

**406 TIMBER DISTRICT (TBR)**

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406.01 PURPOSE

Section 406 is adopted to:

- A. Conserve forest lands;
- B. Protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forest land;
- C. Conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the zone; and
- D. Minimize wildfire hazards and risks.

[Amended by Ord. ZDO-230, 9/26/11]

406.02 AREA OF APPLICATION

- A. Lands suitable for forest use; or
- B. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year; or
- C. Areas containing lots or parcels generally 80 acres or larger.

406.03 DEFINITIONS

- A. "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.
- B. "Temporary structures" include onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- C. "Owner" means 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.

- D. "Ownership" means holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. For purposes of section 406, ownership shall include all contiguous parcels, lots or tracts meeting this definition.
- E. "Tract" means one or more contiguous lots or parcels under the same ownership
- F. "Forest operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).
- G. "Cubic foot per acre per year", as defined in Oregon Administrative Rules (OAR) 660-06-005(2).
- H. "Cubic foot per tract per year", as defined in OAR 660-06-005(3).
- I. "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.
- J. "Historic Property", as defined in ORS 358.480.

[Amended by Ord. ZDO-224, 5/31/11]

406.04 PRIMARY USES

- 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 where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.04 regarding a development restriction that may apply if excessive tree removal occurs;
- B. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
- 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;
- D. Alteration, restoration, or replacement of a lawfully established dwelling;

1. The dwelling to be altered, restored, or replaced must have:
    - a. Intact exterior walls and roof structures;
    - b. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
    - c. Interior wiring for interior lights; and
    - d. A heating system.
  2. The dwelling to be replaced shall be removed, demolished, or, if not a manufactured dwelling or residential trailer, converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.
- E. Widening of roads within existing rights-of-way in conformance with the transportation element of the Comprehensive Plan including public road and highway projects as described below.
1. Climbing and passing lanes within the right-of-way existing as of July 1, 1987;
  2. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result;
  3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;
  4. Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, within 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.
- F. Farm uses as defined in Oregon Revised Statutes (ORS) 215.203;
- G. Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- H. Private hunting and fishing operations without any lodging accommodations;
- I. Towers and fire stations for forest fire protection;

- J. Water intake facilities, canals and distribution lines for farm irrigation and ponds;
- K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries;
- L. Accessory buildings and uses customarily incidental to and in conjunction with any of the uses listed as a primary use in Subsection 406.04, may be established only if a primary use exists;
- M. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- N. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.
- O. Uninhabitable structures accessory to fish and wildlife enhancement.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

406.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

The following uses may be allowed subject to Subsection 1305.02. In addition, dwellings shall be subject to Subsection 1001.01.

- A. Home Occupations, as defined in Oregon Revised Statutes (ORS) 215.448, subject to Section 822 and the following criteria:
  - 1. The parcel upon which the home occupation is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  - 2. The home occupation will not force a significant change in, significantly increase the costs of, or impede accepted farming or forest practices on agriculture or forest lands;
  - 3. The home occupation meets the siting standards of Subsection 406.09;
  - 4. If road access to the home occupation is by a road owned and maintained by a private party or by the Oregon Department of Forestry (ODF), the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), 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. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Lot of Record Dwelling, subject to the following criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;
2. The lot or parcel on which the dwelling will be sited was acquired by the present owner:
  - a. Prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985;
3. The tract on which the dwelling will be sited does not include a dwelling;
4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;
5. The siting requirements described in Subsection 406.09 shall be met;
6. The property is not capable of producing 5,000 cubic feet per year of commercial tree species;
7. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be Bureau of Land Management or Forest Service roads;
8. The proposed dwelling is not prohibited by this ordinance or the Comprehensive Plan, or any other provisions of law;
9. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is approved.
10. The County Assessor's Office shall be notified of all approvals granted under this subsection.
11. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.

C. Forest Template Dwelling, subject to the following criteria;

1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
2. The tract on which the dwelling will be sited does not include a dwelling;
3. The siting standards described in Subsection 406.09 shall be met;
4. The parcel upon which the dwelling is to be located was lawfully created;
5. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM or the USFS, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance;
6. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
7. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
8. The tract upon which the dwelling will be sited shall pass a template test, conducted as follows:
  - a. A 160 acre square template shall be centered upon the subject tract. The template may be rotated around the center point to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the subject tract and, to the maximum extent possible, have its length aligned with the road or perennial stream.
  - b. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the SCS Soils Atlas, of:
    - i. 0 - 49 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or

- ii. 50 - 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or
  - iii. Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots within the template area.
- c. The following types of lots of record and dwellings shall not be counted toward satisfying Subsection 406.05(C)(8)(b):
- i. Lots of record larger than 80 acres;
  - ii. Lots of record created on or after January 1, 1993;
  - iii. Dwellings on lots of record larger than 80 acres;
  - iv. Dwellings constructed on or after January 1, 1993;
  - v. Lots of record or dwellings located within an urban growth boundary; and
  - vi. Temporary dwellings.
  - vii. The subject property.
9. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(C)(8)(b) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(C)(8)(b) shall be located on the same side of the road as the proposed dwelling.
- D. Forest Dwelling, 160 Acre Minimum, subject to the following criteria:
- 1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  - 2. The tract on which the dwelling is to be sited is at least 160 acres;
  - 3. The tract on which the dwelling will be sited does not include a dwelling;

4. The siting standards described in Subsection 406.09 shall be met;
  5. The parcel upon which the dwelling is to be located was lawfully created;
  6. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, 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;
  7. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
  8. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
- E. 200 Acre Noncontiguous Dwelling, subject to the following criteria:
1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;
  2. The tract on which the dwelling will be sited does not include a dwelling;
  3. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;
  4. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
  5. None of the parcels or tracts used to total 200 acres may already contain a dwelling.
  6. All parcels or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
  7. The siting standards described in Subsection 406.09 shall be met;

8. The parcel upon which the dwelling is to be located was lawfully created;
  9. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the USFS, 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;
  10. A written irrevocable statement shall be recorded in the deed records of the county binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
  11. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
- F. Replacement Dwellings for Historic Houses: A replacement dwelling to be used in conjunction with a farm use may be approved if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this section.
- G. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3) subject to Section 835.

[Amended by Ord. ZDO-224, 5/31/11]

#### 406.06 CONDITIONAL USES

- A. Conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, any applicable provisions of Section 800, and the following criteria:
1. The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
  2. The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel.
  3. A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in

interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.

4. If road access to the use 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, 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.

B. Conditional Uses:

1. Permanent facility for the primary processing of forest products;
2. Permanent facilities for logging equipment repair and storage;
3. Log scaling and weigh stations;
4. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. A campground is an area devoted to overnight temporary use for vacation or recreational or emergency purposes, subject to the following:
  - a. These areas may be occupied by a tent, travel trailer or recreational vehicle;
  - b. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
  - c. The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period;
  - d. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and Oregon Administrative Rules (OAR) 660 Division 4.
5. Public parks including only those uses specified under OAR 660-034-0035 subject to the state park master plan and including caretaker residences, subject to the applicable provisions of Subsections 406.05(C)(1) through (7);
6. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

7. 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 a well head;
8. A disposal site for solid waste 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;
9. A 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;
10. Fire stations for rural fire protection;
11. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4. Hydroelectric facilities shall also be subject to Section 829.
12. Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
13. Reservoirs and water impoundments;
14. Cemeteries;
15. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal) with rights-of-way 50 feet or less in width;
16. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;
17. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations;
18. Aids to navigation and aviation;
19. Aircraft land uses, subject to Section 712 or 713;
20. Expansion of existing airports, subject to Section 712 or 713;
21. Television, microwave and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower;
22. Public road and highway projects as follows:

- a. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels; and
  - b. 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; and
  - c. 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;
23. Composting facilities, subject to Section 834;
24. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
25. Youth camps on 40 acres or more, subject to OAR 660-006-0031;
26. A home occupation to host events, subject to Section 806; and
27. A home occupation for canine skills training, subject to Section 836.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

#### 406.07 TEMPORARY USES

The following temporary uses may be allowed subject to Subsection 1305.02.

- A. Temporary portable facility for the primary processing of forest products grown on-site, subject to Subsection 1204.01, for a period not to exceed one year;
- B. Temporary forest labor camp subject to Subsection 1204.01 for a period not to exceed one year;
- C. A manufactured dwelling, residential trailer or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative as defined in Subsection 406.03(C) and subject to Subsection 1204.03.

[Amended by Ord. ZDO-224, 5/31/11]

#### 406.08 PROHIBITED AND PREEXISTING USES

- A. Structures and uses including temporary uses of land not specifically mentioned in Section 406.

- B. Outdoor advertising displays, advertising signs or advertising structures except as provided in Section 1010.
- C. Any land division, or property line adjustment, except those approved pursuant to Subsection 406.10.
- D. Subdivisions, except as provided in Subsections 406.10(A) and (B).
- E. Legally established preexisting uses and structures not specifically permitted in Section 406 shall be nonconforming uses subject to Section 1206.
- F. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-230, 9/26/11]

406.09 SITING STANDARDS FOR DWELLINGS AND STRUCTURES

- A. Purpose:
  - 1. Ensure compatibility between the new dwelling or structure and the forest and agricultural operations.
  - 2. Minimize wildfire hazards and risks.
- B. Fire Siting Standards: The following fire siting standards shall apply to all structures greater than 120 square feet in size including, new dwellings, and replacement dwellings not located within 100 feet of the existing dwelling except as provided for in Subsection 406.10(G)
  - 1. The dwelling shall have a fire retardant roof.
  - 2. The dwelling shall not be sited on a slope of greater than 40 percent.
  - 3. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
  - 4. If the rural fire district or the Oregon Department of Forestry determines that an on-site water supply is required, then the following criteria shall be met:
    - a. Access:

If a water supply such as a swimming pool, pond, stream, or lake of 4,000 gallons or more exists within 100 feet of the driveway or road and the access has an average grade of 10 percent or less and a maximum grade of 15 percent, an all-weather approach to a point within 15 feet of the water's edge shall be provided. The all-weather approach shall provide a turnaround area with a 50 foot outside radius.

If this standard cannot be met, then an all-weather approach and turnaround shall be constructed as per the requirements of the local emergency services provider.

b. Identification:

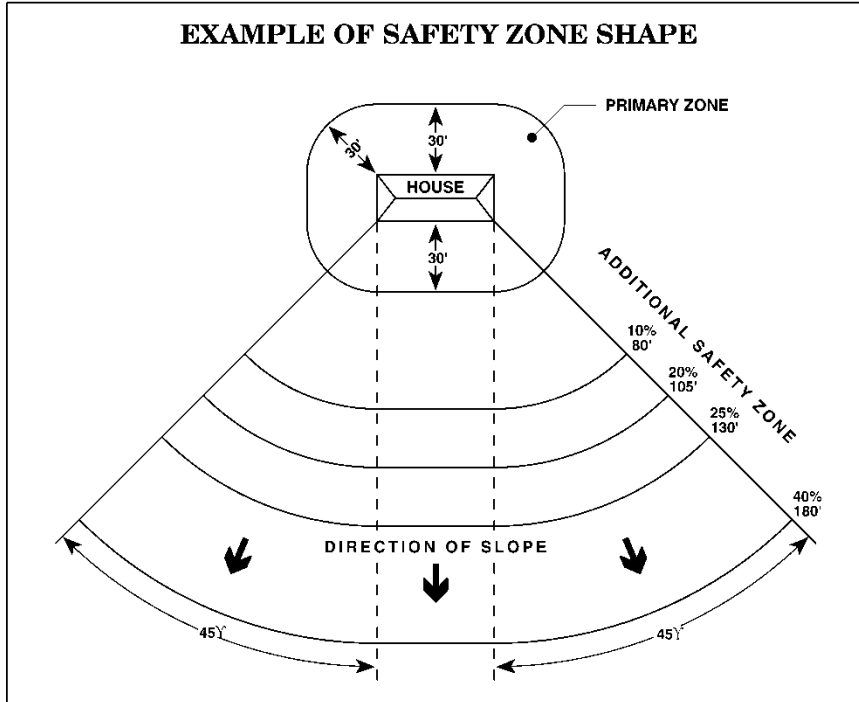
Emergency water supplies shall be clearly marked along the access route with a permanent county approved sign.

5. Fuel Break Standards:

a. Primary Safety Zone:

b. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around structures. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the house. As slope increases, the primary safety zone shall increase away from the house and down the slope at a 45 degree angle from the house, in accordance with the following table and chart:

Section 1.01 Slope	Feet of Primary Safety Zone	Feet of Additional Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150



- c. Secondary Fuel Break:
- d. The secondary fuel break is a fuel break extending a minimum of 100 feet around the primary safety zone. The goal of the secondary fuel break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed.
- e. If a dwelling or other structure cannot be sited on a parcel to meet these standards due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified subject to the following criteria:
  - i. Irrevocable easements for fuel breaks are obtained from adjacent property owners so that the fuel break standards can be completed and maintained. The easement(s) shall be recorded with the County Clerk. The dwelling shall be sited a minimum of 30 feet from the front, side and rear property lines; or
  - ii. The dwelling shall be sited a minimum of 30 feet from the front, rear and side property lines. Where a primary and secondary fuel break cannot be accomplished around the dwelling due to an

inadequate setback distance, a primary fuel break shall be completed from the dwelling to the property line.

- iii. Dwellings and structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705 respectively. All dwellings shall be sited so that a primary fuel break can be completed around the dwelling outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel break requirements.
  - f. The area of an existing state, county, public or private road right of way adjacent to the subject property may be utilized to satisfy the fuel break requirements, providing all dwellings and structures are sited a minimum of 30 feet from the front, rear and side property lines.
  - g. A variance to the 30 foot front, side or rear setbacks may be allowed subject to Section 1205.
  - h. The fuel break standards shall be completed and approved by the Planning Division staff prior to issuance of any septic, building or manufactured dwelling permits. Maintenance of the fuel breaks shall be the continuing responsibility of the property owner.
- C. Compatibility Siting Standards: Siting of development shall comply with the provisions of Sections 1002 and 1003. Conditional use and temporary structures shall be sited to minimize impact on sensitive wildlife areas identified on Table III-1, *Compatibility Criteria for Wildlife Sensitive Areas*, and Map III-2, *Scenic and Distinctive Resource Areas*, of the Comprehensive Plan, as follows:
- 1. When structures exist on adjacent properties, siting of new structures shall comply with the following prioritized techniques:
    - a. Locate new structure(s) adjacent to an existing compatible structure(s) sharing a common road. (A compatible structure, for purposes of this provision, shall be any structure which does not adversely affect the intended use of another structure); or
    - b. Where "a" above is not practical, locate adjacent to an existing structure and minimize the length of access from the nearest existing public road; or
    - c. Where "a" or "b" above are not practical, site to achieve maximum distance between structures, and minimize the length of access from the nearest existing public road.

2. Where no compatible structures exist on adjacent properties, new structures shall be sited to allow future development to satisfy Subsection 406.09(C)(1)(a).

D. Public and private access:

1. All public roads, bridges or entrances from public roads shall be subject to the Clackamas County Roadway Standards.
2. All private roads, bridges and driveways shall be subject to the local Fire District Fire Apparatus Access Road standards and County Excavation and Grading Ordinance.

E. The applicant shall provide evidence to the Planning Division that the domestic water supply is from a source authorized in accordance with the Water Resources Department's (WRD) rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules.

1. For purposes of this subsection, 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; or
  - b. A water use permit issued by the WRD for the use described in the application; or
  - c. Verification from the WRD that a water use permit is not required for the use described in the application.
2. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.

[Amended by Ord. ZDO-224, 5/31/11]

406.10 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS

Lot divisions proposed for primary uses may be permitted by the Planning Director, subject to Subsection 1305.02. All land divisions under this subsection shall be subject to Oregon Revised Statutes Chapter 92. Land divisions shall be processed and reviewed consistent with the following criteria:

- A. Land Divisions: The parcel size shall be no less than 80 acres.

B. Multiple Dwelling Land Divisions: A parcel or lot with at least two legally established dwellings may be divided subject to Subsection 406.05(A)(5) and the following provisions:

1. At least two lawfully established dwellings existed on the lot or parcel prior to November 4, 1993;
2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.04(D);
3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use.
6. A lot or parcel may not be divided under this provision if an existing dwelling on the lot or parcel was approved through a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot or parcel.
7. Dwelling setbacks shall be 30 feet from front, rear and side property lines and are not required to satisfy Subsection 406.09(B)(5). A pre-existing dwelling setback to the original property line shall not be subject to these setback standards.

C. Homestead Dwelling Land Division, subject to the following criteria:

1. The parcel 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 be no larger than 10 acres;
2. The dwelling existed prior to June 1, 1995;
3. The remaining parcel not containing the existing dwelling, is at least 80 acres; or
4. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;

5. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.
  6. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the county Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land.
  7. The land owner shall provide evidence that a deed restriction has been recorded with the county clerk, on the parcel containing the dwelling, stating that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- D. Conditional Use Divisions: The lot size for all conditional uses identified pursuant to Subsection 406.06(B), (1) through (14), and (18) through (22) shall be determined by the Hearings Officer who shall consider the minimum land area required for the use and accessory elements for the use. The objective will be to minimize the impact on surrounding properties and limit the amount of land taken out of farm or forest use.
- E. Land divisions created for conditional uses shall be described and recorded as approved by the county prior to any development occurring on the lots. New land divisions less than 80 acres in size may be approved only for the above described uses if those uses have been approved pursuant to Subsection 406.06(A).
- F. Property line adjustments shall be subject to Section 1107.
- G. Right-of-Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way. Lots which front on state and federal highways may not include the land area between the front property line and the middle of the road right-of-way.
- H. Structure Setbacks shall be 30 feet from the front and rear property lines and 10 feet from the side property lines and are not required to satisfy Subsection 406.09(B)(5) when the following occur:
1. Replacement dwellings within 100 feet of the existing dwelling; or
  2. Additions to an existing dwelling or new dwellings approved under a previous land use application where the fuel break standards were not required as a condition of approval; or

3. Additions to accessory buildings or new accessory buildings; or
4. A variance to these requirements has been approved pursuant to Section 1205.

- I. General Provisions and Exceptions: Except where specifically stated, the provisions of this section shall not preclude the application of the general provisions and exceptions of Section 900.

[Amended by Ord. ZDO-224, 5/31/11]

#### 406.11 SUBMITTAL REQUIREMENTS

- A. Planning Director Review: An application for any use requiring review by the Planning Director under Subsection 1305.02 shall include the following:
  1. A complete Land Use Application Form;
  2. Accurate Site Plan drawn to scale on 8.5" x 11" or 8.5" x 14" paper, showing the property and proposal;
  3. Application fee; and
  4. Supplemental Application Form addressing each of the applicable approval criteria for the proposed use.

[Amended by Ord. ZDO-230, 9/26/11]

#### 406.12 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of an administrative action under Section 406 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
  1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
  2. For all other administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

- B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection 406.12(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
- C. Subsections 406.12(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]