

ARTICLE 44

Division of Nonresource Lands in Designated Resource Areas

SECTION 3.44.000 Purpose

The purpose of this article is to allow the division of nonresource lands in agricultural, or resource transitional areas to segregate existing single-family dwellings not involved in resource management or to create new dwelling sites not in conjunction with resource use, from parcels devoted to such management and to provide reasonable guidelines and criteria to be applied which will protect these resource lands from an unwarranted influx of incompatible residential development.

SECTION 3.44.100 Criteria for Decision

Land divisions proposed under this article for property zoned FG, FC or FF shall conform to the following criteria, and shall be processed pursuant to §2.060.1:

1. **Nonresource Partitions where the remaining parcel complies with the minimum parcel size:** The County may approve a division of land to create up to two new parcels smaller than the minimum parcel size, each parcel to contain a nonfarm dwelling, so long as:
 - a. The nonfarm dwelling(s) is being concurrently applied for under the provisions of Article 43;
 - b. The parcel(s) for the nonfarm dwelling(s) is divided from a lot or parcel that was lawfully created prior to July 1, 2001;¹
 - c. The parcel(s) for the nonfarm dwelling(s) is divided from a lot or parcel that is larger than the minimum parcel size in the zone;
 - d. The remainder of the original lot or parcel that does not contain the nonfarm dwelling(s) complies with the minimum parcel size in the zone; and
 - e. The parcel(s) for the nonfarm dwelling(s) is generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

¹ OAR 660-033-0020(4), "Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel 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, parcel or tract.

2. **Nonresource Partitions where the original parcel is smaller than the minimum parcel size:** The County may approve a division of land to divide a lot or parcel into two parcels, each to contain one nonfarm dwelling, so long as:
 - a. The nonfarm dwellings are being concurrently applied for under the provisions of Article 43;
 - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum parcel size in the zone but may not be less than 40 acres;
 - d. The parcels for the nonfarm dwellings are:
 - i. Not capable of producing more than 50 cubic feet per acre per year of wood fiber; and
 - ii. Composed of at least 90 percent Class VI through VIII soils;
 - e. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and
 - f. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
3. The proposed new nonfarm parcel(s) has(have) appropriate physical characteristics such as adequate drainage, proper sanitation and water facilities to accommodate a residence.
4. The size of a new nonfarm parcel created pursuant to §3.44.100.1 of this article shall be as small as practicable. "As small as practicable" means less than 10 acres.
5. For each nonfarm parcel created, a nonexclusive resource management covenant shall be filed by the property owner with the County Clerk. Such covenant will specify that owners of adjacent land will be allowed to conduct normal resource management practices on their properties and the owner (and subsequent owners) of the subject property waive all rights to object to legal resource management activities.
6. The application complies with other conditions as the approving authority considers necessary.

7. New lots or parcels created under this Article, and for which a nonfarm dwelling is required, shall not be finally approved unless the nonfarm dwelling has also been approved under the provisions of Article 43.