



Staff Report

TO: Clark County Planning Commission

FROM: Oliver Orjiako, Director

PREPARED BY: Jose Alvarez, Planner III

DATE: June 20, 2019

SUBJECT: CPZ2019-00014 CLARK COUNTY UNIFIED DEVELOPMENT CODE AMENDMENTS (TITLE 40)

PROPOSED ACTION

Clark County Community Planning is requesting an amendment to Clark County Unified Development Code Title 40 as follows:

No.	Title/Chapter/Section	Description
1	40.370.010	Amend Title 40.370.010 (Sewerage Regulations) to allow extension of sewer to serve schools in the rural area.
2	40.210.010	Amend Title 40.210.010 (Forest, Agriculture and Agricultural-Wildlife Districts) to allow new cemeteries as accessory to an existing church in the FR-40 zone

The proposed amendments are attached in Exhibits 1 and 2.

BACKGROUND

Item 1 Amend Title 40.370.010 (Sewerage Regulations) The legislature passed HB 2243, effective October 19, 2017, that authorizes the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area, subject to certain requirements.

Item 2 Amend Title 40.210.010 (Forest, Agriculture and Agricultural-Wildlife Districts) The Old Apostolic Lutheran Church has asked for an amendment to the Forest Resource district to allow new cemeteries. Staff researched whether other counties allow cemeteries in resource districts and found that two counties, both required to fully plan under the Growth Management Act, allow them in resource districts:

- Spokane - as a limited use in Forest Land
- Grant – as a discretionary use in AG and Rural Resource (RRES)

Staff proposes an amendment to allow cemeteries in the Forest 40 zone as a conditional use but only on a site with a church that exists as of January 1, 2019. These conditions would grant the request by the Old Apostolic Lutheran Church, but limit the number of sites eligible, and thereby better conserve Forest designated land.

SUMMARY OF PUBLIC INVOLVEMENT PROCESS

The council approved the 2019 Community Planning Work Program at a council work session on September 5, 2018, which included amending Title 40. On April 1, 2019 the proposed amendments

were sent to the Department of Commerce pursuant to RCW 36.70A.106. On May 21, 2019, legal notice for the Planning Commission hearing and a Notice of Determination of Non-Significance and SEPA Environmental Checklist were published in the Columbian newspaper. On June 6, 2019, the proposed amendments were posted on the Clark County website. The proposed amendments were reviewed by the Development Engineering Advisory Board on June 6, 2019.

There are no public comments.

APPLICABLE CRITERIA, EVALUATION AND FINDINGS

The Clark County Unified Development Code, Title 40 (CCC), consolidates all development-related regulations, land use zoning, critical areas, and environmental protection.

CCC is required to be consistent with the 20-year Comprehensive Growth Management Plan. Amendments to CCC respond to a substantial change in policy, better implements applicable comprehensive plan policies, or reflect changes in federal/state law. The proposed amendments are provided in Exhibits 1 and 2.

Growth Management Act (GMA)

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA lists thirteen overall goals in RCW 36.70A.020 plus the shoreline goal added in RCW 36.70A.480(1). The goals are not listed in order of priority. The GMA goal that applies to the proposed action is Goal 11.

Goal 8: Maintain and enhance natural resource based industries, including productive timber, agricultural and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural land and discourage incompatible uses.

Goal 11: Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

Finding: The proposed changes ensure consistency and compliance with RCWs and WACs.

The process of taking the proposed Title 40 amendments through the Type IV legislative process encouraged citizen participation by: 1) posting the proposed amendments on the county web page early in the process, 2) circulating the proposed amendments to the Department of Commerce, 3) posting legal notice of the SEPA checklist and planning commission public hearing in the paper of record; 4) holding one planning commission work session, and one work session with the Development Engineering and Advisory Board, and 5) holding two public hearings (one with the Planning Commission and one with the council).

Limiting the allowance of cemeteries to properties with an existing church limits the number of sites eligible and better conserves forest resource lands

RECOMMENDATION AND CONCLUSIONS

Based on the information presented in this report, staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to Clark County Council.

1 **40.210 RESOURCE AND RURAL DISTRICTS**

2 **40.210.010 Forest, Agriculture and Agricultural-Wildlife Districts (FR-80, FR-40, AG-20, AG-WL)**

3 A. Purpose.

4 1. Forest 80 District. The purpose of the Forest 80 district is to maintain and enhance resource-based
5 industries, encourage the conservation of productive forest lands and discourage incompatible uses consistent
6 with the Forest I policies of the comprehensive plan. The Forest 80 district applies to lands which have been
7 designated as Forest Tier 1 on the comprehensive plan. Nothing in this chapter shall be construed in a manner
8 inconsistent with the Washington Forest Practices Act.

9 2. Forest 40 District. The purpose of the Forest 40 district is to encourage the conservation of lands which
10 have the physical characteristics that are capable of management for the long-term production of commercially
11 significant forest products and other natural resources, such as minerals.

12 3. Agriculture 20 District. The purpose of the Agriculture 20 district is to encourage the conservation of lands
13 which have the growing capacity, productivity, soil composition, and surrounding land use to have long-term
14 commercial significance for agriculture and associated resource production.

15 4. Agricultural-Wildlife. The purpose of the AG-WL district is to encourage the preservation of agricultural
16 and wildlife use on land which is suited for agricultural production, and to protect agricultural areas that are
17 highly valuable seasonal wildlife habitat from incompatible uses. The district provides for activities which can be
18 considered accessory only to agricultural, game, or wildlife habitat management, or recreational uses. Nothing in
19 this chapter shall be construed to restrict normal agricultural practices.

20 (Amended: Ord. 2018-01-09; Ord. 2018-10-02)

21 B. Uses.

22 The uses set out in Table 40.210.010-1 are examples of uses allowable in the various resource zone districts. The
23 appropriate review authority is mandatory.

- 24 • “P” – Uses allowed subject to approval of applicable permits.
- 25 • “R/A” – Uses permitted upon review and approval as set forth in Section 40.520.020.
- 26 • “C” – Conditional uses which may be permitted subject to the approval of a conditional use permit as set forth in
27 Section 40.520.030.
- 28 • “X” – Uses specifically prohibited.

29 Where there are special use standards or restrictions for a listed use, the applicable code section(s) in Chapter 40.260,
30 Special Uses and Standards, or other applicable chapter is noted in the “Special Standards” column.

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
1. Residential.					
a. Single-family dwellings and accessory buildings	P ¹	P ¹	P ¹	P	40.260.010
b. Guest house	C ²	C ²	C ²	C ²	40.260.010
c. Family day care centers	P	P	P	P	40.260.160

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
d. Adult family homes	P	P	P	P	40.260.190
e. Home business – Type I	P	P	P	P	40.260.100
f. Home business – Type II	R/A	R/A	R/A	R/A	40.260.100
g. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	R/A	R/A	40.260.050
h. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	C	40.260.050
i. Garage sales	P	P	P	P	40.260.090
j. Temporary dwellings	P	P	P	X	40.260.210
2. Services, Business.					
a. Commercial nurseries predominantly marketing locally produced plants and associated landscaping materials	R/A	R/A	R/A	C	
b. Roadside farm stand	P	P	P	P	40.260.025
c. Agricultural market	P	P	P	X	40.260.025
d. Commercial kennels on a parcel or parcels 5 acres or more	R/A	R/A	R/A	X	40.260.110
e. Private kennels	P	P	P	P	40.260.110
f. Animal boarding and day use facilities	P	P	P	X	40.260.040
3. Services, Amusement. ¹⁰					
a. Public recreation, scenic and park use ¹⁰	P	P	P	C ³	
b. Public interpretive/educational uses ¹⁰	P	P	P	P	
c. Dispersed recreation and recreational facilities such as primitive campsites, trails, trailheads, snowparks and warming huts ¹⁰	P	P	P	X	
d. Public recreation accessways, trails, viewpoints, and associated parking ¹⁰	P	P	P	P	
e. Regional	P	P	P	P	

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
recreational facilities designed and developed through a public master planning process ¹⁰					
f. Private recreation facilities, including retreats, but excluding such intensive uses as country clubs and golf courses	C	C	C	C ³	
g. Country club and golf courses	X	X	C	X	
h. Equestrian facility	P	P	P	X	40.260.040
i. Equestrian events center	C	C	C	X	
j. Circuses, carnivals or amusement rides	R/A	R/A	R/A	R/A	
4. Services, General.					
a. Event facilities < 5,000 sq. ft.	X	C	C	X	
b. Tasting room and event facilities in conjunction with a winery	P	P	P	X	40.260.245
5. Services, Membership Organization.					
a. Churches	X	C	C	X	
6. Services, Educational. ¹⁰					
a. Public and private elementary and middle schools serving a student population primarily outside of urban growth boundaries	C	C	C	X	40.260.160
7. Public Service and Facilities. ¹⁰					
a. Ambulance dispatch facilities ¹⁰	C	C	C	C	40.260.030
b. Government facilities ¹⁰	C ⁴	C ⁴	C ⁴	C ⁵	
c. Public corrections facilities ¹⁰	C	C	C	X	
8. Resource Activities.					
a. Agricultural	P ⁶	P ⁶	P ⁶	P	
b. The growing, harvesting and transport of timber,	P	P	P	X	

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974 as amended, and regulations adopted pursuant thereto					
c. Wildlife game management	P	P	P	P	
d. Plant nurseries	P	P	P	P	
e. Removal, harvesting, wholesaling and retailing of vegetation from forest lands including but not limited to fuel wood, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs and mushrooms	P	P	P	C	Chapter 40.440
f. Silviculture	P	P	P	C	40.260.080
g. Aggregate extraction and processing for the purposes of construction and maintenance of a timber or agricultural management road system	P ⁷	P ⁷	P ⁷	X	40.250.022
h. Exploration for rock, gravel, oil, gas, mineral and geothermal resources	P	P	P	X	40.250.022
i. Extraction of oil, gas and geothermal resources, in accordance with all applicable local, state and federal regulations	R/A	R/A	R/A	X	40.250.022
j. Commercial uses supporting resource uses	P ⁸	P ⁸	P ⁸	X	
k. Accessory buildings	P	P	P	P	40.260.010
l. Housing for temporary workers	P	P	P	P	40.260.105
m. Sawmills greater than ten thousand (10,000) board feet per day, and other products from wood residues, drying kilns and equipment	C	C	C	X	
n. Forestry, environmental and	P	P	P	C	

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
natural resource research and facilities					
o. The processing of oil, gas and geothermal resources	C	C	C	X	
p. Heliports, helipads and helispots used in conjunction with the resource activity	P	C	C	X	40.260.170
9. Other.					
a. Signs	P	P	P	P	Chapter 40.310
b. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	P	C	40.260.240
c. Wireless communications facilities	P/C ⁹	P/C ⁹	P/C ⁹	P/C ⁹	40.260.250
d. Dams for flood control and hydroelectric generating facilities	C	C	C	C	
e. Solid waste handling and disposal sites	C	C	C	C	40.260.200
f. Private use landing strips for aircraft	C	C	C	X	40.260.170
g. New cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematorium is within two hundred (200) feet of a lot in a residential district	X	X C ¹¹	X	C	
h. Expansion of existing cemeteries	P	P	P	P	
i. Temporary uses	P	P	P	P	40.260.220
j. Electric vehicle infrastructure	P	P	P	P	40.260.075
k. Medical marijuana collective gardens	X	X	X	X	
l. Marijuana-related facilities	X	X	X	X	

- 1 ¹ One (1) single-family dwelling on legal lot or legal nonconforming lot of record.
- 2 ² One (1) guesthouse in conjunction with a single-family dwelling or home.
- 3 ³ Public, where no public master planning process has been completed, or private outdoor recreational facilities
4 requiring limited physical improvements which are oriented to the appreciation, protection, study or enjoyment of the
5 fragile resources of this area. In addition to those findings as specified by Section 40.520.030 (Conditional Use
6 Permits), such uses shall be approved only upon the applicant establishing both of the following:
- 7 o There will be no significant environmental impact, especially as it relates to wildlife,
8 resulting from the proposed use; and
- 9 o The subject site cannot be put to any reasonable economic use which is provided for in this
10 section.
- 11 ⁴ Government facilities necessary to serve the area outside urban growth boundaries, including
12 fire stations, ambulance dispatch facilities and storage yards, warehouses, or similar uses.
- 13 ⁵ Limited to fire stations only.
- 14 ⁶ Agriculture including: floriculture, horticulture, general farming, dairy, the raising, feeding
15 and sale or production of poultry, livestock, furbearing animals, and honeybees including
16 feedlot operations, animal sales yards, Christmas trees, nursery stock and floral vegetation and
17 other agricultural activities and structures accessory to farming or animal husbandry.
- 18 ⁷ Additional surface mining and associated activities subject to zone change to add the surface
19 mining overlay district, Section 40.250.022.
- 20 ⁸ Commercial uses supporting resource uses, such as packing, first stage processing and
21 processing which provides value added to resource products. Chippers, pole yards, log sorting
22 and storage, temporary structures for debarking, accessory uses including but not limited to
23 scaling and weigh operations, temporary crew quarters, storage and maintenance facilities,
24 disposal areas, saw mills producing ten thousand (10,000) board feet per day or less, and other
25 uses involved in the harvesting of forest products.
- 26 ⁹ See Table 40.260.250-1.
- 27 ¹⁰ Once a property has been developed as a public facility, a docket is required to change the
28 comprehensive plan designation from the current zone to the Public Facilities zone.
- 29 ¹¹ A new cemetery, subordinate to a church in existence as of January 1, 2019, may be
30 permitted subject to the approval of a conditional use permit.
- 31 (Amended: Ord. 2004-06-10; Ord. 2005-04-12; Ord. 2006-05-01; Ord. 2006-09-13; Ord.
32 2008-12-15; Ord. 2009-12-01; Ord. 2009-12-15; Ord. 2010-10-02; Ord. 2011-03-09; Ord.
33 2011-06-14; Ord. 2011-08-08; Ord. 2011-12-09; Ord. 2012-02-03; Ord. 2012-06-02; Ord.
34 2012-07-03; Ord. 2012-12-23; Ord. 2013-07-08; Ord. 2014-01-08; Ord. 2014-05-07; Ord.
35 2014-11-02; Ord. 2016-09-04; Ord. 2018-01-09; Ord. 2018-10-02)
- 36 C. Development Standards.
- 37 1. New lots and structures and additions to structures subject to this section shall comply with the applicable
38 standards for lots and building height, and setbacks in Tables 40.210.010-2 and 40.210.010-3, subject to the
39 provisions of Chapter 40.200 and Section 40.550.020.

Table 40.210.010-2. Lot Requirements				
Zoning District	Use/Activity	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)

Table 40.210.010-2. Lot Requirements				
FR-80	All Uses	80 ¹ or legally described as one-eighth (1/8) of a section	660 ²	None
FR-40	All Uses	40 ¹ or legally described as one-sixteenth (1/16) of a section	660 ²	None
AG-20	All Uses	20 ¹ or legally described as one-thirty-second (1/32) of a section	660 ²	None
AG-WL	Agricultural	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Wildlife game management	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Public interpretive/educational uses	N/A	None	None
	Single-family dwellings	160 or legally described as one-fourth (1/4) of a section	None	None
	Plant nurseries	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Silviculture	20 or legally described as one-thirty-second (1/32) of a section	None	None
	Public recreation accessways and associated parking and trails	N/A	None	None

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¹ The following uses may be permitted on newly approved lots of less than the minimum parcel size:

- a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines and telecommunication facilities.
- b. Dams for flood control and hydroelectric generating facilities.

² Minimum lot width – One hundred forty (140) feet for legal lots created under Section 40.210.010(D).

(Amended: Ord. 2006-05-01; Ord. 2007-11-13)

Table 40.210.010-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks ¹				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
FR-80	50 ²	25	50 ³	50 ³	N/A	35 ⁴
FR-40	50 ²	25	50 ³	50 ³	N/A	35 ⁴
AG-20	50 ²	25	50 ³	50 ³	N/A	35 ⁴

Table 40.210.010-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks ¹				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
AG-WL	None	None	None	None	N/A	None

¹ See Section 40.530.010(D)(2) for nonconforming lots.

² From public road right-of-way or private road easement.

³ All structures.

⁴ Residential buildings only.

(Amended: Ord. 2005-05-20; Ord. 2010-08-06)

2. Signs. Signs shall be permitted according to the provisions of Chapter 40.310.

3. Previous Land Divisions.

a. Within the FR-80, FR-40 and AG-20 districts, until the affected property is included within an urban growth boundary, no remainder lot of a previously approved agriculture or forest district “cluster” land division or lot reconfiguration shall be:

(1) Further subdivided or reduced in size below seventy percent (70%) of the total developable area of the original parent parcel constituting the cluster subdivision; or

(2) Reduced by a total of more than one (1) acre.

b. Applications for reduction in remainder lot size consistent with this provision shall be processed as a plat alteration pursuant to Section 40.540.120.

c. Exceptions to Subsections (C)(3)(a) and (b) of This Section. A remainder lot with an existing residence may be short platted further to contain the residence on its own lot, subject to the following:

(1) Process. Creation of the new lot is subject to the requirements of Section 40.540.030.

(2) Lot Size. The new lot shall be sized to require the minimum reduction in the remainder lot, but still meet minimum requirements of this section and for on-site sewage disposal as required by the Clark County Public Health.

(3) The new lot may not include critical areas unless no other alternative exists. If no alternative is available, encroachment into these areas shall be limited to the least amount possible consistent with applicable critical areas ordinances.

(4) A building envelope containing the existing residence and accessory buildings shall be established within the new lot, subject to the following:

(a) A minimum one hundred (100) foot setback between the envelope and the remainder parcel is maintained, unless it can be shown that a lesser setback with existing or proposed landscaping or existing vegetation will provide the same or greater buffering. In no case shall a setback less than fifty (50) feet be approved.

(b) A minimum twenty (20) foot setback between the envelope and other cluster lots is maintained.

1 (5) A note shall be placed on the plat stating the following:

2 The residential property is adjacent to agricultural or forest lands on which a variety of
3 resource-related activities may occur that are not compatible with residential development.
4 Potential discomforts or inconvenience may include, but are not limited to: Noise, odors,
5 fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four
6 (24) hour period, storage and disposal of manure, and the application by spraying or otherwise
7 of chemical fertilizers, soil amendments, herbicides and pesticides.

8 (6) An open space, farm or forest management plan is required for the remainder parcel, which shall
9 prohibit additional residential development. The plan shall be submitted and approved with the
10 preliminary application. The plan shall identify permitted uses and management of the parcel so that it
11 maintains its open space or other designated functions and provides for the protection of all critical areas.
12 The management plan shall identify the responsibility for maintaining the remainder parcel. The plan
13 shall also include any construction activities (trails, fencing, agricultural buildings) and vegetation
14 clearing that may occur on site. All subsequent activities must be conducted in conformance with the
15 approved management plan. Management plans may be modified through a Type II process. A note shall
16 be placed on the plat and a restrictive covenant shall be recorded that clearly states that only the above
17 uses are permitted on the remainder parcel. The note and covenant shall also incorporate the
18 management plan, as described above.

19 4. Nonconforming lots may be reconfigured pursuant to Section 40.210.010(D).

20 (Amended: Ord. 2005-04-12; Ord. 2011-08-08; Ord. 2014-01-08; Ord. 2018-01-09; Ord.
21 2018-10-02)

22 D. Nonconforming Lots – Lot Reconfiguration Standards.

23 1. Purpose. It is in the public interest to encourage the protection of sensitive lands, expand the amount of
24 commercially viable resource land under single ownership, reduce the amount of road and utility construction
25 and, within the FR-80, FR-40 and AG-20 districts, to protect and buffer designated resource lands.

26 2. Lot Reconfiguration. Except for previously approved agricultural or forest zoned clusters or rural
27 residential planned unit developments, these substandard lots may be modified where consistent with the
28 following criteria. Parcels which meet all of the following criteria are eligible for reconfiguration and reduction in
29 size subject to a Type II review:

30 a. Existing parcel(s) is:

31 (1) Smaller than the minimum lot size established for new lots in the applicable zoning district.
32 Parcels which meet the minimum lot size may be adjusted as a part of this process, but may not be
33 decreased below the established minimum lot size.

34 (2) Determined to be legally created, and be reasonably buildable. Within the FR-80, FR-40 and
35 AG-20 districts, this section authorizes lot reconfiguration only where existing divisions are determined
36 to have a reasonable probability of developing. For the purposes of this section the review authority shall
37 determine whether the existing lots are reasonably buildable by considering the following: road access,
38 septic suitability, topography, costs of providing infrastructure and the presence of sensitive land.

39 b. Proposed parcel(s) results in the following:

40 (1) No additional parcels;

41 (2) Have septic suitability approval;

42 (3) Have adequate potable water at the time of occupancy, subject to Section 40.370.020;

- 1 (4) Each resulting legal nonconforming parcel shall be at least one (1) acre in size with a minimum
2 width of at least one hundred forty (140) feet; and
- 3 (5) In addition, within the FR-80, FR-40 and AG-20 districts:
- 4 (a) The location of the resulting reconfigured lots shall have the least impact on sensitive and
5 resource lands;
- 6 (b) Access to reconfigured lots shall meet the minimum standards necessary to obtain a
7 building permit;
- 8 (c) The remainder lot shall not be further subdivided or reduced in size unless the affected
9 property is included within an urban growth boundary;
- 10 (d) Reconfigured lots shall not be further adjusted by boundary line adjustment without
11 approval under this section.
- 12 c. Reconfigured lots shall result in achieving one (1) or more of the identified public interest issues in
13 Section 40.210.010(D)(1).
- 14 3. Lot Requirements. The setback, dimensional, use and height standards for these lots shall be as established
15 for the Rural-5 (R-5) district except that reductions in side and rear setbacks shall be granted where necessary to
16 permit construction of a dwelling on the parcel; providing, when the parcel is abutting, or surrounded by,
17 property zoned for resource uses, the minimum setback from those property lines shall be fifty (50) feet for all
18 structures.
- 19 4. The review authority may impose conditions on the lot reconfiguration to further the purposes of this
20 section.
- 21 5. Lot reconfigurations shall be finalized upon the filing of a record of survey or covenant.
- 22 (Amended: Ord. 2018-10-02)
- 23 E. Land Divisions in the AG-20 and FR-40 Zones.
- 24 1. Applicability.
- 25 a. The provisions of this subsection shall apply to all land divisions in the AG-20 and FR-40 zoning
26 districts after July 1, 2016.
- 27 b. Available options for land division are authorized:
- 28 (1) Pursuant to Chapter 40.540; or
- 29 (2) Pursuant to Chapter 40.540 and by using the cluster provisions in Section 40.210.010(E)(4).
- 30 c. In the AG-20 zoning district:
- 31 (1) Land divisions that result in parcels twenty (20) acres (or lots capable of being described as
32 one-thirty-second (1/32) of a section) in size or larger are allowed under the exemption provisions of
33 Section 40.540.020(B)(4)(b).
- 34 (2) Land divisions that result in parcels less than twenty (20) acres in size must be platted and meet
35 the additional requirements of this chapter.
- 36 d. In the FR-40 zoning district, land divisions that result in parcels less than forty (40) acres in size must
37 be platted and meet the additional requirements of this chapter.

1 e. Previously approved cluster or lot reconfiguration remainder lots are not eligible to use the provisions
2 of this section.

3 2. Definitions. For the purposes of this subsection, the following definitions shall apply:

Critical lands	“Critical lands” mean those lands classified by Subtitle 40.4.
Remainder parcel	“Remainder parcel” means the remainder parcel of the cluster subdivision that contains the majority of the land within the development and is devoted to resource or open space use.

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5 3. Development Standards for Subdivisions or Short Plats. Subdivisions and short plats are allowed pursuant
6 to Chapter 40.540. The density shall be based on one hundred percent (100%) of the gross area of the site.

7 4. Development Standards for Clustering.

8 a. Cluster developments are allowed at a maximum density equivalent to that which would be permitted
9 by applying the otherwise applicable minimum lot size requirements of this section. The density shall be
10 based on one hundred percent (100%) of the gross area of the site.

11 b. Cluster lots shall be created, as follows:

12 (1) To minimize conflicts between housing and agricultural or forest uses;

13 (2) Along parent property boundary lines, adjacent to existing roads, and to minimize the need for
14 new roads and driveways;

15 (3) To have building envelopes that avoid critical areas;

16 (4) On parcels with an existing house, one (1) of the cluster lots has to include the existing house;

17 (5) To be adjacent to each other and to any preexisting residence, unless the location of the existing
18 residence would preclude compliance with the other provisions of this subsection;

19 (6) If located on agriculturally zoned land, to be limited to lands with poor soils or soils otherwise
20 unsuitable for agricultural purposes; and

21 (7) Each cluster lot shall contain a buffer from abutting resource uses.

22 c. Remainder Parcel.

23 (1) The remainder parcel shall be contiguous. Fragmentation of the parcel by public or private road
24 easements and/or building sites shall not occur unless no other reasonable alternative exists. Remainder
25 parcels shall also be located adjacent to other bordering remainder parcels or public parks and open
26 space, if practical.

27 (2) The remainder parcel shall be nonbuildable and used for the agriculture and forestry uses as listed
28 in Table 40.210.010-1(8)(a), (b) and (d), or as open space.

29 (3) A farm or forest management plan is required for the remainder parcel. The plan shall be
30 submitted and approved with the preliminary application. The plan shall:

31 (a) Identify permitted uses and management of the parcel so that it maintains designated
32 agricultural or forest functions and provides for the protection of all critical areas;

33 (b) Identify the responsibility for maintaining agriculture or forest uses on the parcels; and

34 (c) Include any construction activities (for example, fencing or agricultural buildings) and
35 vegetation clearing that may occur on site.

1 If in current use, the plan submitted for the current use taxation program shall suffice for meeting this
2 requirement.

3 (4) A note shall be placed on the plat that the remainder parcel shall not be further subdivided or
4 reduced in size unless brought into an urban growth area. In addition, a restrictive covenant shall be
5 recorded that clearly states that only the above uses are permitted on the parcel. The note and covenant
6 shall also incorporate the management plan, as described above.

7 d. Lot Requirements. New lots and structures and additions to structures subject to this section shall
8 comply with the applicable standards for lots and building height, and setbacks in Tables 40.210.010-4 and
9 40.210.010-5, subject to the provisions of Chapter 40.200 and Section 40.550.020.

Table 40.210.010-4. Lot Requirements – FR-40 and AG-20 Cluster Developments			
Lot Type	Lot Size	Minimum Lot Width (feet)	Minimum Lot Depth (feet)
Cluster Lot	1 acre ¹	140	140
Remainder Lot	85% or greater of the parent parcel ²	None	None

10
11 ¹ Unless a larger size is required by Clark County Public Health. In no case shall a cluster lot exceed one-and-one-half
12 (1.5) acres in size. Cluster lots can use right-of-way to meet the minimum lot size as permitted by Section
13 40.200.040(C)(1).

14 ² The minimum standard for remainder parcels controls the maximum size of cluster lots.

Table 40.210.010-5. Setbacks, Lot Coverage and Building Height – FR-40 and AG-20 Cluster Developments						
Zoning District and Lot Type	Location or Structure Type	Minimum Setbacks			Maximum Lot Coverage	Maximum Building Height (feet)
		Front (feet)	Side (feet)	Rear (feet)		
FR-40 and AG-20 Cluster Lots	Residential or agricultural structures abutting a cluster lot	20	20	20	N/A	35 ²
	Residential structures abutting a resource district	50 ¹	50 ¹	50 ¹		
	Agricultural structures	20	20	20		
	Vehicle entry gates	20	20	20		
	All other situations	50	20	50		

15
16 ¹ Except in cases where it can be shown that requiring the normal setback will result in the location of the building sites
17 within inappropriate areas such as areas containing good agricultural soils, wildlife habitat or wetlands, or the
18 dimensions of the development site render it unbuildable.

19 ² Residential buildings only.

20 e. Design Requirements. The design requirements for cluster developments are listed below. These
21 requirements shall be recorded on the plat.

22 (1) No entryway treatments, monument or other permanent development signs are permitted. This
23 shall not be construed to prohibit landscaping.

1 (2) To the maximum practicable extent, existing historic rural features shall be preserved as part of
2 the cluster development. These features include but are not limited to rock walls, fences, functional and
3 structurally safe farm buildings, monuments and landscape features.

4 f. Landscaping Standards. Cluster developments shall be landscaped within the cluster lots to reduce
5 views of the development from public right(s)-of-way, so that a filtered view is provided of the cluster and
6 the cluster does not dominate the landscape.

7 (1) At a minimum, proposed or existing landscaping and vegetation shall be of sufficient size and
8 type to provide a buffer of vegetation six (6) feet in height and fifty percent (50%) opaque year-round
9 within three (3) years of planting. New landscaping materials shall consist of native vegetation as
10 provided on the Clark County plant list (see the Standard Details Manual). A combination of trees and
11 shrubs must be used.

12 (2) All landscaping shall be installed prior to final plat unless financial guarantees are made for its
13 installation prior to any building permit activity. Any required landscaping materials that fail to survive
14 within the first two (2) years shall be promptly replaced.

15 g. Notice of Resource Activities. For any areas abutting property zoned for agricultural or forestry uses,
16 the following notice shall be recorded as part of the developer covenants to Clark County for each parcel
17 within the cluster:

18 The subject property is adjacent to commercial agricultural or forest lands on which a variety of
19 commercial activities may occur that are not compatible with residential development.
20 Potential discomforts or inconvenience may include, but are not limited to: noise, odors, fumes,
21 dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24)
22 hour period, storage and disposal of manure, and the application by spraying or otherwise of
23 chemical fertilizers, soil amendments, herbicides and pesticides.

24 (Amended: Ord. 2016-06-12; Ord. 2017-07-04; Ord. 2018-10-02)

1 **40.370.010 Sewerage Regulations**

2 A. Purpose.

3 The purpose of this section is to further the public health by providing clear rules for when
4 connection to public sewer is required or prohibited. Nothing in this section shall be construed
5 to permit violation of regulations for on-site sewage disposal systems promulgated by the
6 Washington Department of Health or local governments.

7 B. Definitions.

8 1. "Public sewer" means extension of a public sewer system operated by a public entity or,
9 where such extension is impractical, connection to an alternative public sewer system
10 operated by the designated public sewer purveyor.

11 2. "UGA" means an urban growth area designated in the comprehensive plan.

12 C. New Structures within UGA and Rural Centers Served by Public Sewer – Public Sewer
13 Connection Required – Exceptions.

14 Inside UGAs and rural centers served by public sewer, connection to public sewer is required
15 as a condition of building permit issuance for any new structure which has the potential to
16 increase sewage effluent, or additions to existing structures which have the potential to
17 increase sewage effluent, unless the responsible official determines, using a Type I review
18 process, that the new structure or addition is for single-family detached residential use, or a
19 nonresidential use for which an on-site sewage disposal system can be approved by the
20 Clark County Health Department and:

21 1. Such use does not generate hazardous/dangerous waste, as defined by applicable
22 federal, state or local law; and

23 2. Extension of public sewer is impractical based upon the following criteria:

24 a. Public sewer would have to be extended more than three hundred (300) feet to the
25 property line; or

26 b. Necessary permission cannot be obtained from intervening landowner(s); or

27 c. Intervening property contains natural or manmade obstructions, such as deep
28 canyons, elevation changes, and solid rock impediments, which make public sewer
29 extension prohibitively expensive or undesirable; and

30 3. A covenant to the county is recorded which commits the current and future property
31 owner(s) to connect to public sewer within twelve (12) months of sewer becoming
32 available. The covenant shall also contain a provision that commits the current and
33 future property owner(s) to participate in a future local improvement district if this is
34 the method used to extend sewer.

35 *(Amended: Ord. 2008-06-02; Ord. 2011-08-08; Ord. 2012-07-03)*

36 D. Land Divisions within UGA – Public Sewer Connection Required – Exceptions.

1 Inside UGAs, connection to public sewers is required as a condition of approval of new land
2 divisions, whether by plat, short plat or site plan application, unless the following exception
3 applies:

- 4 1. A two (2) lot land division where one (1) of the lots is, or will be, developed in a use that
5 generates no sewage effluent. Any plat approved under this exception shall record a
6 covenant prohibiting the installation of plumbing fixtures for any use on the designated
7 lot unless the lot connects to sewer.
- 8 2. Short plats approved under Section [40.200.050\(B\)](#).

9 *(Amended: Ord. 2008-06-02)*

10 E. Public Sewer Connection Prohibited Outside UGAs – Exceptions.

11 For proposed structures or other developments outside of a UGA, connection to public sewer
12 is prohibited except as follows:

- 13 1. In response to documented health hazards; or
- 14 2. To provide public sewer to regional park facilities ~~K—12 public schools or to uses within~~
15 ~~the urban reserve district otherwise required to be served by public sewer; or~~
- 16 3. ~~Where the county has contractually committed to permit public sewer connection.~~

17 ~~—If sewer is extended, the maximum number of permitted hookups should be specified at~~
18 ~~the time of extension and no additional development exceeding this number should be~~
19 ~~permitted.~~

- 20 3. Pursuant to RCW 36.70A.213, to provide public sewer to a school and any associated
21 recreational facilities in a rural area that serves students from a rural and urban area;
22 provided the school district, the county, the public sewer provider and any affected cities
23 determine that the proposed site is suitable and the school and any associated
24 recreational facilities cannot reasonably be collocated on an existing school site; or
25
- 26 4. Upon a request for service to the public sewer provider, an intervening property pursuant
27 to 40.370.010(E)(3) may be served by public sewer if, pursuant to RCW 36.70A.213(3)
28 and 40.370.010(C)(2)(a), the property is within 300 feet of a sewer extension to serve a
29 school; and provided the school district, the county, the public sewer provider and any
30 affected cities agree to the request.

31 F. Period of Validity.

32 A Type I decision under this section shall be valid for a period of one (1) year if not
33 associated with any other action. When such a decision is made in conjunction with another
34 application (e.g., short plat, plat or site plan), the decision shall be valid for the same period
35 as the decision on the related application.

36