

# Memorandum



June 17, 2015

**To:** Farm, Forest and Rural Economy Subcommittee  
**From:** Rithy Khut, Assistant Land Use Planner  
**Re:** Forest Practice Setbacks Analysis

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## SUMMARY

The purpose of this memo is to provide information regarding forest practice setbacks within the commercial forest use (CFU) zones in the county. This analysis will provide background information and suggestions toward possible policy or regulatory changes by comparing the county's regulations to Oregon Revised Statutes, Oregon Administrative Rules and other Oregon counties.

## BACKGROUND

The siting of dwellings and accessory structures on forest land presents unique challenges towards commercial forest management. Structures within the forest resource zones can conflict with forest operations and can limit conservation of forest lands. To mitigate those issues, the State created rules to establish setback and buffering requirements. Oregon Administrative Rule (OAR) chapter 660, division 6, rule 29 requires counties to create siting criteria, which may include setbacks from adjoining properties and clustering of structures to minimize conflicts with forest practices. Additionally, the Oregon Department of Forestry (ODF) provides guidance in their publication, "Consideration for the Siting of Dwellings on Forest Land" to assist counties in determining specific siting criteria.

## FOREST PRACTICE SETBACKS

All CFU zones in Multnomah County require the owner to establish a forest practice setback. As a requirement of OAR 660-006-0029, the county has established forest practice setbacks requirements that meet the siting standards from the rule.

## FOREST PRACTICE SETBACK

The County's forest practice setbacks are consistent across all CFU zones and are determined based on distance thresholds of a new structure from the current dwelling or if a new dwelling is being sited. If the new structure is less than 100 feet from the existing dwelling, the forest practice setback is 30 feet from the front property line adjacent to a county maintained road and 30 feet from all other property lines (Table 1). For a new dwelling, or a replaced or restored dwelling or accessory structure that is located greater than 100 feet from the existing dwelling, or for all other structures (i.e. lookout tower, fire station, alternative energy facilities, and wireless communications facilities), the forest practice setback is 30 feet from the front property

line adjacent to a county maintained road and 130 feet from all other property lines. The landowner has two additional options when placing a structure, either:

1. It must be located on a cleared area of at least 10,000 square feet and be sited within 300 feet of frontage on a public road, or
2. It must be located to have the least impact on nearby or adjoining forest lands, minimal adverse impacts on forest operations and the amount of forest land used will be minimized.

Table 1 – Simplified Forest Practice Setback Requirements

<b>Use</b>	<b>Forest Practice Setbacks</b>	
	<b>Front Property Line Adjacent to County Maintained Road (feet)</b>	<b>All Other Setbacks (feet)</b>
Replaced or restored dwelling in same location	30	30
At least a portion of the replaced or restored dwelling, Temporary Health Hardship Dwelling or mobile home during construction or reconstruction of a residence is within 100 ft. of existing dwelling	30	30
Replaced or restored dwelling, Temporary Health Hardship or Mobile home during construction or reconstruction of a residence over 100 ft. from existing dwelling	30	130
Template, Heritage or Large Acreage Dwelling	30	130
Accessory structures within 100 ft. of the dwelling	30	30
Accessory structures located more than 100 ft. from the dwelling	30	130
Addition to an existing structure	30	30
Other Accessory structures not associated with a dwelling	30	130
Other Structures	30	130

## COMPARISON WITH STATE REQUIREMENTS

The county's forest practices setbacks requirements match most of the requirements outlined by state law and Department of Forestry guidelines. The basic requirements for forest land dwellings are found in ORS 215.730, OAR 660-006-0029 and ODF guidelines within the publication, "Considerations for the Siting of Dwellings on Forest Land." In approving dwellings and other structures on forest lands, the state requires counties to apply the following siting criteria:

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.

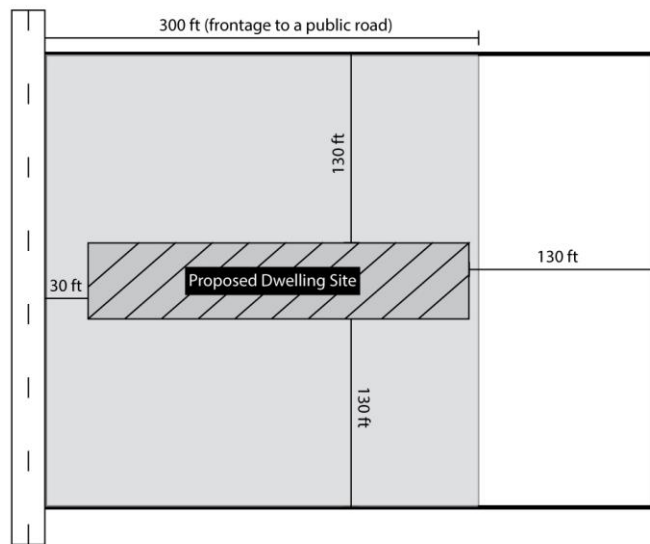
The County satisfies these siting criteria by setting standards addressing:

1. Setbacks from adjoining properties
2. Clustering near or among existing structures
3. Siting close to existing roads and siting on that portion of the parcel least suited for growing trees

To meet the state's siting criteria, the county requires the forest practice setbacks as discussed earlier and for the new structure to either be:

- Within 300 feet of frontage on a public road and the driveway from the public road to the structure be a maximum of 500 feet in length unless a longer distance is necessary due to physical limitations unique to the property (see figure 1), or
- Sited in a location that minimizes adverse impacts on forest and agricultural land

Figure 1 – Example Site Layout of new Dwelling with setbacks and frontage requirements



## COMPARISON WITH COUNTIES IN OREGON

Multnomah County's requirements for forest practice setbacks are similar to other counties in Oregon. Analyzing the development and zoning codes for Clackamas, Washington, Marion and Deschutes counties, the setback requirements are similar. For these counties, front setbacks range from 20 to 40 feet compared to Multnomah County's 30-foot setback. Additionally most counties require that the new structure be located within 300 feet of frontage to a public road. However, Multnomah County requires a 130-foot side and rear setback for a new dwelling whereas Washington County has two different requirements based on proximity to adjacent dwellings on surrounding properties. If there are no other dwellings within 500 feet of the site, the setback for the new dwelling is 200 feet from the side and rear property lines. To ensure

clustering, if there is another dwelling within 500 feet of the site then the new dwelling must be located within 500 feet of that existing dwelling. Marion County requires the new dwelling to be at least 200 feet from any abutting parcel. Washington County also has a requirement on the location and clustering of accessory buildings that is unique. This provision of Washington County's code requires that non-dwelling structures, including accessory structures, be located so that part or all of the structure is within 200 feet of the dwelling.

## CONCLUSION

The County's requirements for forest practice setbacks align with ORS, OAR and Department of Forestry requirements. In addition, the county's regulations are similar to regulations from other Oregon counties. Therefore, it does not appear that changes are needed to update forest practice setbacks regulations. However, clustering requirements could be strengthened to reduce potential impacts to forest lands. County staff has raised concern about the impacts of large separations between accessory structures and dwellings on forest lands. Staff has expressed a desire to explore code language to require accessory structures be located within a certain distance of the dwelling so that there is a clear relationship to the primary use. Further, the Community Advisory Committee has raised the issue of tree protection, which could be partially addressed by clustering, which would minimize tree removal to create open areas between buildings that are spread out over the property.

From a policy perspective, the Comprehensive Plan and Rural Area Plans have a limited number of policies regarding dwellings setbacks on CFU land. Comprehensive Plan Policy 14, Development Limitations, recommends that dwellings not be built on slopes exceeding 20%. Policy 26 of the West Hills Rural Area Plan discusses the encouragement of clustering of development to minimize conflicts with wildlife. More generalized policies call for development that preserves forest practices, ensures public safety and health and the protection of natural and environmental resources.

Based on feedback from the Community Advisory Committee, the public and staff so far in the comprehensive plan update process, there appears to be a desire for stronger requirements for clustering development to roads, existing dwellings and structures, and adjacent dwellings. As a result, staff proposes updating Policy 26 from the West of Hills RAP as follows to be added to the Comprehensive Plan to guide amendments to the County's zoning code.

**New Policy:** Adopt provisions within the CFU zones that require ~~Encourage~~ clustering of dwellings near existing public roads, and clustering of dwellings, and structures and adjacent development to minimize conflicts with wildlife, and with forest and agricultural practices.

Additionally the following policy could also be applied to the CFU zones.

**New Policy:** Require clustering of dwellings and accessory structures in CFU zones to establish a clear relationship between the primary use and accessory use and to minimize the amount of tree removal and clearing between buildings.