

DIVISION 33

AGRICULTURAL AND SMALL-  
SCALE RESOURCE LAND

**Purpose**

**660-33-010** The purpose of this division is to implement Statewide Planning Goal requirements for high-value farmland and important farmland as defined by Goal 3, forest land as defined by Goal 4 and small-scale resource land under both Goals 3 and 4.

Stat. Auth.: ORS Ch. 183, 197 & 215

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

**Definitions**

**660-33-020** For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goals 3 or 4.

(2) "Animal Unit Month" means the amount of dry forage required by one animal unit (one mature cow of approximately 1,000 pounds, either dry or with calf up to six months of age, or their equivalent) for one month based on a forage allowance of 26 pounds per day.

(3)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

(A) Contribute in a substantial way to the area's existing agricultural economy; and

(B) Help maintain agricultural processors and established farm markets.

(b) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

(4) "Contiguous" means connected in such a manner as to form a single block of land.

(5) "Eastern Oregon" means the following counties: Baker, Crook, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur,

Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler. Jackson County shall be considered to be Western Oregon for purposes of identifying agricultural land pursuant to section (1) of this rule, OAR 660-33-030 and 660-33-130(4)(d), and for identifying small-scale resource land pursuant to OAR 660-33-040(2) and (3) (i.e., agricultural and forest land tests except for rangeland), but shall be considered to be in Eastern Oregon for purposes of identifying small-scale resource land pursuant to OAR 660-33-040(2)(a)(A) (i.e., rangeland).

(6) "Farm Use" as that term is used in ORS Chapter 215 and this division means "farm use" as defined in ORS 215.203.

(7) "Exception Area" means an area no longer subject to the requirements of statewide planning Goals 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

(8) "Small-Scale Resource Land Program" means a program that includes: A comprehensive plan map depicting small-scale resource land in the entire county; a narrative and series of plan policies that describes the purpose and requirements for small-scale resource land, consistent with LCDC Goals and rules; land use regulations that are consistent with and adequate to carry out LCDC Goals and rules; and information that explains how the county program complies with LCDC Goals and rules.

(9) "Tract" means one or more contiguous lots or parcels in the same ownership.

(10) "Western Oregon" means the following counties: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill. Jackson County shall be considered to be Western Oregon for purposes of identifying agricultural land pursuant to section (1) of this rule, OAR 660-33-030 and 660-33-130(4)(d) and for identifying small-scale resource land pursuant to OAR 660-33-040(2) and (3) (i.e., agricultural and forest land tests except for rangeland), but shall be considered to be in Eastern Oregon for purposes of identifying small-scale resource land pursuant to OAR 660-33-040(2)(a)(A) (i.e., rangeland).

Stat. Auth.: ORS Ch. 183, 197 & 215

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

**Identifying Agricultural Land**

**660-33-030** (1) All land defined as "agricultural land" in OAR 660-33-020(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-33-020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to

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permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in OAR 660-33-020(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

(5) Notwithstanding the definition of "farm use" in ORS 215.203(2)(a), profitability or gross farm income shall not be considered in determining whether land is agricultural land or whether Goal 3, "Agricultural Land", is applicable.

(6) More detailed data on soil capability than is contained in the U.S. Soil Conservation Service soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the U.S. Soil Conservation Service land capability classification system.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Identification of Small-Scale Resource Land**

**660-33-040** (1) Counties may identify and map areas of agricultural and forest land that qualify as small-scale resource land.

(2)(a) A county that chooses to designate small-scale resource land may include agricultural land in a block or blocks containing a minimum of 160 contiguous acres composed of one or more of the following. In Eastern Oregon, a county may identify:

(A) Rangeland tracts that are not capable of producing enough forage to support 25 animal unit months per year unless designation of such land significantly affects the management or productivity of a commercial ranch; and

(B) Except for Harney, Lake and Malheur Counties and Deschutes County east of Horse Ridge, areas of rangeland whose soils are not capable of producing enough forage annually to support at least one animal unit month on four acres, unless designation of such land significantly affects the management or productivity of a commercial ranch. For Harney, Lake and Malheur Counties and Deschutes County east of Horse Ridge, areas of rangeland whose soils are not capable of producing enough forage annually to support at least one animal unit month on six acres, unless designation of such land affects the management or productivity of a commercial ranch.

(b) Notwithstanding subsection (2)(a) of this rule, in Eastern Oregon small-scale resource land also includes agricultural land in a block containing less than 160 acres surrounded or nearly surrounded by land that qualifies for designation as

small-scale resource land, land within an exception area, land within an urban growth boundary, or any combination thereof;

(c) A county may identify additional tracts of agricultural land as small-scale resource land:

(A) In a block or blocks containing a minimum of 160 contiguous acres;

(B) That have not been part of the county's commercial agricultural enterprise in one out of the last five years;

(C) That are not suited to commercial production of crops grown in the area and are not suited for commercial production of crops appropriate for the area based on published reports;

(D) That are not capable of producing at least \$10,000 (in 1992 dollars) in Eastern Oregon or \$20,000 (in 1992 dollars) in Western Oregon, in gross annual income from sales of indicator farm or forest products common to that agricultural area of the county. The technical resource committee shall justify the method of estimating gross income and the selection of indicator farm or forest products common to the area. The projected income from forested areas of a tract shall be based on the capability of the forested area to produce the indicator farm or forest products; and

(E) That are recommended by a county-appointed technical resource committee composed of objective agricultural experts and approved by the governing body. The technical resource committee shall include experts such as extension agents, a representative of the United States Department of Agriculture's Soil Conservation Service, the United States Department of Interior's Bureau of Land Management, the Oregon Department of Agriculture, the Oregon Department of Forestry, the Oregon Water Resources Department, the United States Department of Agriculture's Agricultural Stabilization and Conservation Service, farmers and ranchers. The majority of the technical resource committee shall be composed of technical experts representing resource management agencies.

(d) Notwithstanding subsection (c) of this section, small-scale resource land may include:

(A) Agricultural land other than rangeland and in a block containing less than 80 acres surrounded or nearly surrounded by land that is recommended for designation as small-scale resource land, land within an exception area, land within an urban growth boundary, or any combination thereof; and

(B) Rangeland in a block containing less than 160 acres surrounded or nearly surrounded by land that is recommended for designation as small-scale resource land, land within an exception area, land within an urban growth boundary, or any combination thereof.

(e) A county that has designated marginal land pursuant to ORS 197.247 may identify its designated marginal land as small-scale resource land without further justification under the provisions of this rule;

(f) Areas identified and recommended for designation as small-scale resource land pursuant to subsections (c) - (e) of this section shall be reviewed by a state technical resource committee based upon the criteria in the corresponding subsection. The state technical resource committee shall be composed of experts such as an extension agent, a representative of the United States

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Department of Agriculture's Soil Conservation Service, the United States Department of Agriculture's Agricultural Stabilization and Conservation Service, farmers, ranchers and state agency resource experts. The state technical resource committee shall conduct a study of farm dwelling approval criteria and recommend modifications to OAR 660-33-130(1) within six months of its first meeting. The technical resource committee shall, if possible, develop a new test for approval of farm dwellings based on the combination of capability, investment and a farm management plan;

(g) Forested areas in Exclusive Farm Use zones may qualify as small-scale resource land only under section (3) of this rule.

(3) A county that chooses to designate small-scale resource land may include forest land in a block or blocks containing a minimum of 160 contiguous acres composed of one or more of the following:

(a) In Western Oregon:

(A) Tracts as they exist on January 3, 1993 that are 20 acres or smaller;

(B) Tracts as they exist on January 3, 1993 on which the predominant forest soil productivity is below 50 cubic feet per acre per year;

(C) Tracts as they exist on January 3, 1993 composed of soils not capable of producing at least 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.

(b) In Eastern Oregon:

(A) Tracts as they exist on January 3, 1993 that are 20 acres or smaller;

(B) Tracts as they exist on January 3, 1993 on which the predominant forest soil productivity is below 20 cubic feet per acre per year;

(C) Tracts as they exist on January 3, 1993 composed of soils not capable of producing at least 3,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.

(4) Notwithstanding paragraph (3)(a)(C) and (3)(b)(C) of this rule, a county may not include as small-scale resource land that forest land which is free from conflict from surrounding development, as determined by the technical resource committee described in section (5) of this rule.

(5) After a county has identified small-scale resource land that qualifies for designation under section (3) of this rule, a county may refine the maps of forest land that qualify as small-scale resource land pursuant to the standards in paragraph (3)(a)(B) and (C) or (3)(b)(B) and (C) of this rule and shall refine the maps pursuant to section (4) of this rule. Refinement of small-scale resource land maps may be approved by the governing body for areas recommended by a technical resource committee composed of objective forestry experts:

(a) The technical resource committee shall include forestry experts such as extension agents, a representative of the United States Department of Agriculture's Soil Conservation Service, a representative of the Oregon Department of Forestry, a representative of the United States Department of Interior's Bureau of Land Management, a representative of the United States Department of Agriculture's Forest Service, foresters and forest operators. The majority of the technical resource

committee shall be composed of technical experts representing resource management agencies;

(b) The technical resource committee recommendation shall be based on:

(A) Detailed soil information or other information demonstrating that a forest soil rating or actual productivity is lower than indicated by published ratings and demonstrating conformance with the standards in paragraphs (3)(a)(B) and (C) or (3)(b)(B) and (C) of this rule, whichever applies;

(B) New information on forest soil ratings or actual productivity for areas with no published forest soil rating demonstrating conformance with paragraphs (3)(a)(B) and (C) or (3)(b)(B) and (C) of this rule, whichever applies;

(C) Identification of land described in section (4) of this rule.

(6) Notwithstanding sections (3) and (4) of this rule, small-scale resource land also includes land in a block containing less than 80 contiguous acres surrounded or nearly surrounded by land that qualifies for designation as small-scale resource land, land within an exception area, land within an urban growth boundary, or any combination thereof.

(7) For purposes of computing acreage within a block under sections (2) - (6) of this rule, a county may combine contiguous small-scale resource land and Exception Areas.

Stat. Auth.: ORS Ch. 183, 197 & 215

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Designation of Small-Scale Resource Land**

**660-33-050** (1) The following procedures shall govern the initial designation of small-scale resource land:

(a) A county that chooses to designate small-scale resource land shall first submit its proposed small-scale resource land program to the Commission for review and approval;

(b) A county that chooses to designate areas of small-scale resource land shall adopt all required elements of a small-scale resource land program and plan and land use regulations necessary to implement requirements for high-value and important farmland;

(c) No county may adopt plan provisions or land use regulations to implement requirements of this rule until the Commission has first approved required maps.

(2) The Commission shall review and may approve proposed maps of small-scale resource land pursuant to the notice, hearing and adoption requirements for administrative rules in OAR Chapter 660, Division 1, unless the Legislature provides authority for the Commission to review and approve maps through a different process. The Department shall submit proposed maps to a state technical resource committee, appointed by the director, for review and recommendation, prior to review by the Commission. The Commission shall provide a written explanation for its decision.

(3) If a county chooses to designate small-scale resource land, it shall adopt the small-scale resource land map(s) approved by administrative rule. County adoption of a small-scale resource land program shall follow the requirements of OAR Chapter 660, Division 18 or 25, whichever applies, and may not have an effective date prior to the

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Commission's approval of the small-scale resource land map by administrative rule. The local hearing and adoption process may be conducted simultaneously with the Commission's rule adoption process.

(4) After the initial designation of small-scale resource land and approval by the Commission of a small-scale resource land program, a county may amend its map pursuant to the requirements of ORS 197.628 through 197.644 (periodic review) or by petition pursuant to OAR 660-01-005 and ORS 183.390, unless the Legislature provides the authority for the Commission to review and approve maps through a different process. Such amendments shall be consistent with the provisions of the approved small-scale resource land program, applicable goal requirements and applicable provisions of this division. A rule amendment approving revised maps is not required for map changes made through periodic review. Urban growth boundary amendments or exceptions to Goals 3 and 4 involving designated small-scale resource land are subject to the applicable goal and rule requirements and do not require a commission rule change to remove the small-scale resource land designation.

(5) Designation of small-scale resource land pursuant to sections (2) and (4) of this rule shall be based upon tracts and dwellings as they exist on January 3, 1993.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Uses on Small-Scale Resource Land**

**660-33-060** A county may authorize uses described in OAR 660-33-120 on small-scale resource land where such uses are consistent with applicable goals, rules and other provisions of law.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Minimum Lot Size Requirements in Small-Scale Resource Land**

**660-33-070** (1) Counties choosing to designate small-scale resource land shall establish a minimum size for new lots and parcels in small-scale resource land. The minimum size shall be no smaller than 20 acres and shall be large enough to limit the number of new dwellings to a level consistent with resources and service capacities of the area. The minimum lot and parcel size shall be larger than 20 acres if water resources, sewage disposal capability, roads, police service, fire fighting service or schools are not sufficient to accommodate the maximum number of dwellings allowed under a 20-acre minimum lot and parcel size. The minimum size shall be increased where necessary to reduce fire danger in areas of known fire risk or fire hazard.

(2) To determine whether resources and services can accommodate the number of dwellings allowed by the proposed minimum size for new lots and parcels, a county shall:

(a) Determine the total number of existing and new dwellings allowed by the proposed minimum size in each area designated small-scale resource land;

(b) Consult the provider of the service (if any), the Oregon Water Resources Department and the Oregon Department of Transportation on the known capacities of the resources and services described in section (1) of this rule;

(c) Consult with the Oregon Department of Forestry to identify areas of known fire risk and fire hazard based on slope factors, fuel factors, fire weather factors, structural fire protection factors and other hazard factors; and

(d) Compare the total number of residences with the known capacities of resources and services of the area.

(3) The minimum lot and parcel size in small-scale resource land shall be 40 acres for tracts which are adjacent to public lands managed for timber production.

(4) A county may not establish a minimum size for new lots and parcels that would violate Goal 5 plan policies or land use regulations designed to protect Goal 5 resources. If a county relies upon an existing minimum lot or parcel size larger than 20 acres to protect Goal 5 resources, it may reduce the existing minimum lot or parcel size only after review of its plan policies and land use regulations for compliance with Goal 5 in coordination with interested resource management agencies.

(5) A county may not authorize further land divisions in a small-scale resource land block if the average parcel size for the block will be 20 acres or less, unless reliable data analysis is available to demonstrate that service and resource carrying capacities will support all development within the block at full build out.

(6) Where small-scale resource land is located within the Oregon Water Resource Commission's critical groundwater areas, groundwater limited areas, areas withdrawn from further appropriations, or areas subject to restrictive basin classifications for groundwater, lot and parcel sizes must be consistent with the water resource carrying capacity of the area, based on reliable data analysis.

(7) The analysis required by this rule shall be included in the comprehensive plan.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Designation of High-Value Farmland**

**660-33-080** (1) The following areas of agricultural land, in blocks of at least 160 contiguous acres, are hereby identified as high-value farmland unless or until identified as small-scale resource land pursuant to OAR 660-33-040(2) and 660-33-050:

(a) Areas composed predominantly of soils rated as Prime, Unique or Capability Class I or II, not including those soils that require irrigation to qualify for such rating, and included on the list prepared by the U.S. Soil Conservation Service, Portland, Oregon dated October 1992 and incorporated herein by reference;

(b) A tract or tracts of important farmland less than 160 contiguous acres surrounded or nearly surrounded by high-value farmland.

(2) The Department shall submit a list of the soils described in subsection (1)(a) of this rule to each county if such soils are found in the county. Upon receipt of the list from the Department, the

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county shall map lots and parcels described as high-value farmland in section (1) of this rule.

(3) Counties shall submit maps of high-value farmland described in section (1) of this rule and such amendments of their plans and land use regulations as are necessary to implement the requirements of this division to the Commission for review. The submittal shall include the notice required by OAR Chapter 660, Division 18 or 25, whichever applies.

(4) The Commission shall review and may approve proposed maps of high-value farmland pursuant to the notice, hearing and adoption requirements for administrative rules in OAR Chapter 660, Division 1, unless the Legislature provides authority for the Commission to review and approve maps through a different process. The Department may submit proposed maps to a state technical resource committee, appointed by the director, for review and recommendation prior to review by the Commission. The Commission shall provide a written explanation for its decision.

(5) The Commission, in cooperation with counties, the Oregon Department of Agriculture, farmers and agricultural experts, shall identify by rule additional areas of high-value farmland in counties described in OAR 660-33-150(4)(a), in blocks of at least 160 contiguous acres, either separately or in combination with land identified in section (1) of this rule. The Commission shall not identify additional areas under this rule in a county described in OAR 660-33-150(4)(b) unless the Commission finds that significant growth pressures are threatening eligible high-value farmland:

(a) High-value farmland subject to this section generally includes areas predominantly composed of one or more of the following:

(A) Soils rated as prime by the U.S. Soil Conservation Service because they are irrigated;

(B) Soils rated as Class I and II by the U.S. Soil Conservation Service because they are irrigated;

(C) Lands used or managed for the production of crops at a commercial scale, except as described in paragraph (5)(b)(D) of this rule;

(D) Lands used or managed for pasture, cover crops or other farm uses that are suitable for crops without additional improvements.

(b) High-value farmland subject to this section generally does not include areas predominantly composed of one or more of the following:

(A) Rangeland soils;

(B) Lands used or managed for pasture or grazing that is not suitable for crops at a commercial scale without additional improvements;

(C) Lands in the federal conservation reserve program or other federal conservation programs;

(D) Lands used or managed for crops that are not harvested on an annual basis due to lack of moisture.

(c) The following definitions apply to this section:

(A) "Irrigated" means watered by any artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area is "irrigated" if it is within an irrigation or water district with established water rights for irrigation and such irrigation water is reasonably available to the subject land;

(B) "Crops" means plants grown for market or research purposes including, but not limited to,

field crops, seed crops, hay, alfalfa, nursery stock, berries, fruits, nuts, Christmas trees, vineyards, vegetables, or specialty crops.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197 & 215

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### Uses on High-Value Farmland

**660-33-090** Uses on high-value farmland shall be limited to those specified in OAR 660-33-120. Counties shall apply zones that qualify as exclusive farm use zones under ORS Chapter 215 to high-value farmland.

Stat. Auth.: ORS Ch. 183, 197 & 215

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### Minimum Parcel Size Requirements in Areas of High-Value and Important Farmland

**660-33-100** (1) Counties shall establish minimum sizes for new parcels in areas designated high-value farmland or important farmland. A county may establish more than one minimum parcel size to reflect different types of agriculture in the county.

(2) All minimum sizes for new parcels for farm use shall be appropriate to maintain the existing commercial agricultural enterprise within an area. This standard is intended to prevent division of farmland into parcels that are too small to contribute to commercial agriculture in an area. This standard does not require that every new parcel created be as large as existing farms or ranches in an area. The minimum parcel size may allow creation of parcels smaller than the size of existing farms or ranches. However, the minimum parcel size shall be large enough to keep commercial farms and ranches in the area successful and not contribute to their decline.

(3) To determine a minimum parcel size under this rule, the county shall complete the following steps:

(a) Identify different agricultural areas within the county, if any;

(b) Determine the nature of the commercial agricultural enterprise in the county, or within areas of the county;

(c) Identify the type(s) and size(s) of farms or ranches that comprise this commercial agricultural enterprise; and

(d) Determine the minimum size for new parcels that will maintain this commercial agricultural enterprise.

(4) To determine whether there are distinct agricultural areas in a county, the county should consider soils, topography and landforms, land use patterns, farm sizes, ranch sizes and field sizes, acreage devoted to principal crops, and grazing areas and accepted farming practices for the principal crops and types of livestock.

(5) To determine the nature of the existing commercial agricultural enterprise within an area, a county shall identify the following characteristics of farms and ranches in the area: Type and size of farms and ranches, size of fields or other parts, acreage devoted to principal crops, the relative

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contribution of the different types and sizes of farms and ranches to the county's gross farm sales, and their contribution to local processors and established farm markets. The following sources may assist in a county's analysis: The most recent Census of Agriculture and special tabulations from the census developed by Oregon State University, the Oregon Department of Agriculture, the United States Department of Agriculture's Agricultural Stabilization and Conservation Service (ASCS), Soil and Water Conservation Districts, the Oregon State University Extension Service and the county assessor's office.

(6) To determine the minimum parcel size, a county shall evaluate available data and choose a size that maintains the existing commercial agricultural enterprise within the county or within each area of the county. In areas where the size of commercial farms and ranches is mixed, and the size of parcels needed to maintain those commercial farms and ranches varies, the county shall not choose a minimum parcel size that allows larger farms, lots or parcels to be divided to the size of the smallest farms, lots or parcels in the area. The activities of the larger as well as smaller holdings must be maintained.

(7) A minimum size for new parcels for farm use does not mean that dwellings may be approved automatically on parcels that satisfy the minimum parcel size for the area. New dwellings in conjunction with farm use shall satisfy the criteria for such dwellings set forth in OAR 660-33-130(1).

(8) A minimum size for new parcels may be appropriate to maintain the existing agricultural enterprise in the area, but it may not be adequate to protect wildlife habitat pursuant to Goal 5. When high-value and important farmland is located in areas of wildlife habitat, the provisions of Goal 5 continue to apply.

(9) Counties may allow the creation of new parcels for nonfarm uses authorized by this division. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law.

(10) Counties may allow the creation of new parcels for dwellings not in conjunction with farm use in areas designated as important farmland. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law. No new parcel may be created for this purpose until the county finds that the dwelling to be sited on the new parcel satisfies the requirements for dwellings not in conjunction with farm use in ORS 215.283(3) and (4), 215.236 and OAR 660-33-130(4).

(11) A county identified in OAR 660-33-150(4)(a) may adopt and apply an 80 acre or larger minimum parcel size, except in rangeland areas, without further justification under sections (1) through (6) of this rule. A county identified in OAR 660-33-150(4)(a) may adopt and apply a 160 acre or larger minimum parcel size for rangeland areas without further justification under sections (1) through (6) of this rule.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDLDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Important Farmland**

660-33-110 (1) Important farmland includes all

agricultural land identified in statewide planning Goal 3 and OAR 660-33-030, excluding areas identified as high-value farmland or small-scale resource land.

(2) Uses on important farmland shall be limited to those specified in OAR 660-33-120. Counties shall apply zones that qualify as exclusive farm use zones under ORS Chapter 215 to important farmland.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDLDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Permitted and Conditionally Authorized Uses on High-Value Farmland, Important Farmland and Small-Scale Resource Land**

660-33-120 The specific development and uses listed in Table 1 are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) **A** — Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) **R** — Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) **\*** — Use not permitted.

(4) **#** — Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-33-130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDLDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

#### **Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

660-33-130 The following standards apply to uses listed in OAR 660-33-120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on important and high-value farmland may be considered customarily provided in conjunction with farm use if:

(a) The subject farm or ranch is currently

employed for the farm use, as defined in ORS 215.203;

(b) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;

(c) There is no other dwelling on the subject farm or ranch that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as the requested farm or ranch dwelling; and

(d) On high-value farmland only, the subject farm or ranch has produced gross annual farm income in the last two years or three of the last five years of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1987 Census of Agriculture, Oregon, Chapter 2, Table 2, or at least \$40,000 (1992 dollars), whichever is lower;

(e) Approval of a dwelling customarily provided in conjunction with farm use requires notice to the Department at least ten days prior to the hearing or closing of the opportunity to request a hearing until such time as the Commission adopts clear and objective criteria for farm dwellings on important farmland.

(2) Permitted and conditional uses shall meet all standards and requirements of OAR Chapter 660, Division 6, applicable to the specific use.

(3) The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

(4) Requires approval of the governing body or its designate in any important farmland area zoned for exclusive farm use. Requires findings that:

(a) The dwelling is compatible with farm uses described in ORS 215.203(2) and is consistent with the intent and purposes set forth in ORS 215.243. If the parcel is under forest assessment, the dwelling must be compatible with forest practices as described in ORS 527.620(6);

(b) The dwelling does not interfere seriously with accepted farming practices, as defined in ORS 215.203(2)(c), on adjacent lands devoted to farm use. If the parcel is under forest assessment, the dwelling must not interfere seriously with forest practices as described in ORS 527.620(6);

(c) The dwelling does not materially alter the stability of the overall land use pattern of the area;

(d) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel;

(A) A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable". A lot or parcel is presumed to be

suitable if, in Western Oregon, it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. A nonfarm dwelling may be found compatible with and may be found not to interfere with farm uses on surrounding land if the dwelling will not force a significant change in accepted farm practices or significantly increase the cost of those practices on the surrounding land. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area;

(B) If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(e) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(6) Such facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft

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may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Aeronautics Division.

(8) In forested areas, the proposed dwelling shall be located within a rural fire protection district or the applicant must have contracted for residential fire protection:

(a) Where a governing body or its designate determines that it would be impractical to meet this requirement through the formation or expansion of a rural fire protection district, and contract fire protection services are not available, the governing body or its designate may provide for an alternative means to protect the dwelling from fire hazards. The means selected may include on-site equipment and water storage or other methods that are reasonable, given the site conditions;

(b) Counties shall also apply the siting and fire safety standards of OAR 660-06-029 and 660-06-035;

(c) Approval of a dwelling on small-scale resource land within an area of high fire hazard, extreme fire hazard, high fire risk or extreme fire risk designated by the State Forester requires notice to the Oregon Department of Forestry at least ten days prior to the hearing or closing of the opportunity to request a hearing.

(9) To qualify, a dwelling shall be occupied by persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(10) A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. When the hardships end, the governing bodies or their designate shall require the removal of such manufactured homes. Oregon Department of Environmental Quality review and removal requirements also apply.

(11) The housing shall also meet the requirements of ORS 197.685. For purposes of this rule, nine months means 273 days within any calendar year.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the **National Register of Historic Places**.

(13) A dwelling in conjunction with farm use cannot be approved because boarding and training of horses for profit is not considered a farm use.

(14) Home occupations may be authorized in existing dwelling and structures accessory to an existing dwelling. Home occupations may not be authorized in structures accessory to resource use. A home occupation located on high-value farmland may employ only residents of the home.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totalling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16) A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.

(17) A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4.

(18) Existing facilities may be maintained, enhanced or expanded, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(19) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(e) and this division means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory

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use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; housing;

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to stimulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than exclusive farm use zone cannot accommodate the museum and related activities or if the museum, administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A Living History Museum is permitted only in counties that are subject to ORS 215.213 (Marginal Lands).

(22) Dwellings in areas designated as small-scale resource land shall be sited so that they have the least impact on nearby or adjoining agricultural land or forestland.

(23) A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

**Permit Expiration Dates**

**660-33-140** (1) A discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

(2) A county may grant one extension period of up to 12 months if:

(a) An applicant makes a written request for an extension of the development approval period;

(b) The request is submitted to the county prior to the expiration of the approval period;

(c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and

(d) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(3) Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

(4) Additional one year extensions may be authorized where applicable criteria for the decision have not changed.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

**Applicability**

**660-33-150** (1) Small-scale resource land may be identified by a county pursuant to the definitions, procedures and requirements of this division. The provisions of this division apply on August 7, 1993.

(2) A county that chooses to adopt a small-scale resource land program shall concurrently identify, designate and adopt plan and land use regulations to implement requirements of this division for that high-value farmland identified in OAR 660-33-080(1), if any such areas exist in the county. A county that has designated marginal lands shall withdraw from the marginal lands program at the time it designates small-scale resource lands.

(3) Except as provided in section (6) of this rule, a county shall amend its comprehensive plan and land use regulations to implement the requirements of this division for important farmland by August 7, 1993.

(4) The counties in subsection (a) of this section shall identify, designate and adopt plan and land use regulations to implement requirements of this division for those high-value farmlands identified in OAR 660-33-080(1):

(a) Because significant blocks of cropland exist or significant growth pressures are likely to affect cropland, the following counties shall complete requirements of this division for high-value farmland based on the following schedule:

<u>May 31, 1995</u>	<u>October 31, 1995</u>	<u>March 31, 1996</u>
Clackamas County	Benton County	Hood River County
Jackson County	Linn County	Polk County
Lane County	Marion County	Washington County
Yamhill County	Multnomah County	

The schedule provides for the orderly completion and review of required comprehensive plan and land use regulation amendments to comply with this division. The dates are established based on the jurisdiction's status in periodic review, the availability of data from pilot program work and other sources, the availability of grant funding from the Department, the amount of high-value farmland likely to exist in the county and development pressures as indicated by population growth

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and the number of actions on resource lands during recent reporting periods.

(b) Because significant blocks of cropland do not exist or significant growth pressures are not likely to affect cropland, the following counties may wait until the county designates small-scale resource lands pursuant to this division to complete requirements of this division for high-value farmland identified in OAR 660-33-080(1): Baker, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Jefferson, Josephine, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler.

(5) A county shall designate and adopt plan and land use regulations to implement the requirements of this division for those high-value farmlands identified by the Commission pursuant to OAR 660-33-080(5) within 90 days of identification by the Commission or the date established in subsection (4)(a) of this rule.

(6) A county identified in subsection (4)(a) of this rule that does not have an acknowledged numeric minimum parcel size for agricultural land

(i.e., a parcel size that is not subject to procedures that authorize smaller farm parcels) shall adopt a minimum parcel size pursuant to OAR 660-33-100 by the date established in subsection (4)(a) of this rule. A county that has an acknowledged numeric minimum parcel size for agricultural land (i.e., a parcel size that is not subject to procedures that authorize smaller farm parcels) shall review the acknowledged parcel size pursuant to OAR 660-33-100 at periodic review.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 8-1992, f. 12-10-92, cert. ef. 8-7-93

**Effective Date and Repeal of OAR Chapter 660, Division 5**

**660-33-160** (1) The provisions of this division shall become effective on August 7, 1993.

(2) The provisions of OAR Chapter 660, Division 5 are repealed on August 7, 1993.

Stat. Auth.: ORS Ch. 183, 197 & 215  
Hist.: LCDC 8-1992, f. 12-10-92, cert. ef. 8-7-93