

DWELLINGS IN RESOURCE ZONES: TIMBER (T) AND FORESTRY-GRAZING (FG)

Dwellings in Resource zones are not an outright use in Curry County or the State of Oregon. In order to site a dwelling in a resource zone a conditional use permit is required. Depending on the circumstances, one of three “tests” must be utilized to apply for a permit to site a dwelling.

- 1) **LOT OF RECORD**: Lot of record is-the person, or their family, has owned the property since at least January 1, 1985.

- 2) **LARGE TRACT**: the person can apply for a permit if they have AT least 160 acres, OR a total of 200 acres of several parcels—they put a deed restriction on the other parcels to allow siting of the house on one of them (example-the persons owns 3 different pieces of land: 2 50 acres parcels and a 100 acre parcel, they want to build on the 100 acre, they can do it if they put a deed restriction on the 2 50 acre parcels.) For the 200 acre combined one they can deed restrict parcels in adjacent counties also.

- 3) **GRID TEST**: the person must make a grid of a square 160 acres in size and center that over their parcel. 11 different parcels must touch INSIDE the box, and of the 11, at least 3 must have dwellings that were sited prior to January 1, 1993.

If the parcel is adjacent to a road, the grid can be a rectangle ¼ mile wide by 1 mile long, centered on the parcel and lined up with the road. Sometimes this will get more parcels because they are located near the road. Try it both ways and see which grid includes the most parcels and dwellings.

Attached are the relevant ordinance criteria that must be addressed when applying for a resource zone dwelling. One of the tests mentioned above are part your dwelling application. Additional evidence related to water supply, access, stocking requirements, fire fighting standards and fire safety standards for roads must also be addressed (please see page 5).

The evidence you provide in your application is referred to as

“findings”. The adequacy of the findings you provide will determine whether your permit is granted or not. More is always better than less.

When addressing the ordinance criteria, the easiest way to formulate findings is to take each criterion as a “question” and provide your answer. If a particular criterion is not applicable to your proposal, state the criterion and provide “Not Applicable N/A” as your answer. Please be aware that you may be asked by staff to clarify any criterion addressed as N/A.

If you have any questions when preparing your application please do not hesitate to contact Planning staff.

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APPLICATION FOR A DWELLING IN THE RESOURCE ZONE (FG OR T)

Curry County Zoning Ordinance Section 3.052.

Conditional Uses Subject to Administrative Approval by the Director.

The following uses may be allowed provided a land use application is submitted pursuant to Section 2.060 of the Curry County Zoning Ordinance and the Planning Director approves the proposed use based upon relevant standards for review in this ordinance. Numbers in parenthesis following the uses indicate the standards described in Section 7.040 that must be met to approve the use.

16. Dwellings subject to **Section 3.053. (1,16)**

Section 3.053. Standards for the Approval of Dwellings.

One single family dwelling may be approved on a forest land parcel if the dwelling meets any of the tests set forth in (1), (2) or (3) below.

TEST #1: LOT OF RECORD

1. A lot of record single family dwelling may be sited on forest land after the Board or its designate notifies the county assessor that the county intends to allow the dwelling, and if:
 - a) the lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985; and
 - b) the lot or parcel was acquired by the present owner:
 - (i) prior to January 1, 1985; or
 - (ii) by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

NOTE: For purposes of this subsection "owner" includes wife, husband, mother, father, brother, brother-in-law, sister, sister-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 a combination of these family members.

- c) the tract on which the dwelling will be located does not include an existing dwelling;
- d) the proposed dwelling is not prohibited by and will comply with the requirements of the comprehensive plan, zoning ordinance and other provisions of law;
- e) the lot or parcel on which the dwelling will be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species;
- f) the lot or parcel is located within 1,500 feet of a public road as defined under ORS 368.001 that is not a United States Forest Service or Bureau of Land

Management road; and the access road shall be maintained and either paved or surfaced with rock.

- g) 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 is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
- h) when the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are to be consolidated into a single lot or parcel when the dwelling is allowed.

TEST #2: LARGE TRACT

- 2. A single family dwelling may be sited on forest land if it complies with other provisions of law and;
 - a) it will be located on a tract of land of at least 160 contiguous acres; or
NOTE: For purposes of this subsection a tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or waterway.
 - b) the applicant is the owner of tracts that are not contiguous but are in the same county or adjacent counties and the tracts are zoned for forest use and the acreage of two or more tracts total 200 acres or more; under such circumstances a dwelling may be placed on one of the tracts providing the owner submits proof of a nonrevocable deed restriction that precludes all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for other future dwellings unless the tract is no longer subject to protection under goals for agricultural lands or forest lands. The covenants, conditions and restrictions shall be on a form provided by the county and has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions are subject to the following:
 - i) the covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
 - ii) enforcement of the covenant, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
 - iii) the failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;
 - iv) the Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under covenants, conditions and restrictions filed in the county

deed records pursuant to this section. This map or other record shall be readily available to the public at the county planning office.

TEST #3: GRID TEST

NOTE: Most soil types in Curry County are capable of producing 0 to 85 cubic feet per acre of wood fiber. Generally sub item (c) is the criterion to be addressed.

3. A single family dwelling may be sited on forest land if the lot or parcel is predominantly composed of soils that are:
 - a) capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
 - (i) all or part of at least three other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the center of the subject tract; and
 - (ii) at least three dwellings existed on January 1, 1993 on the other lots or parcels;
 - b) capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - (i) all or part of at least seven other lots or parcels that existed in January 1, 1993 are within a 160 acre square centered on the center of the subject tract; and
 - (ii) at least three dwellings existed on January 1, 1993 on other lots or parcels; or
 - c) **capable of producing more than 85 cubic feet per acre per year of wood fiber if:**
 - (i) **all or part of at least 11 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the center of the subject tract; and**
 - (ii) **at least three dwellings existed on January 1, 1993 on other lots or parcels.**
 - d) If the tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and to the maximum extent possible, aligned with the road.
 - e) If the tract is 60 acres or larger, and abuts a road or perennial stream, the measurement shall be made the same as in 3 e) above; however, one of the three required dwellings shall be on the same side of the road or stream as the subject tract, and;
 - (i) be located within 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; or
 - (ii) 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.

- f) 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.

In addition to one of the “tests” above, the following additional criteria must also be addressed:

- 4. The approval of a dwelling under subsections 1, 2, or 3 above shall be subject to the following additional requirements.
 - a) Dwellings and structures shall be sited on the parcel so that:
 - i) they have the least impact on nearby or adjoining forest or agricultural lands;
 - ii) the siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - iii) the amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - iv) the risks associated with wildfire are minimized.
 - b) The siting criteria to satisfy (a) above may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
 - c) The applicant shall provide evidence that the domestic water supply is from a source authorized by the Oregon Water Resources Department's administrative rules for the appropriation of ground water or surface water and is not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:
 - i) verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water, or
 - ii) a water use permit issued by the Oregon Water Resources Department for the use described in the application; or
 - iii) verification from the Oregon Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
 - d) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access permit or

agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

- e) Approval of a dwelling shall be subject to the following requirements:
 - i) the applicant shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;
- f) The Director shall notify the county Assessor of the above condition at the time the dwelling is approved.
- g) the property owner shall submit a stocking survey report to the Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
- h) the Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;
- i) upon notification by the Assessor the Department of Forestry shall determine whether the tract meets the minimum stocking requirements of the Forest Practices Act, if the Department of Forestry determines that the tract does not meet those requirements then the Department shall notify the owner and the Assessor that the land is not being managed as forest land, the Assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

Section 3.055. Fire Fighting Standards for Dwellings and Structures.

The following fire siting standards shall apply to all new dwellings or permanent structures constructed or placed on lands within the Forestry Grazing (FG) zoning designation.

1. The dwelling shall be located on a parcel that is located within a structural fire protection district or the owner has contracted with a structural fire protection district for residential fire protection. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the Director may provide an alternative means for protecting the dwelling from fire hazards. The alternative means for providing fire protection may include a fire sprinkling system, onsite fire suppression equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
2. Fire Safety Area.

Owners of new dwellings and structures shall comply with the following requirements.

- a. A primary fire safety area of at least thirty (30) feet width shall be maintained around all structures;

NOTE: For purposes of this ordinance a primary fire safety area shall be defined as follows:

An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath the trees.

- b. A secondary fire safety area of at least one hundred (100) feet width shall be cleared and maintained around the primary fire safety area.

NOTE: For purposes of this ordinance a secondary fire safety area shall be defined as follows:

An area in which the vegetation shall be limited to mowed grasses, low shrubs (less than two (2) feet high, and trees that are spaced with more than fifteen (15) feet between the crowns and pruned to remove dead and low (less than eight (8) feet from the ground) branches.

- c. Areas subject to the Scenic Waterway Area Overlay Zone may have compliance with the primary and secondary fire safety area requirements of this section modified to comply with specific siting standards contained in any state or federal approved Scenic Waterway Management Program when such regulations conflict.

3. The dwelling shall have a fire retardant roof.
4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
5. The dwelling shall not be sited on a slope greater than 40 percent.
6. The County may impose standards and conditions in addition to those specified above, when it deems it necessary to protect the public health, safety and welfare.
7. Replacement or substantial improvement of legally sited existing dwellings requires compliance with the Fire Safety Area requirements of subsection 2. above. Substantial improvement constitutes an improvement which is in excess of 50% of the assessed value of the existing dwelling.
8. Road Access to Dwellings

Road access to the dwelling shall meet the requirements set forth in Section 3.056.

Section 3.056. Fire Safety Standards for Roads.

The following special road standards shall apply within the Forestry Grazing (FG) zoning designation. These special road standards shall not apply to private roads accessing only commercial forest uses that do not include permanent dwellings or structures. The purpose of the rule is to provide adequate access for fire fighting equipment.

1. Roads and driveways shall have a driveable surface width of sixteen (16) feet.
2. Roads and driveways shall have an all weather driveable surface of gravel or rock.
3. Roads and driveways shall have an unobstructed horizontal clearance of not less than sixteen (16) feet and an unobstructed vertical clearance of not less than twelve (12) feet.
4. Average grade for an road or driveway shall not exceed thirteen and one-half (13.5%) percent for any one mile of road length; or exceed twenty (20%) percent for any four hundred (400) consecutive feet of road length.
5. Roads and driveways shall have a driveable surfaced turnaround which has either a thirty-five (35) foot radius cul-de-sac, or a sixty (60) foot "T-shaped" design for the turning of fire fighting equipment.
6. Roads, driveways, bridges and culverts shall be designed and maintained to support a minimum gross weight (GVW) of 50,000 pounds for the passage of fire fighting vehicles or equipment.
7. Bridges or culverts which are part of the construction of the road or driveway to the dwelling or structure shall have written verification from a Professional Engineer, licensed in the State of Oregon, that the structure can meet the 50,000 pound construction standard.
8. All bridges shall be inspected and certified as to compliance with the 50,000 pound construction standard at an interval not greater than once every two years from the date of this ordinance. The inspection report shall be filed with the Curry County Road Department.
9. Variations from these standards may be granted through the provisions of Article VIII of this ordinance. The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and driveway.

The following standards governing conditional uses must also be addressed for resource dwellings.

Section 3.052. Conditional Uses Subject to Administrative Approval by the Director.

The following uses may be allowed provided a land use application is submitted pursuant to Section 2.060 of the Curry County Zoning Ordinance and the Planning Director approves the proposed use based upon relevant standards for review in this ordinance. ***Numbers in parenthesis following the uses indicate the standards described in Section 7.040 that must be met to approve the use.***

16. Dwellings subject to Section 3.053. ***(1,16)***

Additional standards for Conditional Uses to be addressed:

Section 7.040. Standards Governing Conditional Uses.

In addition to the standards of the zone in which the conditional use is located and the other standards in

this ordinance, conditional uses must meet the following standards:

1. Conditional Uses Generally.

- a) The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.
- b) The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.
- c) The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.
- d) If the proposed conditional use involves development that will use utility services; the applicant shall provide statements from the affected utilities that they have reviewed the applicants' proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions for providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the conditional use permit.
- e) If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall submit a water right permit(s) or documentation that a permit is not required from the Oregon Water Resources Department which indicates that the applicant has the right to divert a sufficient quantity of water from the proposed source to meet the projected need for the proposed use for next twenty year planning period.
- f) If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall install a raw water supply flow monitoring device (flow meter) on the water system and shall record the quantity of water used in the system on a monthly basis. The monthly record of water usage shall be reported to the Curry County Department of Public Services-Planning Division and Health Department Sanitarian on an annual basis.
- g) If the proposed conditional use included the development or expansion of a community or non-community public water system and the use is located within the service area of a city or special district water system the applicant shall utilize the city or special district water system rather than developing an independent public water system. An independent community or non-community public water system can be developed for the use if the applicant can prove that it would be physically or economically not feasible to connect to the city or special district water system. The city or special district must concur in the conclusion that connection of the proposed use is not feasible.

16. Uses on resource land.

- a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.
- b) The proposed use will not significantly increase fire suppression costs or

significantly increase the risks to fire suppression personnel.

- c) A written statement be recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized in Section 3.042 (8), (12), (13), (14), (15), (16), (21) and Section 3.052 (8), (12), (13), (14), (16), (17), (22).

For entire text of the Curry County Zoning Ordinance please visit the following website:

Curry County Zoning Ordinance

www.co.curry.or.us/publicservices/ZoneOrd/Zoning%20Ordinance.htm

For State of Oregon Regulations regarding dwellings in resource zones please visit the following website:

Oregon State Administrative Rules

660-006-0027

Dwellings in Forest Zones

http://arcweb.sos.state.or.us/rules/OARS_600/OAR_660/660_006.html

For information about statewide planning in Oregon please visit the Department of Land Conservation and Development (DLCD) website:

<http://www.lcd.state.or.us/LCD/goals.shtml>