



Klamath County Planning Department

TYPE II ADMINISTRATIVE REVIEW

LOT OF RECORD DWELLING IN FORESTRY ZONE

SUBMITTAL REQUIREMENTS:

- _____ 1. Land Use Application Form
- _____ 2. Written Statement of Proposal indicating what you are proposing with this application.
- _____ 3. Burden of Proof
- _____ 4. Proof of Ownership (current deed)
- _____ 5. Power of Attorney or Agent for Owner Authorization Form
(if someone other than the property owner is signing the application form)
- _____ 6. Proof of Lawful Creation
(copy of all deeds for the property from April 23, 1979 through current deed,
or land partition number, or legal subdivision lot number if applicable)
- _____ 7. Proof of Legal Access to the property from a Public Road
(if the property is not on a public road, provide all recorded easements)
- _____ 8. Site Plan including the following:
 - _____ a. Street address *and/or* assessor's map & tax lot number of subject property
 - _____ b. Dimensions of property, scale and north arrow.
 - _____ c. Location, name, width and surface type of adjacent streets.
 - _____ d. Location, dimensions and surface type of existing or proposed driveways or parking areas; indicate vehicular circulation pattern.
 - _____ e. Location, dimensions (including height), and use or occupancy of all existing and proposed structures on the property, including accessory structures, decks, balconies and other structural elements.
 - _____ f. Distance from property lines to existing and proposed structures, septic tanks, drain lines and wells (including adjacent property).
 - _____ g. Location of water and drainage features and the flow direction of any ponds, channels, creeks, swales or other drainage facilities affecting the proposed use.
 - _____ h. Location, type and dimensions of proposed on-site sewage disposal and water supply, if any.
 - _____ i. Location and descriptions of any topographic or developed features on the site.
 - _____ j. Location and dimensions of all easements.
 - _____ k. Signature of Property Owner or Authorized Agent
 - _____ l. Other appropriate information that may affect development of this property.

Klamath County Planning Department

Land Use Application Form

Type II Administrative Review – Lot of Record Dwelling in Forestry Zone

Filing Fee: _____

File No. _____

Applicant

Name: _____ Phone#1 _____

Address: _____ Phone #2 _____

City: _____ State: _____ Zip: _____

E-mail: _____

Property Owner (if different than above)

Name: _____ Phone#1 _____

Address: _____ Phone #2 _____

City: _____ State: _____ Zip: _____

E-mail: _____

Property Description

Assessor's Map & Tax Lot Number:

Township _____ Range _____ Section _____ Tax Lot(s) _____

Street Address: _____

Acreage _____ Zoning _____

Current use(s) of the property _____

List all adjoining properties under the same ownership:

Signatures

I hereby certify that I am the legal owner(s), or authorized agent for the owner(s), of the above noted property; that the information contained herein is accurate to the best of my knowledge; and that the requested land use permit will not violate any deed restrictions attached to the property.

Owner/Authorized Agent Date

Owner/Authorized Agent Date

**If an Agent is acting on behalf of the Legal Property Owner, an
AGENT FOR OWNER AUTHORIZATION FORM must be submitted with this application.**

BURDEN OF PROOF STATEMENT

In order to be granted approval, it is the applicant's responsibility to demonstrate that the following criteria have been met. Please attach additional sheets entitled **Burden of Proof** with the following statements and your responses listed as **Findings of Fact** statements.

Article 55.030 – Lot of Record Dwelling in the Forestry Zone Use Standards

B. Lot of Record Dwelling

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph (4):
 - a. Since prior to January 1, 1985; or
 - b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
2. The tract on which the dwelling will be sited does not include a dwelling;
3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
4. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
5. The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:
 - a. A United States Bureau of Land Management road; or
 - b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
6. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and
7. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

Article 55.040 – Siting Standards for Dwellings and Structures in Forest Zones

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this section together with the requirements of Section 55.045 to identify the building site:

A. Dwellings and structures shall be sited on the parcel so that:

- 1. They have the least impact on nearby or adjoining forest or agricultural lands;**
- 2. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**
- 3. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and**
- 4. The risks associated with wildfire are minimized.**

B. Siting criteria satisfying Subsection (A) 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 to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

- 1. 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;**
- 2. A water use permit issued by the Water Resources Department for the use described in the application; or**
- 3. Verification from the 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 U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

E. Approval of a dwelling shall be subject to the following requirements:

- 1. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet**

Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

2. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
3. Stocking survey report:
 - a. If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
 - b. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and
4. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Article 55.045 – Fire-Siting Standards for Dwellings and Structures

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

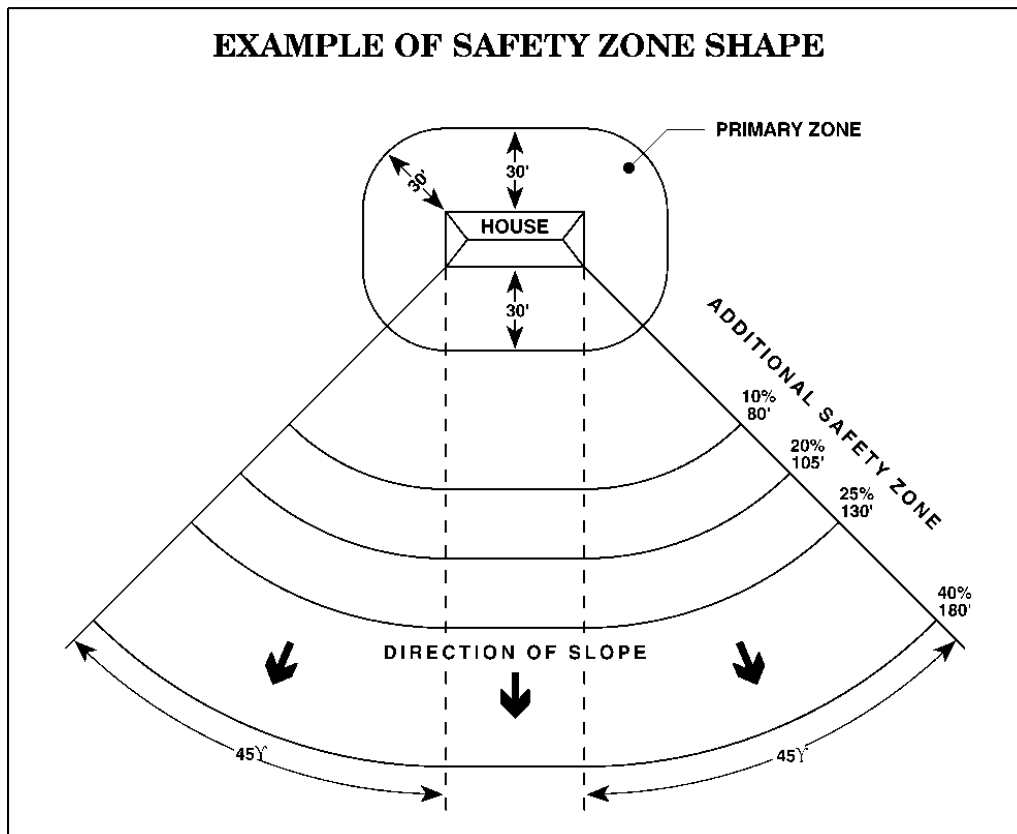
- A. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the home site shall meet the requirements in Article 69 of this code.
 1. 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; and
 2. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- B. Road access to the dwelling shall meet road design standards in Article 69 of the Klamath County Land Development Code.
- C. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area

on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table 55.045-1.

**TABLE 55.045-1
Minimum Primary Safety Zone**

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

FIGURE 55.045-1



- D. The dwelling shall have a fire-retardant roof.
- E. The dwelling shall not be sited on a slope of greater than 40 percent.
- F. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.