



Land of Cheese, Trees and Ocean Breeze

MEMO

Date: October 4, 2023
To: Tillamook Board of County Commissioners
From: Melissa Jenck, CFM, Senior Planner
Subject: #851-23-000210-PLNG: Forest (F) Zone ‘Template Dwelling’

Included with this memorandum is a copy of the record for #851-23-000210-PLNG, request to amend TCLUO Section 3.004, Forest (F) Zone, specifically in consideration to ‘Template Dwelling’ reviews. The proposed amendment changes certain requirements for ‘Template Dwelling’ reviews, which are permitted in the Forest (F) and Small Farm Woodlot (SFW-20) zones within areas that already had a certain number of existing dwellings and parcels on or before January 1, 1993, for properties within the Unincorporated Tillamook County. These proposed amendments reflect changes as enacted by 2019 House Bill 2225.

Maps of affected areas are included as “Exhibit A” of the Staff Report dated August 17, 2023. The proposed amendments apply to all Forest (F) and Small Farm and Woodlot (SFW-20) zoned properties. A copy of the existing TCLUO Section 3.004, specifically Subsection (4)(c) as it relates to ‘Template Dwellings’, is included in ‘Exhibit B’. A draft copy of the proposed amendments is included as “Exhibit C”. No public testimony was received as part of this request.

Also included with this memorandum is a copy of the criteria outlined in Article 9 of the TCLUO. Criteria for a legislative text amendment is found in Section 9.030 and is the basis for decision of this request. There are no proposals for comprehensive plan and zone map amendments.

Copies of the record including the draft ordinance, can also be found on the Community Development Land Use Application page: <https://www.co.tillamook.or.us/commdev/project/851-23-000210-plng>.

Summary of Action Taken by the Tillamook County Planning Commission:

The Tillamook County Planning Commission heard this matter at the publicly noticed hearing on August 24, 2023, where public comment was taken. An audio copy of the proceedings can be accessed at <https://www.co.tillamook.or.us/commdev/project/851-23-000210-plng>.

The Tillamook County Planning Commission considered this amendment request on the basis of the criteria contained in Article 9 of the Tillamook County Land Use Ordinance, findings of fact and conclusions contained within the staff report, public comments, evidence and information presented, written and oral testimony received at the hearing, and staff presentations.

The Planning Commission took action at the hearing on August 24, 2023, and voted unanimously, 4 in favor and 0 opposed, to recommend approval of proposed amendments to the Forest (F) Zone as presented at the August 24, 2023, hearing with the following items to be further considered by the Board of County Commissioners:

- Section 3.004(4)(c)(10)(h): The header for proposed Subsection (10) contained in ‘Exhibit C’ states:
 - “A proposed “template” dwelling under this ordinance is allowed only if:”
 - Subsection (10)(h) the sentence begins “If the...”
 - The Planning Commission recommended removing the doubling of the word “if” reflected by the proposed standard.

A public hearing is scheduled with the Tillamook County Board of Commissioners at 10:00am on Wednesday, October 11, 2023, in the Board of County Commissioners Meeting Room located in the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, OR 97141.

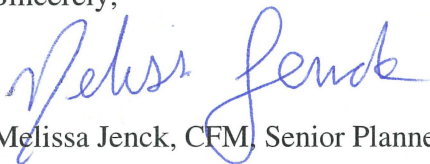
The October 11, 2023, hearing is a *de novo* hearing with opportunity for public comments.

Please visit <https://www.co.tillamook.or.us/bocc/page/board-commissioners-meeting-schedule> for access information for Board of County Commissioner meetings.

Please visit <https://www.co.tillamook.or.us/commdev/page/hearing-meeting-information> for access information for Planning Commission meetings.

If you have any questions regarding the information received, please do not hesitate to contact me at 503-842-3408 x3412, email: mjenck@co.tillamook.or.us or email Lynn Tone, Office Specialist 2, at ltone@co.tillamook.or.us.

Sincerely,



Melissa Jenck, CFM, Senior Planner

ARTICLE IX
AMENDMENT

SECTION 9.010: AUTHORIZATION TO INITIATE AMENDMENTS

An AMENDMENT to a zoning map maybe initiated by the Board, the Commission, the Department, or by application of a property owner. Anyone may initiate proceedings to AMEND the text of this Ordinance.

SECTION 9.020: MAP AMENDMENT PROCEDURE AND CRITERIA

The following provisions shall govern the consideration of a MAP AMENDMENT request:

- (1) Review procedures shall be determined pursuant to Section 10.040; notice of a proposed AMENDMENT shall be distributed according to the provisions of a Type III or Type IV review.
- (2) The applicant or, if County initiated, the Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:
 - (a) Size, shape and orientation of the subject parcel.
 - (b) Surrounding parcel sizes.
 - (c) Topography, drainage, hazards, and other physical site characteristics.
 - (d) Parcel ownership and current use.
 - (e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.
 - (f) Traffic circulation.
 - (g) Zoning history of the subject parcel.
 - (h) Compatibility of the proposed new zone with the surrounding zoning and land uses.
 - (i) Availability and feasibility for development of nearby properties in the proposed zone.
 - (j) Aesthetics.
 - (k) Availability of public facilities and services.
 - (l) Land use objectives of both the applicable and the proposed zoning.
- (3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all five criteria can be met.
 - (a) The proposed new zone is consistent with applicable Comprehensive Plan policies.
 - (b) The proposed new zone shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection Goals.

- (c) The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone.
 - (d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.
 - (e) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.
- (4) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT to modify or change an existing zone on a zoning map subsequent to receiving the report and recommendation of the Planning Commission. Zone MAP AMENDMENTS shall be adopted by the Board of County Commissioners by Ordinance.
 - (5) The Board's decision on a zone MAP AMENDMENT shall be final.
 - (6) A copy of all zone MAP AMENDMENTS shall be forwarded to the County Assessor's office.

SECTION 9.030: TEXT AMENDMENT PROCEDURE

- (1) A COMPREHENSIVE PLAN TEXT or ORDINANCE AMENDMENT may be requested by any person, subject to the requirements of a Type IV procedure and Article 10. The proponent of COMPREHENSIVE PLAN or ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department, pursuant to Section 10.030.
- 2) The applicant or, if County initiated, the Department shall prepare an analysis of the proposed AMENDMENT, addressing such issues as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.
- (3) Criteria. Commission review and recommendation, and Board approval, of an ordinance amending the Zoning Map, Development Code or Comprehensive Plan shall be based on all of the following criteria:
 - (a) If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
 - (b) The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);
 - (c) The Board must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or ordinance; and
 - (d) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.

SECTION 9.040: TRANSPORTATION PLANNING RULE COMPLIANCE

Proposals to amend the Comprehensive Plan, Zoning Map or Ordinance shall be reviewed to determine whether they significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the County, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the County shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.



Land of Cheese, Trees and Ocean Breeze

LEGISLATIVE TEXT AMENDMENT REQUEST
#851-23-000210-PLNG: FOREST (F) ZONE ‘TEMPLATE DWELLING’

STAFF REPORT DATE: August 17, 2023

TILLAMOOK COUNTY PLANNING COMMISSION HEARING DATE: August 24, 2023

BOARD OF COMMISSIONERS HEARING DATE: October 11, 2023

PREPARED BY: Melissa Jenck, CFM, Senior Planner

I. GENERAL INFORMATION

Requested actions: Legislative text amendment request to amend the Tillamook County Land Use Ordinance (TCLUO) Section 3.004 Forest (F) zone, specifically in consideration of ‘Template dwelling’ reviews. The proposed amendment changes certain requirements for ‘Template Dwelling’ reviews, which are permitted in the Forest (F) and Small Farm Woodlot (SFW-20) zones within areas that already had a certain number of existing dwellings and parcels on January 1, 1993, for properties within the Unincorporated Tillamook County.

Initiated By: Tillamook County Department of Community Development

II. BACKGROUND

The Tillamook County Department of Community Development is in process of amending resource zone codes to reflect updated state regulations in a series of proposed amendments to the Tillamook County Land Use Ordinance (TCLUO), Section 3.004: Forest (F) Zone, in consideration to ‘Template Dwelling’ reviews.

On July 2, 2019, Oregon Legislative Assembly enacted 2019 House Bill (HB) 2225. 2019 HB 2225 changes certain requirements for ‘Template Dwelling’ reviews, which are permitted in Forest (F) and Small Farm Woodlot (SFW-20) zones within areas that already had a certain number of existing dwellings and parcels on January 1, 1993. 2019 HB 2225 changes the following requirements set forth in ORS 215.750:

- Previously language required the 160-acre template to be centered on the tract but does not provide a method for determining center. The proposed language specifies that the template be centered on the “mathematical centroid of the tract”.

- Prohibit using property line adjustments to relocate parcels from areas where they would not qualify for a template dwelling to areas where they would qualify.
- Previous language did not allow template dwelling approval on a tract that has an existing dwelling. “Tract” means one or more contiguous lots or parcels under the same ownership. The proposed language will not allow template dwelling approval if a parcel was part of a tract on January 1, 2019, and another parcel that was part of the tract on that date has a dwelling.

III. APPLICABILITY & PURPOSE

The proposed amendments will apply to lots or parcels zoned Forest (F) in Unincorporated Tillamook County. The proposed amendments will also apply to lots or parcels zoned Small Farm Woodlot (SFW-20) in Unincorporated Tillamook County, which were predominately in forest use on the tract on January 1, 1993.

The purpose and intent of creating the proposed amendments to the Forest (F) zone provisions for Template Dwellings is to comply with the 2019 House Bill (HB) 2225, which goes into effect in Tillamook County November 1, 2023. 2019 HB 2225 addresses the changes to ORS 215.750 which are reflected in ‘Template Dwellings’ contained in the Forest (F) Zone of the Tillamook County Land Use Ordinance (TCLUO).

IV. APPLICABLE COUNTY ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS

1. Tillamook County Comprehensive Plan
2. Tillamook County Land Use Ordinance, Article IX, Amendment Process

V. ANALYSIS

1. Statewide Planning Goal & Tillamook County Comprehensive Plan Discussion

Oregon's 19 statewide planning goals are adopted as Administrative Rule and express the state's policies on land use as well as land use related topics. Each county is required to have a comprehensive plan consistent with the statewide planning goals as well as zoning and land division ordinances for implementation of plan policies and objectives. The Tillamook County Comprehensive Plan contains 17 of the 19 Statewide Planning Goal Elements. A Goal 15 Element (Willamette Valley) and Goal 19 Element (Ocean Resources) are absent from the Tillamook County Comprehensive Plan as the goals and policies for the Willamette Valley do not apply to Tillamook County and the Ocean Resources Element was created after the adoption of the County's comprehensive plan.

The Comprehensive Plan provides the County with an important opportunity to make a detailed statement describing the needs and desires of its citizens for the future use of the County's land and water resources, and to guide future development of the County through agreed upon policy statements which give direction to County actions and programs. The policies provide a basis for coordination of the programs of other governmental entities and are also intended to assist the private sector in reaching development decisions which are beneficial to the citizens of the County generally as well as to the private property owner.

The plan must also be in conformance with the adopted statewide planning goals and policy statements are to be based upon required inventories of resource and other pertinent information and findings related to analysis of problems and opportunities existing in Tillamook County. The plan is intended to be used to guide actions for problem-solving, and state goals also require local adoption of implementation measures appropriate for dealing with the identified problems and needs.

- **Tillamook County Comprehensive Plan Goal 1 Element: The Planning Process**
Summary: Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

The proposed amendment is consistent with the Goal 1 element policies. Notice of public hearing was published in the Headlight Herald in accordance with Article 10 of the TCLUO with notice provided at least 28-days prior to the first evidentiary hearing. A Measure 56 notice was required for the proposed amendments to the Forest (F) Zone. Included in the Measure 56 Notice was a summary of the proposed amendments to TCLUO Section 3.004 Forest (F) Zone. As required, notice of public hearing and accompanying documents part of the PAPA process have been submitted to the Oregon Department of Land Conservation and Development at least 35 days prior to the first evidentiary hearing.

- **Tillamook County Comprehensive Plan Goal 2 Element: THE LAND USE PLAN**
Summary: Goal 2 outlines the basic procedures of Oregon's statewide planning program and describes the development of Tillamook County's Comprehensive Plan including justification for identifying exception areas.

The proposed amendment is consistent with the Goal 2 element and an exception is not required for the proposed amendment.

- **Tillamook County Comprehensive Plan Goal 3 Element: AGRICULTURAL LANDS**
Summary: Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

- **Tillamook County Comprehensive Plan Goal 4 Element: FOREST LANDS**
Summary: This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

The proposed amendment does apply to resource lands, specifically Forest (F) and Small Farm Woodlot (SFW-20) properties. Goal 4 identifies that residential uses on forest lands are non-forest uses. The proposed amendments do not reduce protections or resources, but instead ensure consistencies with the intention of residential development in forest lands.

- **Tillamook County Comprehensive Plan Goal 5 Element: NATURAL RESOURCES**
Summary: The purpose of Goal 5 is to protect natural resources, and conserve scenic and historic areas and open space. Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

Findings: The proposed amendment does not reduce existing protections or resources, or natural features reflected in the policies of the Goal 5 Element.

- Tillamook County Comprehensive Plan Goal 6 Element: AIR, WATER AND LAND RESOURCES QUALITY

Summary: This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution and noise control in Tillamook County.

Findings: The proposed amendment does not reduce existing protections or resources, or natural features contained in the policies of the Goal 6 Element.

- Tillamook County Comprehensive Plan Goal 7 Element: HAZARDS

Summary: Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there. In Tillamook County, the purpose of addressing hazards is not meant to restrict properties from development, but to institute policies concerning potential problems, so they can be considered before financial losses and possible injury which may be avoided by the application of the policies formulated in the Comprehensive Plan.

The proposed amendment does not reduce existing protections against hazards addressed in the Goal 7 element.

- Tillamook County Comprehensive Plan Goal 8 Element: RECREATION

Summary: This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts. In Tillamook County, the main issue surrounding recreation is that of quantity, location and orientation. This Goal element recognizes that the tourism sector of the County's economy is rapidly growing and some feel tourism places too large a burden on local public facilities and services.

Recreation opportunities are not prohibited or limited by the proposed amendment.

- Tillamook County Comprehensive Plan Goal 9 Element: POPULATION AND ECONOMY

Summary: Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs. Projections in this Element of the Comprehensive Plan extend to year 2000. The importance of cottage industry, rural industry and light industry is recognized throughout this Element, stating that regulations be adopted to permit low-impact light manufacturing activity in suitable rural zones.

The policies contained within the Goal 9 element of the Tillamook County Comprehensive Plan are directive in actions needed to be taken by Tillamook County to promote and sustain the County's economy in collaboration with special districts and others. Policies also prioritize the needs of forest products. The proposed amendments would ensure economic functions continue appropriately for forest lands and forest uses within Tillamook County.

The proposed amendments are not in conflict with policies related to long-range planning and zoning efforts to meet future needs of communities.

- Tillamook County Comprehensive Plan Goal 10 Element: HOUSING

Summary: This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable

residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types. This Goal element within the Tillamook County Comprehensive Plan focuses on the separation of housing needs and opportunities in both rural and urban areas. There is a strong tie to the Goal 11: Public Facilities and Goal 14: Urbanization elements of the Comprehensive Plan in this section.

Goal 10 requires planning for housing that encourages the availability of adequate numbers of housing units, and allows for flexibility of housing location, type, and density. It is recognized that the intent of the statewide planning goals is to encourage the concentration of growth within the urban growth boundaries of cities, however this interpretation has resulted from the definition of “buildable lands” which has traditionally only included lands within urban growth boundaries.

The County’s Goal 10 element supports a second interpretation of the applicability of the Housing Goal consistent with past LCDC decision- that it is unreasonable to conclude that, because Goal 10’s building land inventory requirement applies only within urban growth boundaries, all housing needs must be satisfied within urban growth boundaries. Given the spatial distance of location of incorporated cities within Tillamook County, and the fact that there are no cities and urban growth boundaries from the City of Tillamook to the City of Lincoln City in Lincoln County, all housing needs cannot be satisfied within the urban growth boundaries of the seven incorporated cities in Tillamook County.

As a policy, Tillamook County interprets the Housing Goal (Goal 10) as applying to all areas of the County, not just to incorporated areas and their urban growth boundaries. Given the County's circumstances, this is the only reasonable non-contradictory interpretation of the goal.

Staff finds the proposed amendment may impact the housing opportunities within Tillamook County, specifically within forest lands, and Forest (F) and Small Farm Woodlot (SFW-20) zoned properties. While the proposed amendments may result in properties which may have prior been allowed the establishment of a dwelling, the intent of the state statutes was not to provide higher density residential uses and housing within forest lands.

The Goal 10 Housing element references other applicable goal elements and discusses the relationships between housing and public facilities and services, urbanization and applicability of the housing goal to urban and rural areas. Goal elements 11 and 14 are further discussed below.

- **Tillamook County Comprehensive Plan Goal 11 Element: PUBLIC FACILITIES**
Summary: Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs. This Element of the Comprehensive Plan outline types and levels of urban and rural facilities and services, with guidance to ensure timely, orderly and efficient arrangement of public facilities and services in Tillamook County.

The existing standards to ensure compliance with public facilities should development occur remain unchanged with the proposed amendments.

The existing standards ensure applicable policies contained within the Goal 11 element are not limited or compromised by the proposed amendment.

- **Tillamook County Comprehensive Plan Goal 12 Element: TRANSPORTATION**
Summary: The goal aims to provide "a safe, convenient and economic transportation system." It asks

for communities to address the needs of the "transportation disadvantaged." Policies outlined in this Goal element of the Tillamook County Comprehensive Plan require the County to protect the function, operation and safety of existing and planned roadways as identified in the County's Transportation Plan, consider land use impacts on existing or planned transportation facilities in all land use decisions, plan for multi-modal networks, and coordinate transportation planning efforts with other jurisdictions to assure adequate connections to streets and transportation systems between incorporated and unincorporated areas.

Future construction needs or opportunities for transportation facilities are not limited or compromised by the proposed amendments.

- **Tillamook County Comprehensive Plan Goal 13 Element: ENERGY CONSERVATION**
Summary: Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles." Planning for energy conservation and opportunities to promote the installation of renewable energy systems are discussed in this Goal element of the Tillamook County Comprehensive Plan.

Existing opportunities for renewable energy conservation systems and efforts to maximize conservation of existing energy facilities are not affected by the proposed amendment.

- **Tillamook County Comprehensive Plan Goal 14 Element: URBANIZATION**
Summary: This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses. This Goal element of the Tillamook County Comprehensive Plan focuses largely on development within unincorporated communities, public facility limitations to rural areas, and impacts of urban sprawl on resource lands.

Goal 14 element and Goal 4 element requires Tillamook County to conserve forest lands for forest uses, and require efforts made to protect existing forest uses.

The proposed amendments intend to clarify state statutes regarding template dwellings, to ensure compliance and consistencies with residential development and urbanization impacts within forest lands.

- **Tillamook County Comprehensive Plan Goal 16 Element: ESTUARINE RESOURCES**
Summary: This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units." Five estuaries are inventoried and described in this element of the Tillamook County Comprehensive Plan, the Nehalem Estuary, Tillamook Estuary, Netarts Estuary, Sandlake Estuary and Nestucca Estuary.
- **Tillamook County Comprehensive Plan Goal 17 Element: COASTAL SHORELANDS**
Summary: The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses. Coastal Shorelands inventoried in Tillamook County as described in this element are Nehalem Estuary Shorelands, Tillamook Estuary Shorelands, Netarts Estuary Shorelands, Sandlake Estuary Shorelands,

and Nestucca Estuary Shorelands.

- **Tillamook County Comprehensive Plan Goal 18 Element: BEACHES AND DUNES**
Summary: Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes. Several categories of dunes are described and discussed in this element of the Tillamook County Comprehensive Plan, and includes discussion about where residential, commercial and industrial uses are prohibited. Goal 18 Exception areas are also inventoried within this element which allow for residential, industrial and commercial uses in dune areas that would otherwise be prohibited.

The proposed amendment is not in conflict with the goals and policies of the coastal elements. Coastal resources areas already under policy protection will continue to remain under those protections contained within the Comprehensive Plan.

2. Tillamook County Land Use Ordinance, Article IX, Amendment Process

A. Section 9.030: Text Amendment Procedure

- 1. A COMPREHENSIVE PLAN TEXT or ORDINANCE AMENDMENT may be requested by any person, subject to the requirements of a Type IV procedure and Article 10.**

If County initiated, Article 9 requires the Department to prepare an analysis of the proposed amendments addressing such issues as the intent of the applicable Comprehensive Plan policies; the intent of the provisions being amended; the effect on the land use patterns in the County; the effect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed amendment.

Staff finds as follows:

- Tillamook County initiated the proposed ordinance amendment, as required by 2019 House Bill (HB) 2225.
- The purpose of the proposed amendment is to comply with updated state statutes relating to ‘Template Dwelling’ reviews in accordance with ORS 215.750, from changes made in 2019 House Bill (HB) 2225. The proposed amendments generated from 2019 HB 2225 were to clarify the meaning and intention of ‘Template Dwelling’ reviews and remove inconsistency with the original intent of the statute.
- Analysis of the proposed amendment in relation to existing Comprehensive Plan policies is contained in this report.
- The proposed amendment does not impair legally designated uses permitted outright or conditionally in the established underlying zones. The proposed amendment may impact forest-zoned properties to qualify for an alternative forest dwelling. No effect on land use patterns is anticipated as a result.
- The proposed amendment does not have an anticipated effect on the productivity of resource lands in Tillamook County. The proposed amendment is to establish clarity for utilization of

the 'Template Dwelling' review requirements, for the establishment of a residential use in resource lands, to ensure productivity remains unaffected.

- The Department does not anticipate a significant impact on County administration or enforcement of development of properties in relation to the proposed amendments. A fee structure already exists for required land use, zoning and building permit application(s) which will continue to apply to development requests of properties located within areas subject to the provisions of 'Template Dwelling' reviews.

2. CRITERIA

- (a) If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;*
- (b) The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);*
- (c) The Board must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or ordinance; and*
- (d) The amendment must conform to Section 9.040 Transportations Planning Rule Compliance.*

Staff finds as follows:

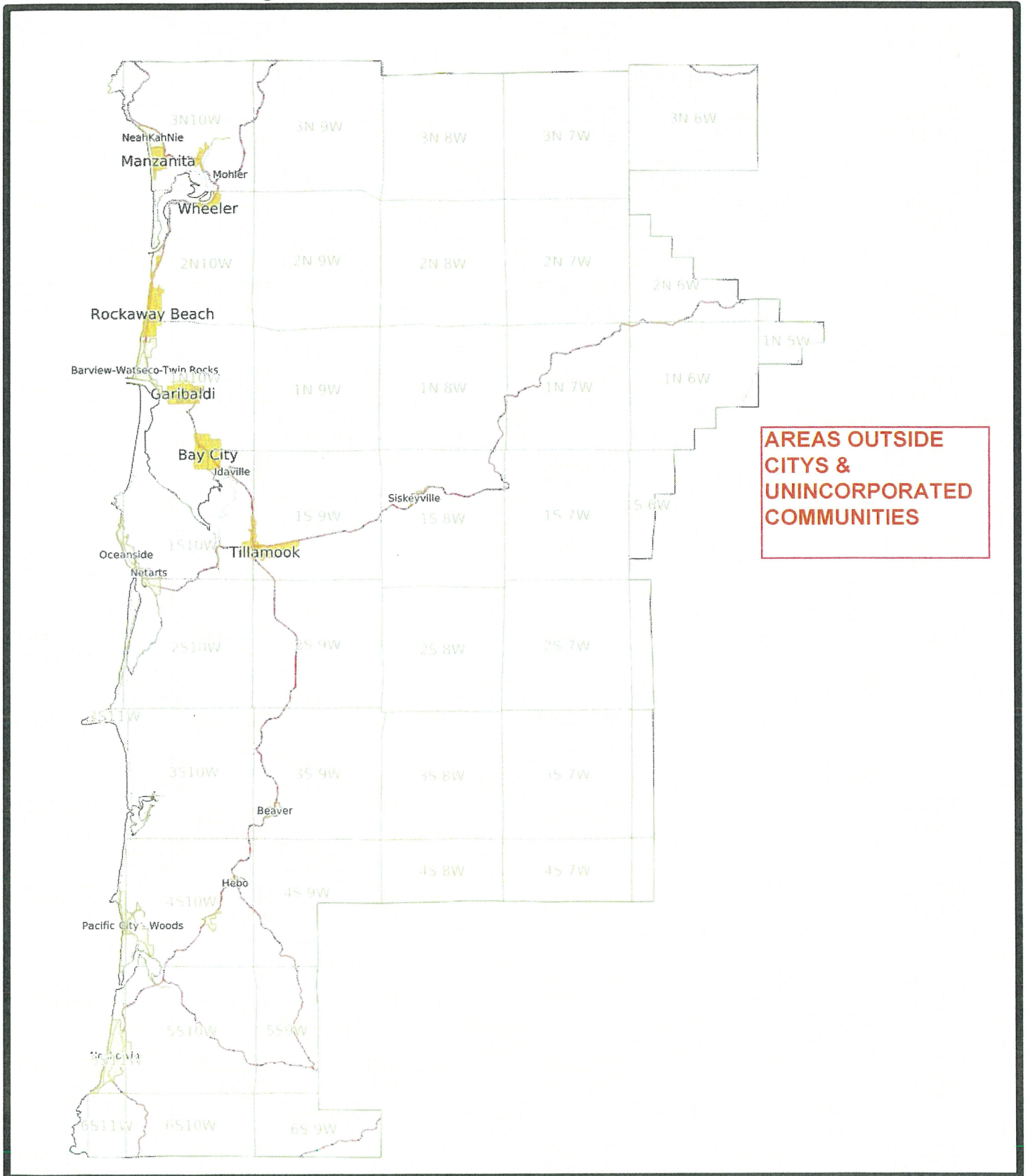
- Goals and policies reflected in the Tillamook County Comprehensive Plan are required to be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules.
- The proposed amendment does not involve an amendment to the Tillamook County Comprehensive Plan. Policies contained within the Goal 4: Forest Lands element of the Tillamook County Comprehensive Plan support adoption of the proposed amendment.
- The proposed amendment is to adopt those changes made to ORS 215.750, as a result of 2019 House Bill (HB) 2225. These amendments are to clarify the meaning and intention of the provisions, along with removing inconsistencies with the purpose of the statute.
- The proposed amendments will result in text amendments made to TCLUO Section 3.004, Forest (F) Zone, specifically Section 3.004(4)(c).
- The proposed amendments will affect Small Farm and Woodlot (SFW-20) zoned properties. SFW-20 zones shall maintain residential siting based on the predominate use of the tract January 1, 1993. An SFW-20 property which was in predominate forest use January 1, 1993 would utilize Forest (F) Zone standards for residential siting.
- The proposed amendment is not in conflict with Section 9.040 Transportation Planning Rule Compliance, specifically this updated information will not significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR).

IV. EXHIBITS:

- Exhibit A: Maps
- Exhibit B: TCLUO Section 3.002: Forest Zone – Existing Code
- Exhibit C: TCLUO Section 3.002: Forest Zone – Proposed Amendment
- Exhibit D: 2019 House Bill 2225

EXHIBIT A

Vicinity Map



Zoning Map

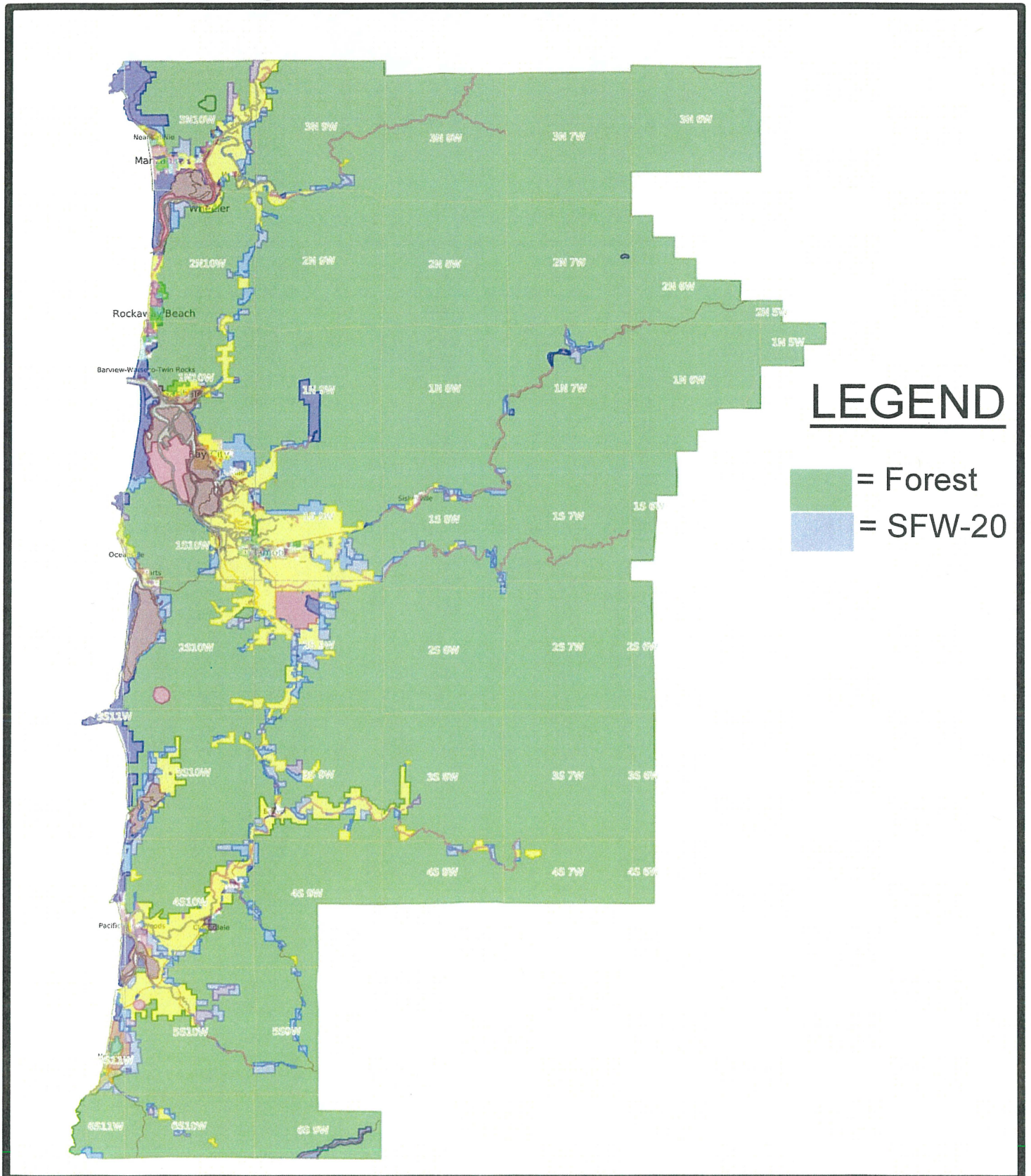


EXHIBIT B

EXISTING ORDINANCE

SECTION 3.004 FOREST ZONE (F)

...

(4) RESIDENTIAL USE STANDARDS:

(c) A single family “template” dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
4. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.
5. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.
6. Except as provided by paragraph 7, if the subject 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 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
7. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph 6. 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-quarter 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
 - b. Be within one-quarter 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.
8. 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.
9. A proposed “template” dwelling under this ordinance is not allowed:
 - a. If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;
 - b. Unless it complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.
 - c. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met; or
 - d. If the tract on which the dwelling will be sited includes a dwelling.

EXHIBIT C

PROPOSED ORDINANCE (with markup)

SECTION 3.004 FOREST ZONE (F)

...

(4) RESIDENTIAL USE STANDARDS:

(c) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

~~4.~~ As used in this section, "center of the subject tract" means the mathematical centroid of the tract.

~~4.5.~~ Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy eligibility requirements.

~~5.6.~~ A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

~~6.7.~~ Except as provided by paragraph ~~8~~7, if the subject 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 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

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~~7.8.~~ If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph ~~7.6~~. However, one of the three required dwellings ~~shall~~must 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-quarter 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
- b. Be within one-quarter 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.

~~8.9.~~ If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings ~~shall~~must be on the same side of the road as the proposed dwelling.

~~9.10.~~ A proposed “template” dwelling under this ordinance is ~~not~~allowed only if:

- a. ~~If it is prohibited by or will not~~ comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, ~~or and~~ other provisions of law;
- b. ~~Unless it~~ complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.
- c. ~~Unless a~~No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met; ~~or~~
- d. ~~If~~The tract on which the dwelling will be sited includes does not include -a dwelling,
- e. The lot or parcel on which the dwelling will be sited was lawfully established;
- f. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
- d.g. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- e-h. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

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PROPOSED AENDMENTS (NO MARKUP)

SECTION 3.004 FOREST ZONE (F)

...

(4) RESIDENTIAL USE STANDARDS:

(c) A single family “template” dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

1. Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
2. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
3. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - a. 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
 - b. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
4. As used in this section, “center of the subject tract” means the mathematical centroid of the tract.
5. Lots or parcels within urban growth boundaries may not be used to satisfy eligibility requirements.
6. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.
7. Except as provided by paragraph 8, if the subject 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 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

8. If a tract 60 acres or larger abuts a road or perennial stream, the measurement shall be made in accordance with paragraph 7. However, one of the three required dwellings must 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-quarter 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
 - b. Be within one-quarter 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.
9. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling.
10. A proposed “template” dwelling under this ordinance is allowed only if:
 - a. It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law;
 - b. It complies with the requirements of (9) Siting Standards for Dwellings and Structures in Forest Zones, and (10) Fire-Siting Standards for Dwellings and Structures.
 - c. No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (a)3 for the other lots or parcels that make up the tract are met;
 - d. The tract on which the dwelling will be sited does not include a dwelling.
 - e. The lot or parcel on which the dwelling will be sited was lawfully established;
 - f. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - g. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - h. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

EXHIBIT D

Enrolled
House Bill 2225

Sponsored by Representative HELM, Senator PROZANSKI (Presession filed.)

CHAPTER

AN ACT

Relating to forest template dwellings; creating new provisions; and amending ORS 215.750.

Whereas the existing law regarding new forest dwellings, under ORS 215.750, is being applied and interpreted by local jurisdictions and the judiciary in a manner inconsistent with the original purpose of the statute; and

Whereas clarification of the meaning and intention of ORS 215.750 is necessary; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 215.750 is amended to read:

215.750. (1) **As used in this section, “center of the subject tract” means the mathematical centroid of the tract.**

[(1)] (2) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

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

(A) 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

(B) 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:

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

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

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

(A) 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

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

[(2)] (3) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

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

(A) 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

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

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

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

- (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
(c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
- (A) 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
(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- [(3)] (4) Lots or parcels within urban growth boundaries [shall] **may** not be used to satisfy the eligibility requirements under subsection [(1) or] (2) **or** (3) of this section.
- [(4)] (5) A proposed dwelling under this section is [not] allowed **only if**:
- (a) [If] It [is prohibited by or] will [not] comply with the requirements of an acknowledged comprehensive plan, [and] acknowledged land use regulations [or] **and** other provisions of law[.];
(b) [Unless] It complies with the requirements of ORS 215.730[.];
(c) [Unless] No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met[.];
(d) [If] The tract on which the dwelling will be sited [includes] **does not include** a dwelling[.];
(e) **The lot or parcel on which the dwelling will be sited was lawfully established;**
(f) **Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;**
(g) **Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and**
(h) **If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.**

[(5)] (6) Except as described in subsection [(6)] (7) of this section, if the tract under subsection [(1) or] (2) **or** (3) of this section 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 that is to the maximum extent possible, aligned with the road.

[(6)(a)] (7)(a) If a tract 60 acres or larger described under subsection [(1) or] (2) **or** (3) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection [(5)] (6) of this section. However, one of the three required dwellings [shall] **must** 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 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-quarter 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.
- (b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings [shall] **must** be on the same side of the road as the proposed dwelling.

[(7)] (8) Notwithstanding subsection [(4)(a)] (5)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection [(1),] (2), (3), [(5) or] (6) **or** (7) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.

SECTION 2. Prior to November 1, 2023, a county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if:

- (1) **No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and**
(2) **The lot or parcel qualifies, notwithstanding ORS 215.750 (5)(h), for a dwelling under ORS 215.750.**

SECTION 3. (1) The amendments to ORS 215.750 by section 1 of this 2019 Act apply:

(a) **On and after the effective date of this 2019 Act in Clackamas, Jackson, Lane and Polk Counties.**

(b) On and after November 1, 2021, in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington and Yamhill Counties.

(c) On and after November 1, 2023, in Baker, Benton, Clatsop, Crook, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

(2) A county may not apply any administrative rule adopted to implement the amendments to ORS 215.750 by section 1 of this 2019 Act until on or after the applicable date for that county under subsection (1) of this section.

(3) Section 2 of this 2019 Act applies:

(a) On and after the effective date of this 2019 Act in Clackamas, Jackson, Lane and Polk Counties.

(b) On and after November 1, 2021, in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington and Yamhill Counties.

SECTION 4. Section 2 of this 2019 Act is repealed on January 2, 2024.

Passed by House April 23, 2019

Received by Governor:

Repassed by House June 11, 2019

.....M.,....., 2019

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2019

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 6, 2019

Filed in Office of Secretary of State:

.....
Peter Courtney, President of Senate

.....M.,....., 2019

.....
Bev Clarno, Secretary of State