

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 743

An Ordinance amending sections of MCC 11.15 to ensure that future land divisions and land uses in forest areas are compatible with forest practices as part of the amendments needed to bring Multnomah County's land use planning program into compliance with Oregon Administrative Rule 660, Division 6.

(Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) On January 25, 1990 the State of Oregon Land Conservation and Development Commission (LCDC) adopted significant amendments to the Statewide Planning Goal 4, Forest Lands and the related Oregon Administrative Rule (OAR Chapter 660, Division 6). The amendments stated that by February 5, 1993 Multnomah County must implement those rules into the comprehensive plan text, plan map, zoning code, and zoning map.

(B) The Land Conservation and Development Commission stated four primary reasons for the amendments: "The Commission has found it necessary to amend Goal 4 and OAR 660, Division 6, for several reasons. In 1986, the Oregon Supreme Court in 1000 Friends of Oregon v. LCDC and Lane County interpreted Goal 4 contrary to Commission interpretations contained in acknowledged comprehensive plans. Second, the Oregon Legislature passed HB 3396 which limited the authority of counties to regulate forest practices. Third, the commercial forest land base continues to shrink while the state's timber supply diminishes thereby affecting the state's economy. Fourth, recent forest fire seasons have been extremely costly, and have illustrated the difficulties in suppressing wildfires in forest areas where dwellings are present."

1 (C) On December 3, 1992 the Land Conservation and Development Commission adopted minor
2 amendments to OAR Chapter 660, Division 6, Forest Lands at the same time that extensive amendments
3 were made to OAR 660, Division 33, Agricultural and Small-Scale Resource Land. The 1992 amend-
4 ments to the Forest Lands Rule were so few and of such minor impact that the Board of County
5 Commissioners has chosen to incorporate them into the second reading of this Ordinance.

6 (D) This Ordinance amends the Commercial Forest Use (CFU) Zoning District (MCC 11.15.2042
7 — .2074) to conform with and carry out the purposes of the Oregon Administrative Rule 660, Division 6.
8 The CFU zone will thereafter be the sole district utilized by Multnomah County in protecting and regulat-
9 ing land uses on lands defined as forest by the Statewide Planning Goal 4 and related OAR's.

10 (E) A 46 page findings document examining the impacts of the State Rule changes and the reasons
11 for the course of action taken is on file with the Multnomah County Department of Environmental
12 Services, Division of Planning and Development. The findings have the title "C 4-92, Exhibit A, Findings
13 Associated with Bringing the Multnomah County Zoning Code into Compliance with the Oregon
14 Administrative Rule on Forest Lands." They are attached hereto, are incorporated by reference, and are
15 adopted.

16 (F) On May 4, 1992, June 1, 1992, and July 8, 1992 the Planning Commission held open work-
17 shops for drafting of the forest amendments. On August 17 and 18, 1992 County staff conducted public
18 information meetings to explain the State requirements and the proposed County ordinances to meet those
19 requirements. The Planning Commission then held public hearings on September 8, 1992, September 21,
20 1992 and October 5, 1992. Hearings before the Board of County Commissioners followed on November
21 24, 1992 and December 8, 1992. At each of the hearings all interested persons were given an opportunity
22 to appear and be heard.

23

24 Section II. Amendments.

25 Multnomah County Code Chapter 11.15 is amended to read as follows:

26

1 **11.15.2042 Purposes**

2 The purposes of the Commercial Forest Use District are to conserve and protect designated lands for
3 continued commercial growing and harvesting of timber and the production of wood fiber and other
4 forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to
5 protect scenic values; to provide for agricultural uses; to ~~[assure the orderly and planned development~~
6 ~~of public and private]~~ provide for recreational opportunities and other uses which are compatible with
7 forest use and to minimize potential hazards or damage from fire, pollution, erosion or urban develop-
8 ment.

9 **11.15.2044 Area Affected**

10 MCC .2042 through .2074 shall apply to those lands designated CFU on the Multnomah County
11 Zoning Map.

12 **11.15.2045 Definitions**

13 As used in MCC .2042 through .2074, unless otherwise noted, the following words and their deriva-
14 tions shall have the following meanings:

15 (A) Accessory to – As applied to forest management dwellings, a dwelling that is incidental and subor-
16 dinate to the main forest use.

17 (B) Auxiliary – For the purposes of MCC .2048(A)(2) to (3), the use or alteration of a structure or land
18 which provides temporary help, or is directly associated with the conduct of a particular forest
19 practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed
20 not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use
21 shall be removed when the particular forest practice for which it was approved is concluded.

22 (C) Campground – An area devoted to overnight temporary use for vacation, recreational or emergency
23 purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer
24 or recreational vehicle. A campground shall not include intensively developed recreational uses
25 such as swimming pools, tennis courts, retail stores or gas stations.
26

(D) Necessary for – As applied to forest management dwellings, the principal purpose for locating the dwelling is to enable the resident(s) to contribute substantially to the effective and efficient management of the forest land. A resident contributes substantially when the resident spends an extensive amount of time performing forest management activities which increase timber yields, quality or productivity, and which are recognized by the Forest Practices Act. Necessary for precludes a dwelling which simply "enhances" forest management. Necessary for also does not demand that a dwelling be absolutely required for forest management or that the production of trees is physically possible only with a dwelling.

11.15.2046 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2048 through .2056.

11.15.2048 [Primary] Uses Permitted Outright

(A) ~~[Forest uses associated with the production, management and harvesting of timber;]~~ The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

(1) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

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

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

(B) ~~[Wood processing operations, such as]~~ A temporary portable facility for the primary processing of forest products. [:]

~~[(1) Pole and piling preparation;~~

~~(2) Portable sawmill for lumber cutting only;~~

~~(3) Wood chipping;~~

~~(4) Manufacture of fence posts; and~~

~~(5) Cutting firewood and similar miscellaneous products.]~~

(C) Farm use, as defined in ORS 215.203, ~~[(2)(a) for the following purposes only:~~

~~(1) Raising and harvesting of crops;~~

~~(2) Raising of livestock or honeybees; or~~

~~(3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC .2052(B).]~~

(D) ~~[Public and private conservation areas and structures other than dwellings for the protection of water, soil, open space, forest and wildlife resources; and]~~ Maintenance, repair, or expansion of an existing single family dwelling;

(E) ~~[Residential use consisting of a single family dwelling on a lot of 80 acres or more, subject to the residential use development standards of MCC .2074.]~~ Replacement of an existing dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling shall be habitable, served by a reliable sanitary supply of running water for domestic use, and contain a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system;

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries resources conservation area;

(G) An uninhabitable structure accessory to fish and wildlife enhancement;

(H) A caretaker residence for a public park or a fish hatchery;

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

(J) Climbing and passing lanes within the right of way existing as of July 1, 1987;

(K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result;

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;

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

(N) A lookout tower for forest fire protection;

(O) A water intake facility, canal and distribution lines for farm irrigation and ponds;

(P) A temporary forest labor camp;

(Q) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;

(R) Exploration for geothermal resources;

(S) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

11.15.20 [50] 49 Uses Permitted Under Prescribed Conditions

~~[(A) Residential use in conjunction with a primary use listed in MCC .2048 including a mobile or modular home, subject to the following:~~

~~(1) The lot size shall meet the standards of MCC .2058(A), or MCC .2062(A) and (B), but shall not be less than ten acres;~~

~~(2) A resource management program for at least 75% of the productive land of the lot, as described in subsection MCC .2052(C)(2)(a), consisting of:~~

~~(a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar~~

- ~~forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;~~
- ~~(b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;~~
- ~~(c) A resource management plan for a primary use listed in MCC .2048, based upon income, investment or similar records of the management of that resource on that property as a separate management unit for at least two of the preceding three years;~~
- ~~(d) A fish, wildlife or other natural resource conservation management plan, certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;~~
- ~~(e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or~~
- ~~(f) A cooperative or lease agreement with a commercial timber company or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.~~
- ~~(3) The dwelling will not require public services beyond those existing or programmed for the area;~~
- ~~(4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;~~
- ~~(5) The residential use development standards of MCC .2074.~~
- ~~(B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the vicin-~~

ity, subject to the following condition:

~~The location and design of any building, stand or sign in conjunction with wholesale and retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area, provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.]~~

(A) Replacement of an existing dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling is habitable, is served by a reliable sanitary supply of running water for domestic use, and contains a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system; and

(2) The replacement dwelling location meets the development standards of MCC .2074.

(B) Restoration or replacement of a dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to the following:

(1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and

(2) A replacement dwelling located more than 200 feet from the prior dwelling location shall be subject to the development standards of MCC .2074.

11.15.205 [2] Q Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) A Forest Management Dwelling pursuant to the provisions of MCC .2051 and .2074.

(B) A dwelling not related to forest management pursuant to the provisions of MCC .2052 and .2074.

([A] C) The following Community Service Uses pursuant to the provisions of MCC .2053, .2074, .7005 through .7015, and .7035 through [7041] .7072.

(1) Campground.

(2) Cemetery.

- 1 (3) Fire station for rural and forest fire protection.
- 2 (4) Aid to navigation and aviation.
- 3 (5) Water intake facility, related treatment facility, pumping station, and distribution line.
- 4 (6) Reservoir and water impoundment.
- 5 (7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width or
6 new electric transmission line with a right-of way width of up to 100 feet as specified in ORS
7 772.210.
- 8 (8) Forest management research and experimentation facility as defined by ORS 526.215.
- 9 (9) Park, including a public or private wildlife and fisheries resources conservation area with
10 accessory structures for educational or instructional use.
- 11 (10) Utility facility for the purpose of generating power provided the facility not preclude more
12 than 10 acres from use as a commercial forest operation unless an exception is taken pursuant
13 to OAR 660, Division 4.
- 14 (11) Radio, microwave, and television transmission towers subject to the definitions, restrictions
15 and standards in MCC .7020(15) and .7035 through .7041.
- 16 (12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has
17 granted a permit under ORS 459.245, together with equipment, facilities or buildings neces-
18 sary for its operation.
- 19 (13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a
20 permit under ORS 459.245, together with equipment, facilities or buildings necessary for its
21 operation subject to the definitions, restrictions and standards in MCC .7045 through .7072.
- 22 (14) Private hunting and fishing operation without any lodging accommodations.
- 23 (15) Private seasonal accommodations for a fee hunting operation or fishing, provided:
24 (a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the
25 Oregon Structural Speciality Code;
26 (b) Only minor incidental and accessory retail sales are permitted;

(c) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons or fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

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

(16) Mining, processing and production of geothermal resources.

(~~[B]~~ D) The following [~~Conditional U~~] uses pursuant to the provisions of MCC .2053, .2074, .7105 through .7120, .7125 through .7135, 7305 through .7335, and .7605 through .7640.

(1) [~~Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, m]~~ Mining and processing of aggregate and other mineral or subsurface resources as defined in ORS Chapter 517;

(2) [~~Wood processing operations other than those specified in MCC .2048(B)]~~ Permanent facility for the primary processing of forest products;

(3) [~~Raising any type of fowl, or processing the by products thereof, for sale at wholesale or retail]~~ Permanent logging equipment repair and storage;

(4) [~~Feed lots]~~ Log scaling and weigh stations;

(5) [~~Raising of four or more swine over four months of age]~~ Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels;

(6) [~~Raising of fur bearing animals for sale at wholesale or retail]~~ Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels;

(7) [~~Commercial dog kennels]~~ Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels; and

(8) Expansion of [A] aircraft landing areas [in conjunction with] auxiliary to forestry practices,

1 notwithstanding the provisions of MCC .6050 through .6058.

2 ~~[(C) Residential use, not in conjunction with a primary use listed in MCC .2048 consisting of a single-~~
3 ~~family dwelling, including a mobile or modular home, subject to the following findings:~~

4 ~~(1) The minimum lot size shall be 80 acres or the size of the Lot of Record;~~

5 ~~(2) The land is incapable of sustaining a farm or forest use, based upon the following:~~(a) ~~A Soil~~
6 ~~Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot~~
7 ~~area and physical conditions insufficient to produce 50 cubic feet/acre/year of any commer-~~
8 ~~cial tree species for at least 75% of the lot area, or~~

9 ~~(b) Certification from an agency, person or group described in MCC .2050(A)(2)(a) or (b)~~
10 ~~that the land is inadequate for farm or forest use and stating the basis for the conclusion,~~
11 ~~or~~

12 ~~(c) For a lot greater than ten acres but less than 20 acres, a written description, filed by the~~
13 ~~owner, of the physical characteristics of the lot including size, location, hazards, topogra-~~
14 ~~phy, drainage, soil types, prior use or other factors which will support the required finding~~
15 ~~of forest or farm use unsuitability, or~~

16 ~~(d) The lot is a Lot of Record under MCC .2062(A) and (B) and is ten acres or less in size;~~

17 ~~(3) A dwelling as proposed is compatible with primary uses as listed in MCC .2048 on nearby~~
18 ~~property and will not interfere with the resources or the resource management practices or~~
19 ~~materially alter the stability of the overall land use pattern of the area.~~

20 ~~(4) The dwelling will not require public service beyond those existing or programmed for the~~
21 ~~area;~~

22 ~~(5) The owner shall record with the Division of Records and Elections a statement that the owner~~
23 ~~and the successors in interest acknowledge the rights of owners of nearby property to conduct~~
24 ~~accepted forestry or farming practices; and~~

25 ~~(6) The residential use development standards of MCC .2074 will be met.~~

26 ~~(D) Mortgage Lot: Residential use consisting of a single family dwelling in conjunction with a prima-~~

ry use listed in MCC .2048, located on a mortgage lot created after August 14, 1980, subject to the following:

(1) ~~The minimum lot size for the mortgage lot shall be two acres;~~

(2) ~~Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the zoning ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot;~~

(3) ~~No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.]~~

11.15.2051 Forest Management Dwelling

A forest management dwelling may be allowed when:

(A) The lot size meets the standards of MCC .2058(A) with a minimum area requirement of 80 acres or meets the lot of record standards of MCC .2062(A) and (B), but shall not be less than 10 acres;

(B) The dwelling is necessary for and accessory to forest operations [including cultured Christmas trees as defined in ORS 215.203(3)]. Such determination shall be based at a minimum on the following information provided by the applicant:

(1) Completed forms available from the Division of Planning and Development or its equivalent regarding the condition and productivity of the lands to be managed;

(2) A plan for management of the land, including a chronological description of commercial forest management activities to be undertaken by the residents, or under contract and estimates of yield, labor and expenses;

(3) Maps, showing the site for the proposed dwelling and a description of related fire safety measures;

(4) The information must be sufficient to enable the Oregon Department of Forestry within 45

days to determine that:

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

(b) Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density, and harvest; and

(c) The siting and safety standards in MCC .2074, derived from OAR 660-06-029 and OAR 660-06-035, have been satisfied;

(5) Christmas trees and other types of agricultural production may be a part of the management plan. However, such uses shall not be the predominant use on the property nor the basis for determining that the dwelling is *necessary*.

(C) There are no other dwellings on the property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest dwelling for the forest operation;

(D) The property qualifies for and is enrolled in one of the State of Oregon forest tax programs;

(E) The dwelling will not significantly interfere with, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;

(F) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

(G) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(H) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

(I) The forest lands to be managed by the resident of the proposed dwelling meet the stocking and survival requirements of the Forest Practices Rules for the Northwest Region (as specified in OAR 629-24-502) at the time the permanent dwelling is requested;

(J) A temporary forest management dwelling may be approved if the lands to be managed meet all of the requirements for approval of a forest management dwelling except for the stocking and survival requirements of the Forest Practices Rules of OAR 629-24-502, subject to the following:

(1) The temporary dwelling shall be a manufactured or mobile home;

(2) A written agreement has been recorded with the Division of Records which states the temporary dwelling and any accessory structures will be removed by the applicant within 60 days of the determination by the Planning Director that the property has not met the stocking and survival requirements of OAR 629-24-502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4); and

(3) A commitment to pay all costs associated with the removal of the dwelling and any accessory structures in the form of either a cash deposit, irrevocable letter of credit, or other form of financial security determined acceptable by County Counsel in an amount sufficient to pay for all removal costs in the event the property has not met the stocking and survival requirements of OAR 629-24-502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4).

(4) The Planning Director may grant an extension of not more than 2 years upon a finding that the applicant has submitted, before expiration of the 5 year time limit, substantial evidence demonstrating that completion of the requirements of OAR 629-24-502 was not possible due to natural disaster or illness.

(5) Within 5 years of the dwelling approval date, the applicant shall either provide evidence that the stocking and survival requirements of OAR 629-24-502 have been met, or provide evidence required for an extension pursuant to MCC .2051(J)(4).

(6) Within 60 days of the expiration of the 5 year stocking time period, the Planning Director

1 shall make a determination whether the prospective resident has complied with the require-
2 ments of MCC .2051(J), or whether the resident has provided sufficient support for an exten-
3 sion.

4 (7) The Planning Director shall enforce the terms of the agreements specified in MCC
5 .2051(J)(2)and (3) if the prospective resident fails to meet the stocking and survival require-
6 ments within 5 years, unless the temporary dwelling and accessory structures already have
7 been removed or unless an extension has been granted.

8 (8) Upon determination by the Planning Director that all requirements of MCC .2051(I) have
9 been met, the temporary forest dwelling may be replaced by a permanently constructed
10 dwelling, or a permanent placement permit may be issued for the manufactured or mobile
11 home already in place.

12 (K) An application for a forest management dwelling is not complete for the purpose of requiring the
13 County to take final action on the permit within 120 days, as required by ORS 215.428, until all
14 the required information, including the review and evaluation by the Oregon Department of
15 Forestry required by OAR 660-06-027(1), is submitted to the Division of Planning and
16 Development.

17 **11.15.2052 Dwelling Not Related to Forest Management**

18 (A) A dwelling not related to forest management may be allowed subject to the following:

19 (1) The lot shall meet the lot of record standards of MCC .2062(A) and (B) and have been lawfully
20 created prior to January 25, 1990;

21 (2) The lot shall be of sufficient size to accommodate siting the dwelling in accordance with
22 MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent County
23 Maintained road and 200 feet to all other property lines. Variances to this standard shall be
24 pursuant to MCC .8505 through .8525, as applicable;
25
26

(3) The lot shall meet the following standards:

(a) The lot shall be composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

(i) The lot, and at least all or part of 3 other lots exist within a 160-acre square when centered on the center of the subject lot parallel and perpendicular to section lines; and

(ii) One dwelling exists within the 160-acre square, or

(b) The lot shall be composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

(i) The lot, and at least all or part of 7 other lots exist within a 160-acre square when centered on the center of the subject lot parallel and perpendicular to section lines; and

(ii) Three dwellings exist within the 160-acre square, or

(c) The lot shall be composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

(i) The lot and at least all or part of 11 other lots exist within a 160-acre square when centered on the center of the subject lot parallel and perpendicular to section lines; and

(ii) Five dwellings exist within the 160-acre square.

(d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.

(e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.

(4) The dwelling will not force a significant change in, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;

(5) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment

of the Comprehensive Plan in 1980, will be acceptable.

(6) The proposed dwelling will be located on a lot within a rural fire protection district, or the proposed resident has contracted for residential fire protection;

(7) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

(8) The parcel on which the dwelling will be located has been disqualified from receiving a farm or forest tax deferral;

(9) The dwelling meets the applicable development standards of MCC .2074;

(10) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(B) Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Divisions 6 and 33.

11.15.2053 Use Compatibility Standards

Specified uses of MCC .2050(C) and (D) and .2056 may be allowed upon a finding that:

(A) The use will:

(1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(B) A statement has been recorded with the Division of Records that the owner and the successors in

interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

11.15.2054 Accessory Uses

The following structures or uses may be authorized in this district provided they are customarily accessory or incidental to a permitted use:

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982[-] ;
- (B) Off-street parking and loading as required by MCC .6100 through .6148;
- (C) Home occupations pursuant to the definition and restrictions of MCC .0010. Home occupations as defined by MCC .0010 do not allow the level of activity defined in ORS 215.448; and
- (D) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

11.15.2056 Temporary Uses

(A) A mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit pursuant to MCC .2053 and .8710.

(B) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC .2053.

[When approved pursuant to MCC .8705 and .8710.]

11.15.2058 Dimensional Requirements

(A) Except as provided in MCC .2060, .2061, .2062, and .2064, the minimum lot size shall be 80 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) Minimum Yard Dimensions - Feet:

Front	Side	Street Side	Rear			
30	10	30	30			
<u>Frontage on County Maintained Road</u>			<u>Other Front</u>	<u>Side</u>	<u>Rear</u>	
<u>60 from centerline</u>			<u>200</u>	<u>200</u>	<u>200</u>	

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

These yard dimensions and height limits shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Variances to dimensional standards shall be pursuant to MCC .8505 through .8525, as applicable.

(D) To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement may be decreased to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of the new dwelling;

~~((D))~~(E) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

~~((E))~~(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements ~~[if located at least 30 feet from any property line]~~.

(G) The minimum yard or setback shall be 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A,” “3A,” or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan.

11.15.2060 Lots of Exception

The Planning Director may grant ~~[a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district, provided that the decision of the Planning Director may be appealed to the approval authority pursuant to MCC .8290 and .8295]~~ an exception to permit the creation of a lot of less than the minimum specified in MCC .2058(A) subject to the following:

(A) The Lot of Record to be divided exceeds the 80 acre area requirement of MCC .2058(A);

(B) The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(C) The Lot of Exception will be no larger than 5 acres;

1 (D) The division will create no more than one lot which is less than the minimum 80 acre area required
2 in MCC .2058(A); and

3 (E) The division complies with the dimensional requirements of MCC .2058 (C) through (G).

4 **11.15.2061 Lot Line Adjustment**

5 (A) The Planning Director may approve an adjustment of the common lot line between contiguous
6 Lots of Record based on a finding that:

7 (1) The permitted number of dwellings will not thereby be increased above that otherwise
8 allowed in this district;

9 (2) The resulting lot configuration is at least as appropriate for the continuation of the existing
10 commercial forest practices in the area as the lot configuration prior to adjustment;

11 (3) The new lot line is in compliance with the dimensional requirements of MCC .2058 (C)
12 through (G); and

13 (4) Neither of the properties is developed with a dwelling approved under the provisions for a
14 mobile home on a Health Hardship, or a dwelling for the housing of help required to carry
15 out a farm or forest use.

16 **11.15.2062 Lot of Record**

17 (A) For the purposes of this district, a Lot of Record is:

18 (1) A parcel of land:

19 (a) For which a deed or other instrument creating the parcel was recorded with the
20 Department of General Services, or was in recordable form prior to August 14, 1980;

21 (b) Which satisfied all applicable laws when the parcel was created; and

22 (c) Which satisfies the minimum lot size requirements of MCC .2058, or

23 (2) A parcel of land:

24 (a) For which a deed or other instrument creating the parcel was recorded with the
25 Department of General Services, or was in recordable form prior to February 20, 1990;

26 (b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2058; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

(B) For the purposes of this subsection:

(1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;

(2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and

(3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC .2058(A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:

(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.

(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.

(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.

(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.

11.15.2064 Lot Size for Conditional Uses

~~[The minimum lot size for a Conditional Use permitted pursuant to MCC .2052(A) or (B), shall be based upon]~~ Lots less than the minimum specified in MCC .2058(A) may be created for the uses listed in MCC .2048(S) and .2050(C)(1) through (6), (9) through (13), and (16) and (D)(1) through (4), after approval is obtained pursuant to MCC .2053 and based upon:

(A) Site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district.

11.15.2066 Off-Street Parking and Loading

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC .6100 through .6148.

11.15.2068 Access

Any lot in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

11.15.2070 Exemptions From Non-Conforming Use Provisions

(A) Conditional Uses listed in MCC .205 [2] Q, legally established prior to October 6, 1977, shall be deemed conforming and not subject to the provisions of MCC .8805, provided, however, that any change of use shall be subject to approval pursuant to the provisions of MCC .205 [2] Q.

(B) The term "change of use", as used in this section, means the change from one Conditional Use list-

ed in MCC .205 [2] Q to another such Conditional Use.

11.15.2072 Right to Complete Single-Family Dwelling

~~A single family dwelling, uncompleted prior to the effective date of Ordinance No. 236 but which meets the tests stated in this subsection, may be completed under a although not listed as a Primary Use in this district.~~

~~[(A) Actual construction shall have commenced prior to August 14, 1980 under a valid sanitation, building or other development permit applicable to the lot. "Actual construction" means:~~

~~(1) Placement of construction materials in a permanent position;~~

~~(2) Site excavation or grading;~~

~~(3) Demolition or removal of an existing structure;~~

~~(4) The value of purchased building materials; or~~

~~(5) Installation of water, sanitation or power systems.~~

~~[(B) Actual construction shall not include:~~

~~(1) The cost of plan preparation; or~~

~~(2) The value of the land.~~

~~[(C) The value of actual construction commenced prior to August 14, 1980, shall be \$1,000 or more for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.]~~

(A) A single family dwelling may be completed under the provisions of a building permit issued prior to (the effective date of this Ordinance).

(1) The building permit shall be subject only to the regulations in effect prior to (the effective date of this Ordinance)

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

(B) A building permit for a new single family dwelling may be issued up to 180 days after (the effective date of this Ordinance) if approval from the Planning Director was obtained on a building per-

mit application prior to (the effective date of this Ordinance).

(1) The building permit shall be subject only to the regulations in effect prior to (the effective date of this Ordinance).

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

(C) A building permit for a new single family dwelling may be issued up to two years after (the effective date of this Ordinance) if approval from the Planning Director was given in an administrative proceeding for a "residential use, in conjunction with a primary use" pursuant to the applicable Use Under Prescribed Conditions provisions of MCC .2050(A) or MCC .2170(A) in effect prior to (the effective date of this Ordinance).

(1) The building permit shall be subject only to the regulations in effect prior to (the effective date of this Ordinance).

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

(3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, in conjunction with a primary use" referenced above will be accepted until (the effective date of this Ordinance).

(D) A building permit for a new single family dwelling may be issued after (the effective date of this Ordinance) for a dwelling approved as a "residential use, not in conjunction with a primary use" by a Hearing Authority in an action proceeding pursuant to the applicable Conditional Use provisions of MCC .2052(C) or MCC .2172(C) in effect prior to (the effective date of this Ordinance) if the approval has not expired pursuant to MCC .7110(C).

(1) The building permit shall be subject only to the regulations in effect prior to (the effective date of this Ordinance).

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

(3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, not in conjunction with a primary use" referenced above will be accepted until (the effective date of this Ordinance).

11.15.2074 [Residential Use] Development Standards for Dwellings and Structures

Except as provided for the replacement or restoration of dwellings under MCC .2048(E) and .2049 (B), all dwellings and structures [A residential use] located in the CFU district after [August 14, 1980] (the effective date of this Ordinance) shall comply with the following:

~~[(A) The fire safety measures outlined in the "Fire Safety Considerations for Development in Forested Areas", published by the Northwest Interagency Fire Prevention Group, including at least the following:~~

~~(1) Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and~~

~~(2) Maintenance of a water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;~~

~~(B) Access for a fire truck to within 16 feet of any perennial water source on the lot;~~

~~(C) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2058(C) to (E). The physical limitations of the site which require a driveway in excess of 500 feet in length shall be stated in writing as a part of the application for approval;~~

~~(D) The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subpart (C), above;~~

~~(E) Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:~~

~~(1) A setback of 30 feet or more may be provided from a public road, or~~

~~(2) The location of dwelling(s) on adjacent lot(s) at a lesser distance which allows for the clustering of dwellings or the sharing of access;]~~

(A) The dwelling or structure shall be located such that:

(1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);

(2) Forest operations and accepted farming practices will not be curtailed or impeded;

(3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

(4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

(b) Maintenance of a primary and a secondary fire safety zone.

(i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

<u>Percent Slope</u>	<u>Distance In Feet</u>
<u>Less than 10</u>	<u>Not required</u>
<u>Less than 20</u>	<u>50</u>
<u>Less than 25</u>	<u>75</u>
<u>Less than 40</u>	<u>100</u>

(iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.

(iv) No requirement in (i), (ii), or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(c) The building site must have a slope less than 40 percent.

(B) The dwelling shall:

(1) [(F) Construction shall e] Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) [(G) The dwelling shall b] Be attached to a foundation for which a building permit has been obtained; and

(3) [(H) The dwelling shall h] Have a minimum floor area of 600 square feet[;] . [and]

[(I) The dwelling shall be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.]

(C) The applicant shall provide evidence that the domestic water supply is from a source authorized in

1 accordance with the Department of Water Resources Oregon Administrative Rules for the appro-
2 priation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not
3 from a Class II stream as defined in the Forest Practices Rules. If the water supply is unavailable
4 from public sources, or sources located entirely on the property, the applicant shall provide evi-
5 dence that a legal easement has been obtained permitting domestic water lines to cross the proper-
6 ties of affected owners.

7 (D) A private road (including approved easements) accessing two or more dwellings, or a driveway
8 accessing a single dwelling, shall be designed, built, and maintained to:

9 (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of com-
10 pliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be
11 provided for all bridges or culverts;

12 (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in
13 width for a driveway;

14 (3) Provide minimum curve radii of 48 feet or greater;

15 (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;

16 (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments,
17 except as provided below:

18 (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades
19 exceeding 6 percent;

20 (b) The maximum grade may be exceeded upon written approval from the fire protection
21 service provider having responsibility;

22 (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150
23 feet in length;

(7) Provide for the safe and convenient passage of vehicles by the placement of:

(a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or

(b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

ADOPTED THIS 8th day of December, 1992, being the date of its second reading before the Board of County Commissioners of Multnomah County.



By Gladys McCoy
Gladys McCoy, County Chair
MULTNOMAH COUNTY, OREGON

REVIEWED:

Peter Livingston
Peter Livingston, Assistant County Counsel
For Multnomah County, Oregon