



# Zoning



Subject



Taxlot

## **ARTICLE 65 - FOREST COMMERCIAL & WOODLOT RESOURCE ZONES**

### **65.010 - PURPOSE**

The Forest Commercial and Woodlot Resource Zones (hereinafter called “Forest Zones”) are intended to implement the Goals and Policies of the Josephine County Comprehensive Plan by conserving and protecting lands for forest uses. The Forest Zones are designed to provide a classification for commercial forest lands in private ownerships and for public lands administered by forest management agencies, encourage the management of commercial forest lands as a stable timber base, and to conserve natural resources by reducing hazards. This zone is consistent with Statewide Planning Goal #4 for conservation of forest lands. The Forest Zones are intended to facilitate the right to conduct forest practices consistent with the Forest Practices Act and to encourage and promote the development and conservation of natural resources. Normal forest management, mining, or agricultural practices shall not be considered a nuisance condition in these zones or bordering zones, provided that such actions are consistent with the standards of the Oregon Forest Practices Act and do not extend beyond the boundaries of the Forest Zones. Nothing in this regulation is intended to interfere with normal forestry or agricultural practices that might result in conditions such as noise, dust or odor. Residents of this zone must recognize that the intent of the zone is to protect resource management activities and that in the event of a conflict between residential use and normal forestry or agricultural practices, this code will be interpreted in favor of the resource management practice.

### **65.020 - OUTRIGHT USES**

The following uses shall be allowed outright on lands in the Forest Zones. No permit or authorization is required to conduct the uses. Structures placed in conjunction with outright uses shall be permitted using Ministerial Review Procedures (Article 22), be subject to the applicable development standards of 65.095, and require a Development Permit (Article 41) for final permit approval for structures only.

#### **A. Outright Uses Pursuant to Forest Practices Act.**

1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash
2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation
3. 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
4. For the purposes of subsections A.2 and A.3 above, "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. Other Outright Uses.**

1. Caretaker residences for public parks and public fish hatcheries
2. Conservation of soil, air and water quality and to provide for wildlife and fisheries resources
3. Destination resorts per ORS 197.435 to 197.465 and Statewide Goal 8
4. Geothermal, gas, oil and other associated hydrocarbons exploration, including placement and operation of compressors, separators and other customary production equipment for individual well adjacent to the well head
5. Farm use as defined in ORS 215.203
6. Fish and wildlife enhancement structures (uninhabitable)
7. Forest labor temporary camps
8. Forest products, primary processing with temporary portable facility
9. Hunting and fishing private operations without lodging
10. Mineral and aggregate resources exploration as defined in ORS Ch. 517
11. Solid waste disposal site ordered by DEQ per ORS 259.049 (with equipment, facilities or buildings necessary for its operation)
12. Towers and fire stations for forest fire protection
13. Utility 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
14. Water intake facilities, canals and distribution lines for farm irrigation and ponds
15. 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 follows:
  - a. Climbing and passing lanes within the right of way existing as of July 1, 1987;
  - b. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the

addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels of land result;

- c. Temporary public roads and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed; or
- d. Minor betterment of existing public road 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.

### **65.025 - PERMITTED USES**

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22). All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. In all cases, a Development Permit (Article 41) is required as final permit approval.

- A. Alteration, restoration or replacement of a lawfully established dwelling that:
  - 1. Has intact exterior walls and roof structures;
  - 2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - 3. Has interior wiring for interior lights;
  - 4. Has a heating system; and
  - 5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- B. Forest labor camps (temporary)

### **65.030 - CONDITIONAL USES**

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

- A. Airport expansions (existing only)
- B. Asphalt and concrete batch plants as accessory uses to specific highway projects that are temporary
- C. Cemeteries

- D. Communication facilities for television, microwave and radio facilities, to include transmission towers
- E. Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465, statewide Goal 8 and Article 96 of this code
- F. Electric transmission lines that are new, to include right of way widths of up to 100 feet as specified in ORS 772.210
- G. 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
- H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517
- I. Fire stations and towers for forest fire protection
- J. Fire stations for rural fire protection
- K. Firearms training facility
- L. Fishing accommodations for private use occupied on a temporary basis may be allowed subject to the following requirements:
  - 1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;
  - 2. Only minor incidental and accessory retail sales are permitted;
  - 3. The accommodations are occupied temporarily only for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  - 4. The accommodations must be located within 1/4 mile of fish bearing Class I waters.
- M. Forest products processing — a permanent facility for primary processing
- N. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations
- O. Home occupations as defined in ORS 215.448, and subject to the requirements of Article 92 of this code
- P. Hunting operations for private use that include seasonal accommodations, subject to the following special requirements:
  - 1. The accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;
  - 2. Only minor incidental and accessory retail sales are permitted; and

3. The 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.
- Q. Hunting and fishing operations for private use without lodging accommodations
- R. Log scaling and weigh stations
- S. Logging equipment repair and storage that is permanent
- T. Mass gatherings of more than 3000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three month period and any part of which is held in open spaces, subject to planning commission review under Article 24, as authorized by ORS 433.763
- U. 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
- V. Navigation and aviation aids
- W. Parks and campgrounds for private use, subject to the following special rules regarding campgrounds:
1. Campgrounds in private parks shall only be those allowed by this subsection;
  2. 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 OAR Chapter 660, Division 4;
  3. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground;
  4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;
  5. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, and intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations are prohibited;

6. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.
7. Separate sewer, water or electric service hook-ups may be provided to individual yurts when they meet the following requirements:
  - a. No more than one-third of a maximum of 10 campsites, whichever is smaller, may include a yurt; and
  - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation; and
  - c. The Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in Josephine County if the Commission determines that the increase will comply with the standards described in ORS 215.296(1).
  - d. As used here, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- X. Parks for public use that include only those uses specified under OAR 660-034-0035 or 0040, whichever is applicable
- Y. Public road and highway projects and transportation facilities and improvements not allowed under Section 65.020.B.5
- Z. Reservoirs and water impoundments
- AA. Solid waste disposal site 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
- BB. 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)
- CC. Utility distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width
- DD. Water intake facilities, related treatment facilities, pumping stations, and distribution lines
- EE. Youth camps, subject to the limitations and requirements contained in Oregon Administrative Rule 660-006-0031

**65.050 - TEMPORARY USES**

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 61.040. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

- A. Medical hardship dwelling (one additional dwelling only), subject to a written conflict statement or contract as specified in Section 65.060.D below.
- B. Outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period

#### **65.060 - GENERAL CRITERIA FOR CONDITIONAL USES & NEW DWELLINGS**

In addition to the criteria for conditional uses contained in Article 45 of this code, all conditional uses in the Forest Zones shall be reviewed against the following additional requirements:

- 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. For private parks and campgrounds, reservoirs and water impoundments, home occupations, medical hardship dwellings, and fishing accommodations for private use, 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.

#### **65.070 - STANDARDS & CRITERIA FOR NEW DWELLINGS**

New single-family dwellings may be authorized in the Forest Zones using Quasi-Judicial Review Procedures. The governing standards and criteria for review and approval shall be those listed in Section 65.060 of this Article, and the ones that are identified pursuant to the applicable requirements listed below. All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. A Development Permit shall be required as the final permit approval (Article 41).

- A. **The Lot-of-Record Test.** A dwelling may be sited under the lot of record test when the following rules are met:
  - 1. The lot or parcel on which the dwelling will be sited was lawfully created and either:
    - a. The present owner acquired the lot or parcel before January 1, 1985, and has continuously owned it since then; or



- b. The present owner acquired the lot or parcel by devise or by intestate succession after January 1, 1985, from someone who continuously owned the same lot or parcel from before January 1, 1985; and
  - 2. Tract ownership requirements:
    - a. If the lot or parcel is currently part of a tract, then a lot of record dwelling can be approved only if all of the other lots or parcels within the tract are not improved with dwellings; and
    - b. If the lot or parcel existed as part of a tract on November 4, 1993, but is no longer a part of that tract, then a lot of record dwelling can be approved only if all of the other lots or parcels that were a part of the tract are unimproved with dwellings; and
    - c. When the lot or parcel upon 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; and
  - 3. The tract upon which the dwelling will be located is composed of soil that 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, 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:
    - a. A United States Bureau of Land Management road; or
    - b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency; and
  - 4. 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; and
  - 5. For the purposes of the Lot of Record test, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, 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 combination of these family members.
- B. **The Large Tract Test.** If a dwelling is not allowed under the Lot of Record test, a dwelling may be allowed on land zoned for forest use if:

1. It complies with all applicable provisions of law and is sited on a tract that does not include a dwelling; and
2. The tract consists of at least 160 contiguous acres, or 200 non-contiguous acres in one ownership in the same county or contiguous counties; and
3. A deed restriction has been executed and recorded that complies with the requirements of subsection 65.070.F that encumbers all other lots or parcels that comprise the tract used to meet the acreage test.

C. **The Template Test.** If a dwelling is not allowed under the Lot of Record or the Large Tract tests, a dwelling may be allowed only if the following rules are met:

1. The parcel is primarily composed of soils that are:
  - a. Capable of producing 0 to 49 cubic feet per acre per year of wood fiber and:
    - [1] All or part of at least 3 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the subject tract; and
    - [2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other lots or parcels; or
  - b. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
    - [1] All or part of at least 7 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the subject tract; and
    - [2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other tracts or parcels; or
  - c. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
    - [1] 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 subject tract; and
    - [2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other tracts or parcels.
2. Lots or parcels within an urban growth boundary shall not be used to satisfy the template test.
3. A proposed dwelling is not allowed if the tract upon which the dwelling will be sited already includes a dwelling.

4. If a tract abuts a road that existed on January 1, 1993, or a perennial stream, the measurement may be made by creating a 160 acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road or stream. 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 one-fourth mile middle wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or
    - b. Be within one-fourth 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.
  5. 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.
  6. The dwelling must comply with the wildfire safety siting standards contained in Article 76
  7. A deed restriction shall be executed and recorded as required by subsection 65.070.F that encumbers all other lots or parcels that comprise the tract used to meet the template test.
- D. **Dwelling for Caretaker in a Public Park or Fish Hatchery.** A single family dwelling may be authorized within the Forest Zones for a caretaker’s residence when the residence will be located on land dedicated and developed as a public park, and the residence is to be occupied by a caretaker and caretaker’s family only.
- E. **Definitions.** The following definitions shall apply when reviewing applications for new dwellings within the Forest Zones:
1. **COMMERCIAL TREE SPECIES.** Trees recognized under rules adopted pursuant to ORS 527.715 for commercial production.
  2. **CUBIC FOOT PER ACRE PER YEAR.** 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 (SCS). 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 must be approved by the Department of Forestry.
  3. **CUBIC FOOT PER TRACT PER YEAR.** 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 (SCS). 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 must 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. **TRACT.** 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.

F. **Covenants, Conditions & Restrictions.** In cases where new dwellings are approved using the large tract or template tests, a *Covenants, Conditions & Restrictions* in conformance with Exhibit A of Oregon Administrative Rule 660-006 has been recorded in the deed records for the county where the property or properties are located. In addition:

1. The *Covenants, Conditions & Restrictions* shall provide that it is irrevocable unless a statement of release is signed by an authorized representative of the appropriate county or counties, and then recorded in the deed records; and
2. Enforcement of the *Covenants, Conditions & Restrictions* may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property is located that is subject to the recorded form; and
3. 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 buyers of property which is subject to the recorded form; and
4. The county planning director shall maintain a copy of the *Covenants, Conditions & 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 new dwellings because of the recorded form.

G. **Time Limits, Extensions & Expiration of Permits.** Notwithstanding the requirements of Section 41.030, *Time Limit, Extension & Expiration of Permits*, land use permits approvals for dwellings within the Forest Zones shall be valid for 4 years from the date findings of approval are signed, and an extension of the permit shall be valid for two years.

## **65.080 - SITING STANDARDS**

The placement of dwellings shall be located on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil and land conditions, access, vegetation,

location and the size of the parcel. In making a placement determination, the following requirements shall apply.

- A. **Drawing requirements:** A site map that meets the following requirements shall be submitted and approved as a condition for the placement or replacement of dwellings in the Forest Zones:
1. The site map for the property shall show the township, range, section and tax lot numbers for all contiguous properties held in ownership by the property owner;
  2. The site map shall show all physical features on the site which are of significance with regard to review of the above application process including steep slopes, access roads, existing buildings and structures, and other improvements;
  3. The proposed location of the new or replacement dwelling, to include septic systems, water supplies and other utilities that will serve the dwelling.
- B. **Siting requirements.** New or replacement dwellings shall be sited so the site will:
1. Have the least impact on nearby or adjoining forest or farm lands;
  2. Ensure adverse impacts on forest operations and accepted farm practices on the tract will be minimized;
  3. Minimize the amount of forest lands used to site access roads, service corridors, the dwelling and structures; and
  4. Minimize the risks associated with wildfire;
  5. Meet the siting and fire safety requirements of Article 76.
- C. **Access Requirements.** As a condition of approval, if the road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States 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.
- D. **Stocking Requirements.** Approval of a dwelling shall be subject to the following stocking requirements:
1. 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 the Department of Forestry administrative rules, and the planning director shall notify the county assessor of this condition at the time the dwelling is approved; and
  2. If a lot or parcel is more than 10 acres in size, the dwelling shall not be approved until the owner submits a stocking survey report to the assessor and the assessor

verifies the minimum stocking requirements have been met by the time required by Department of Forestry rules; and

3. 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; and
4. As a condition of approval for a new dwelling, the landowner shall sign and record in the Josephine County deed records a document that binds that 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.

#### **65.090 - STANDARDS FOR NEW OR RECONFIGURED LOTS OR PARCELS**

In addition to the requirements of Chapter 5 of this code, the following standards shall apply to the creation or reconfiguration of lots or parcels within the Forest Zones.

- A. The minimum lot size shall be 80 acres.
- B. The minimum lot size of 80 acres may be reduced for the following outright uses listed in subsections 65.020.B.3, 4 and 11, and the following conditional uses listed in subsections 65.030.D, J, K, M, R, S, U, V, W, X, Z, AA, BB, and DD, provided such uses have been approved and the land division thus created is the minimum size necessary for the use.
- C. The minimum size for a parcel for an existing dwelling may be less than 80 acres when the following requirements are satisfied:
  1. The parcel shall not be larger than 5 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; and
  2. The dwelling existed prior to June 1, 1995; and
  3. The remaining parcel, not containing the dwelling, meets the minimum land division standards of the Forest Zones; or
  4. The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the Forest Zones; and
  5. The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless authorized by subsequent law or goal; and
  6. The minimum tract eligible under this subsection is 40 acres; and

7. 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; and
  8. The remainder of the tract shall not qualify for any uses allowed under ORS 215.283 that are not allowed on forest land.
- D. The minimum size for a parcel for an existing dwelling may be less than 80 acres when the following requirements are satisfied:
1. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  2. Each dwelling complies with the criteria for a replacement dwelling pursuant to Section 65.025.A;
  3. Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;
  4. At least one dwelling is located on each lot or parcel created under this paragraph; and
  5. The landowner of the resulting lots or parcels created under this subsection shall provide evidence that deed restrictions complying with the requirements of subsection 65.070.F have been executed and recorded.
  6. A lot or parcel may not be divided under this subsection if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.
- E. The minimum size for a lot or parcel may be reduced to facilitate a forest practice as defined in ORS 527.620; however, the resulting parcels:
1. Shall not be eligible for siting of new dwelling;
  2. Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;
  3. Shall not result in a parcel of less than 35 acres, except:
    - a. Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or
    - b. 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 forest land; and
  4. If the division is made in conjunction with the creation of another parcel for a dwelling, the dwelling parcel shall not be less than a minimum lot or parcel size otherwise authorized by this Article.

- F. The owner(s) of any land that is divided below 80 acres pursuant to any of the provisions contained in this Section, except those approved for development of a dwelling, shall record in the deed records for Josephine County a restriction that prohibits dwellings from being allowed on the parcel or parcels thus created, unless authorized by law or goal affecting land zoned for forest use.
- G. The owner(s) of any land that is divided pursuant to any of the provisions contained in this Section, shall sign and record in the deed records for Josephine County a statement that declares the owner(s) will not complain in the future about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- H. Width:
  - 1. Every lot or land parcel shall have a minimum average width appropriate to the size of the parcel divided but in no case shall a lot be created with a width of less than 300 feet;
  - 2. A vacant lot or land parcel having a width of less than 300 feet of record at the time of the passage of this code may be occupied by any use permitted in this Section, provided all other laws and code requirements are met including Lot of Record requirements and setbacks.

**65.095 - PROPERTY DEVELOPMENT STANDARDS**

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

**A. Permit Review Requirements**

- 1. Basic Review Provisions – Article 20
- 2. Pre-Application Review – Article 21
- 3. Permit Review Procedures – Article 22
- 4. Basic Application Requirements – Article 40
- 5. Administration of Permits – Article 41
- 6. Site Plan Review – Article 42
- 7. Temporary Uses – Article 43
- 8. Variances – Article 44
- 9. Conditional Uses – Article 45

**B. Property Development Standards**

- 1. Minimum setback from property lines – Front (30'); Rear (30'); Side (30')



2. Access & transportation – See Article 81
3. Airport overlay – See Article 69.4
4. Archeological resources – See Article 93
5. Building size, accessory heights, setbacks, yard dimensions – See Article 72
6. Erosion, sediment, storm drainage facilities – See Article 83
7. Deer Overlay – See Article 69.2
8. Fences, wall and screens – See Article 73
9. Flood hazard overlay – See Article 69.1
10. Historic resources – See Article 94
11. Mineral & aggregate resources – See Articles 72.040.A & 91
12. Parking – See Article 75
13. RV parks, lodges and campgrounds – See Article 98
14. Signs – See Article 74
15. Solid waste – See Article 86
16. Stream setbacks – See Article 72
17. Utilities – See Article 85
18. Water hazard overlay – See Article 69.5
19. Water standards – See Article 84
20. Wild & scenic rivers overlay – See Article 69.3