

Stats. Implemented: ORS 197.610 - 625, 197.628 - 646 & 732
 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0035**Appeal of an Exception**

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.830, or to the Commission as an objection to the local government's request for acknowledgment, pursuant to ORS 197.251 and OAR 660-003-0000.

(2) After acknowledgment, an exception taken as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board, pursuant to ORS 197.620 and OAR Chapter 660, Division 18.

Stat. Auth.: ORS Ch. 197

Stats. Implemented: ORS 197.610-625, 732 & 830

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

DIVISION 6**GOAL 4 FOREST LANDS****660-006-0000****Purpose**

(1) The purpose of the Forest Lands Goal is to conserve forest lands and to carry out the legislative policy of ORS 215.700.

(2) To accomplish the purpose of conserving forest lands, the governing body shall:

(a) Designate forest lands on the comprehensive plan map as forest lands consistent with Goal 4 and OAR Chapter 660, Division 6;

(b) Zone forest lands for uses allowed pursuant to OAR Chapter 660, Division 6 on designated forest lands; and

(c) Adopt plan policies consistent with OAR Chapter 660, Division 6.

(3) This rule provides for a balance between the application of Goal 3 "Agricultural Lands" and Goal 4 "Forest Lands", because of the extent of lands that may be designated as either agricultural or forest land.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0003**Applicability**

(1) OAR Chapter 660, Division 6 applies to all forest lands as defined by Goal 4.

(2) Governing bodies shall amend their comprehensive plan and land use regulations to comply with requirements of OAR 660-006-0035(2) and 660-006-0040 by September 6, 1994.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0004**Notice of Decision in Forest Zones**

Governing bodies shall provide the following types of notice:

(1) Notice of all applications for dwellings and land divisions in forest and agriculture/forest zones shall be provided to the Department of Land Conservation and Development at the Salem office. Notice shall be in accordance with the governing body's acknowledged comprehensive plan and land use regulations, and shall be mailed at least ten calendar days prior to the hearing or decision being made.

(2) Notice of proposed actions described in section (1) of this rule shall be provided as required by procedures for notice

contained in ORS 197.763 and 215.402 to 215.438.

(3) The provisions of sections (1) and (2) of this rule are repealed on September 6, 1995.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0005**Definitions**

For the purpose of this division, the following definitions apply:

(1) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(2) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(3) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

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

(5) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(6) "Forest Operation" means any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620 (6).

(7) "Governing Body" means a city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(8) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0010**Inventory**

Governing bodies shall include an inventory of "forest lands" as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands or lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 and taken are not required to be inventoried under this rule. Outside urban growth boundaries, this inventory shall include a mapping of forest site class. If site information is not available then an equivalent method of determining forest land suitability must be

used. Notwithstanding this rule, governing bodies are not required to reinventory forest lands if such an inventory was acknowledged previously by the Land Conservation and Development Commission.

Stat. Auth.: ORS Ch. 183 & 197
 Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws
 Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90

660-006-0015

Plan Designation Outside an Urban Growth Boundary

(1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone which conserves forest lands consistent with OAR Chapter 660, Division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), or the land is zoned with an Exclusive Farm Use Zone pursuant to ORS Chapter 215 provided the zone qualifies for special assessment under ORS 308.370. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR Chapter 660, Division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria which clearly indicate where the zone(s) will be applied.

(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245
 Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws
 Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0020

Plan Designation Within an Urban Growth Boundary

Goal 4 does not apply within urban growth boundaries and therefore, the designation of forest lands is not required.

Stat. Auth.: ORS Ch. 183 & 197
 Stats. Implemented: ORS 197.040, 230, 245 & Ch. 792, 1993 Oregon Laws
 Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90

660-006-0025

Uses Authorized in Forest Zones

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

- (a) Uses related to and in support of forest operations;
- (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;
- (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.;
- (d) Dwellings authorized by ORS 215.720 to 215.750; and
- (e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones:

- (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- (b) Temporary on-site structures which are auxiliary to and

used during the term of a particular forest operation;

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

(d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

- (a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
 - (b) Farm use as defined in ORS 215.203;
 - (c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
 - (d) Temporary portable facility for the primary processing of forest products;
 - (e) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;
 - (f) Private hunting and fishing operations without any lodging accommodations;
 - (g) Towers and fire stations for forest fire protection;
 - (h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n);
 - (i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;
 - (j) Caretaker residences for public parks and fish hatcheries;
 - (k) Uninhabitable structures accessory to fish and wildlife enhancement;
 - (l) Temporary forest labor camps;
 - (m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;
 - (n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8;
 - (o) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation; and
 - (p) Alteration, restoration or replacement of a lawfully established dwelling that:
 - (A) Has intact exterior walls and roof structures;
 - (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (C) Has interior wiring for interior lights;
 - (D) Has a heating system; and
 - (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:
- (a) Permanent facility for the primary processing of forest products;
 - (b) Permanent logging equipment repair and storage;
 - (c) Log scaling and weigh stations;
 - (d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon

Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;

(e) Parks and campgrounds. For the purpose of this rule a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations;

(f) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

(g) Television, microwave and radio communication facilities and transmission towers;

(h) Fire stations for rural fire protection;

(i) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 4;

(j) Aids to navigation and aviation;

(k) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;

(l) Reservoirs and water impoundments;

(m) Firearms training facility;

(n) Cemeteries;

(o) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:

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

(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 authorized by the Oregon Fish and Wildlife Commission; and

(D) A governing body may impose other appropriate conditions.

(p) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(q) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;

(r) Home occupations as defined in ORS 215.448;

(s) A mobile home in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283. The mobile home shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the mobile home will use a public sanitary sewer system, such condition will not be required. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designate shall require the removal of such mobile homes. Oregon Department of Environmental Quality review and removal requirements also apply to such mobile homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

(t) Expansion of existing airports;

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

(v) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule,

OAR 600-060-0029, and 660-060-0035 and the following requirements:

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

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

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

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

(E) A governing body may impose other appropriate conditions.

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

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (l), (r), (s) and (v) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) which exist on forest lands.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 3-1996, f. & cert. ef. 12-23-96

660-006-0026

New Land Division Requirements in Forest Zones

(1) Governing bodies shall legislatively amend their land division standards to incorporate one or more of the following parcel sizes. Under these provisions, a governing body may not determine minimum parcel sizes for forest land on a case-by-case basis:

(a) An 80-acre or larger minimum parcel size; or

(b) One or more numeric minimum parcel sizes less than 80 acres provided that each parcel size is large enough to ensure:

(A) The opportunity for economically efficient forest operations typically occurring in the area; and

(B) The opportunity for the continuous growing and harvesting of forest tree species; and

(C) The conservation of other values found on forest lands as described in Goal 4;

(D) That parcel meet the requirements of ORS 527.630.

(2) New land divisions less than the parcel size in section (1) of this rule may be approved for any of the following circumstances:

(a) For the uses listed in OAR 660-060-0025(3)(m) through (o) and (4)(a) through (n) provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the parcel

created from the division is the minimum size necessary for the use.

(b) For the establishment of a parcel for a dwelling on land zoned for forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(B) The dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone;

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

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

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

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

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

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

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

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

(3)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(4) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7 1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96

660-006-0027

Dwellings in Forest Zones

(1) Dwellings authorized by OAR 660-006-0025(1)(d) are:

(a) A dwelling on a tract in western Oregon that is composed of soil is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall not be a U.S. Forest Service road or Bureau of Land Management road and shall be maintained and either paved or surfaced with rock;

(b) A dwelling on a tract in eastern Oregon that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall not be a U.S. Forest Service road or Bureau of Land Management road and shall be maintained and either paved or surfaced with rock;

(c) If a dwelling is not allowed pursuant to subsection (a) or (b) of this section, a dwelling may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract:

(A) In eastern Oregon of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (6) of this rule for all tracts that are used to meet the acreage requirements of this paragraph;

(B) In western Oregon of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (6) of this rule for all tracts that are used to meet the acreage requirements of this paragraph.

(d) In western Oregon, a governing body of a county or its designate may allow the establishment of a singlefamily dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

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

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

(B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

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

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

(C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

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

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

(e) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a singlefamily dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

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

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

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

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

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

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

(C) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

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

(ii) At least three dwellings existed on January 1, 1993 on the

other lots or parcels.

(f) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections (1)(d) and (1)(e) of this section.

(g) A dwelling authorized under subsection (a) or (b) of this section shall comply with the following requirements:

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

(B) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

(h) A dwelling authorized under subsections (a) and (b) of this section may be allowed only if the lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(A) Prior to January 1, 1985; or

(B) By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(i) For purposes of subsection (g) of this section, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

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

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

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

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

(4) A proposed dwelling under this rule is not allowed:

(a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan or acknowledged land use regulations or other provisions of law;

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

(c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (6) of this rule for the other lots or parcels that make up the tract are met;

(d) If the tract on which the dwelling will be sited includes a dwelling.

(5) The following definitions shall apply to this rule:

(a) "Tract" means one or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway;

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

tion.

(6)(a) The applicant for a dwelling authorized by paragraph (1)(c)(A) or (B) of this rule that requires one or more lot or parcel to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

[ED. NOTE: Exhibit A referred to in this rule is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 2-1990, f. & cert. ef. 3-9-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 5-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96

660-006-0029

Siting Standards for Dwellings and Structures in Forest Zones

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

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

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

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

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

(d) The risks associated with wildfire are minimized.

(2) Siting criteria satisfying section (1) of this rule may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

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

(a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the

purveyor's rights to appropriate water; or

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

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

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

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

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

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

(c) If the lot or parcel is more than 10 acres in western Oregon, as defined in ORS 321.257, or more than 30 acres in eastern Oregon, as defined in ORS 321.405, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules.

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

Stat. Auth.: ORS 197.040, 197.245 & 1215.730

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. of. 2-5-90; LCDC 1-1994, f. & cert. of. 3-1-94; LCDC 7-1994, f. & cert. of. 9-21-94; LCDC 3-1996, f. & cert. of. 12-23-96

660-006-0035

Fire Siting Standards for Dwellings and Structures

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

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be

provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

(2) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

(3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

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

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

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

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. of. 2-5-90; LCDC 1-1994, f. & cert. of. 3-1-94

660-006-0040

Fire Safety Design Standards for Roads

The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards.

Stat. Auth.: ORS Ch. 183 & 197

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. of. 2-5-90

660-006-0050

Uses Authorized in Agriculture/Forest Zones

(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR Chapter 660, Divisions 6 and 33.

(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR Chapter 660, Division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.

(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.213, 283, 700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. of. 2-5-90; LCDC 1-1994, f. & cert. of. 3-1-94

660-006-0055

New Land Division Requirements in Agriculture/Forest Zones

(1) A governing body shall apply the standards of OAR 660-006-0026 and 660-033-0100 to determine the proper minimum lot or parcel size for a mixed agriculture/forest zone. These standards are designed: To make new land divisions compatible with forest operations; to maintain the opportunity for economically efficient

forest and agriculture practices; and to conserve values found on forest lands. §

(2) New land divisions less than the parcel size established according to the requirements in section(1) of this rule may be approved for any of the following circumstances:

(a) For the uses listed in OAR 660-006-0025(3)(m) through (o) and (4)(a) through (n) provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the land division created is the minimum size necessary for the use.

(b) For the establishment of a parcel for a dwelling on land zoned for mixed farm and forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(B) the dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone;

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

(E) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

(F) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.

(G) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

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

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

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

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

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

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

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

(3)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(4) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to

farm or forest use.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.213, 283, 700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96

660-006-0057

Rezoning Land to an Agriculture/Forest Zone

Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 230, 245, 215.213, 283, 700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94

660-006-0060

Regulation of Forest Operations

The Forest Practices Act (ORS 527.620 to 527.990) as implemented through Oregon Board of Forestry rules (OAR 629-024-0101 to 629-024-0648) regulates forest operations on forest lands. The relationship between the Forest Practices Act and land use planning is described in 527.722 to 527.726. OAR 660-006-0025 does not authorize county governing bodies to regular forest operations or other uses allowed by ORS 527.620 to 527.990 and OAR 629-024-0101 to 629-024-0648.

Stat. Auth.: ORS Ch. 183, 197 & 215

Stats. Implemented: ORS 197.040, 230, 245, 215.700, 705, 720, 740, 750, 780 & Ch. 792, 1993 Oregon Laws

Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; Renumbered from 660-006-0030; LCDC 7-1992, f. & cert. ef. 12-10-92

DIVISION 7

METROPOLITAN HOUSING

660-007-0000

Statement of Purpose

The purpose of this rule is to assure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs. OAR 660-007-0030 through 660-007-0037 are intended to establish by rule regional residential density and mix standards to measure Goal 10 Housing compliance for cities and counties within the Metro urban growth boundary, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization. OAR 660-007-0035 implements the Commission's determination in the Metro UGB acknowledgment proceedings that region wide, planned residential densities must be considerably in excess of the residential density assumed in Metro's "UGB Findings". The new construction density and mix standards and the criteria for varying from them in this rule take into consideration and also satisfy the price range and rent level criteria for needed housing as set forth in ORS 197.303.

Stat. Auth.: ORS Ch. 183 & 197

Stats. Implemented: ORS 197.295 - 197.314 & 197.475 - 197.490

Hist.: LCD 10-1981, f. & ef. 12-11-81; LCDC 1-1987, f. & ef. 2-18-87

660-007-0005

Definitions

For the purposes of this rule, the definitions in ORS 197.015 and 197.295 shall apply. In addition, the following definitions apply:

(1) A "Net Buildable Acre" consists of 43,560 square feet of