

FILED 47 PAGE 168 YAMHILL COUNTY, OREGON
 AUG 19 2 35 PM '88
 CHARLES STERN
 COUNTY CLERK
 DEPUTY

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IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

88-496

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of the Adoption)
 of an Ordinance Amending the)
Yamhill County Zoning Ordinance)
No. 310, 1982, Amending the)
Yamhill County Land Division) ORDINANCE NO. 468
Ordinance, No. 205, Amending)
Ordinance No. 444, and Declaring)
 an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 17th day August, 1988, sat for the transaction of county business in special session, Commissioners Ted Lopuszynski, Donald D. Porter, and David E. Bishop being present.

WHEREAS, ORS 197.640 through 197.650 require periodic review of local comprehensive plans and land use regulations to ensure they are in compliance with the statewide land use planning goals and are coordinated with plans and programs of state agencies; and

WHEREAS, the Board adopted Ordinance 444 on April 15, 1987, as those revisions necessary to bring Yamhill County's land use provisions into compliance with state law; and

WHEREAS, a hearing was held before the Land Conservation and Development Commission (LCDC) on December 17, 1987; and

WHEREAS, LCDC issued Order 87-RA-306 on December 24, 1987, requiring further amendments to the county's comprehensive plan and land use regulations; and

WHEREAS, a properly noticed hearing was held on this ordinance on June 16, 1988 and continued to June 22, June 29, July 13, August 10, and August 17, 1988; and

WHEREAS, the Board has determined that adoption of the ordinance provisions in the attached Exhibits "A", and "B" would be in the best interest of the citizens of Yamhill County, and will partially satisfy the requirements of LCDC Order 87-RA-306, Now Therefore,

IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF YAMHILL as follows:

Section 1. Section 1204 of Yamhill County Zoning Ordinance No. 310 is hereby repealed.

Section 2. Ordinance No. 310 and Ordinance No. 444 are amended as specified in the attached Exhibit "A", which is by reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinances 310 and 444, and materials underlined are added to those ordinances. The definitions in Section 202 of the attached Exhibit "A" replace definitions for the same words in Section 202 of Ordinances No. 310 and 444. All definitions in Ordinances No. 310 and 444 to words not found in Section 202 of the attached Exhibit "A" shall remain in full force and effect.

Section 3. The partitioning provisions in Exhibit "B" attached to and made a part of this ordinance that were added to the Yamhill County Land Division Ordinance, No. 205 by Ordinance 444 are amended as specified in the attached Exhibit "B" which is added to and made a part of this ordinance by reference.

Section 4. Exhibit "C" of Yamhill County Ordinance No. 444 is hereby repealed.

Section 5. If any section or subsection contained in the attached Exhibit "A", or "B" of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

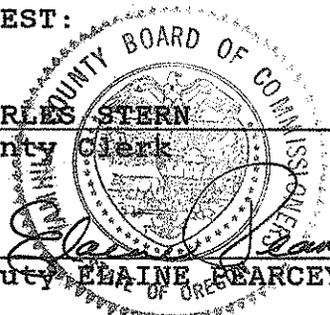
Section 6. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall become effective on passage.

DATED this 17th day of Aug., 1988.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



Fed Lopuszynski
Chairman TED LOPUSZYNSKI

By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

Donald D. Porter
Commissioner DONALD D. PORTER

FORM APPROVED BY:

Timothy S. Sadlo
TIMOTHY S. SADLO
Assistant County Counsel

David E. Bishop
Commissioner DAVID E. BISHOP

Accepted by Yamhill County
Board of Commissioners on
8-17-88 by Board Order
88-496

SPECIAL 202 - DEFINITIONS

Special Definitions

1. Airport Hazard - Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
2. Airport Imaginary Surfaces - Those imaginary areas in space which are defined by the approach zone, transitional zone, horizontal zone, clear zone, and conical surface and in which any object extending above these imaginary surfaces is an obstruction.
3. Approach Zone - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of: 1250 feet for a utility runway having only visual approaches; 1500 feet for a runway other than a utility runway having only visual approaches; 2000 feet for a utility runway having a nonprecision instrument approach; and 3500 feet for a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile. The approach zone extends for a horizontal distance of 5000 feet at a slope of 20:1, horizontal:vertical for all utility and visual runways and 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility.
4. Clear Zone - Extends at the same slope and horizontal angle as the approach zone from the primary surface to a point where the approach surface is 50 feet above the runway end elevation.
5. Conical Surface - A surface extending upward at a slope of 20:1 for a distance of 4,000 feet from the periphery of the horizontal surface.
6. Horizontal Surface - A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway, and 10,000 feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those areas.
7. Place of Public Assembly - A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

8. Primary Surface - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches and 500 feet for other than utility runways.
9. Transitional Zones - A surface extending upward at a slope of 7:1 beginning on each side of the primary surface, and from the sides of the approach surfaces, then extending upward to a height of 150 feet above the airport elevation.
10. Utility Runway - A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

401. FORESTRY DISTRICT (F-40)

401.01 Purpose.

The purpose of the Forestry (F-40) District is to identify and protect [that] land [which is] designated as Forestry on the Comprehensive Plan[, and] that is suitable and desirable primarily for commercial forestry activities[,] and for [those other] uses such as recreation, watersheds, and reservoirs, grazing, etc., that are compatible with commercial forestry activities. Properties in the Forestry District are generally large, contiguous upland holdings extending into the Coast Range in the western part of the county. In Forestry Districts, residential and other development which might likely be affected by normal forest management practices, will be limited or prohibited so as to maximize the productivity potential of vicinity timberlands.

401.02 Permitted Uses.

In the F-40 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection [401.07] 401.08 and any other applicable provisions of this ordinance:

- A. Forestry uses [as follows:] , meaning any activity [relating] related to the growing, harvesting or processing of forest tree species.
- B. Extraction, processing, and stockpiling of construction aggregate for use in conjunction with forestry only, subject to [the applicable standards as provided in] the requirements of subsection 404.07.
- C. Temporary or seasonal dwelling for caretaker, watchman, or forest management and protection personnel only, occupied by the owner or owner's employee on a rent-free basis for no more than six months [in each] per year. [, subject to satisfaction of the criteria for establishment of a dwelling in conjunction with forest uses as provided in] The applicant shall satisfy the criteria of subsection 401.06 and be subject to the Type A application procedure of Section 1301. If the temporary or seasonal dwelling is a mobile home, [it] the applicant shall, [in

addition to the requirements of this section,] also be subject the mobile home standards [set forth in] of Section 1002.

- D. Accessory uses including but not limited to recreation activities, fish and wildlife habitat, [watersheds,] watershed management, grazing, and similar uses [compatible with commercial forestry activities [which] that do not include structural development. [, except as allowed in this Section.]
- E. Temporary structures [as may be required] necessary during construction of an authorized permanent structure. A [such] temporary structure shall be removed upon final inspection of the permanent structure by the building official.
- F. Operations conducted for the exploration of oil, natural gas or geothermal resources, aggregate, and other mineral or subsurface resources. [,] These uses shall be subject to subsection 404.10 and the Type A application procedure [set forth in] of Section 1301.
- G. Signs, [pursuant to the sign provisions set forth in] subject to the requirements of Section 1006.
- H. Public utility facilities, necessary for public service, except municipal water supply, treatment and storage facilities, commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. [,] These uses shall also be subject to Subsection 401.07, [and] Section 1101, Site Design Review[.], and the Type A application procedure [set forth in] of Section 1301.

401.03

Conditional Uses.

[In the F-40 District, pursuant to the Type B application procedure set forth in Section 1301, the following uses may be allowed upon conditional use approval, subject to the provisions of Section 1202, Conditional Use Criteria and Requirements, and any other applicable criteria established by this ordinance:] The following uses are allowed in the F-40 zone upon conditional use approval. The applicant shall comply with Section 1202, The

Type B application procedure of Section 1301, and any other provision required by this subsection:

- A. Principal dwelling [provided] in conjunction with forest uses.[subject to satisfying the criteria for establishment of a forest dwelling, as provided in] The applicant shall satisfy the criteria of Subsection 401.06. If [a principal] the dwelling is a mobile home, [it] the applicant shall [, in addition to the requirements of this Section,] also be subject to the mobile home standards [specified in] of Section 1002.
- B. Dwelling not in conjunction with forest use, subject to [the applicable provisions of] Subsection 401.07, and, if the dwelling is a mobile home, Section 1002.
- C. Park, playground, campground, or community center owned and operated by a governmental agency or a nonprofit community organization[.], subject to Subsection 401.07.
- D. Hunting or fishing preserve, private park, playground or campground determined to be a principal use of a property[.], subject to Subsection 401.07.
- E. Operations conducted for the mining and processing of geothermal resources, [or exploration, mining, and processing of] aggregate and other mineral or subsurface resources, subject to applicable provisions of Section 404 and Subsection 401.07.
- F. Municipal water supply, treatment, or storage facility subject to Section 1101, Site Design Review and Subsection 401.07.
- G. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review and Subsection 401.07.
- H. Accessory uses that include structural development related to recreation activities, fish and wildlife habitat, grazing, and similar uses compatible with commercial forestry activities, except as permitted outright in Section 401.02 of this ordinance.

These accessory uses shall be subject to Subsection 401.07.

- I. Solid waste disposal site under State permit granted under ORS 459.245 by the Department of Environmental Quality and subject to [the provisions of] Section 1005, Solid Waste Disposal Facilities, and Subsection 401.07. [of this ordinance.]

401.04 **Prohibited Uses.**

Uses of land and water not specifically mentioned in this Section are prohibited in the F-40 District. In order to preserve F-40 lands for forest uses, subdivisions and planned unit developments shall be prohibited.

401.05 **Nonconforming Uses.**

Nonconforming uses found in the F-40 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

401.06 **Establishment of Dwellings in Conjunction with Forestry.**

In the F-40 District, prior to construction or placement of any dwelling in conjunction with forestry, the applicant shall demonstrate that:

- A. [That] The dwelling is [appropriate, incidental and secondary to the use of the property for timber production and harvest, and is] necessary in order to manage the land for forest use, considering that: [The following specific criteria shall be taken into account to determine whether or not a dwelling is "necessary"]

- 1. The land cannot reasonably be put to forest use without a dwelling on the site; and

- [1. The size and location of the timberland.
- 2. The extent and type of activities required by the management plan.
- 3. The need to prevent vandalism or trespass.

4. The occupation and/or place of residence of the owner.
5. Surrounding area uses and ownerships.
6. The consequences of not having a residence on the property.]

2. The day-to-day activities of an owner or manager on the property are required to manage the land for specific forest uses and the activities are principally directed to forest use of the land.

[B. That without such dwelling it would be difficult to manage the land for forest production.]

B. The dwelling is secondary or subordinate to the main forest use of the land.

[C. The property is now, or will be, used in a manner consistent with the purpose of this District, as demonstrated by a management plan submitted by the applicant which includes evidence of at least one of the following:

1. A forest improvement program as defined by the Oregon State Department of Forestry.
2. A fish, wildlife or other conservation management program approved by the appropriate State agency.
3. A cooperative or lease agreement for forestry management as the principal use on the property.
4. A private management plan for a principal use, as documented by receipts related to the use.
5. The presence on the property of accessory buildings and uses of a permanent nature, such as equipment sheds and storage areas, that are in conjunction with forestry activities on adjacent property.]

C.[D] The property is large enough to be managed profitably for forestry uses. [identified in this Section.]

D.[E] Whenever possible, the dwelling is to be located on land generally unsuitable for the propagation and harvesting of forest products.

E.[F] The dwelling [proposed use] will not significantly impact forest uses on adjacent and nearby forest lands.

F.[G] [The proposed developed shall comply with the following fire protection standards:] The following conditions will be met to provide fire protection:

1. A water storage tank of [one thousand (]1000[)] gallons, or adequate year round alternative source of water, together with its own pump, hose and nozzle shall be provided and maintained for fire protection;
2. A minimum firebreak of [thirty (]30[)] feet, cleared of brush and trees, excluding landscape shrubbery planted or cultivated as part of a site design plan, shall be provided between the dwelling and the forest land and shall be continually cleared of brush, duff or other flammable material; and
3. A natural buffer shall be established or utilized between adjacent forest or agricultural lands and the proposed dwelling.

401.07 [Establishment of Solid Waste Disposal Site, Dwellings and Other Structures not in Conjunction with Forestry.] Additional Requirements for All Conditional Uses in the F-40 District Except Dwellings in Conjunction with Forestry.

In the F-40 District, prior to establishment of a conditional use, other than a dwelling in conjunction with forestry, [construction or placement of any solid waste disposal site, dwelling or other structure not in conjunction with forestry,] the applicant shall

demonstrate compliance with the following criteria or justify an exception pursuant to Statewide Planning Goal 2 and Section 1204 of this ordinance: [that]

- A. The proposed use is located on land generally unsuitable for the propagation and harvesting of forest products.
- B. The proposed use will not significantly impact forest uses on adjacent and nearby forest lands.
- C. The site is limited in size to that appropriate and required for the proposed use.
- D. The proposed use is not inconsistent with applicable forestry policies in the Comprehensive Plan.
- E. Additional measures as necessary to minimize potential impact on adjacent and nearby forest lands have been taken.
- F. If the proposed structure is a dwelling, [it shall comply with] the following conditions will be met to provide fire protection [standards:]
 - 1. A water storage tank of [one thousand (]1000[)] gallons, or adequate year round alternative source of water, together with its own pump, hose and nozzle shall be provided and maintained for fire protection.
 - 2. A minimum firebreak of [thirty (]30[)] feet, cleared of brush and trees, excluding landscape shrubbery planted or cultivated as part of a site design plan, shall be provided between the dwelling and the forest land and shall be continually cleared of brush, duff or other flammable material.
 - 3. A natural buffer shall be established or utilized between adjacent forest or agricultural lands and the proposed dwelling.

401.08 **Standards and Limitations.**

In the F-40 District, the following standards and limitations shall apply:

- A. Residential Density.

1. The overall residential density shall not exceed one [(1)] dwelling per [forty (]40[)] acres and not more than one [(1)] dwelling shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. The minimum size of any newly-created parcel shall be [forty (]40[)] acres.
2. Existing Lots. Any permitted or conditional use provided for in this District may be established on an existing substandard lot, subject to satisfaction of the applicable requirements of this section. Prior to issuance of a building permit for the construction or placement of a principal dwelling on a substandard lot, the applicable provisions of this section shall be satisfied by the applicant.
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least [three hundred (]300[)] feet.

C. Setbacks.

The minimum setback for all yards shall be [thirty (]30[)] feet for all uses except that the minimum setback for signs shall be five [(5)] feet, and the minimum setback for accessory uses shall be as provided in subsection 401.08 H.

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one [(1)] acre, the maximum parcel coverage shall be [fifteen (]15[)] percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe and passable means of access by abutting at least [twenty (]20[)] feet either directly upon a public road, or by a private easement which is at least [thirty (]30[)] feet in width for its entire length and which also abuts upon a public road for at least [thirty (]30[)]

feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of any new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

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

G. Height.

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

H. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.

- a. No separate accessory structures shall be erected within [ten (]10[)] feet of any other building on the same parcel,

except that a greenhouse for personal, noncommercial use may adjoin a dwelling.

- b. An accessory structure not more than [fifteen (]15[)] feet in height, at least [sixty(]60[)] feet from a road, and at least [ten (]10[)] feet from any dwelling, may be located a minimum distance of three [(3)] feet from the property line in a side yard or rear yard.
- c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five [(5)] feet from the rear property line.

2. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of Subsection 401.08 F.

3. Storage and Use of Certain Vehicles and Recreational Equipment. One [(1)] travel trailer only shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests, subject to the Type A application procedure set forth in Section 1301. In no case shall such a travel trailer be occupied for periods totalling more than three [(3)] months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless and until the necessary permits have been obtained.

I. Off-Street Parking.

1. In the F-40 District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one [(1)] emergency vehicle turnaround.

2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the F-40 District shall be determined by the Director subject to the provisions of Section 1007.

402.EXCLUSIVE FARM USE DISTRICT (EF-40)

402.01 Purpose.

The purpose of the Exclusive Farm Use (EF-40) District is to identify and protect [that] land [which is] designated as Agriculture/Forestry Large Holding (AFLH) on the Comprehensive Plan[, and] that is suitable and desirable for commercial agricultural operations[, and other uses which are compatible with such operations. Properties in the Exclusive Farm District are primarily large, contiguous relatively-flat terrace, valley-floor or low foothill holdings. In Exclusive Farm Use Districts, nonfarm residential and other development which might likely be affected by normal farm management practices, will be limited or prohibited so as to maximize the productivity potential of vicinity farmlands.

402.02 Permitted Uses.

In the EF-40 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.0[8]9 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in ORS 215.203 [by ORS Ch 215. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use.]
- B. Fruit and vegetable stand for produce grown on the property or on property in the same ownership, [farm labor housing,] or winery.[,] The applicant will also be subject to Section 1101, Site Design Review.
- C. Propagation and harvesting of a forest product.
- D. The following types of housing:
 1. Principal or secondary dwelling customarily provided in conjunction with farm use;
 2. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or

sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator;

3. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and
4. Farm labor housing customarily provided in conjunction with a farm use, subject to the requirements of Section 1101, Site Design Review.

All housing permitted under this subsection shall be reviewed pursuant to the Type A application procedure in Section 1301 and shall be subject to the requirements of ORS Chapter 215 for farm dwellings as well as Subsections 402.06 and 402.09 of this ordinance.

- D. [Dwelling customarily provided in conjunction with a farm use, pursuant to the Type A application procedure set forth in Section 1301, subject to the requirements of ORS Ch 215 for farm dwellings, and subject to satisfying the requirements criteria for establishment of a farm dwelling as provided in Subsection 402.06. On property proposed to be put into production, a temporary mobile home placement permit may be granted for a two year period, subject to the provisions of Section 1009. If the dwelling is a mobile home, it shall, in addition to the requirements of this Section, also be subject to the mobile home standards set forth in Section 1002.
- E. Secondary farm dwelling subject to the following requirements of ORS Ch 215, wherein it is provided that:
 1. That the dwelling is occupied by a relative whose assistance in the management of the farm use is or will be required by the farm operator, and is located on the same lot or parcel as the farm operator: or

2. That the dwelling is customarily provided in conjunction with farm use, and is located on a lot or parcel that

is managed as part of a farm operation not smaller than 40 acres.]

E.[F] Livestock feeding yard, provided that it shall be located:

1. [A livestock feeding yard shall be located] At least [two hundred (]200[)] feet from the centerline of any water-course used for domestic water supply[.]; and

2. [A livestock feeding yard shall be located] At least [five hundred (]500[)] feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.

F.[G.] Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers[,] over 200 feet in height[.]. The applicant will also be subject to Section 1101, Site Design Review.

G.[H.] Accessory uses.

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

I.[J.] Mobile home storage, [pursuant to the Type A application procedure set forth in Section 1301 and] subject to Section 1009 for temporary permits.

J.[K.] Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.

- K.[L.] Signs, pursuant to the sign provisions set forth in Section 1006.
- L.[M.] Public warehouses, as exempted by ORS 586.210 to 586.561.

402.03 Conditional Uses.

[In the EF-40 District, pursuant to the Type B application procedure set forth in Section 1301, the following uses may be allowed, upon conditional use approval, subject to the provisions of Section 1202, Conditional Use Criteria and Requirements, and any other applicable criteria established by this ordinance:]

The following uses are allowed in the EF-40 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections 402.07, 402.08 and 402.09. [the requirements of ORS Ch 215 for nonfarm dwellings and subject to being determined compatible with area farm uses and consistent with the intent and purpose of the EF-40 District.]
- B. Secondary dwelling of the type listed below, not in conjunction with farm use, [which meets the provisions of ORS Ch 215:] subject to Subsections 402.07 and 402.09:
1. Guest house.
 2. Temporary mobile home for family members requiring special care, subject to the following:
 - a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - b. The permit for the mobile home for special care shall be valid for a period of two [(2)] years or a

shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.

- c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
 - d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.
- C. Retirement residence, subject to [the following] subsections 402.07, 402.08 and 402.09, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
- [1. The dwelling for retirement purposes shall comply with the nonfarm provisions of ORS Ch 215.
 - 2. The applicant must live in the residence at the time of application and shall have lived therein for 5 years preceding the application.]
- D. Community centers owned and operated by a governmental agency or a nonprofit community organization, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.
- E. Dog kennel.
- F. Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
- G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.

- H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or subsurface resources, subject to the standards of Section 404.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.
- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordinance.

402.04

Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

402.05

Nonconforming Uses.

Nonconforming uses found in the EF-40 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

402.06

Dwellings in Conjunction with Farm Uses. [Subject to Review by Director.]

In the EF-40 District, [the] prior to construction or placement of a dwelling customarily provided in conjunction with farm use, [may be approved by the Director, provided that] the applicant shall demonstrate[s:] that:

- A. The parcel is a minimum of 40 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-025;
- [A. The dwelling will be occupied by the owner, owner's family, or farm operator in conjunction with farm [or forest] use;]
- B. The addition and location of new structures and improvements including dwellings, fences, roads, utilities, wells, etc., shall not impose undue limitations upon existing farm or forest uses in the area;
- C. The parcel currently supports accepted farming practices, as described in Subsection 402.02 A; [and as substantiated by a farm management plan.] and
- [D. The additional density will not detrimentally affect the farm operations of the area through increased use of roads, demands for groundwater during growing season, interference with farm uses or practices, or demand for public facilities;]
- D. The day-to-day activities of an owner or manager are required to manage the land for arm use and the activities are principally directed to farm use of the land.

402.07

Dwellings Not in Conjunction With Farm Uses.

In the EF-40 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

402.0[8]9.

Standards and Limitations.

In the EF-40 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one [(1)] principal dwelling per [forty (]40[)] acres and not more than one [(1)] principal dwelling shall be allowed on any parcel.
2. Permitted Secondary Uses. Not more than one [(1)] permitted secondary dwelling, as described in Subsection 402.02 D, shall be allowed per [forty (]40[)] acres.
3. Conditional Uses. Not more than one [(1)] dwelling allowed as a conditional use, as described in Subsection 402.03 B, shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. [The minimum size of] Any new farm parcel proposed to be created shall be a minimum of [forty] 40 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-020. [or as approved as a nonfarm parcel, in which case the minimum parcel size shall be two and one-half acres. The determination of a lot size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area shall be made on a case-by-case basis. In making the determination, findings shall be made to address the provisions of OAR 660-05-005, 660-05-015, 660-05-020, and OAR 660-05-025.] For nonfarm dwellings, as set forth in Subsection 402.03, any new

parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 402.07. For those uses, except dwellings, set forth in Subsection 402.03, any new parcel proposed to be created shall be the minimum size necessary for the use.

2. Existing Lots. Any permitted or conditional use provided for in this District[,] may be established on an existing [substandard] lot subject to satisfaction of the applicable requirements of the EF-40 District and OAR 660-05-025. [An application for construction or placement of a principal dwelling in conjunction with a farm use shall be subject to the criteria for establishment of a farm dwelling as provided in ORS Ch 215 and Subsection 402.06. An application for construction or placement of a principal dwelling not in conjunction with farm use shall be subject to the criteria for establishment of a nonfarm dwelling as provided in ORS Ch 215, and shall be processed as a conditional use.]
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least [three hundred (]300[)] feet.

C. Setbacks.

The minimum setback for all yards shall be [thirty (]30[)] feet for all uses, except as follows:

1. The minimum setback for all yards for a livestock feeding or sales yard shall be [fifty (]50[)] feet, except when adjacent to a residential zoning district or urban growth boundary as provided in Subsection 402.02 F.

- A. Is compatible with farm uses described in Subsection 402.02 (A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use. As used in this subsection, accepted farming practice means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use;
- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

402.0[7]8.

Disqualification from Farm Deferral and Declaratory Statement for Nonfarm Dwelling.

- A. Disqualification. Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.
- B. Declaratory Statement. Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following [declaration] declaratory statement and shall record it in the deed and mortgage records for Yamhill County:

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

2. The minimum setback for signs shall be five [(5)] feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 402.08 H.

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one [(1)] acre, maximum parcel coverage shall be [fifteen (]15[)] percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe, and passable means of access by abutting at least [twenty (]20[)] feet either directly upon a public road, or by a private easement which is at least [thirty (]30[)] feet in width for its entire length and which also abuts upon a public road for at least [thirty (]30[)] feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads, public roads, private roads serving four [(4)] or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding [thirty (]30[)] inches in height within a triangle formed by the lot corner nearest the intersection, and the two points [twenty (]20[)] feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least [twelve (]12[)] feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be [thirty-five (]35[)] feet.
2. The maximum building height for all other structures shall be [forty-five (]45[)] feet.
3. Structures used for the storage of farm products, and appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.

- a. No separate accessory structures shall be erected within [ten (]10[)] feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
- b. An accessory structure not more than [fifteen (]15[)] feet in height, and at least [sixty (]60[)] feet from a road, or off-site dwelling, may be located a minimum distance of three [(3)] feet from the property line in a side yard or rear yard.
- c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five [(5)] feet from the rear property line.
- d. The minimum setback for a kennel shall be [fifty (]50[)] feet from any property line and [five hundred

(1500[]) feet from any off-site dwelling.

2. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 402.08 F.
3. Storage and Use of Certain Vehicles and Recreational Equipment. One [(1)] travel trailer only shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests, subject to the Type A application procedure set forth in Section 1301. In no case shall such [as] a travel trailer be occupied for periods totalling more than three [(3)] months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless [and until] the necessary permits have been obtained.

I. Off-Street Parking.

1. In the EF-40 District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one [(1)] emergency vehicle turnaround.
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the EF-40 District shall be determined by the Director, subject to the provisions of Section 1007.

403. AGRICULTURE/FORESTRY DISTRICT (AF-20)

403.01 Purpose.

The purpose of the Agriculture/Forestry (AF-20) District is to identify and protect [those] lands [which are] designated as Agriculture/Forestry Large Holding or Agriculture Forestry Small Holding on the Comprehensive Plan[, and] that are generally suitable and used for labor-intensive, small-scale agricultural operations[,] and other uses which are compatible with such operations. Properties in the Agricultural/Forestry District are primarily foothill and ridgetop holdings above the flat terrace and valley-floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range. Uses of land and water which do not provide for a sustained production of crops, livestock and forest products or for the proper conservation of soil and water resources and fish and wildlife habitat shall be limited or prohibited. Lands in this district usually provide a transition from commercial agriculture to forestry uses. Soil and other characteristics of land in the AF-20 District commonly result in such areas not being well-suited to large-scale commercial agriculture or commercial forestry operations. However, many of these areas may be quite productive with intensive labor, and/or significant financial investment.

403.02 Permitted Uses.

In the AF-20 District, the following uses shall be permitted subject to the standards and limitations set forth in Subsection 403.0[8]9 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in ORS 215.203. [by ORS Ch 215. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use.]
- B. Fruit and vegetable stand for produce grown on the property or on property in the same ownership, [farm labor housing,] or winery. [,] The applicant will also be subject to Section 1101. Site Design Review.
- C. Propagation and harvesting of a forest product.

D. The following types of housing:

1. Principal or secondary dwelling customarily provided in conjunction with farm use;
2. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator;
3. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and
4. Farm labor housing customarily provided in conjunction with a farm use, subject to the requirements of Section 1101, Site Design Review.

All housing permitted under this subsection shall be reviewed pursuant to the Type A application procedure in Section 1301 and shall be subject to the requirements of ORS Ch 215 for farm dwellings as well as subsections 402.06 and 402.09 of this ordinance.

[D. Dwelling customarily provided in conjunction with a farm use, subject to the requirements of ORS Ch 215 for farm dwellings, and subject to satisfying the criteria for establishment of a farm dwelling as provided in Subsection 403.06. On property proposed to be put into production, a temporary mobile home placement permit may be granted for a two year period, subject to the provisions of Section 1009. If the dwelling is a mobile home, it shall, in addition to the requirements of this Section, also be subject to the mobile home standards set forth in Section 1002.

E. Secondary farm dwelling subject to the requirements of ORS Ch 215, wherein it is provided that:

1. The dwelling is occupied by a relative whose assistance in the management of the farm use is or will be required by the farm operator, and is located on the same lot or parcel as the farm operator; or
2. The dwelling is customarily provided in conjunction with farm use, and is located on a lot or parcel that is managed as part of a farm operation not smaller than 20 acres.]

E. [F] Livestock feeding yard, provided that it shall be located:

1. [A livestock feeding yard shall be located] At least [two hundred (]200[)] feet from the centerline of any water-course used for domestic water supply; and
2. [A livestock feeding yard shall be located] At least [five hundred (]500[)] feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.

F.[G.] Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers[,] over 200 feet in height[.,]. The applicant will also be subject to Section 1101, Site Design Review.

G.[H.] Accessory uses.

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

- I.[J.] Mobile home storage, [pursuant to the Type A application procedure set forth in Section 1301 and] subject to Section 1009 for temporary permits.
- J.[K.] Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.
- K.[L.] Signs, pursuant to the sign provisions set forth in Section 1006.
- L.[M.] Public warehouses, as exempted by ORS 586.210 to 586.561.

403.03

Conditional Uses.

[In the AF-20 District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria as per 403.03 established by this ordinance, the following uses may be allowed conditionally. The following uses are allowed in the AF-20 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections 403.07, 403.08 and 403.09. [the requirements of ORS Ch 215 for nonfarm dwellings and subject to being determined compatible with area farm uses and consistent with the intent and purpose of the AF-20 District.]
- B. Secondary dwelling of the type listed below, not in conjunction with farm or forest use, [which meets the provisions of ORS Ch 215:] subject to Subsections 403.07 and 403.09:
1. Guest house.
 2. Temporary mobile home for family members requiring special care, subject to the following:

- a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - b. The permit for the mobile home for special care shall be valid for a period of two [(2)] years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
 - d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.
- C. Retirement residence, subject to [the following] Subsections 403.07, 403.08 and 403.09, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
- [1. The dwelling for retirement purposes shall comply with the nonfarm provisions of ORS Ch 215.
 2. The applicant must live in the residence at the time of application and shall have lived therein for 5 years preceding the application.]
- D. Community centers owned and operated by a governmental agency or a nonprofit community organization, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.

- E. Dog kennel.
- F. Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
- G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.
- H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or subsurface resources, subject to the standards of Section 404.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.
- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordinance.

403.04

Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

403.05 **Nonconforming Uses.**

Nonconforming uses found in the AF-20 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

403.06 **Dwellings in Conjunction with Farm or Forest Uses.**
 [Subject to Review by Director.]

A. In the AF-20 District, [the] prior to construction or placement of a dwelling customarily provided in conjunction with farm [or forest] use, [may be approved by the Director, provided that] the applicant shall demonstrate[s:] that:

1. The parcel is a minimum of 20 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-025;

[A. The dwelling will be occupied by the owner, owner's family, or farm operator in conjunction with farm or forest use;]

2.[B] The addition and location of new structures and improvements including dwellings, fences, roads, utilities, wells, etc., shall not impose undue limitations upon existing farm or forest uses in the area;

3.[C] The parcel currently supports accepted farming practices, as described in Subsection 403.02 A; and [is used for farm or forest use as described and/or depicted on a management plan which substantiates that the property is used for farm or forest use, and includes the following:

1. For farm uses:

a. Evidence that the parcel currently supports accepted farming practices as described in Subsection 403.02 A.

- b. Demonstration that additional density will not detrimentally affect the farm or forest operations of the area through increased use of roads, demands for groundwater during growing season, interference with farm or forest uses or practices, or demand for public facilities.
2. For forest uses:
- a. Evidence that the dwelling is appropriate, incidental and secondary to the use of the property for timber production and harvest, and is necessary in order to manage the land for forest use. The following specific criteria shall be taken into account to determine whether or not a dwelling is "necessary":
 - (1) The size and location of the timberland.
 - (2) The extent and type of activities required by the management plan.
 - (3) The need to prevent vandalism or trespass.
 - (4) The occupation and/or place of residence of the owner.
 - (5) Surrounding area uses and ownerships.
 - (6) The consequences of not having a residence on the property.
 - b. That without such dwelling it would be difficult to manage the land for forest production.
 - c. The property is now, or will be used in a manner consistent with the purpose of this district, as evidenced by at least one of the following:

- (1) A forest improvement program as defined by the Oregon State Department of Forestry.
- (2) A fish, wildlife or other conservation management program approved by the appropriate state agency.
- (3) A cooperative or lease agreement for forestry management as the principal use on the property.
- (4) A private management plan for a principal use, as documented by receipts related to the use.
- (5) The presence on the property of accessory buildings and uses of a permanent nature, such as equipment sheds and storage areas, that are in conjunction with forestry activities on adjacent property.]

[D The additional density will not detrimentally affect the farm operations of the area through increased use of roads, demands for groundwater during growing season, interference with farm uses or practices, or demand for public facilities; and

4. The day-to-day activities of an owner or manager are required to manage the land for farm use and the activities are principally directed to farm use of the land.

B. Prior to construction or placement of a dwelling in conjunction with forest use, the applicant must demonstrate that the dwelling is necessary in order to manage the land for a permitted forest use and that all other criteria set forth in subsection 401.06 (Establishment of Dwellings in Conjunction with Forestry) are met.

403.07 Dwellings Not in Conjunction With Farm Uses.

In the AF-20 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

- A. Is compatible with farm uses described in Subsection 403.02(A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use. As used in this subsection, accepted farming practice means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use;
- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

403.0[7]8.

Disqualification from Farm or Forest Deferral and Declaratory Statement for Nonfarm or Nonforest Dwelling.

- A. **Disqualification.** Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.
- B. **Declaratory Statement.** Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following [declaration] declaratory statement and shall record it in the deed and mortgage records for Yamhill County.

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

403.0[8]9.

Standards and Limitations.

In the AF-20 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one [(1)] principal dwelling per [twenty (]20[)] acres and not more than one [(1)] principal dwelling shall be allowed on any parcel.
2. Permitted Secondary Uses. Not more than one [(1)] permitted secondary dwelling, as described in Subsection 403.02 D,[E] shall be allowed per [twenty (]20[)] acres.
3. Conditional Uses. Not more than one [(1)] dwelling allowed as a conditional use, as described in Subsection 403.03 B, shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. [The minimum size of] Any new farm/forest parcel proposed to be created shall be a minimum of [twenty] 20 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-020. [or as approved as a nonfarm parcel, in which case the minimum parcel size shall be two and one-half acres. The determination of a lot size which is

appropriate for the continuation of the existing commercial agricultural enterprise in the area shall be made on a case-by-case basis. In making the determination, findings shall be made to address the provisions of OAR 660-05-005, 660-05-015, 660-05-020, and OAR 660-05-025.] For nonfarm dwellings, as set forth in Subsection 403.03, any new parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 403.07. For those uses, except dwellings, set forth in Subsection 403.03, any new parcel proposed to be created shall be the minimum size necessary for the use.

2. Existing Lots [of Record]. Any permitted or conditional use provided for in this district, may be established on an existing [substandard] lot subject to satisfaction of the applicable requirements of the AF-20 District and OAR 660-05-025. [An application for construction or placement of a principal dwelling in conjunction with a farm use shall be subject to the criteria for establishment of a farm dwelling as provided in ORS Ch 215 and Subsection 403.06. An application for construction or placement of a principal dwelling not in conjunction with farm use shall be subject to the criteria for establishment of a nonfarm dwelling as provided in ORS Ch 215, and shall be processed as a conditional use.]
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least [three hundred (]300[)] feet.

C. Setbacks.

The minimum setback for all yards shall be [thirty (]30[)] feet for all uses, except as follows:

1. The minimum setback for all yards for a livestock feeding or sales yard shall be [fifty (]50[)] feet, except when adjacent to a residential zoning district or urban growth boundary as provided in Subsection 403.02 F.
2. The minimum setback for signs shall be five [(5)] feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 403.08 H.

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one [(1)] acre, the maximum parcel coverage shall be [fifteen (]15[)] percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe, and passable means of access by abutting at least [twenty (]20[)] feet either directly upon a public road, or by a private easement which is at least [thirty (]30[)] feet in width for its entire length and which also abuts upon a public road for at least [thirty (]30[)] feet.

Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

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

are maintained to allow at least [twelve (]12[)] feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be [thirty-five] 35 feet.
2. The maximum building height for all other structures shall be [forty-five (] 45[)] feet.
3. Structures used for the storage of farm products, and appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows.

1. Structures.

- a. No separate accessory structures shall be erected within [ten (]10[)] feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
- b. An accessory structure not more than [fifteen (]15[)] feet in height, and at least [sixty (]60[)] feet from a road, or off-site dwelling may be located a minimum distance of three [(3)] feet from the property line in a side yard or rear yard.
- c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five [(5)] feet from the rear property line.

- d. The minimum setback for a kennel shall be [fifty (]50[)] feet from any property line and [five hundred (]500[)]feet from any off-site dwelling.
2. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of Subsection 403.09 F.
 3. Storage and Use of Certain Vehicles and Recreational Equipment. One [(1)] travel trailer only shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests, subject to the Type A application procedure set forth in Section 1301. In no case shall [such] a travel trailer be used as a principal dwelling or rented unless [and until] the necessary permits have been obtained.
- I. Off-Street Parking.
1. In the AF-20 District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one [(1)] emergency vehicle turnaround.
 2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the AF-20 District shall be determined by the Director subject to the provisions of Section 1007.

1009 TEMPORARY USE PERMITS**1009.01 Standards and Requirements**

The following minimum requirements shall apply to temporary use permits:

- A. A structure for which a temporary permit is issued shall be subject to the standards and limitations of the zoning district in which it is located.
- B. The structure shall meet all applicable county health and sanitation requirements.
- C. Temporary uses or activities shall comply with applicable state and federal regulations and requirements.
- D. In the event that the use or activity involves a temporary structure, such structure shall be removed upon expiration of the temporary use permit unless a new application is approved by the director. In no case shall a temporary use permit be issued for a period exceeding nine months [(9)] unless the permit is renewed pursuant to this ordinance, or is subject to Subsection 1009.03.

1009.02 Conditions of Approval

In issuing a temporary use permit, the director may impose reasonable conditions as necessary to preserve the basic purpose and intent of the underlying zoning district. These conditions may include, but are not limited to, the following:

- A. Increasing the required yard dimensions.
- B. Requiring fencing, screening, or landscaping to protect adjacent or nearby property.
- C. Limiting the number, size, location, or lighting of signs.
- D. Limiting the time for certain activities.
- E. Limiting the total duration of the use.
- F. Posting bonds or other financial assurances to guarantee compliance with conditions of approval.

[1009.03 Temporary Farm Dwelling.

On property in an EF-40 or AF-20 zone that is proposed to be put into commercial agriculture or timber production, a temporary mobile home placement permit may be granted for a two-year period, upon submission of a management plan which demonstrates that the parcel will support accepted farming practices as described in Subsection 402.02 A., for the primary purpose of obtaining a profit in money, and will be appropriate to continue existing commercial farm enterprises within the area, subject to the following:

1. Within two years of the granting of the temporary mobile home placement permit, the management plan is implemented.
2. When the management plan is implemented, building permits for a conventional home may be issued.
3. If the management plan is not implemented within the two-year period described above, the mobile home shall be removed and the placement permit shall be void. If the management plan is partially implemented, a one-time, one-year extension may be granted by the director.]

[1009.04]

1009.03 Termination or Non-Renewal.

- A. [In the event that] If the applicant for a temporary activity or use fails to maintain compliance with conditions of approval, or [in the event that] if the activity or use is determined, upon appeal of the director's decision, to be inconsistent with the provision of the applicable zoning district, such use may, upon 15 days notice by the director, be terminated. Such an appeal may be made at any time during the duration of permit approval, and is not subject to other time limitations.
- B. If the temporary use is determined to be incompatible with vicinity uses or otherwise unsatisfactory, and such conditions cannot be mitigated, the temporary activity or use may be denied renewal by the director.
- C. If at any time the director determines that a temporary use is more permanent than temporary in nature, such use shall comply with all applicable provisions of this ordinance.

LANDING FIELDS AND PUBLIC AIRPORTS

1011.01 Areas of Concern. There are 3 public airport or landing facilities in the county which come under the provisions of this section. These airports currently include McMinnville, Sheridan, and Sportsman Air Park in Newberg. Areas of concern around each of these facilities are delineated on the official zoning map as the Airport Overlay District. Nonpublic use, private landing strips and heliports are not delineated but may still be subject to applicable regulations.

1011.02 Standards and Requirements.

The following standards shall apply to all landing field and public airport improvements, and to improvements on all adjacent properties affected by such standards as delineated on the Official Zoning Map: [New landing field or airport facilities shall require conditional use approval and are subject to site design review in accordance with provisions of Section 1101.]

A. Uses Within the Airport Overlay District

All structures and uses within the Airport Overlay District shall conform to the requirements of Federal Aviation Regulations (F.A.R.) Part 77, or successor, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards to flight, air navigation, or public health, safety and welfare. The Airport Overlay District has been further regulated as follows:

1. Approach Zones.

(a) The following uses are prohibited except as required for airport use:

- (i) Places of public assembly.
- (ii) Residential density greater than one dwelling per five acres except as allowed in the underlying zone existing prior to the date of adoption of this ordinance.
- (iii) Retirement homes and other residential institutions.
- (iv) Hospitals.
- (v) Schools.

- (vi) Aggregate extraction where ponding and birds pose a strike hazard.
- (vii) Storage of hazardous material as defined by the National Fire Protection Association (NFPA).
- (viii) Communications towers.
- (ix) Solid waste disposal sites.
- (x) Commercial or industrial use with potential operations hazards such as electrical interference, high intensity lighting, smoke, glare, noise, etc.
- (xi) All other uses as listed in the underlying zone with a hold harmless agreement and navigational easement.

2. Clear Zones.

- (i) The clear zone shall be free of any construction or obstacle and shall be minimally used by people.
- (ii) Agriculture which does not attract birds is permitted. No structures are allowed.
- (iii) Above ground power lines are prohibited.
- (iv) Airport clear zones are subject to the conditions as shown in the airport's master plan.

3. Transition Zones.

In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no approval shall be required for any tree or structure less than fifty feet of vertical height about the ground, except when such tree or structure because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or

alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance.

4. Conditional Uses.

Except as provided in subsection 1011.02(D) for exceptions, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport without obtaining conditional use approval pursuant to Section 1202. In addition, applications shall indicate the purpose for which the approval is desired, with sufficient detail to permit determination whether the resulting use, structure, or tree would conform to this Section and Section 1202 for conditional uses. No approval shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than that existing at the time of adoption of this ordinance, or when the application for a permit is made.

C. Prohibited Uses.

Regardless of any other provisions of this ordinance, no use may be made of land or water within any area covered by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

D. Exceptions.

- (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than fifty feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

E. Height Limitations.

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the applicable height limitations established in accordance with Federal Aviation Regulations (F.A.R.), Part 77, "Objects Affecting Navigable Airspace".

F. Marking and Lighting.

The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the county to indicate to the operators or aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

G. Variances.

Any person desiring to erect or increase the growth of any tree, or use property not in accordance with the regulations prescribed in this section, may apply for a variance from such regulations pursuant to Section 1203 for variances. The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Department of Transportation, Aeronautics Division, as to the effect of the proposal on operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where the requirements of Section 1203 have been met and it is found that the relief granted will not be contrary to the public interest and will not create a hazard to air navigation. Additionally, no application for variance to the requirements of this section may be approved unless a copy of the application has been furnished to the airport owner for comment as to the aeronautical effects of the variance. Failure of the airport owner to respond to the request for comments shall not prevent the county from taking final action on the variance application.

[A. Aircraft Approach Sector Allowable Uses.

Within the property boundary of the airport or landing strip, the following uses may be allowed within approach sectors, providing that none of the uses shall

have a height extending above the planes of the approach sectors:

1. Agricultural uses, except livestock feed or sales yard.
 2. Other uses allowed within the zone except as follows:
 - (a) Uses involving structures designed to accommodate public assembly of people.
 - (b) Uses involving structures housing employment activities, e.g., manufacturing or office work.
 - (c) Uses producing glare or electromagnetic interference, or creating bird strike hazards.
- B. Aircraft Landing Sector Allowable Uses. Within the property boundary of the airport or landing strip, the following uses may be allowed within the landing sector, providing that none of the uses shall have a height extending above the planes of the landing sectors:
1. Nonstructural agricultural uses, except livestock feed or sales yard.
 2. Other, nonstructural uses, allowed by the zone provided such uses do not attract or generate people to the area, nor produce glare or electromagnetic interference, nor create bird strike hazards.
- C. Development Area Allowable Uses. Within the boundary designated as the "Development Area" on the site plan, the following uses may be allowed subject to the conditional use and site design review approval.
1. Airport-related uses.
 2. Other uses allowed within the zone subject to appropriate height and setback provisions.
- D. Site Design Setbacks, Height Limitations and Other Standards.
1. In addition to setback requirements of the underlying zone, minimum on-site structural setbacks from a primary landing surface shall be

- 1000 feet from the ends of the surface and 100 feet from the sides of the surface.
2. Off-site structures shall meet the above building height and setback standards unless a variance therefrom is approved.
 3. No on-site construction or vegetation shall extend above the airport approach sector or aircraft landing sector planes. Maximum building height for nonresidential structures shall be 60 feet.
 4. Minimum parcel size for an airport or aircraft landing field shall be 10 acres.
 5. Airport or landing field-related uses may include but are not limited to airport structures, hangers, ticket and passenger accommodations, caretaker dwellings, repair and maintenance facilities, and other uses as permitted by the underlying zone.
 6. Structures shall be located so as not to endanger or interfere with the landing, takeoff, or maneuvering of aircraft.
 7. Non-airport related lighting shall be regulated so as not to be confused with air traffic lighting.
 8. Land use approval shall not become final until all necessary State and Federal requirements are satisfied.]

1204. Exceptions to Statewide Goals

Goal Two of the Statewide Planning Goals, ORS 197.732, and Oregon Administrative Rules, Chapter 660, Division 4, specify the requirements for approval of an exception to a statewide planning goal. An applicant may apply for an exception pursuant to those provisions, and subject to the Type C procedure of Section 1301 of this ordinance.

1301 SUMMARY OF APPLICATION AND REVIEW PROCEDURES

1301.01 Type A, B, and C Procedures

The review of applications received under the provisions of this ordinance shall be conducted according to one [(1)] or more of the three [(three)] procedures described below:

- A. **Type A Procedure [- Review by the Director**
Applications subject to an administrative decision by the Director shall be reviewed according to the following procedure:]

The following procedure shall be used when county ordinance requires Type A review of an application:

1. Prior to or at the time of filing an application, the applicant or [his] the applicant's authorized representative shall meet [and confer] with the Director or an authorized representative of the Department of Planning and Development [staff,] in a pre-application conference to review requirements and concerns about the applicant's request;
2. The applicant shall submit an application to the Department [of Planning and Development] on a form prescribed by the Director;
3. Within [fifteen (]15[)] days of receipt of a complete application, or such longer period mutually agreed to by [both] the Director and the applicant, the Director shall review the application and shall make a decision based on an evaluation of the proposal and on the applicable criteria [as set forth] in this ordinance;
4. The applicant and owners of land adjoining the subject property shall be notified in writing of the director's decision and of the reasons for the decision. Others who may have an interest in the decision shall be notified by publication in a newspaper of general circulation in the county.
5. All decisions of the Director may be appealed to the Board if such an appeal is filed within [fifteen (]15[)] days from the date of

the decision, pursuant to [the provisions of] Section 1404 for appeals.

B. **Type B Procedure [- Review by the Director With Notification.**

Applications subject to an administrative decision by the Director which are also subject to public notification requirements shall be reviewed according to the procedure described in subsection 1301.01(A) except that before any application may receive final approval the following procedure shall be followed:]

The following procedure shall be used when county ordinance requires Type B review of an application:

1. Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Director or an authorized representative of the Department of Planning and Development in a preapplication conference to review requirements and concerns about the applicant's request;
2. The applicant shall submit an application to the Department on a form prescribed by the director;
- 3.[1] Owners of land adjoining the subject property, the Board, the Commission, and the appropriate planning advisory committee, shall be notified of the application within [thirty (]30[)] days of its receipt. Others who may have an interest in the application shall be notified by publication in a newspaper of general circulation in the county. The director shall have the right to provide written notice to such other persons as deemed appropriate. Those notified shall be given [fifteen (]15[)] days from the date of notification to either submit a written request for public hearing, or bring to the attention of the Director objections to approval or any adverse consequences or incompatibilities that may result from approval. A request for a hearing shall be in writing, shall state the basis for requesting the hearing and shall be accompanied by payment of a fee to cover the cost of the hearing. No fee shall be required if the hearing is requested by the board, commission, appropriate planning advisory committee or the Director.
4. [Unless a] If no timely written request for a public hearing is received by the director [within

fifteen (15) days from the date of notification,] the Director shall either approve or deny the application. [shall be reviewed according to the Type A procedure described in subsection 1301.01 (A); except that] The Director may attach additional conditions to an approval based on comments received during the 15 day period following public notice. The director shall make a decision based on an evaluation of the proposal within [with ninety(]90[)] days of receipt of a complete application, or such longer period mutually agreed to by the director and the applicant. The applicant and those who commented during the 15 day period following public notice shall be notified in writing of the director's decision and the reasons for the decision. A decision of the director made pursuant to this subsection may be appealed to the Board by filing pursuant to Section 1404 of this ordinance no later than 15 days from the date of the decision.

5.[2]

If[, within fifteen (15) days from the date of notification,] the director receives a timely written request for public hearing, as specified in this section, the director shall [notify the applicant that he must pay an additional fee to cover the cost of the hearing and shall] schedule a public hearing before the commission or hearings officer, according to the Type C procedure described in subsection 1301.01(C) and in accordance with the public notice requirements of Section 1402. [Once the applicant receives notification of a request for a hearing, the applicant shall have thirty (30) days to pay the appropriate fee or the application will be deemed to have been withdrawn. The fee mentioned herein shall not be required when the request for a hearing is from the Board, Commission, appropriate Planning Advisory Committee or the Director.]

C. Type C Procedure - Public Hearing before the Commission or Hearings Officer.

[Applications subject to public hearing before the Commission or Hearings Officer shall be reviewed according to the following procedure:]

The following procedure shall be used when county ordinance requires Type C review of an application.

1. Prior to or at the time of filing an application, a preapplication conference shall be conducted in

which the applicant or the applicant's authorized representative shall meet with the director or an authorized member of the department to review requirements and concerns about the applicant's request, [as described above in subsection 1301.01(A)(1):]

2. The applicant shall submit an application to the Department of Planning and Development on a form prescribed by the director;
3. Upon receipt of a complete application, a public hearing shall be scheduled and public notice mailed and published according to the public notice requirements contained in Section 1402;
4. The appropriate planning advisory committee may hold a public meeting to review the application, and may make a recommendation to the commission or hearings officer;
5. At the public hearing the county staff, planning advisory committee, the applicant, and other interested parties may present information relevant to the proposal, and may give reasons why the application should or should not be approved;
6. Within [ninety (]90[)] days of receipt of a completed application, or such longer period mutually agreed to by both the director and the applicant, the application shall be approved or denied based on an evaluation of the proposal and applicable criteria as set forth in this ordinance;
7. The applicant shall be notified in writing of the decision and of the reasons for the decision; and
8. All decisions of the commission or hearings officer may be appealed to the Board, if the appeal is filed within [fifteen (]15[)] days from the date of the decision, pursuant to Section 1404 for appeals.

1301.02 Effective Date of Decision.

The effective date of decision is the date of recording of the final order or, if the decision is such that no order is to be filed, the effective date of decision is the date of the letter notifying the applicant of the decision.

1301.03 Reapplication

If an application is denied, no new application for the same or substantially similar action shall be filed for at least one [(1)] year from the effective date of decision.

1301.04 Review by the Commission.

The Commission may, on its own motion, initiate review of any decision of the director made pursuant to the review procedures of subsection 1301.01 if within [fifteen)]15[)] days of the decision, a request is received from one [(1)] or more members of the commission for review of the decision and at the next regularly scheduled meeting of the commission a motion is passed to review the decision. Review by the commission shall be subject to Section 1404 for appeals.

1301.05 Review by the Board

The Board may, on its own motion, order review of any decision made pursuant to the review procedures of subsection 1301.01 if such a motion is made within [fifteen (]15[)] days of the decision, subject to Section 1403 for Board review.

1301.06 Effective Date of Application.

Approval of any land use application, as provided for in the review procedures of subsection 1301.01, shall not be effective, and no development permits shall be issued, until the appeal period has elapsed.

EXHIBIT B

7.060 Standards and Criteria for Farm Zone Partitions

In an EF-40 or AF-20 zone, the following standards and criteria shall apply to the creation of parcels for retirement or functional purposes, or for the preservation of a historical residence. Both parcels to be created shall conform to the minimum parcel size specified in Yamhill County Zoning Ordinance #310 as amended, subsection 402.09 or 403.09 in an EF-40 or AF-20 zone, respectively. Nonfarm parcels to be created shall be disqualified from special assessment and shall otherwise be in compliance with Section 402.08 or 403.08. In addition, nonfarm parcels created for nonfarm dwellings shall be in compliance with Section 402.07 or 403.07, in an EF-40 or AF-20 zone, respectively:

1. Creation of a parcel of less than [forty (40)] acres in an EF-40 zone or [twenty (20)] acres in an AF-20 zone partitioned from an existing parcel of greater than those acreages, which is to be used to provide a retirement residence for a farm owner who has owned the parcel for a minimum of five [(5)] years, subject to the following:
 - A. The dwelling for retirement purposes shall have nonfarm dwelling conditional use approval, if it is to be located on a nonfarm parcel.
 - B. Approval of the request will not reduce in size the largest of the two [(2)] parcels being created below the minimum lot size for a farm parcel allowed in the zone.[forty (40) acres in an EF-40 zone or twenty (20) acres in an AF-20 zone.]
 - C. The parcel created to accommodate the dwelling shall include no more than three [(3)] acres of land, unless soil conditions, topography or other unique circumstances require a greater land area;
 - D. The parcel created to accommodate the dwelling shall not be less than one [(1)] acre;

- E. The remaining larger parcel shall not be partitioned further under this provision for a period of [fifteen (15)] years;
 - F. The purpose of the partition shall be for retirement thereon;
 - G. Evidence is submitted that the property has been in farm or forest use and that the remaining larger parcel shall continue in farm or forest use; and
 - H. For the purpose of determining density of development for residential purposes, the smaller parcel shall be considered with the original parcel as if the property had never been divided and appropriate conditions may be imposed to ensure compliance with this requirement.
2. Creation of a parcel of less than [forty (40)] acres in an EF-40 zone or [twenty (20)] acres in an AF-20 zone that is functionally divided from the remainder of the subject property by a major cultural feature or major natural feature, subject to the following:
- A. Approval of the request will not reduce in size the largest of the two parcels being created below the minimum lot size for a farm parcel allowed in the zone. [forty (40) acres in an EF-40 zone or twenty (20) acres in an AF-20 zone.]
 - B. The natural or cultural division of the property must result in exceptional and unique practical difficulties to the farm or forest management practices applied to the land under consideration;
 - C. No parcel created under this subsection shall be less than two [(2)] acres in size.
 - D. For the purpose of determining density of development for residential purposes, the smaller parcel shall be considered with the original parcel as if the property had never been divided and appropriate conditions may be imposed to ensure compliance with this requirement.
 - E. Any dwelling proposed for either parcel shall be subject to either Section 402.06 and 403.06 of the county zoning ordinance for farm or forest

dwelling, or to zoning ordinance provisions for a nonfarm/nonforest dwelling, whichever are applicable.

F. If the parcel to be created is not to continue in farm or forest uses, additional justification shall be provided that:

(1) The natural or cultural feature is physically unique to the subject property and is not commonly shared by other properties in the vicinity or zoning districts; and

(2) The division will not directly result in the creation of other land uses that may be incompatible with accepted farm or forestry practices.

3. Creation of a nonfarm parcel, partitioned from the parent parcel for the purpose of providing separate ownership of dwellings already existing prior to February 11, 1976, on the parcel to be partitioned. Any partitioning accomplished under this section shall be subject to the following criteria:

A. The secondary dwelling to be separated shall have nonfarm dwelling conditional use approval, if it is to be located on a nonfarm parcel.

B. The secondary dwelling shall have or can be provided with water and sewage disposal systems suitable for permanent and continuous use, and shall either be habitable and suitable for year-round occupancy without requiring improvement or shall be suitable for restoration and listed on the National Register of Historic Places as specified in ORS 358.480. [identified as a cultural resource pursuant to the Yamhill County Cultural Resources Survey and Inventory.]

C. No such secondary dwelling shall have been previously approved as a secondary dwelling for farm help, a guest house, or a temporary mobile home for family members requiring special care.

[D. If the parcel to be created is to be a nonfarm parcel, it shall be disqualified from special assessment at farm value and repayment of deferred taxes arising from such disqualification shall be made prior to final partitioning approval.]

[E.]D. If the parent parcel exceeds the minimum zoning acreage requirements, the parcel to be created shall be no smaller than one acre nor greater than three acres, unless soil conditions, topography or other unique circumstances require a greater land area.