

94-39848

REVIEWED
Buw
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Chapters 18.36 *
and 18.40 of the Deschutes County *
Code, Amending Development Standards *
in the Forest (F-1 and F-2) Zones, *
and Declaring an Emergency. *

94 OCT -6 AM 8:50
MARY SUE PENHOLLOW
COUNTY CLERK

ORDINANCE NO. 94-038

0137-0694

WHEREAS, the Land Conservation and Development Commission filed new administrative rule OAR 660-06 on March 1, 1994, relative to requirements for Forest Lands; and

WHEREAS, the newly adopted rule was made effective upon filing; and

WHEREAS, the newly adopted rule supersedes county code provisions where there is a conflict between the rule and the code; and

WHEREAS, the Board finds it is in the public interest to make the county's land use regulations be consistent with state law in a timely manner; and

WHEREAS, public hearings have been held on the proposed amendments consistent with state and county law; and

WHEREAS, the Deschutes County Planning Commission recommended adoption of the amendments as proposed; now therefore,

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

Section 1. ADOPTION OF AMENDMENTS TO CHAPTER 18.36 OF THE DESCHUTES COUNTY CODE. Chapter 18.36 of the Deschutes County Code, as amended, is further amended by the provisions set forth in Exhibit "A", attached hereto and by this reference incorporated herein.

Section 2. ADOPTION OF AMENDMENTS TO CHAPTER 18.40 OF THE DESCHUTES COUNTY CODE. Chapter 18.40 of the Deschutes County Code, as amended, is further amended by the provisions set forth in Exhibit "B", attached hereto and by this reference incorporated herein.

Section 3. ADOPTION OF AMENDMENTS TO SECTION 18.04.030 OF THE DESCHUTES COUNTY CODE. Section 18.04.030 of the Deschutes County Code, as amended, is further amended by the definition of "tract" as follows:

"Tract. As used in Chapters 18.16, 18.36 and 18.40, 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."

Section 4. SEVERABILITY. The provisions of this ordinance are severable. If any sentence, clause, or phrase of this ordinance is found to

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be invalid by a court of competent jurisdiction that decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. 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 6. CODIFICATION. County Legal Counsel shall have the authority to format the provisions contained herein in a manner that will integrate them into the County Code consistent with the County Legal Counsel form and style for ordinance codification. Such codification shall include the authority to make format changes, to make changes in numbering systems and to make such numbering changes consistent with interrelated code sections. In addition, as part of codification of these ordinances, County Legal Counsel may insert appropriate legislative history reference. Any legislative history references included herein are not adopted as part of the substance of this ordinance, but are included for administrative convenience and as a reference. They may be changed to correct errors and to conform to proper style without action of the Board of County Commissioners.

Section 7. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of any ordinance, ordinance provision, code section, or any map or any line on a map incorporated therein by reference, by this amending ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability previously incurred or that may hereafter be incurred under such ordinance, unless a provision of this amending 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 previously violated the repealed ordinance.


Section 8. 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 5th day of October, 1994.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



NANCY POPE SCHLANGEN, Chair

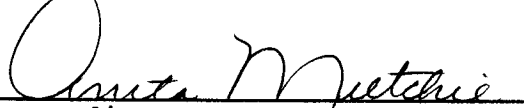


TOM THROOP, Commissioner



BARRY H. SLAUGHTER, Commissioner

ATTEST:



Anita Metchie
Recording Secretary

NOTE: New language is in bold; deleted language is in brackets [].

EXHIBIT A

Chapter 18.36

FOREST USE - F-1 ZONE

Sections:

18.36.010	Purpose
18.36.020	Uses Permitted Outright
18.36.030	Conditional Uses Permitted
18.36.040	Limitations on Conditional Uses
18.36.050	Standards for [Forest Management] Single-Family Dwellings
18.36.060	Siting of Dwellings and Structures
18.36.070	Fire Siting Standards for Dwellings and Structures
18.36.080	Fire Safety Design Standards for Roads
<u>18.36.085</u>	<u>Stocking Requirements</u>
18.36.090	Dimensional Standards
18.36.100	Yards and Setbacks
18.36.110	Stream Setbacks
18.36.120	State Law Controls
18.36.130	Rimrock Setbacks
<u>18.36.140</u>	<u>Restrictive Covenants</u>

18.36.010 Purpose.

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

(Ord. 92-025 § 2, Exhibit B, 1992; Ord. 91-020 § 1, 1991)

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 that 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 con-

clusion 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, telephone, natural gas, etc.) within existing rights-of-way or which provide service hookups and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals).]

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

G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.

I. Towers and fire stations for forest fire protection.

J. Widening of roads within existing rights-of-way in conformance with the transportation element of 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.]

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

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable use within three months of completion of the replacement dwelling.

(Ord. 92-025 § 2, Exhibit B, 1992; Ord. 91-020 § 1, 1991; Ord. 91-002 § 8, 1991)

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. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.

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 electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. 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 as ORS 215.283(2)(p) through (r) and 215.283(3).

U. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of this title and the following requirements:

1[a]. Accommodations are limited to no more than 15 guest

rooms as that term is defined in the Oregon Structural Specialty Code;

- 2[b]. Only minor incidental and accessory retail sales are permitted;
- 3[c]. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
- 4[d]. Accommodations must be located within one-quarter mile 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 Sections 18.36.040 and 18.36.060 [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 for which preliminary approval was received 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).]

Y. Single-family dwellings as specified in Section 18.36.05-0.

(Ord. 92-068 § 1, 1992)

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,
Ordinance 94-038 - Forest Use - F-1 Zone (October 5, 1994) 5

or significantly increase the cost of, accepted farming or forest practices on [adjacent] agricultural 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.

C. Prior to final approval of any use listed in Section 18.36.030, the land owner shall sign and record in the County Clerk's 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.

(Ord. 92-025 § 2, Exhibit B, 1992; Ord. 91-020 § 1, 1991)

18.36.050 Standards for [Forest Management] Single-Family Dwellings.

A. General Provisions.

1. Dwellings listed as a conditional use under Section 18.36.030(Y) of this chapter shall meet the following standards:

- a. One of the alternative tests set out in subsections (B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling) of this section;
- b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in Section 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
- c. No other dwellings shall be located on the tract.
- d. The applicant shall provide evidence that any domestic water supply 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)).

For purposes of this section, evidence of a domestic water supply means:

- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (2) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (3) 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 construction report to the county upon completion of the well.
- e. If road access to a 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.
2. In addition, dwellings listed as a conditional use under Section 18.36.030(Y) of this chapter shall be subject to the following standards or conditions:
- a. The conditional use standards set forth in Section 18.36.040;
 - b. The siting criteria set forth in Section 18.36.060;
 - c. The fire siting standards set forth in Section 18.36.070;
 - d. The fire safety design standards for roads set forth in Section 18.36.080;
 - e. The stocking requirements set forth in Section 18.36.085, if applicable; and
 - g. Any other provisions made applicable by this title or the comprehensive plan.
3. Dwellings in forest zones shall not be subject to conditional use standards.

B. Lot of Record Dwelling. For approval under this subsection, a single-family dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985 and was acquired by the present owner either prior to January 1, 1985 or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

For the purposes of this subsection, "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, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

2. The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road. The road shall not be a U.S. Forest Service road or a Bureau of Land Management (BLM) road and shall be maintained and either paved or surfaced with rock.

For the purposes of this section, "public roads" are those roads in which the public has a right of use that is a matter of public record.

For the purposes of this section, "commercial tree species" means tree recognized under rules adopted by the Oregon Department of Forestry under ORS 527.715 for commercial production.

3. For lots or parcels located within a Wildlife Area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of Chapter 18.88 of this title.

C. Large Tract Dwelling. For approval of a single-family dwelling under this subsection, the subject property shall consist of at least 240 contiguous acres in one ownership.

D. Template Dwelling. For approval under this subsection, a single family dwelling shall meet the following requirements:

1. 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 other dwellings existed on

January 1, 1993 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; and
 - (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.
- c. 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 on the other lots or parcels.

2. Requirements of Applying Template

- a. If a tract 60 acres or larger described in this subsection abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream.
- b. 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;
 - (1) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;
 - (2) Be within one-quarter 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.

- c. If a tract reviewed under this subsection 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 one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

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

- a. 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.

- b. 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.

- c. The property qualifies for and is enrolled in one of Oregon's forest tax programs.

- d. The dwelling will not significantly interfere with, significantly increase the costs of or impede forest or farm management on adjacent forest and agricultural lands.

- e. 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.

- f. 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.

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 pro-

vides 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 the 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:

a. The information describing the productivity and current condition of the forest land to be managed is complete and accurate;

b. 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

c. The siting and safety standards in OAR 660-06-029 and OAR 660-06-035 have been adequately addressed.

(Ord. 92-025 § 2, Exhibit B, 1992; Ord. 91-020 § 1, 1991)]

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[a]. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;

2[b]. Ensures that forest operations and accepted farming practices will not be curtailed or impeded;

3[c]. Minimizes the amount of forest lands used for the building site, road access and service corridors; and

4[d]. Consistent with the applicable provisions of Section 18.36.070, minimizes the risks associated with wildfire.

(Ord. 92-025 § 2, Exhibit B, 1992)

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), except as otherwise noted:

A. Access

1. If a water supply, such as a swimming pool, pond, stream or lake, is available and suitable for fire protection[, such as a swimming pool, pond, stream or lake,] or is required under this section, then road access to within 15 feet of the water's 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]2. Road access to the dwelling or structure shall meet the road design standards described in Section 18.36.080 of this title.

B. Firebreaks

[C]1. **Primary Firebreak.** 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 lawn, walkways, driveways, gravel borders or other similar materials.

[D]2. **Secondary Firebreak.** 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]3. **Fuel Break.** 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]4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.

[G]C. [Dwellings] **Single-family dwellings, caretaker residences and private accommodations for fishing shall not be located on hillsides steeper than 30 percent and containing flammable fuels.**

[H]D. The applicant for a single-family dwelling, caretaker residence or private accommodations for fishing shall obtain an address from the County Address Coordinator and shall display that number in a location of 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]E. Structural Standards.

1. All dwellings and structures shall use non-combustible or fire resistant roofing materials. This means roofing material identified as Class A, B or C in the Oregon Uniform Building Code. Roof sprinklers are not an acceptable alternative to this standard.

2. If the dwelling or structure has a chimney, it shall have a spark arrester.

F. Fire Protection. Single-family dwellings, caretaker residences and private accommodations for fishing shall be located upon a parcel for which fire protection services are available or where alternative protective measures are authorized by this subsection.

1. For the purposes of this section fire protection services are available if the parcel is located within the boundaries of a fire protection district or residential fire protection service is provided by contract, as evidenced by a written, signed contract.

2. If the dwelling or structure is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in the nearest such district.

3. If the parcel is not located within a fire protection district and it is determined, following application for inclusion within the nearest such district, that inclusion in the district would be impracticable, alternative means of fire protection shall be allowed, consistent with the following standards:

a. The dwelling or structure shall be equipped with a residential fire sprinkler system. For caretaker residences or single-family residences, such a sprinkler system shall be installed to the minimum requirements of NFPA 13D "Standards for the Installation of Sprinkler Systems in One and Two - Family Dwellings."

b. The dwelling shall have on-site water storage capability from a swimming pool, pond, lake, or similar water body of at least 4,000 gallons or a stream having 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 diversions have been obtained or that such permits or registrations are not required under state law for the use.

(Ord. 92-025 § 2, Exhibit B, 1992)

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. Road grades should not exceed 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.

(Ord. 92-025 § 2, Exhibit B, 1992)

18.36.085 Stocking Requirement

All dwellings approved under Section 18.36.050 of this Chapter shall be subject to the provisions of this section.

A. Stocking Requirement

1. Dwellings approved under Section 18.36.050 shall include a condition requiring the owner 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

specified in Department of Forestry administrative rules (OAR 629-24-400 et. seq.) in force at the time the approval is granted.

2. Consistent with Department of Forestry Administrative Rules OAR 629-24-401 and OAR 629-24-404, stocking shall not be required for (1) tracts designated by the Department of Forestry as Class III forest land and (2) tracts of 11 acres or under in one contiguous ownership.

B. Reporting Requirements

1. The planning director or his designee shall notify the county assessor of any stocking requirement condition at the time the dwelling is approved.

2. The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required under Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking report or where the survey report indicates that minimum stocking requirements have not been met.

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

The tax penalty imposed by the assessor under this section shall be the only sanction for failure to meet stocking requirements.

18.36.090 Dimensional Standards.

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

A. The minimum lot size is 80 acres.

B. Land divisions creating parcels less than eighty (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. Such division shall create a parcel that is the minimum size necessary for the use.

[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:

- a. The subject property contains a dwelling which existed prior to January 25, 1990; and
- b. 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
- c. The new parcel containing the dwelling is no larger than five (5) acres; and
- d. The remaining forest parcel, not containing the dwelling, meets the minimum lot size; or
- e. 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.]

C[D]. Building Height. No non-agricultural building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as approved under Section 18.120.040.

(Ord. 92-055 § 6, 1992)

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.

E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under Chapter 15.04 of this title shall be met.

(Ord. 94-008 § 18, Exhibit B, 1992; Ord. 92-025 § 2, Exhibit B, 1992)

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. 92-025 § 2, Exhibit B, 1992)

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.

(Ord. 92-025 § 2, Exhibit B, 1992)

18.36.130 Rimrock Setback.

Setbacks from rimrock shall be as provided in Section 18.116.160.

(Ord. 86-053 § 7, 1986)

18.36.140 Restrictive Covenant

Restrictive covenants required under this chapter shall substantially comply with the form set forth below:

"Declaration of Covenants, Conditions and Restrictions

Whereas, the undersigned _____ hereinafter referred to as "Declarant," is owner in fee simple of the property described in Exhibit A attached hereto and incorporated by reference herein; and

Whereas, the Declarant desires to declare his/her intention to create certain covenants, conditions and restrictions in order to effectuate and comply with the requirements of Oregon Administrative Rule (OAR) 660-06-027;

Declarant hereby declares that all of the property described on Exhibit A shall be held, sold, and conveyed subject to the

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following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed, and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions created by this instrument.

In witness whereof, the undersigned, being Declarant herein, has heretofore set their hand this _____ day of _____."

NOTE: New language is in bold; deleted language is in brackets [].

EXHIBIT B

Chapter 18.40

FOREST USE - F-2 ZONE

Sections:

18.40.010	Purpose
18.40.020	Uses Permitted Outright
18.40.030	Conditional Uses Permitted
18.40.040	Limitations on Conditional Uses
18.40.050	Standards for [Forest Management] Dwellings
18.40.060	Siting of Dwellings and Structures
18.40.070	Fire Siting Standards for Dwellings and Structures
18.40.080	Fire Safety Design Standards for Roads
<u>18.40.085</u>	<u>Stocking Requirements</u>
18.40.090	Dimensional Standards
18.40.100	Yards and Setbacks
18.40.110	Stream Setbacks
18.40.120	State Law Controls
18.40.130	Rimrock Setbacks

18.40.010 Purpose.

The purpose of the Forest Use Zone is to conserve forest lands. (Ord. 92-025 § 3, Exhibit C, 1992; Ord. 91-020 § 1, 1991)

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 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 that 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, telephone, natural gas, etc.) within existing rights-of-way or which provide service hookups and accessory equipment (e.g. electric distribution transformers, meter cabinets, terminal boxes, pedestals).]

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

G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.

I. Towers and fire stations for forest fire protection.

J. Widening of roads within existing rights-of-way in conformance with the transportation element of 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.]

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

1. Has intact exterior walls and roof structure;

2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable use within three months of completion of the replacement dwelling.

(Ord. 92-025 § 3, Exhibit B, 1992; Ord. 91-020 § 1, 1991)(Ord. 92-025 § 3, Exhibit C, 1992; Ord. 91-020 § 1, 1991; Ord. 91-005 § 21, 1991; Ord. 91-002 § 9, 1991)

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 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. 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 (DEQ) 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. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.

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 electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. 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 as ORS 215.283(2)(p) through (r) and 215.283(3).

V. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of this title and the following requirements:

1[a]. Accommodations are limited to no more than 15 guest

rooms as that term is defined in the Oregon Structural Specialty Code;

- 2[b]. O[o]nly minor incidental and accessory retail sales are permitted;
- 3[c]. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
- 4[d]. Accommodations must be located within one-quarter mile 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. Nonforest Dwelling.]

X. Single-family dwellings as specified in Section 18.40.05-0.

[X]Y. 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.

Z. 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 Sections 18.40.040 and 18.40.60 of [those in] this chapter. The manufactured home shall use the same sub-surface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.

(Ord. 92-025 § 3, Exhibit C, 1992; Ord. 91-038 § 1, 1991)

18.36.040 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] agricultural 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.

C. Prior to final approval of any use listed in Section 18.40.030, the land owner shall sign and record in the County Clerk's 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.

(Ord. 92-025 § 2, Exhibit B, 1992; Ord. 91-020 § 1, 1991)

18.40.050 Standards for Single-Family Dwellings.

A. General Provisions.

1. Dwellings listed as a conditional use under Section 18.40.030(X) of this chapter shall meet the following standards:

- a. One of the alternative tests set out in subsections (B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling) of this section;
- b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in Section 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
- c. No other dwellings shall be located on the tract.
- d. The applicant shall provide evidence that any domestic water supply 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)).

For purposes of this section, evidence of a domestic water supply means:

- (1) Verification from a water purveyor that the use described in the application will be

served by the purveyor under the purveyor's rights to appropriate water; or

- (2) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (3) 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 construction report to the county upon completion of the well.
- e. If road access to a 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.

2. In addition, dwellings listed as a conditional use under Section 18.40.030(X) of this chapter shall be subject to the following standards or conditions:

- a. The conditional use standards set forth in Section 18.40.040;
- b. The siting criteria set forth in Section 18.40.060;
- c. The fire siting standards set forth in Section 18.40.070;
- d. The fire safety design standards for roads set forth in Section 18.40.080;
- e. The stocking requirements set forth in Section 18.40.085, if applicable; and
- g. Any other provisions made applicable by this title or the comprehensive plan.

3. Dwellings in forest zones shall not be subject to conditional use standards.

B. Lot of Record Dwelling. For approval under this subsection, a single-family dwelling shall meet the following requirements:

- 1. The lot or parcel on which the dwelling would be sited

was lawfully created prior to January 1, 1985 and was acquired by the present owner either prior to January 1, 1985 or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

For the purposes of this subsection, "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, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

2. The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road. The road shall not be a U.S. Forest Service road or a Bureau of Land Management (BLM) road and shall be maintained and either paved or surfaced with rock.

For the purposes of this section, "public roads" are those roads in which the public has a right of use that is a matter of public record.

For the purposes of this section, "commercial tree species" means tree recognized under rules adopted by the Oregon Department of Forestry under ORS 527.715 for commercial production.

3. For lots or parcels located within a Wildlife Area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of Chapter 18.88 of this title.

C. Large Tract Dwelling. For approval of a single-family dwelling under this subsection, the subject property shall consist of at least 240 contiguous acres in one ownership.

D. Template Dwelling. For approval under this subsection, a single family dwelling shall meet the following requirements:

1. 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 other dwellings existed on January 1, 1993 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; and
 - (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.
- c. 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 on the other lots or parcels.

2. Requirements of Applying Template

- a. If a tract 60 acres or larger described in this subsection abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream.
- b. 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;
 - (1) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;
 - (2) Be within one-quarter 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.
- c. If a tract reviewed under this subsection abuts a road that existed on January 1, 1993, the measure-

ment may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

[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 Ordinance 94-038 - Forest Use - F-2 Zone (October 5, 1994) 10

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.

D. 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 (5):

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-acre square when centered on the center of the subject parcel.

(NOTE: Parcels within urban growth boundaries shall not be counted to satisfy the eligibility requirements of subsection (2)(a) and (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 for forest practices on adjacent agriculture or forest lands.

5. The siting of the dwelling meets the standards in Section 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 30 days after the effective date of any goal and rule amendments establishing secondary lands adopted by the Land Conservation and Development Commission (LCDC).]

(Ord. 92-025 § 3, 1992; Ord. 91-020 § 1, 1991)

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[a]. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;

2[b]. Ensures that forest operations and accepted farming practices will not be curtailed or impeded;

3[c]. Minimizes the amount of forest lands used for the building site, road access and service corridors; and

4[d]. Consistent with the applicable provisions of Section 18.40.070, minimizes the risks associated with wildfire.

(Ord. 92-025 § 3, Exhibit C, 1992)

18.40.070 Fire Siting Standards for Dwellings and Structures.

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

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A. Access

1. If a water supply, such as a swimming pool, pond, stream or lake, is available and suitable for fire protection[, such as a swimming pool, pond, stream or lake,] or is required under this section, then road access to within 15 feet of the water's 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]2. Road access to the dwelling or structure shall meet the road design standards described in Section 18.36.080 of this title.

B. Firebreaks

[C]1. **Primary Firebreak.** 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 lawn, walkways, driveways, gravel borders or other similar materials.

[D]2. **Secondary Firebreak.** 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]3. **Fuel Break.** 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]4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.

[G]C. [Dwellings] **Single-family dwellings, caretaker residences and private accommodations for fishing shall not be located on hillsides steeper than 30 percent and containing flammable fuels.**

[H]D. The applicant for a single-family dwelling, caretaker residence or private accommodations for fishing shall obtain an address from the County Address Coordinator and shall display that number in a location of 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]E. Structural Standards.

1. All dwellings and structures shall use non-combustible or fire resistant roofing materials. This means roofing material identified as Class A, B or C in the Oregon Uniform Building Code. Roof sprinklers are not an acceptable alternative to this standard.

2. If the dwelling or structure has a chimney, it shall have a spark arrester.

F. Fire Protection. Single-family dwellings, caretaker residences and private accommodations for fishing shall be located upon a parcel for which fire protection services are available or where alternative protective measures are authorized by this subsection.

1. For the purposes of this section fire protection services are available if the parcel is located within the boundaries of a fire protection district or residential fire protection service is provided by contract, as evidenced by a written, signed contract.

2. If the dwelling or structure is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in the nearest such district.

3. If the parcel is not located within a fire protection district and it is determined, following application for inclusion within the nearest such district, that inclusion in the district would be impracticable, alternative means of fire protection shall be allowed, consistent with the following standards:

a. The dwelling or structure shall be equipped with a residential fire sprinkler system. For caretaker residences or single-family residences, such a sprinkler system shall be installed to the minimum requirements of NFPA 13D "Standards for the Installation of Sprinkler Systems in One and Two - Family Dwellings."

b. The dwelling shall have on-site water storage capability from a swimming pool, pond, lake, or similar water body of at least 4,000 gallons or a stream having 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 diversions have been obtained or that such permits or registrations are not required under state law for the use.

(Ord. 92-025 § 3, Exhibit C, 1992)

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 and be maintained for turning of fire fighting equipment.

D. Road grades should not exceed 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.

(Ord. 92-025 § 3, Exhibit C, 1992)

18.40.085 Stocking Requirement

All dwellings approved under this Chapter shall be subject to the provisions of this section.

A. Stocking Requirement

1. Dwellings approved under this Chapter shall include a condition requiring the owner 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 specified in

Department of Forestry administrative rules (OAR 629-24-400 et. seq.) in force at the time the approval is granted.

2. Consistent with Department of Forestry Administrative Rules OAR 629-24-401 and OAR 629-24-404, stocking shall not be required for (1) tracts designated by the Department of Forestry as Class III forest land and (2) tracts of 11 acres or under in one contiguous ownership.

B. Reporting Requirements

1. The planning director or his designee shall notify the county assessor of any stocking requirement condition at the time the dwelling is approved.

2. The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required under Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking report or where the survey report indicates that minimum stocking requirements have not been met.

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

The tax penalty imposed by the assessor under this section shall be the only sanction for failure to meet stocking requirements.

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 eighty (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. Such division shall create a parcel that is the minimum size necessary for the use.

[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:

- a. The subject property contains a dwelling which existed prior to January 25, 1990; and
- b. 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
- c. The new parcel containing the dwelling is no larger than five (5) acres; and
- d. The remaining forest parcel, not containing the dwelling, meets the minimum lot size; or
- e. 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.]

C[D]. Building Height. No non-agricultural building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as approved under Section 18.120.040.

(Ord. 92-055 § 5, 1992; Ord. 92-025 § 3, Exhibit C, 1992; Ord. 91-020 § 1, 1991)

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.

E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under Chapter 15.04 of this title shall be met.

(Ord. 94-008 § 19, 1993; Ord. 93-043 § 5, 1993; Ord. 92-025 § 3, Exhibit C, 1992; 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. 92-025 § 3, Exhibit C, 1992; 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. (Ord. 92-025 § 3, Exhibit C, 1992)

18.40.130 Rimrock Setback.

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

94-038.exh