

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

Section 406 is adopted to implement the policies of the Comprehensive Plan for Forest and Agriculture areas.

406.02 APPLICABILITY

Section 406 applies to land in the Timber (TBR) District.

406.03 DEFINITIONS

Unless specifically defined in Subsection 406.03 or in Section 202, *Definitions*, words or phrases used in Section 406 shall be interpreted to give them the same meaning as they have in common usage and to give Section 406 its most reasonable application.

- A. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).
- C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling, ~~or~~ a manufactured dwelling, or a prefabricated structure.
- F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.
- G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes 527.620(6).
- H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

- I. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- J. Primary Processing of Forest Products: The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.
- K. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- L. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- M. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

406.04 USES PERMITTED

Uses permitted in the TBR District are listed in Table 406-1, *Permitted Uses in the TBR District*.

A. As used in Table 406-1:

1. "A" means the use is allowed.
2. "Type II" means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
3. "Type III" means the use requires review of a Type III application, pursuant to Section 1307.
4. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

5. The “Subject To” column identifies any specific provisions of Subsection 406.05 to which the use is subject.
- B. Permitted uses are subject to the applicable provisions of Subsection 406.07; Subsection 406.08; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 406-1: Permitted Uses in the TBR District

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841, <i>Marijuana Production, Processing, and Retailing</i> .	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1), (6) & (B)(2)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)

	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	<u>TYPE II A</u>	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(A)(3) & (D)(1)
	TYPE II	Forest lot of record dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest template test dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 acre forest dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 acre noncontiguous tract forest dwelling	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	406.05(A)(1), (2) & (D)(6)
	TYPE II	Accessory dwelling supporting family forestry.	406.05(D)(7)
		Type	Use
COMMERCIAL USES	A	Family child care home.	
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806, <i>Home Occupations to Host Events</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836, <i>Home Occupations for Canine Skills Training</i> .	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, <i>Transportation System Plan</i> , of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)

	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	See Table 835-1	Wireless telecommunication facilities, subject to Section 835, <i>Wireless Telecommunication Facilities</i> .	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (3)
	C	Cemeteries.	406.05(A)(1) & (6)
	C	Firearms training facility as provided in ORS 197.770(2).	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks.	406.05(A)(1), (6) & (I)(2)

	Type	Use	Subject To
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770	
	TYPE III	An outdoor mass gathering of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763	406.05(A)(1)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1, *Permitted Uses in the TBR District*. The applicability of a specific criterion to a listed use is established by Table 406-1.

A. General Criteria

1. The use may be allowed provided that:
 - a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
 - b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.
3. The landowner for the dwelling shall 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 Oregon Revised Statutes (ORS) 30.936 or 30.937.
4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. If road access to the use 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 (BLM), or the United States Forest Service (USFS), 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.
6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site for a period not to exceed one year.
2. Permanent facility for the primary processing of forest products that is:

- a. Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
- b. Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses.

C. Natural Resource Uses

- 1. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.

D. Residential Uses

- 1. ~~Alteration, restoration, or replacement of Aa~~ lawfully established dwelling ~~may be altered, restored, or replaced if that:~~

- a. ~~The dwelling to be altered, restored or replaced has, or formerly had the following features. “Formerly had” means that the dwelling possessed all the listed features within three years prior to the date an application is submitted for a replacement dwelling.~~

- ~~ia. Has-I~~intact exterior walls and roof structure;

- ~~iib. Has-I~~indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;

- ~~iiie. Has-I~~interior wiring for interior lights;

- ~~ivd. Has-Aa~~ heating system; ~~and~~

- b. ~~A dwelling to be altered, restored, or replaced must meet one of the following conditions:~~

- ~~i. Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

- ~~A) Five years before the date of the application; or~~

- ~~B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.~~

- ~~ii. If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:~~

- A) Five years before the date of the destruction or demolition; or
- B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment
- c. For replacement of a lawfully established dwelling, the dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055, or in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes.
- ~~e. In the case of replacement, is removed, demolished, or if not a manufactured dwelling or residential trailer converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.~~
- d. As a condition of approval, the applicant shall execute and cause to be recorded in the deed records a deed restriction prohibiting the siting of another dwelling on the lot of record. The restriction imposed is irrevocable unless the Planning Director places a statement of release in the deed records of the County to the effect that the provisions of ORS 215.291 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- e. A replacement dwelling must:
 - i. Be sited on the same lot of record as the dwelling it is replacing;
 - ii. Comply with all applicable siting standards; however, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;
 - iii. Comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.
 - iv. Comply with the construction provisions of Section R327 of the Oregon Residential Specialty Code, if:
 - A) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
 - B) No statewide map of wildfire risk has been adopted.

- f. Construction of the replacement dwelling must commence no later than four years after the approval of the replacement dwelling application becomes final.
- g. If an applicant is granted a deferred replacement permit, the deferred replacement permit does not expire but, notwithstanding Subsection 406.05(D)(1)(c), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- h. Notwithstanding Subsection 406.05(D)(1)(a) through (g), a lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when the County finds to its satisfaction, based on substantial evidence, that the dwelling to be replaced contained those items listed in Subsections 406.05(D)(1)(a)(i)through (iv). Substantial evidence includes, but is not limited to, county assessor data.
- i. The replacement dwelling must be certified for occupancy pursuant to ORS 455.055, or in the case of a manufactured dwelling, have final inspection completed by County Building Codes, within 60 months of the date of destruction of the dwelling to be replaced.
- ii. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055, or in the case of a manufactured dwellings, within three months after the date of final inspection by County Building Codes.
- iii. The property owner of record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed or the time for replacement has expired

2. Lot of record dwelling, subject to the following criteria:

- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
- b. The lot of record on which the dwelling will be sited was acquired by the present owner:
 - i. Prior to January 1, 1985; or
 - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

- iii. As used in Subsection 406.05(D)(2)(b), “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 a combination of these family members.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
 - f. The property 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 BLM road, or a USFS 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 USFS and the landowners adjacent to the road, a local government, or a state agency.
 - g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
 - h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).
3. Forest template dwelling, subject to the following criteria:
- a. No dwellings are allowed on other lots of record that make up the tract.⚡
 - b. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.⚡
 - c. The tract on which the dwelling will be sited does not include a dwelling.⚡
 - d. The lot of record upon which the dwelling is to be located was lawfully established.

- e. Any property line adjustment to the lot of record complied with the applicable ~~property line adjustment~~ provisions in Section 1107, *Property Line Adjustments*.
- f. Any property line adjustment to the lot of record after January 1, 2019, did not have the effect of qualifying the lot of record for a dwelling under Subsection 406.05(D)(3).
- g. If the lot of record 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 of record that was part of the tract.
- ~~g.h.~~ The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
- ~~h.i.~~ The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:
- i. A 160 acre square template shall be centered upon the mathematical centroid of the subject tract. The template may be rotated around the centroid to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the mathematical centroid of the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.
 - ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:
 - A) Less than 50 cubic feet per acre per year of wood fiber production, all or part of at least three other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or
 - B) 50 to 85 cubic feet per acre per year of wood fiber production, all or part of at least seven other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or

- C) More than 85 cubic feet per acre per year of wood fiber production, all or part of at least 11 lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area.
- iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(h)(ii) to pass a template test:
 - A) Lots of record or dwellings located within an urban growth boundary;
 - B) Temporary dwellings; and
 - C) The subject lot of record.
 - iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road as the proposed dwelling.
- 4. 160 acre minimum forest dwelling, subject to the following criteria:
 - a. The tract on which the dwelling is to be sited is at least 160 acres.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. The lot of record upon which the dwelling is to be located was lawfully created.
 - d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(4).
 - 5. 200 acre noncontiguous dwelling, subject to the following criteria:
 - a. The tract on which the dwelling will be sited does not include a dwelling;
 - b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

- c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
 - d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.
 - e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
 - f. The lot of record upon which the dwelling is to be located was lawfully created;
 - g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).
6. One manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship experienced by the existing resident or a relative of the resident. "Relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. Department of Environmental Quality review and removal requirements also apply. A temporary residence approved under Subsection 406.05(D)(6) is not eligible for replacement under Subsection 406.05(D)(1).
7. Accessory dwelling supporting family forestry, subject to the following criteria:
- a. The new single-family dwelling unit will not be located in an urban or rural reserve established pursuant to OAR chapter 660, division 27;
 - b. The new single-family dwelling unit will be a manufactured home on a lot of record no smaller than 80 acres;
 - c. The new single-family dwelling unit will be on a lot of record that contains exactly one existing single-family dwelling unit that was lawfully:
 - i. In existence before November 4, 1993; or
 - ii. Approved under Oregon Administrative Rules (OAR) 660-006-027, ORS 215.130(6), ORS 215.705, or OAR 660-006-0025(3)(o);

- d. The shortest distance between any portion of the new single-family dwelling unit and any portion of the existing single-family dwelling unit is no greater than 200 feet;
- e. The new single-family dwelling unit shall use the same driveway entrance as the existing single-family dwelling unit, although the driveway may be extended;
- f. The lot of record is within a rural fire protection district organized under ORS chapter 478;
- g. The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;
- h. As a condition of approval of the new single-family dwelling unit, in addition to the requirements of OAR 660-006-0029(5)(e), the property owner agrees to acknowledge and record in the deed records for the county, one or more instruments containing irrevocable deed restrictions that:
 - i. Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot of record containing the existing single-family dwelling unit; and
 - ii. Require that the owner and the owner's successors manage the lot of record as a working forest under a written forest management plan, as defined in ORS 526.455 that is attached to the instrument;
- i. The existing single-family dwelling is occupied by the owner or a relative;
- j. The new single-family dwelling unit will be occupied by the owner or a relative;
- k. The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition, or supervision of forest lots of record of the owner; and
- l. If a new single-family dwelling unit is constructed under Subsection 406.05(D)(7), the new or existing dwelling unit may not be used for vacation occupancy as defined in ORS 90.100.
- m. As used in Subsection 406.05(D)(7)(j), "owner or relative" means the owner of the lot of record, or a relative of the owner or the owner's spouse, including a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of either.

E. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.
2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:
 - a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:
 - a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;
2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:

- a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or
- b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Oregon Laws 1993, chapter 529, section 3.

H. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:
 - a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4.

3. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
4. Television, microwave, and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:
 - a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
 - b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
 - c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
 - d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).
 - e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
 - f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

- g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120. If the subject property has a local park master plan adopted as part of the Comprehensive Plan, the park is also subject to Section 714, *Special Use Overlay District*.

406.06 PROHIBITED USES

- A. Uses of structures and land not specifically permitted are prohibited.
- B. An agricultural building, as defined in Oregon Revised Statutes 455.315, customarily provided in conjunction with farm use or forest use may not be converted to another use.

406.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09. For the purpose of complying with the minimum lot size standard, lots of record with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- B. Minimum Front Setback: 30 feet.
- C. Minimum Side Setback: 10 feet.
- D. Minimum Rear Setback: 30 feet; however, accessory buildings shall have a minimum rear yard setback of 10 feet.
- E. Modifications: Modifications to dimensional standards are established by Sections 800, *Special Uses*; 903, *Setback Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

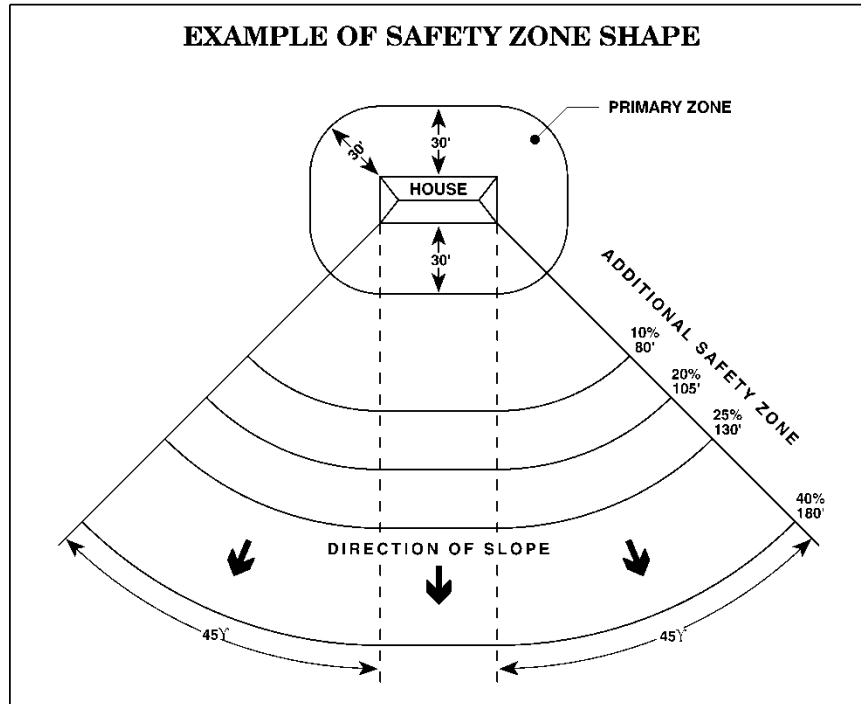
406.08 DEVELOPMENT STANDARDS

- A. Fire-Siting Standards for New Structures: Fuel-free break standards shall be provided surrounding any new structure approved after April 28, 1992, pursuant to a land use application, as follows:

1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.
 - a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

Table 406-2: 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 406-1: Example of Primary Safety Zone

2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.
 - a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of:
 - i. 100 feet; or
 - ii. The distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.

3. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704, *River and Stream Conservation Area (RSCA)* and 705, *Willamette River Greenway (WRG)*, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.
 4. The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.
- B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling approved pursuant to a land use application based on standards in effect on or after February 5, 1990:
1. 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 inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. The means selected may include a fire sprinkling system, onsite 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 Oregon 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 firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
 2. The dwelling shall have a fire retardant roof.
 3. The dwelling shall not be sited on a slope of greater than 40 percent.
 4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

- C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after April 28, 1994:
1. Structures shall be sited on the subject property so that:
 - a. They have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and
 - d. The risks associated with wildfire are minimized.
 2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.
- D. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR chapter 629). Evidence of a domestic water supply means:
- a. 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;
 - b. A water use permit issued by the OWRD for the use described in the application; or
 - c. Verification from the OWRD 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 Oregon Revised Statutes 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.11. A land division pursuant to Subsection 406.09(A) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 406.09(B), (C), (D), (E), (F) or (G) shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).
- B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:
1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;
 2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);
 3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
 4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
 5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;
 6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:
 - a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or
 - b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);
 7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and
 8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:

1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;
 2. The dwelling existed prior to June 1, 1995;
 3. The remaining parcel, not containing the existing dwelling, is:
 - a. At least 80 acres; or
 - b. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;
 4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;
 5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and
 6. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:
1. The parcel created for the conditional use shall be the minimum size necessary for the use;
 2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and
 3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

- E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to Oregon Revised Statutes (ORS) 215.783. In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:
1. The division will facilitate a forest practice as defined in ORS 527.620;
 2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;
 3. Parcels created pursuant to Subsection 406.09(F):
 - a. Are not eligible for siting of a new dwelling;
 - b. May not serve as the justification for the siting of a future dwelling on other lots of record;
 - c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
 - d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
 - i. Facilitate an exchange of lands involving a governmental agency; or
 - ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and
 - e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- G. Land Divisions Along an Urban Growth Boundary: A division of a lot of record may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned AG/F or TBR and is smaller than 80 acres, subject to the following criteria:
1. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.
 2. If the parcel does not contain a dwelling, the parcel:

- a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
- b. May not be considered in approving or denying an application for any other dwelling;
- c. May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use; and
- d. The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

406.10 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for any use requiring review of a Type I or II application shall include an accurate site plan drawn to scale on eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch paper, showing the subject property and proposal.

406.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of a Type I or II application is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
 1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk;
 2. For a replacement dwelling approved pursuant to Subsection 406.01(D)(1)(i) through (g), a building or manufactured dwelling placement permit for the replacement dwelling shall be obtained and maintained and construction of the replacement dwelling shall have commenced; or
 3. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

- B. Time Extension: Except for approval of a Type II application for a replacement dwelling pursuant to Subsection 406.05(D)(1)(a) through (g), if ~~if~~ the approval of a Type I or II application is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.
- C. Exceptions: Subsections 406.11(A) and (B) do not apply to home occupations or temporary dwellings for care, which shall be subject to any applicable approval period and time extension provisions of Sections 822, *Home Occupations*, or 1204, *Temporary Permits*, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-283, 9/5/23; Amended by Ord. ZDO-286, 11/20/23]