

FILED WASCO COUNTY
THE DALLES, OR.

IN THE COUNTY COURT OF THE STATE OF OREGON

JUL 13 1 45 PM '89

IN AND FOR THE COUNTY OF WASCO

KAREN R LEBRETON
COUNTY CLERK

IN THE MATTER OF AN AMENDMENT TO THE)
LAND USE AND DEVELOPMENT ORDINANCE) ORDINANCE AMENDMENT

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for transaction of public business and a majority of the Court being present; and

IT APPEARING TO THE COURT: That on February 3, 1982, this County unanimously passed and adopted a Comprehensive Plan Ordinance and implementing ordinances for Wasco County;

IT FURTHER APPEARING TO THE COURT: That on August 25, 1983, the Land Conservation and Development Commission (LCDC) reviewed the Wasco County Comprehensive Plan and found Wasco County to be in compliance with the Statewide Land Use Planning Goals, with the exception of certain subareas lying within the general area identified as Seven Mile Hill and Rancho Rajneesh. On July 20, 1984, LCDC again reviewed the Comprehensive Plan for the Seven Mile Hill area, and found and map changes to be in compliance with statewide Land Use Planning Goals;

IT FURTHER APPEARING TO THE COURT; That on June 27, 1989, the Wasco County Western Citizen Advisory Group met for the purpose of reviewing amendments to the Land Use and Development Ordinance proposed by the Planning and Development Office (Attachment A). The Advisory Group recommended to Wasco County that they approve the proposed amendments, with certain revisions;

IT FURTHER APPEARING TO THE COURT: That on July 5, 1989, the Wasco County Court held a public hearing to consider the proposed amendments and heard all interested person's testimony regarding amendments to the Wasco County Land Use and Development Ordinance;

NOW, THEREFORE, THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The Wasco County Land Use and Development Ordinance be amended, as proposed by the Planning and Development Office, including Sections 2.060(A)(8), 2.100(B), 2.120(A) and (D), 3.120, 3.210(B)(4), and 3.210(C).

EMERGENCY CLAUSE: Inasmuch as this ordinance amendment is necessary for the immediate preservation of health, peace and safety, an emergency is hereby declared to exist and this Ordinance Amendment shall be in full force and effect immediately upon its adoption by the County Court.

Regularly passed and adopted by vote of the County Court of the County of Wasco, State of Oregon, this 19th day of July, 1989.

WASCO COUNTY COURT

Absent
William L. Hulse, Judge

John Mabrey
John Mabrey, Commissioner

Scott McKay
Scott McKay, Commissioner

Approved as to form:

Jeffrey K. Kolbe
Jeffrey K. Kolbe, Deputy
Wasco Co. District Attorney

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CHAPTER 2 DEVELOPMENT APPROVAL PROCEDURES

SECTION 2.030 Coordination of Development Approval

[Add the following text:]

- B. The coordination of development application shall include the opportunity for the applicant to apply for all permits necessary for a development project at one time. The consolidated procedure shall be subject to the time limitations set out in this chapter.

Explanation: This section is proposed to be amended in order to bring it into compliance with amendments to ORS 215.416.

SECTION 2.060 Application

(A.)

5. Land Major Partitioning Approval, except as provided for in Section 2.060 C.9 (Chapter 21)
6. Minor Partition Approval (Chapter 21)
7. Site Plan Reviews (Chapters 3 and 20)
8. Uses permitted subject to standards (Chapter 3)

(C.)

1. Quasi-Judicial Plan Amendment (Chapter 14)
9. Preliminary Major Partitions involving private or public road approval (Chapter 21)
10. Recommendation to the County Court on Street Dedications (Chapter 21)
11. Revocation of Conditional Use Permits (Chapter 5)
12. Appeals of Decision of Director made pursuant to Section 2.060(A)(1), (2), (3), (4) & (5), and any ministerial action of the Director,

SECTION 2.100 Administrative Action Procedure of the Director

A. ...pursuant to Section 2.060(A)(1)-(7) of this Ordinance ...

[Add the following text:]

➔ B. Within seven (7) days after accepting an application pursuant to Section 2.060(A)(8) of this Ordinance, the Director shall act on or cause a hearing to be held on, the application unless such time limitation is extended with the consent of the applicant.

The Director shall not accept any application which he deems cannot be acted upon initially in a rational manner within seven (7) days of receipt, unless the applicant consents to a longer period for action.

SECTION 2.120 Notice of a Decision by the Director

➔ A. Notice of decision by the Director pursuant to Section 2.060 (A)(1), (2), and (4)-(7) shall be filed in the records of the Director and also mailed to the applicant and all parties. Notice of decision by the Director pursuant to Section 2.060 (A)(3) and (8) shall be filed in the records of the Director and also mailed to the applicant, the owner(s) or contract purchasers of the subject property, and all owners of property within three hundred feet (300') of the subject parcel.

C. The decision of the Director pursuant to Section 2.060 (A)(1)-(7) shall be final ...

➔ D. The decision of the Director pursuant to Section 2.060 (A)(8) shall be final unless written objection is received from an aggrieved party within fifteen (15) days after the filing of decision, or unless the Commission or County Court, on its own motion, orders review within (15) days after the filing of the proposed decision.

SECTION 3.120 "F-2" FOREST ZONE

A. Purpose

The purpose of the "F-2" Forest Zone is to manage areas for the continued use of lands for renewable resource production, retention of water resources, open space, recreation, wildlife habitats and related forest uses.

Buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the "F-2" Forest Zone shall comply with the following regulations:

B. Permitted Uses

In the "F-2" Forest Zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions and exceptions set forth by this Ordinance:

1. Management, production and harvesting of forest products, including primary wood processing and operations.
2. Farm use as defined in Oregon Revised Statutes (ORS) 215.203(2).
3. The rehabilitation, replacements, minor betterment, repair and improvements and other similar construction activities, not considered to have land use impact, in public parks, playgrounds, and recreational grounds.
4. Utility facilities necessary for public service.
5. Public and private conservation areas and structures for the retention of water, soil, open space, forest or wildlife resources including normal fish and wildlife practices.
6. Customary accessory uses to any of the permitted uses listed, including buildings other than dwellings, customarily provided in conjunction with farm use as provided in Section (B)(2).
7. Energy facilities subject to the provisions of Chapter 19.

C. Conditional Uses

1. Single-family dwellings, including mobile homes may be established, subject to the approval of the Approving Authority, upon a finding that each dwelling:
 - a. Is accessory and necessary for a use permitted by Section 3.120(B);
 - b. Is compatible with goals and policies of the Comprehensive Plan, thereby retaining forest lands for forest uses;
 - c. Does not materially alter the stability of the over-all land use pattern of the area;
 - d. Furthers forest site productivity and minimizes the loss of productive forest lands;
 - e. Does not interfere seriously with forest practices as regulated by ORS 527.610 to 527.730 on adjacent lands devoted to forest use;
 - f. Does not interfere seriously with accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands;
 - g. ~~Complies with the following conditions:~~
 1. ~~The home owner shall maintain an adequate supply of water either in the manner of a surplus water system or provide at least one (1) standpipe capable of handling the full capacity of the water system that would contain a fire from spreading to surrounding forest lands; and~~
 2. ~~Maintain fire breaks of at least thirty (30) feet around all structures.~~
 - g. Complies with other conditions as the Approving Authority considers necessary.
2. ~~Temporary dwelling units and other buildings and facilities customarily provided in conjunction with management, production or harvesting of forest products.~~
2. Public facilities such as water storage reservoirs, pumping or treatment facilities, sewage disposal plants.
3. Personal-use airports.

4. Public and private parks, playgrounds, and recreational grounds, including but not limited to: ski resorts, snowmobile centers, target ranges, and campgrounds.
5. Operations conducted for the exploration, mining and processing of aggregate and other minerals as subsurface resources.
6. Sanitary landfill.
7. Facilities to manufacture alcohol from farm or timber waste.
8. Energy facilities and commercial energy facilities subject to the provisions of Chapter 19.
9. In the "F-2(40)" zone only, single-family dwellings, including mobile homes, not in conjunction with a forest or farm use, pursuant to subsection G of this section.

D. Conditional Use Approval Standards

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following limitations shall apply to a conditional use permitted in subsection (B) of this Section:

1. Is situated upon generally unsuitable land for continued forest production or the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and
2. Will not adversely impact forest management on adjoining lands; and
3. Will not significantly adversely affect the patterns and needs of wildlife in the area; and
4. Does not materially alter the stability of the overall land use pattern of the area; and
5. Complies with such other conditions as the governing body of the County considers necessary.

E. Prohibited Uses

1. Subdivisions and Planned Unit Developments.
2. All other uses not listed which are not determined to be similar uses, as provided in Section 4.010 of this Ordinance.

F. Property Development Standards

1. Property Size - In the "F-2(80)" zone, the minimum property size is eighty (80) acres with a 1,000 foot minimum average lot width. In the "F-2(40)" zone, the minimum property size is forty (40) acres with a 660 foot minimum average lot width.
2. Setback - No structure other than a fence or sign shall be located closer than forty (40) feet from the right-of-way of a public road (front yard), and one hundred (100) feet from all other property lines.
3. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.
4. Height - Maximum height for all structures shall be thirty-five (35) feet.
5. ~~Building Limitations-----No structures shall be located closer than ten (10) feet from an existing or proposed structure.~~
5. Stream Setbacks - All structures, or similar permanent fixtures (except hydroelectric facilities) shall be setback from the high water line or mark along all streams or lakes a minimum distance of one hundred (100) feet when measured horizontally at a right angle.
6. Signs - Signs shall not extend over a public right-of-way or project beyond the property line.
 - a. Signs shall not be illuminated or capable of movement.
 - b. Signs shall be limited to twelve (12) square feet in area and shall describe only uses permitted and conducted on the property which the sign is located.
 - c. Signs advertising the sale or rental of the premise and temporary in nature are permitted provided the sign is erected no closer than ten (10) feet from right-of-way of public road.
7. Fire Safety Standards - All dwellings, and other structures as specified, shall institute the following fire safety measures for protection of the development and of surrounding forest areas:
 - a. An adequate supply of water shall be maintained in the manner of a surplus water system or provision of at least one (1) standpipe capable of handling the full capacity of the water system; and
 - b. For developments with plumbed water systems, at least one standpipe shall be placed a minimum of fifty (50) feet from the dwelling; and

- c. If electricity is provided, service separate from the dwelling shall be provided for the pump utilized in (a), above; and
- d. All structures shall be surrounded by a maintained fire break not less than thirty (30) feet wide. The break shall consist of removal of fire fuels from the ground, shrubs from under large trees, and tree limbs within five (5) feet of the ground; and
- e. Any chimney or stovepipe on any structure for use with a woodstove or fireplace shall be screened to prevent discharge of sparks or other burning material; and
- f. Access drives shall be maintained to a level that is passable for fire equipment. Turnouts shall be provided at five-hundred (500) foot intervals on one-lane drives.
- g. The exterior roofing of all structures shall be of fire-resistant materials.

G. Placement Standards for Dwellings Not In Conjunction With A Forest or Farm Use

- 1. On lots-of-record ten (10) acres or smaller, findings shall be made showing that the following standards are met, in addition to other requirements of this ordinance:
 - a. The lot or parcel was legally created prior to the effective date of this ordinance.
 - b. Domestic water supply shall be from sources either contained within the boundaries of the property or legally acquired through easement or water rights from adjacent property.
 - c. The property shall be disqualified for special tax assessment for forest or farm use and any applicable penalty has been paid.
- 2. On lots-of-record forty (40) acres or smaller, but larger than ten (10) acres, the standards of subsection G.1 of this section shall apply. In addition, findings shall be made showing that the following standards are met:
 - a. Twenty-five percent (25%) or less of the lot or parcel is suitable for forest production or the production of farm crops or livestock.
 - b. The lot or parcel is situated in an area of the County not characterized by commercial forest or farm operations.

3. On lots-of-record larger than forty (40) acres, the standards of subsection G.1 and G.2 of this section shall apply. In addition, findings shall be made showing that the following standard is met:
 - a. The lot or parcel does not have the characteristics that would make it eligible for a dwelling in conjunction with forest or farm use pursuant to Section 3.120 C.1(a) and (d).
 - b. Twenty-five percent (25%) or less, with a maximum of twenty (20) acres, of the lot or parcel is suitable for forest production or the production of farm crops or livestock.

EXPLANATION OF CHANGES:

Regarding section C, "Conditional Uses," the deletion of fire safety standards from the standards for a forest dwelling is proposed because new fire standards are proposed in a later section. Temporary structures used in forest management are proposed for deletion from the list of conditional uses because the 1987 legislature changed the Forest Practices Act to take regulatory authority for this use away from the County. The provision for dwellings not in conjunction with a forest or farm use is addressed later in this explanation.

Regarding section F, "Property Development Standards," the building limitations are proposed to be deleted because building codes now account for fire danger in closely-spaced structures, so the provision is unnecessary. The proposed fire safety standards are designed to accomplish several goals. First, the prevention of dwelling fires from spreading to adjacent lands, and conversely the prevention of wildfires from destroying dwellings, are assisted by standards (a), (b), (d) and (g). Standard (c) is designed to insure an uninterrupted supply of water to this same end. Second, prevention of ignition of fire is the goal of standard (e). Third, the road standard in (f) is designed to allow both access for fire equipment and evacuation of residents.

The placement standards in section G are designed to protect forest and farm resources in the zone while recognizing that portions of the area zoned F-2 do not have commercial resource potential. There are portions of the F-2 zoned land that do not support commercial-quality forest or farm land, so residential development would not be in conflict with these uses. The acknowledged Comprehensive Plan indicates that the purpose of the F-2 (40) zone (the only portion proposed to accept non-forest dwellings) is to protect sensitive big game habitat. The acknowledgment was granted with the premise that one dwelling per forty acres was an acceptable density to protect the wildlife resource.

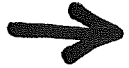
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The proposed amendments were also designed to recognize that there are pre-existing nonconforming subdivisions of ten acre lots in the zone. These subdivisions are legal and recognized by the county, but they will not qualify for a dwelling in conjunction with a forest or farm use because a dwelling would not be "necessary and accessory" on such a small holding. The less-strict standards for these lots are intended to provide the owners a reasonable use of the land.

The additional standards for non-resource dwellings are devised to allow dwellings that won't conflict with forest uses only on lots that do not have resource production capabilities. On lots in the larger acreage range, more strict standards are attached to insure that those portions of the F-2(40) zone that are characterized by commercial forest land are not encroached upon by nonforest uses, and that isolated areas of land potentially capable of timber production are thus managed. If a parcel does have legitimate timber producing potential, whether in a an area characterized by timber production or not, the dwelling would need to be necessary and accessory to a forest use.

SECTION 3.210 "A-1" EXCLUSIVE FARM USE ZONE

B. Permitted Uses ...



4. ~~The--dwellings--and--other~~ Buildings other than dwellings customarily provided in conjunction with farm use.
5. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.
6. Operations for the exploration of geothermal resources as defined by ORS 522.005.
7. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary to its operation.

[Add the following text:]

- ~~8. The breeding, boarding and training of horses for profit.~~
- ~~9. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.~~
- ~~10. 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.~~
- ~~11. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.~~
- ~~12. 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.~~

Explanation: In number 4, dwellings are removed from the list of uses permitted outright and put in a separate category (see next section). Numbers 8 through 12 have been added, as the 1987 Legislature made the amendments to ORS 215.283 to allow the uses in exclusive farm use zones.

[Add the following text:]

➔ C. Uses Permitted Subject to Standards

In the "A-1" Exclusive Farm Use zone, the following uses are permitted when authorized by the Approving Authority upon satisfactory demonstration of compliance with the standards of this Ordinance as required in this section:

1. Dwellings customarily provided in conjunction with farm use located on a lot-of-record as large or larger than the minimum lot size in the zone. The dwelling will be considered customary when the following conditions prevail:
 - a. The parcel is currently employed for farm use where the day-to-day activities are principally directed to the agricultural use of the land; and
 - b. The dwelling is for the farm owner/operator and there are no other dwellings located on the lot-of-record; or
 - c. The dwelling is for a person, other than the owner/operator or the operator's relative, whose assistance in the management of the farm is required by the farm operator.
2. Dwellings customarily provided in conjunction with farm use on nonconforming lots-of-record. The dwelling will be considered customary when compliance with the standards in Chapter 12 of this Ordinance is demonstrated.