

REVIEWED  
Bwn  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Adopting Title 18, \*  
Deschutes County Zoning Ordinance, \*  
of the Deschutes County Code, \*  
to Implement the LCDC Forest Rule, \*  
and Declaring and Emergency. \*

92 APR 16 AM 11:21  
MARY SUE PENHOLLOW  
COUNTY CLERK

92-12522

0111-1803

ORDINANCE NO. 92-025

WHEREAS, Deschutes County has an acknowledged Comprehensive Plan providing for implementation of Goal 4 through the Forest Rule promulgated by the Land Conservation and Development Commission;

WHEREAS, in implementing the Forest Rule it is necessary to amend certain provisions of Title 18 of the Deschutes County Code, known as the Deschutes County Zoning Ordinance No. PL-20, relating to forest lands;

WHEREAS, public hearings have been held consistent with the requirements of state law concerning implementation of the Forest Rule in Deschutes County; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY ORDAINS as follows:

Section 1. ADOPTION OF AMENDMENTS TO CHAPTER 18.04. Section 18.04.030, Definitions, of the Deschutes County Code, as amended, known as the Deschutes County Zoning Ordinance, is further amended to replace the definition of "Forest Lands" with a new definition, and to add as new definitions "Forest Practice," "Forest Operation," "Commercial Forest Land," "Auxiliary," and "necessary for," all as set forth in Exhibit "A" attached hereto and by this reference attached herein.

Section 2. ADOPTION OF AMENDMENTS TO CHAPTER 18.36. Title 18 of the Deschutes County Code, known as the Deschutes County Zoning Ordinance, as amended, is further amended by replacing Chapter 18.36, F-1 Zone, with the provisions set forth in Exhibit "B," attached hereto and by this reference incorporated herein.

Section 3. ADOPTION OF AMENDMENTS TO CHAPTER 18.40. Title 18 of the Deschutes County Code, known as the Deschutes County Zoning Ordinance, as amended, is further amended by replacing Chapter 18.40, F-2 Zone, with the provisions set forth in Exhibit "C," attached hereto and by this reference incorporated herein.

Section 4. REPEAL OF CHAPTER 18.44. Chapter 18.44, F-3 Zone, of Title 18 of the Deschutes County Code, as amended, known as the Deschutes County Zoning Ordinance, is hereby repealed in its entirety.

1 - ORDINANCE NO. 92-025 (4/15/92)

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Section 5. ADOPTION OF AMENDMENTS TO CHAPTER 18.12. Section 18.12.010, Establishment of Zones, is amended to read as follows:

"18.12.010 Establishment of Zones.

For the purposes of this title, the following zones are hereby established:

<u>Zones</u>	<u>Abbreviations</u>
Exclusive Farm Use Zones	EFU
Multiple Use Agriculture	MUA
Forest Use	F-1
Forest Use	F-2
[Forest Use	F-3]
Open Space/Conservation	OS&C
Surface Mining	SM
Surface Mining Impact Area	SMIA
Rural Residential	RR-10
Rural Service Center	RSC
Rural Service Residential	RSR-M
Rural Service Residential-5	RSR-5
Airport Development	A-D
Airport Height Combining Zone	A-H
Landscape Management Combining	LM
Wildlife Area Combining	WA
Conventional Housing	CH
Flood Plain	FP
Rural Industrial	RI
Research and Development	R&D
Planned Community Zone	PC
Limited Use Combining Zone	LU
Destination Resort	DR"

Section 6. ADOPTION OF AMENDMENT TO CHAPTER 18.128. Chapter 18.128 of the Deschutes County Code, as amended, known as the Deschutes County Zoning Ordinance, is amended to replace Section 18.128.040(G)(a) to read as follows:

"G. Home Occupations.

\* \* \*

a. The home occupation is to be secondary to the [outright uses] residential or other use for which a dwelling has been permitted [in the zone in which the property is located]. It shall be conducted only by members of the family residing on the property. The home occupation shall be conducted in such a way that it has no adverse impact on the residential or in resource zones resource-oriented character of its location."

Section 7. ADOPTION OF AMENDMENT TO CHAPTER 18.128. Chapter 18.128 of Title 18 of the Deschutes County Code, as amended, known as the Deschutes County Zoning Ordinance, is amended to replace Section 18.128.040(P)(b) with the language set forth in Exhibit "D," attached hereto and by this reference incorporated herein.

Section 8. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of any ordinance, ordinance provision, or code section by this ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability incurred under such ordinance, unless a provision of this ordinance shall so expressly provide, and such ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who violated the repealed ordinance.

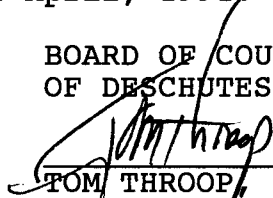
Section 9. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance is adjudged to be invalid by a court of competent jurisdiction that decision shall not affect the validity of the remaining portions of this ordinance.

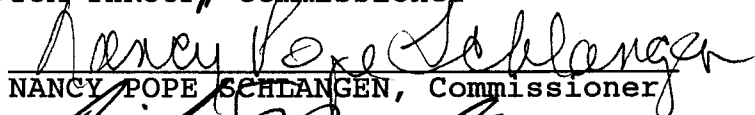
Section 10. CORRECTIONS. This ordinance may be corrected by order of the Board of County Commissioners to cure editorial and clerical errors and to insert appropriate legislative history references.

Section 11. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

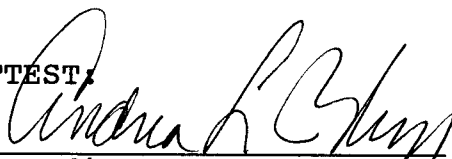
DATED this 15<sup>th</sup> day of April, 1991.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
\_\_\_\_\_  
TOM THROOP, Commissioner

  
\_\_\_\_\_  
NANCY POPE SCHLANGEN, Commissioner

  
\_\_\_\_\_  
DICK MAUDLIN, Chairman

ATTEST:  
  
\_\_\_\_\_  
Recording Secretary

Section 18.04.030 is amended to amend the definition of "Forest Lands" as follows:

[Lands composed of existing and potential forest lands which are suitable for commercial forest uses; and forested lands needed for watershed protection, wildlife and fisheries habitat and recreation; lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use; and other forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.] Lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

Section 18.04.030 is amended to include the definition of "Forest Practice" as follows:

Any operation conducted on or pertaining to commercial forest lands, including but not limited to:

- A. Reforestation of forest land;
- B. Road construction and maintenance;
- C. Harvesting of forest tree species;
- D. Application of chemicals; and
- E. Disposal of slash.

Section 18.04.030 is amended to include the definition of "Forest Operation" as follows:

Any commercial activity relating to the growing and harvesting of forest tree species.

Section 18.04.030 is amended to include the definition of "Commercial Forest Land" as follows:

Land which is used for the growing and harvesting of forest tree species.

Section 18.04.030 is amended to include the definition of "Auxiliary" as follows:

As used in Chapters 18.36 and 18.40, "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 a 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.

Section 18.04.030 is amended to include the definition of "necessary for" as follows:

As used in Sections 18.36.050 and 18.40.050, "necessary for" means the dwelling will contribute substantially to effective and efficient management of the forest land to be managed by the resident(s) of the dwelling.

**NOTE:** Deleted wording is in brackets [ ]; new wording is underlined and bold.

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**CHAPTER 18.36  
FOREST USE - F-1 ZONE**

## SECTIONS:

18.36.010	<b>Purpose</b>
18.36.020	<b>Uses Permitted Outright</b>
18.36.030	<b>Conditional Uses Permitted</b>
18.36.040	<b>Limitations on Conditional Uses</b>
18.36.050	<b>Standards for Forest Management Dwellings</b>
18.36.060	<b>Siting of Dwellings and Structures</b>
18.36.070	<b>Fire Siting Standards for Dwellings and Structures</b>
18.36.080	<b>Fire Safety Design Standards for Roads</b>
18.36.090	<b>Dimensional Standards</b>
18.36.100	<b>Yards and Setbacks</b>
18.36.110	<b>Stream Setbacks</b>
18.36.120	<b>State Law Controls</b>
18.36.130	<b>Rimrock Setbacks</b>

**18.36.010 PURPOSE**

The purpose of the Forest Use Zone is to conserve forest lands.

**18.36.020 USES PERMITTED OUTRIGHT**

The following uses and their accessory uses are permitted outright subject to applicable siting criteria set forth in this Chapter and any other applicable provisions of this Title.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.
- B. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use.
- C. Physical alterations to commercial forest 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. Gravel extraction and processing not

covered by this section is governed by Chapter 18.52 of this Title. 0111-1809

- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Additional local distribution lines (e.g. electric, telephones, natural gas, etc.) within existing rights-of-way or which provide service hookups, including water service hookups, and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals).
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights-of-way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1)(k) through (n).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. Maintenance, repair or replacement of existing dwellings.

**18.36.030            CONDITIONAL USES PERMITTED**

The following uses and their accessory uses may be allowed in the Forest Use Zone subject to applicable provisions of the Comprehensive Plan, Section 18.36.040 of this title and other applicable sections of this title.

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring its use.

- D. 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.
- E. Log scaling and weigh stations.
- F. Disposal site for solid waste for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- G. Parks and campgrounds. For the purpose of this section a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
- H. Mining and processing of oil, gas or other subsurface resources, as defined in ORS Chapter 520.005, and not otherwise permitted under subsection (D) of this section.
- I. Television, microwave and radio communication facilities and transmission towers.
- J. Fire stations for rural fire protection necessary to serve existing development.
- K. Utility facilities for the purpose of generating five (5) megawatts or less of power.
- L. Aids to navigation and aviation.
- M. Water intake facilities, related treatment facilities, pumping stations and distribution lines.
- N. Reservoirs and water impoundments.
- O. Cemeteries.
- P. New distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.
- Q. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- R. Home occupations as defined in Section 18.04.030 and subject to Section 18.128.040(G) of this Title.

- S. Expansion of existing airports.
- T. Public road and highway projects as described in ORS 215.283(2)(p) through (r).
- U. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of this title and the following requirements:
  1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;
  3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  4. Accommodations must be located within 1/4 miles of fish-bearing Class I waters as defined in OAR 629-24-101(7).
- V. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- W. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W) of this Title.
- X. A manufactured home 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 215.283. The use shall be subject to the review criteria in Section 18.116.090 of this Title, as well as those in this Chapter. The manufactured home shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.
- Y. Forest management dwellings on parcels lawfully created prior to April 15, 1992, and where the dwelling is found to be necessary for and accessory to forest operations, including cultured Christmas trees as defined in ORS 215.203(3).

#### **18.36.040            LIMITATIONS ON CONDITIONAL USES**

A use authorized by Section 18.36.030 of this title must meet the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

- A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agriculture or forest lands;
- B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
- C. Prior to final approval of any use listed in Section 18.36.030, the land owner shall sign and record in the County Clerks Office a written statement recognizing the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.

**18.36.050                    STANDARDS FOR FOREST MANAGEMENT DWELLINGS**

- A. In addition to other applicable provisions of this Chapter, a forest management dwelling must meet all of the following requirements:
  - 1. The dwelling is necessary for and accessory to forest operations, including cultured Christmas trees as defined in ORS 215.203(3). That determination shall be based on review of a forest management plan, which shall at a minimum provide information necessary to complete the forest management form referred to in Appendix A of this Chapter regarding the condition and productivity of the lands to be managed, a chronological description of commercial forest management activities to be undertaken by the resident(s) or under contract and estimates of yield, labor and expenses.
  - 2. There are no other dwellings on the property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest management dwelling on the forest operation.
  - 3. The property qualifies for and is enrolled in one of Oregon's forest tax programs.
  - 4. The dwelling will not significantly interfere with, significantly increase the costs of, or impede forest or farm management on adjacent forest and agricultural lands.
  - 5. If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon

Department of Forestry, the 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.

6. The forest lands to be managed by the resident of the proposed dwelling meet the stocking and survival requirements of the Forest Practices Rule for the Eastern Region in effect at the time authorization for a permanent dwelling is requested (OAR 629-24-402).
- B. Approval of a forest management dwelling is not subject to Section 18.128.015 of this Title.
- C. Pursuant to OAR 660-06-027(a) an application for a forest management dwelling is not complete until the applicant provides documentation to the Planning Division showing that the Oregon Department of Forestry has had the opportunity to review and evaluate the condition and productivity of the lands to be managed, the plans for management of the lands, estimates of yield, labor and expenses and the siting of the dwelling and related fire safety measures. The information must be sufficient to enable the Oregon Department of Forestry within 45 days to determine that:
1. The information describing the productivity and current condition of the forest land to be managed is complete and accurate; and
  2. Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density and harvest; and
  3. The siting and safety standards in OAR 660-06-029 and OAR 660-06-035 have been adequately addressed.

#### **18.36.060 SITING OF DWELLINGS AND STRUCTURES**

- A. All new dwellings and structures approved pursuant to Section 18.36.030 or permitted under Section 18.36.020 shall be sited in accordance with this section and Section 18.36.070.

Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:

1. has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
  2. ensures that forest operations and accepted farming practices will not be curtailed or impeded;
  3. minimizes the amount of forest lands used for the building site, road access and service corridors; and
  4. consistent with the provisions of Section 18.36.070 minimizes the risks associated with wildfire.
- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

**18.36.070 FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES**

The following fire siting standards shall apply to all new dwellings and permanent structures (including permitted uses):

- A. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream or lake, then road access to within 15 feet of the waters edge shall be provided for pumping units. The road access shall be constructed and maintained to accommodate the maneuvering of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- B. Road access to the structure shall meet the road design standards described in Section 18.36.080 of this Title.
- C. Prior to use, owners of dwellings and structures shall construct a primary firebreak, not less than 10 feet wide, containing non-flammable materials. This may include walkways, driveways, gravel borders or other similar materials.
- D. Owners of the dwellings and structures shall construct a secondary firebreak of not less than 20 feet outside

the primary firebreak. This firebreak need not be bare ground but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

- E. Owners of the dwellings and structures shall maintain a fuel break extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.
- F. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- G. Dwellings shall not be located on hillsides steeper than 30 percent and containing flammable fuels.
- H. The applicant shall obtain an address from the county address coordinator, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.
- I. All dwellings and structures shall use non-combustible or fire resistant roofing materials. Roof sprinklers are not an acceptable alternative to this standard.

#### **18.36.080 FIRE SAFETY DESIGN STANDARDS FOR ROADS**

The following standards apply to all roads and driveways, except for private roads accessing only commercial forest uses, which access uses permitted under Section 18.36.020 or approved under Section 18.36.030 of this Title:

- A. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.

- B. Access roads shall have an unobstructed horizontal clearance of not less than twenty (20) feet and an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet, and provide an all-weather surface.
- C. Turnarounds shall have a minimum of fifty (50) feet of turn radius with an all-weather surface and be maintained for turning of fire fighting equipment.
- D. Roads grades should not exceed eight (8) percent, with a maximum of 12 percent on short pitches. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states their fire-fighting equipment can negotiate the proposed road grade.

#### 18.36.090 DIMENSIONAL STANDARDS

In the F-1 Zone, the following dimensional standards shall apply:

- A. The minimum lot size is 80 acres; or
- B. Land divisions creating parcels less than 80 acres in size may only be approved for uses listed in Section 18.36.030(D) through (O), provided that those uses have been approved pursuant to Section 18.36.040.
- C. Notwithstanding subsections (A) and (B), above, the Planning Director or Hearings Body may waive the 80-acre minimum lot size to allow a partition of property provided:
  1. The subject property contains a dwelling which existed prior to January 25, 1990; and
  2. The dwelling was constructed under a valid building permit, or was constructed prior to the county's involvement in the permit process and otherwise constitutes a vested use; and
  3. The new parcel containing the dwelling is no larger than 5 acres; and
  4. The remaining forest parcel, not containing the dwelling, meets the minimum lot size; or
  5. The remaining forest parcel, not containing the dwelling, is consolidated with another parcel(s)

creating a legal parcel which meets the minimum lot size. Consolidation shall occur concurrent with final approval of the partition.

#### 18.36.100 YARDS AND SETBACKS

- A. The front yard setback shall be 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector and 100 feet from a property line fronting on an arterial.
- B. Each side yard setback shall be a minimum of 25 feet, except a parcel or lot with a side yard adjacent to zoned forest land shall have a minimum side yard of 100 feet.
- C. Rear yards shall be a minimum of 25 feet, except parcels or lots with rear yards adjacent to zoned forest land shall have a minimum rear yard of 100 feet.
- D. The setback from the north lot line shall meet the solar setback requirements in section 18.116.180 of this title. (Ord, 91-020 § 1, 1991; Ord, 83-037 § 11, 1983.)

#### 18.36.110 STREAM SETBACKS

All sewage disposal installations such as vault toilets, septic tanks and drainfield systems shall be set back from the ordinary high water mark along all streams and lakes a minimum of 100 feet measured at right angles to the ordinary high water mark. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark. (Ord. 91-020 § 1, 1991).

#### 18.36.120 STATE LAW CONTROLS

Forest operations are governed by the State Forest Practices Act. Whenever a use allowed by this section conflicts with or is prohibited by the Oregon Forest Practices Act or regulations promulgated thereunder, state law shall control.

#### 18.36.130 RIMROCK SETBACK

Setbacks from rimrock shall be as provided in Section 18.116.160 of this Title. (Ord. 86-053 § 8, 1986).

*NPS*  
*[Signature]*  
*[Signature]*

## EXHIBIT C

**CHAPTER 18.40  
FOREST USE - F-2 ZONE**

## SECTIONS:

18.40.010	<b>Purpose</b>
18.40.020	<b>Uses Permitted Outright</b>
18.40.030	<b>Conditional Uses Permitted</b>
18.40.040	<b>Limitations on Conditional Uses</b>
18.40.050	<b>Standards for Dwellings</b>
18.40.060	<b>Siting of Dwellings and Structures</b>
18.40.070	<b>Fire Siting Standards for Dwellings and Structures</b>
18.40.080	<b>Fire Safety Design Standards for Roads</b>
18.40.090	<b>Dimensional Standards</b>
18.40.100	<b>Yards and Setbacks</b>
18.40.110	<b>Stream Setbacks</b>
18.40.120	<b>State Law Controls</b>
18.40.130	<b>Rimrock Setbacks</b>

**18.40.010 PURPOSE**

The purpose of the Forest Use Zone is to conserve forest lands.

**18.40.020 USES PERMITTED OUTRIGHT**

The following uses and their accessory uses are permitted outright subject to applicable siting criteria set forth in this Chapter and any other applicable provision of this Title.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.
- B. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use.
- C. Physical alterations to commercial forest 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. Gravel extraction and processing not covered by this section is governed by Chapter 18.52 of this Title.

- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Additional local distribution lines (e.g. electric, telephones, natural gas, etc.) within existing rights-of-way or which provide service hookups, including water service hookups, and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals).
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights-of-way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1)(k) through (n).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. Maintenance, repair or replacement of existing dwellings.

#### **18.40.030           CONDITIONAL USES PERMITTED**

The following uses and their accessory uses may be allowed in the Forest Use Zone subject to applicable provisions of the Comprehensive Plan, Section 18.40.040 and other applicable sections of this Title.

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring its use.

- D. Destination resorts where mapped in a DR zone and subject only to the provisions of Chapter 18.113 and other applicable provisions of Title 18 and the comprehensive plan not contained in this Chapter.
- E. 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.
- F. Log scaling and weigh stations.
- G. Disposal site for solid waste for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- H. Parks and campgrounds. For the purpose of this section a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
- I. Mining and processing of oil, gas or other subsurface resources as defined in ORS Chapter 520.005 and not otherwise permitted under subsection (E) of this section.
- J. Television, microwave and radio communication facilities and transmission towers.
- K. Fire stations for rural fire protection necessary to serve existing development.
- L. Utility facilities for the purpose of generating five (5) megawatts or less of power.
- M. Aids to navigation and aviation.
- N. Water intake facilities, related treatment facilities, pumping stations and distribution lines.
- O. Reservoirs and water impoundments.
- P. Cemeteries.
- Q. New distribution lines (e.g. electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.

- R. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- S. Home occupations as defined in Section 18.04.030 and subject to Section 18.128.040(G) of this Title.
- T. Expansion of existing airports.
- U. Public road and highway projects as described in ORS 215.283(2)(p) through (r).
- V. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of this title and the following requirements:
  - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - 2. Only minor incidental and accessory retail sales are permitted;
  - 3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - 4. Accommodations must be located within 1/4 miles of fish-bearing Class I waters as defined in OAR 629-24-101(7).
- W. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- X. Forest management dwellings necessary for and accessory to forest operations including cultured Christmas trees as defined in ORS 215.203(3).
- Y. Non-forest dwelling.
- Z. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Section 18.120.050 and 18.128.040(W).
- AA. A manufactured home 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 215.283. The use shall be subject to the review criteria in Section 18.116.090 of this title, as well as those in this Chapter. The manufactured home shall use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling.

**18.40.040            LIMITATIONS ON CONDITIONAL USES**

A use authorized by Section 18.40.030 of this Title must meet the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

- A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on adjacent agriculture or forest lands;
- B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
- C. Prior to final approval of any use listed in Section 18.40.030, the land owner shall sign and record in the County Clerks Office a written statement recognizing the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.

**18.40.050            STANDARDS FOR DWELLINGS**

- A. Forest Management Dwelling.

In addition to other applicable provisions of this Chapter, a forest management dwelling must meet all of the following requirements:

- 1. The dwelling is necessary for and accessory to forest operations, including cultured Christmas trees as defined in ORS 215.203(3). That determination shall be based on review of a forest management plan, which shall at a minimum provide information necessary to complete the forest management form referred to in Appendix A of this Chapter regarding the condition and productivity of the lands to be managed, a chronological description of commercial forest management activities to be undertaken by the resident(s) or under contract and estimates of yield, labor and expenses.
- 2. There are no other dwellings on the property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest management dwelling on the forest operation.
- 3. The property qualifies for and is enrolled in one of Oregon's forest tax programs.

4. The dwelling will not significantly interfere with, significantly increase the costs of, or impede forest or farm management on adjacent forest and agricultural lands.
  5. If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the 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.
  6. The forest lands to be managed by the resident of the proposed dwelling meet the stocking and survival requirements of the Forest Practices Rule for the Eastern Region in effect at the time authorization for a permanent dwelling is requested (OAR 629-24-402).
- B. Approval of a forest management dwelling is not subject to Section 18.128.015 of this Title.
- C. Pursuant to OAR 660-06-027(a) an application for a forest management dwelling is not complete until the applicant provides documentation to the Planning Division showing that the Oregon Department of Forestry has had the opportunity to review and evaluate the condition and productivity of the lands to be managed, the plans for management of the lands, estimates of yield, labor and expenses and the siting of the dwelling and related fire safety measures. The information must be sufficient to enable the Oregon Department of Forestry within 45 days to determine that:
1. The information describing the productivity and current condition of the forest land to be managed is complete and accurate; and
  2. Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density and harvest; and
  3. The siting and safety standards in OAR 660-06-029 and OAR 660-06-035 have been adequately addressed.

B. Non-forest Dwelling.

In addition to other applicable provisions of this Chapter a dwelling not related to forest management must meet the eligibility requirements detailed in (1), (2) and (3), and the review standards in (4) through (6):

1. The parcel on which the proposed dwelling is to be located is within a rural fire protection district or the proposed resident presents a signed contract for residential fire protection.
2. The parcel is composed primarily of soils which are:
  - a. Capable of 0 to 50 cf/ac/yr and where this parcel and at least all or part of 7 other parcels exist within a 160 acre square when centered on the center of the subject parcel; or
  - b. Capable of above 50 cf/ac/yr and where this parcel and at least all or part of 11 other parcels exist within a 160 acres square when centered on the center of subject parcel.

(NOTE: Parcels within urban growth boundaries shall not be counted to satisfy the eligibility requirements of subsection (2)(a) or (b)).

3. The parcel on which the dwelling would be located was lawfully created prior to January 25, 1990.
4. The dwelling would not force a significant change in, significantly increase the cost of, or impede accepted farming or forest practices on adjacent agriculture or forest lands.
5. The siting of the dwelling meets the standards in Sections 18.40.060 and 18.40.070.
6. The parcel on which the dwelling would be located has been disqualified from receiving a farm or forest tax deferral.
7. If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the 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 accept responsibility for road maintenance.
8. Approval of a non-forest dwelling is not subject to Section 18.128.015 of this Title.

C. Sunset Clause.

Section 18.40.050(B), Non-Forest Dwelling, shall be automatically repealed thirty (30) days after the

effective date of any goal and rule amendments establishing secondary lands adopted by the Land Conservation and Development Commission (LCDC).

**18.40.060 SITING OF DWELLINGS AND STRUCTURES**

- A. All new dwellings and structures approved pursuant to Section 18.40.030 or permitted under Section 18.40.020 shall be sited in accordance with this section and Section 18.40.070.

Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:

1. has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
  2. ensures that forest operations and accepted farming practices will not be curtailed or impeded;
  3. minimizes the amount of forest lands used for the building sites, road access and service corridors; and
  4. consistent with the provisions of Section 18.40.070 minimizes the risk associated with wildfire.
- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

**18.40.070 FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES**

The following fire siting standards shall apply to all new dwellings or permanent structures (including permitted uses):

- A. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the waters edge shall be provided for pumping units. The road access shall be constructed and maintained to

- accommodate the maneuvering of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- B. Road access to the structure shall meet the road design standards described in Section 18.40.080 of this Title.
  - C. Prior to use, owners of dwellings and structures shall construct a primary firebreak, not less than 10 feet wide, containing non-flammable materials. This may include walkways, driveways, gravel borders or other similar materials.
  - D. Owners of the dwellings and structures shall construct a secondary firebreak of not less than 20 feet outside the primary firebreak. This firebreak need not be bare ground but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
  - E. Owners of the dwellings and structures shall maintain a fuel break extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season.
  - F. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
  - G. Dwellings shall not be located on hillsides steeper than 30 percent and containing flammable fuels.
  - H. The applicant shall obtain an address from the County Address Coordinator, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.
  - I. All dwellings and structures shall use non-combustible or fire resistant roofing materials. Roof sprinklers are not an acceptable alternative to this standard.

**18.40.080 FIRE SAFETY DESIGN STANDARDS FOR ROADS**

The following standards apply to all roads and driveways, except for private roads accessing only commercial forest uses, which access uses permitted under Section 18.40.020 or approved under Section 18.40.030 of this Title:

- A. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.
- B. Access roads shall have an unobstructed horizontal clearance of not less than twenty (20) feet and an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet, and provide an all-weather surface.
- C. Turnarounds shall have a minimum of fifty (50) feet of turn radius with an all-weather surface for turning of fire fighting equipment.
- D. Road grades should not exceed eight (8) percent, with a maximum of 12 percent on short pitches. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states their fire-fighting equipment can negotiate the proposed road grade.

**18.40.090 DIMENSIONAL STANDARDS**

In an F-2 Zone, the following dimensional standards shall apply:

- A. The minimum lot size is 80 acres; or
- B. Land divisions creating parcels less than 80 acres in size may only be approved for uses listed in Section 18.40.030(D) through (P), provided that those uses have been approved pursuant to Section 18.40.040 of this Title.
- C. Notwithstanding subsections (A) and (B), above, the Planning Director or Hearings Body may waive the 80-acre minimum lot size to allow a partition of property provided:

1. The subject property contains a dwelling which existed prior to January 25, 1990; and
2. The dwelling was constructed under a valid building permit, or was constructed prior to the county's involvement in the permit process and otherwise constitutes a vested use; and
3. The new parcel containing the dwelling is no larger than 5 acres; and
4. The remaining parcel, not containing the dwelling, meets the minimum lot size; or
5. The remaining forest parcel, not containing the dwelling, is consolidated with another parcel(s), creating a legal parcel that meets the minimum lot size. Consolidation shall occur concurrent with final approval of the partition.

#### **18.40.100 YARDS AND SETBACKS**

- A. The front yard setback shall be 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector and 100 feet from a property line fronting on an arterial.
- B. Each side yard setback shall be a minimum of 25 feet, except a parcel or lot with a side yard adjacent to zoned forest land shall have a minimum side yard of 100 feet.
- C. Rear yards shall be a minimum of 25 feet, except parcels or lots with rear yards adjacent to zoned forest land shall have a minimum rear yard of 100 feet.
- D. The setback from the north lot line shall meet the solar setback requirements in section 18.116.180 of this Title. (Ord, 91-020 § 1, 1991; Ord, 83-037 § 11, 1983.)

#### **18.40.110 STREAM SETBACKS**

All sewage disposal installations, such as vault toilets, septic tanks and drainfield systems shall be set back from the ordinary high water mark along all streams and lakes a minimum of 100 feet measured at right angles to the ordinary high water mark. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark. (Ord. 91-020 § 1, 1991).

**18.40.120 STATE LAW CONTROLS**

Forest operations are governed by the State Forest Practices Act. Whenever a use allowed by this section conflicts with or is prohibited by the Oregon Forest Practices Act or regulations promulgated thereunder, state law shall control.

**18.40.130 RIMROCK SETBACK**

Setbacks from rimrock shall be as provided in Section 18.116.160 of this Title. (Ord. 86-053 § 8, 1986).

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Section 18.128.040(P)(b)[(1)] is amended as follows:

- (b) The conditional use shall not be granted unless the following findings are made:
1. Human activities, including all development and alterations of the natural landscape, will be limited to 35 percent of the land and 65 percent shall be kept in open space uses. [In the Forest Use Zone, development shall be limited to 25 percent of the land with 75 percent to be retained in open space.] The area of the development shall be measured by drawing a continuous line around the affected area 150 feet on either side of any lot, building, road or other such facility.  
(Ord. 91-020 § 1, 1991)
  2. Uses are permitted in the open space area may include the management of natural resources, trail systems or other outdoor uses that are consistent with the character of the natural landscape.
  3. All lots within the development shall be contiguous to one another except for occasional corridors which shall not be wider than the average lot width, unless the Planning Director or Hearings Body finds that special circumstances warrant a wider corridor. (Ord. 91-020 § 1, 1991)
  4. In the [resource and] rural zones, the cluster development shall be located on the least productive land.
  5. All subdivision requirements contained in Deschutes County Code Title 17, the Subdivision/Partition Ordinance, shall be met.
  6. The total number of units may exceed the overall density established by the minimum lot size of the zone in which the development is proposed by not more than 33 percent.
  7. The open space of the proposed development may be platted as a separate parcel or in common ownership of some or all of the clustered units. However, the open area shall not be subject to development unless the whole development is brought inside an urban growth boundary.

8. Roads within the development shall meet the requirements of the County Road Department and shall be considered private roads. An agreement acceptable to the Road Department shall be required for the maintenance of those roads.
9. The rural character of the area shall not be adversely affected.
10. All service connections shall be the minimum length necessary and underground where feasible. (Ord. 91-020 § 1, 1991)

**NOTE:** Deleted wording is in brackets [ ]; new wording is underlined and bold.