casualty or natural disaster for more than (12) months may not be resumed unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(15) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in an inventory of historic property and is listed on the National Register of Historic Places.

- (16) Utility and transmission towers not exceeding 200 feet in height.
- (17) Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4, and further that no such use may be authorized on high value farmland.
- (18) Churches and cemeteries in conjunction with churches except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland.
- (19) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland.
- (20) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- (21) Operations for the exploration of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. (Processing of said resources is a conditional use.)
- (22) Seasonal farm worker housing provided for seasonal farm workers as defined in ORS 197.675 and to be occupied for no more than nine months not to exceed 273 days within any calendar year. The housing shall also meet the requirements of ORS 197.685.
- (23) A winery as described in ORS 215.452.
- (24) Subdivisions and Series Partitions for the purpose of establishing “non-farm dwellings” pursuant to ORS 92.010 - 92.190, and 92.305-92.495 are prohibited in the Exclusive Farm Use Zone.

(25) Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.

(26) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary, subject to restrictions of OAR 660-033-130(26).

D. **CONDITIONAL USES PERMITTED.** In an SF-40 Zone, the following uses and their accessory uses may be permitted subject to demonstration of compliance with the requirements of Article 6 of this ordinance and Section (G) below:

(1) Single-family residential dwellings including mobile homes subject to Section 4.110 of this ordinance, not provided in conjunction with farm use, subject to approval pursuant to the limitations set forth by section (F) below.

(2) One single family dwelling on a tract of record, meeting the following qualifications:

a. The lot or parcel on which the dwelling will be sited was lawfully created and owned continuously by the present owner as defined in the definitions section:

(1) Since prior to January 1, 1985; or

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

b. The tract upon which the dwelling is to be sited does not include another dwelling.

c. 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;

d. The lot or parcel upon which the dwelling is to be sited is not on high value farmland as defined in the definitions section.

e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

f. The director or the director's designee shall notify the county assessor of any decision to permit a dwelling under this section.

g. Land use approval for a single family dwelling meeting requirements of this section may be transferred one time to any

other person, prior to issuance of a building permit.

h. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

I. Notwithstanding the requirements of paragraph (d), a single-family dwelling may be sited on high-value farmland if:

(1) It meets the other requirements of this section.

(2) The lot or parcel is protected as high-value farmland as defined in OAR 660-33-020(8)(a); and

(3) 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, the 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.

(3) Accessory (secondary) farm dwellings, including mobile homes subject to Section 4.110, customarily provided in conjunction with farm use and meeting the following minimum requirements:

(a) It meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and

(B) The accessory dwelling will be located:

(i) On the same lot or parcel as the dwelling of the principal farm dwelling; or

(ii) On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is

consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(iii) On a lot or parcel on which the principal farm dwelling is located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under these rules.

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) above, the principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

(I) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(B) On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale

of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

© The county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of Section (E), a parcel may be created consistent with the minimum parcel size requirements in Section (H).

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section (F).

(e) As a condition of approval, the landowner for the dwelling shall sign and record in the Morrow County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(4) 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 resident.

A medical hardship dwelling may be permitted subject to conformance with the following:

(1) A manufactured dwelling allowed under this provision is a temporary use for the term of hardship suffered by the existing resident or relative.

(2) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

(3) When the hardship ends, the manufactured home shall be removed and may not be used to justify a dwelling under any other provision of this ordinance.

(4) Hardship means a medical hardship or hardship for the care of an aged or infirm person or persons.

(5) The Planning Commission or Planning Director shall review the permit authorizing such manufactured home every two years.

(6) 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 section is not eligible for replacement under ORS 215.213(l)(u) or 215.283(l)(t).

- (5) Residential home as defined in ORS 197.675 in an existing dwelling.
- (6) Room and board (bed and breakfast) arrangements for a maximum of five unrelated persons in an existing residence,
- (7) Livestock sales yard, hog or mink farm within one mile of a lot in a residential zone.
- (8) Commercial activities that are in conjunction with farm uses but not including the processing of farm crops pursuant to ORS 215.213(l)(x) and 215.283(l)(u).
- (9) Propagation, cultivation, maintenance, and harvesting of aquatic or insect species. An application for insect species shall also be subject to OAR 660-033-0130(27).
- (10) Operations conducted for the exploration, 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.
- (11) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other mineral resources or other subsurface resources subject to ORS 215.298 and Article 6 of this Ordinance.
- (12) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing orchard, which is planted as of the date that the application for asphalt production is filed, and subject to Article 6 of this Ordinance.
- (13) Private parks, playgrounds, hunting and fishing preserves and campgrounds except that such use as are prohibited on high value farmland. 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 shall meet the definition of Oar 660-033-130(19).

(14) Parks, playgrounds or community centers owned by a governmental agency or non-profit community organization.

(15) Golf Courses except that such uses are prohibited on high value farmland.

(16) Commercial utility facilities for the purposes of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.

(17) Utility facilities "necessary" for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. A utility facility is deemed to be "necessary" if it must be situated in an agricultural zone in order for the distribution of power to area customers.

(18) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1976 shall continue to be permitted subject to any application regulations of the Aeronautics Division.

(19) Home occupation.

Home occupations may be permitted in accordance with the following:

On High Value lands:

- a. Homes occupations may only be authorized in existing dwelling and structures accessory to an existing dwelling.
- b. Home occupations may not be authorized in structures accessory to resource use.
- c. A home occupation located on high-value farmland may employ only residents of the home.

On all other SF-40 lands:

- a. A home occupation shall be operated by a resident or employee

- of a resident of the property on which the business is located.
- b. A home occupation shall employ on the site no more than five full time or part time persons.
 - c. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses permitted in the zone in which the property is located.
 - d. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
 - e. Construction of a structure that would not otherwise be allowed in the zone is not permitted.

(20) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203.

(21) Dog kennels, except that such uses are prohibited on high value farmland.

(22) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(23) Construction of additional passing and travel lanes requiring the acquisition of right-of-way, but not resulting in the creation of new land parcels.

(24) Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.

(25) Improvement of public roads 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.

(26) Farm ranch recreation, pursuant to Oregon Law Chapter 728 (1997), in conjunction with a commercial farming or ranching operation subject to Article 6.

(27) Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

(28) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(29) Operations for the extraction and bottling of water.

(30) Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-96-020.

(31) A wildlife habitat conservation and management plan pursuant to ORS 215.804.

(32) A facility for the processing of farm crops, subject to OAR 660-033-0130(28).

(E) REQUIREMENTS FOR DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE

1. High Value Land. On land identified as high value farm land, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The subject tract is currently employed for the farm use that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.
- b. Except as permitted in ORS 215.283(1)(q), there is no other dwelling on the subject tract.
- c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income.
- d. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

2. 160-acre test. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The parcel on which the dwelling will be located is at least 160 acres.
- b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
- c. The dwelling will be occupied by an owner or a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock,

at a commercial scale. If the owner is not principally engaged in the day to day farm operation, no accessory dwelling for farm help may be authorized.

d. There is no other dwelling on the subject tract.

3. Income Test. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years gross annual income of at least \$40,000; and

b. There is no other dwelling on the subject tract; and

c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in(a) above.

d. In determining the gross income required by the subsection the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted.

4. Capability Test. If the county prepares the potential gross sales figures pursuant to OAR 660-33-0135(4), the county may determine that, on land not identified as high value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.

b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection a above.

c. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection b above.

d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres in size.

e. Except as permitted in ORS 215.283(l)(p), there is no other dwelling on the subject tract.

f. If no farm use has been established at the time of application,

land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection c above.

g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

(F) REQUIREMENTS FOR DWELLING NOT PROVIDED IN CONJUNCTION WITH FARM USE.

Dwelling not provided in conjunction with farm use may be authorized upon findings that:

1. There is no other dwelling on the parcel.
2. 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.
3. 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 shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. 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 residential or other urban on nonresource uses shall not be included in the study area.
 - (B) Identify within the study area the broad types of farm use (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwelling (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 under this section, 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 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.

4. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.

A lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not “generally unsuitable.” A lot or parcel is presumed to be suitable if it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

5. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices

Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.

If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

6. Shall not be located within one mile of a livestock commercial feedlot, livestock sales yard, slaughter house, hog or mink farm, or within one-quarter (1/4) mile of agricultural lands capable of being intensively farmed, unless adequate provisions are provided and approved by the Commission for a buffer between such uses. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of such proposed use or the agriculture of the area.

(G) **LIMITATIONS ON CONDITIONAL USES** In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Article 6 of this ordinance, the following limitations shall apply to a Conditional Use in the SF-40 Zone.

(H) **DIMENSIONAL STANDARDS.** In an SF-40 Zone, the following dimensional standards shall apply:

- (1) The minimum lot size or parcel size shall be 80 acres.
- (2) The minimum average lot width shall be 150 feet.

(3) The minimum average lot depth shall be 150 feet.

(I) Yards. In an SF-40 Zone, the minimum yard setback requirements shall be as follows:

(1) The front yard setback from the property line shall be a minimum of 100 feet if the property line is adjacent to an intensive agricultural use except as approved by the Commission; otherwise, front yards shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.

(2) Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Commission.

(3) Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Commission.

(4) Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

END SF-40
12/21/98

ARTICLE 3. USE ZONES

Section 3.010. EXCLUSIVE FARM USE, EFU ZONE. In an EFU Zone, the following regulations shall apply:

A. PURPOSE

The purpose of the Exclusive Farm Use Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing and future needs, including economic needs that pertain to the production of agricultural products, and to permit the establishment of only those uses that are compatible with agricultural activities.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Exclusive Farm Use Zone shall comply with the following regulations.

B. DEFINITIONS

(1) Agricultural Land: as defined in Oregon Administrative Rule 660-33-020.

(2) Farm Use: as defined in ORS 215.203 and in Article 1 of this Ordinance.

(3) High Value Farmland: as defined in ORS 215.710. (For information about soil classification, refer also to the "Soil Survey of Morrow County, Oregon.)

(4) Date of Creation and Existence: When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

(5) Tract: one or more contiguous lots or parcels under the same ownership, including lots or parcels divided by a County or Public Road, or contiguous at a common point. Lots divided by a State Highway are not considered contiguous.

(6) Golf Course: an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(e) is more clearly defined in OAR 660-033-130(20).

(7) Irrigated: land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, or receives water for irrigation from a water or irrigation district or other provider.

(8) Farm Stand: a use or structure designed and used for sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(9) Owner: For purposes of a Lot of Record Dwelling "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, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(C) USES PERMITTED OUTRIGHT. In an EFU Zone the following uses and their accessory uses permitted subject to the applicable provisions set forth by this ordinance.

(1) Farm use as defined by ORS 215.203 and Article 1

of this ordinance, except a use specified in subsection (2) of this section.

- (2) Propagation or harvesting of a forest product.
- (3) Buildings other than dwellings customarily provided in conjunction with farm use.
- (4) One single family dwelling subject to Section (E) below and Section 4.110, customarily provided in conjunction with farm use.
- (5) A single family dwelling for an agricultural operator's help (accessory farm dwelling) subject to Section (E) below.
- (6) A replacement dwelling may be sited on any part of the same lot or parcel, subject to siting standards in this ordinance. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, the applicant, as a condition of approval, shall execute and record a deed with the County Clerk, a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the Planning Director and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section.
- (7) Creation, restoration and enhancement of wetlands.
- (8) Creation, restoration and enhancement of wildlife habitat.
- (9) Climbing and passing lanes within a highway right-of-way existing as of July 1, 1987.
- (10) Reconstruction or modification of public roads and highways not including additional travel lanes, where no removal or displacement of structures would occur and not resulting in any new land parcels.
- (11) Temporary public road and highway detours that will be abandoned and

restored to original condition when no longer needed.

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

(13) Alteration, restoration or replacement of a lawfully established dwelling that meets all the following criteria:

- a. Has intact interior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring or interior lights;
- d. Has a heating system; and
- e. In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.

(14) Restoration or replacement of the lawful use of any building, structure or land may be permitted when the restoration is made necessary by fire, other casualty or natural disaster, and shall meet the following:

- a. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- b. Any use interrupted or abandoned by casualty or natural disaster for more than (12) months may not be resumed unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(15) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in an inventory of historic property and is listed on the National Register of Historic Places.

(16) Utility and transmission towers not exceeding 200 feet in height.

(17) Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban

growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4, and further that no such use may be authorized on high value farmland.

(18) Churches and cemeteries in conjunction with churches except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland.

(19) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland.

(20) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

(21) Operations for the exploration of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. (Processing of said resources is a conditional use.)

(22) Seasonal farm worker housing provided for seasonal farm workers as defined in ORS 197.675 and to be occupied for no more than nine months not to exceed 273 days within any calendar year. The housing shall also meet the requirements of ORS 197.685.

(23) A winery as described in ORS 215.452.

(24) Subdivisions and Series Partitions for the purpose of establishing “non-farm dwellings” pursuant to ORS 92.010 - 92.190, and 92.305-92.495 are prohibited in the Exclusive Farm Use Zone.

(25) Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.

(26) A site for the takeoff and landing of model aircraft, including such buildings

or facilities as may reasonably be necessary, subject to restrictions of OAR 660-033-130(26).

D. **CONDITIONAL USES PERMITTED.** In an EFU Zone, the following uses and their accessory uses may be permitted subject to demonstration of compliance with the requirements of Article 6 of this ordinance and Section (G) below:

(1) Single-family residential dwellings including mobile homes subject to Section 4.110 of this ordinance, not provided in conjunction with farm use, subject to approval pursuant to the limitations set forth by section (F) below.

(2) One single family dwelling on a tract of record, meeting the following qualifications:

a. The lot or parcel on which the dwelling will be sited was lawfully created and owned continuously by the present owner as defined in the definitions section:

(1) Since prior to January 1, 1985; or

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

b. The tract upon which the dwelling is to be sited does not include another dwelling.

c. 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;

d. The lot or parcel upon which the dwelling is to be sited is not on high value farmland as defined in the definitions section.

e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

f. The director or the director's designee shall notify the county assessor of any decision to permit a dwelling under this section.

g. Land use approval for a single family dwelling meeting requirements of this section may be transferred one time to any other person, prior to issuance of a building permit.

h. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged

comprehensive plan and land use regulations intended to protect the habitat are based.

I. Notwithstanding the requirements of paragraph (d), a single-family dwelling may be sited on high-value farmland if:

- (1) It meets the other requirements of this section.
- (2) The lot or parcel is protected as high-value farmland as defined in OAR 660-33-020(8)(a); and
- (3) 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, the 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.

(3) Accessory (secondary) farm dwellings, including mobile homes subject to Section 4.110, customarily provided in conjunction with farm use and meeting the following minimum requirements:

- (a) It meets all the following requirements:
 - (A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - (B) The accessory dwelling will be located:
 - (I) On the same lot or parcel as the dwelling of the principal farm dwelling; or
 - (ii) On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (iii) On a lot or parcel on which the principal farm dwelling is located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The

deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reappraised under these rules.

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) above, the principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

(I) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(B) On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

© The county shall not approve any proposed division of a lot or

parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of Section (E), a parcel may be created consistent with the minimum parcel size requirements in Section (H).

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section (F).

(e) As a condition of approval, the landowner for the dwelling shall sign and record in the Morrow County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(4) 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 resident.

A medical hardship dwelling may be permitted subject to conformance with the following:

(1) A manufactured dwelling allowed under this provision is a temporary use for the term of hardship suffered by the existing resident or relative.

(2) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

(3) When the hardship ends, the manufactured home shall be removed and may not be used to justify a dwelling under any other provision of this ordinance.

(4) Hardship means a medical hardship or hardship for the care of an aged or infirm person or persons.

(5) The Planning Commission or Planning Director shall review the permit authorizing such manufactured home every two years.

(6) 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 section is not eligible for replacement under ORS 215.213(l)(u) or 215.283(l)(t).

- (5) Residential home as defined in ORS 197.675 in an existing dwelling.
- (6) Room and board (bed and breakfast) arrangements for a maximum of five unrelated persons in an existing residence,
- (7) Livestock sales yard, hog or mink farm within one mile of a lot in a residential zone.
- (8) Commercial activities that are in conjunction with farm uses but not including the processing of farm crops pursuant to ORS 215.213(l)(x) and 215.283(l)(u).
- (9) Propagation, cultivation, maintenance, and harvesting of aquatic or insect species. An application for insect species shall also be subject to OAR 660-033-0130(27).
- (10) Operations conducted for the exploration, 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.
- (11) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other mineral resources or other subsurface resources subject to ORS 215.298 and Article 6 of this Ordinance.
- (12) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing orchard, which is planted as of the date that the application for asphalt production is filed, and subject to Article 6 of this Ordinance.
- (13) Private parks, playgrounds, hunting and fishing preserves and campgrounds except that such use as are prohibited on high value farmland. 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 shall meet the definition of Oar 660-033-130(19).
- (14) Parks, playgrounds or community centers owned by a governmental agency or non-profit community organization..
- (15) Golf Courses except that such uses are prohibited on high value farmland.

(16) Commercial utility facilities for the purposes of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.

(17) Utility facilities “necessary” for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. A utility facility is deemed to be “necessary” if it must be situated in an agricultural zone in order for the distribution of power to area customers,

(18) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1976 shall continue to be permitted subject to any application regulations of the Aeronautics Division.

(19) Home occupation. Home occupations may be permitted in accordance with the following:

On High Value lands:

- a. Homes occupations may only be authorized in existing dwelling and structures accessory to an existing dwelling.
- b. Home occupations may not be authorized in structures accessory to resource use.
- c. A home occupation located on high-value farmland may employ only residents of the home.

On all other EFU lands:

- a. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located.
- b. A home occupation shall employ on the site no more than five full time or part time persons.
- c. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses

permitted in the zone in which the property is located.

d. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

e. Construction of a structure that would not otherwise be allowed in the zone is not permitted.

(20) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203.

(21) Dog kennels, except that such uses are prohibited on high value farmland.

(22) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(23) Construction of additional passing and travel lanes requiring the acquisition of right-of-way, but not resulting in the creation of new land parcels.

(24) Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.

(25) Improvement of public roads 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.

(26) Farm ranch recreation, pursuant to Oregon Law Chapter 728 (1997), in conjunction with a commercial farming or ranching operation subject to Article 6.

(27) Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

(28) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(29) Operations for the extraction and bottling of water.

(30) Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-96-020.

(31) A wildlife habitat conservation and management plan pursuant to ORS 215.804.

(32) A facility for the processing of farm crops, subject to OAR 660-033-0130(28).

(E) REQUIREMENTS FOR DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE

1. High Value Land. On land identified as high value farm land, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The subject tract is currently employed for the farm use that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.
- b. Except as permitted in ORS 215.283(1)(c), there is no other dwelling on the subject tract.
- c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income.
- d. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

2. 160-acre test. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The parcel on which the dwelling will be located is at least 160 acres.
- b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
- c. The dwelling will be occupied by an owner or a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. If the owner is not principally engaged in the day to day farm operation, no accessory dwelling for farm help may be authorized.
- d. There is no other dwelling on the subject tract.

3. Income Test. On land not identified as high-value farmland, a dwelling may be

considered customarily provided in conjunction with farm use if:

- a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years gross annual income of at least \$40,000; and
- b. There is no other dwelling on the subject tract; and
- c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in(a) above.
- d. In determining the gross income required by the subsection the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted.

4. Capability Test. If the county prepares the potential gross sales figures pursuant to OAR 660-33-0135(4), the county may determine that, on land not identified as high value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.
- b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection a above.
- c. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection b above.
- d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres in size.
- e. Except as permitted in ORS 215.283(l)(p), there is no other dwelling on the subject tract.
- f. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection c above.
- g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

(F) REQUIREMENTS FOR DWELLING NOT PROVIDED IN CONJUNCTION WITH FARM USE.

Dwelling not provided in conjunction with farm use may be authorized upon findings that:

1. There is no other dwelling on the parcel.
2. 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.
3. 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 shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. 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 residential or other urban on nonresource uses shall not be included in the study area.

(B) Identify within the study area the broad types of farm use (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwelling (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 under this section, 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.

© 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 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.

4. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.

A lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not “generally unsuitable.” A lot or parcel is presumed to be suitable if it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

5. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed

for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

6. Shall not be located within one mile of a livestock commercial feedlot, livestock sales yard, slaughter house, hog or mink farm, or within one-quarter (1/4) mile of agricultural lands capable of being intensively farmed, unless adequate provisions are provided and approved by the Commission for a buffer between such uses. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of such proposed use or the agriculture of the area.

(G) **LIMITATIONS ON CONDITIONAL USES** In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Article 6 of this ordinance, the following limitations shall apply to a Conditional Use in the EFU Zone.

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(H) **DIMENSIONAL STANDARDS.** In an EFU Zone, the following dimensional standards shall apply:

- (1) A lot or parcel of 160 acres or more shall be considered a farm unit.

(2) A lot or parcel of less than 160 acres, but no less than 80 acres, may be approved as a farm unit pursuant to the Conditional Use Permit process and when found to comply with the Agricultural Lands policies of the Comprehensive Plan and the provisions of Section 5.120 of the Morrow County Subdivision Ordinance.

(3) The minimum average lot width shall be 150 feet with a minimum street frontage of 150 feet, excepting lots within an approved subdivision.

(4) The minimum average lot depth shall be 150 feet.

(5) Big Game Range Restrictions: In the case of Farm Use areas identified as Big Game Habitat no dwelling will be authorized where the overall density within a square mile exceed one dwelling per 160 acres. Section 3.200 also applies to the siting of a dwelling on Big Game Habitat.

(I) Yards. In an EFU Zone, the minimum yard setback requirements shall be as follows:

(1) The front yard setback from the property line shall be a minimum of 100 feet if the property line is adjacent to an intensive agricultural use except as approved by the Commission; otherwise, front yards shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.

(2) Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Commission.

(3) Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Commission.

(4) Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right

angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

END EFU
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