



Oregon

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TO: Land Conservation and Development Commission

FROM: Jim Rue, Director
Katherine Daniels, Farm and Forest Lands Specialist

SUBJECT: **Agenda Item 13, November 14-15, 2013, LCDC Meeting**



RULEMAKING

MINOR AND TECHNICAL AMENDMENTS TO OAR 660, DIVISION 6, FOREST LANDS AND DIVISION 33, AGRICULTURAL LAND

I. SUMMARY

Department staff requests the commission to consider the proposed adoption of amendments to OAR chapter 660, divisions 6 and 33 to make minor and technical changes to conform to recent legislation, correct references, and provide additional clarification for agricultural land and forest land rules.

II. RECOMMENDED ACTION

The department recommends that the commission review and discuss the proposed rule amendments as described in section IV of this staff report, and adopt the proposed revisions to OAR 660-006-0025, -0026 and -0055, and OAR 660-033-0030, -0120, -0130 and -0140 as presented in Attachment A.

III. BACKGROUND

The 2013 Legislative session resulted in the passage of several bills pertaining to agricultural and forest land that require amendments to rules to achieve conformance with these bills. The amendments proposed by staff are all in response to this recent legislation.

IV. PROPOSED AMENDMENTS TO DIVISION 6

OAR 660-006-0025(3) – Add agricultural buildings for farm or forest use (HB 2441 (2013)).

OAR 660-006-0026(2) and OAR 660-006-0055(2) – Delete the requirement that a parcel created to facilitate a forest practice that involves an existing dwelling meet the minimum parcel size of the zone (HB 3125 (2013)).

V. PROPOSED RULE AMENDMENTS TO DIVISION 33

OAR 660-033-0030(5)(b) – Update a soils reference (HB 2148).

OAR 660-033-0120, Table 1 – This table summarizes all of the allowed uses in EFU zones and is amended to reflect the legislative changes. Adjustments are proposed to include new uses, amend existing uses, and cross-reference new laws or new review criteria applicable to new and existing uses. Specifically, these changes include:

- Add a new use to include dog training classes and testing trials (SB 4170 (2012)).
- Redefine dog kennels as commercial dog boarding kennels as a use allowed on high-value farmland (SB 4170 (2012));
- Redefine utility facilities necessary for public service to include associated transmission lines (HB 2704 (2013));
- Redefine a facility for the processing of farm crops to include poultry processing (HB 2393);
- Amend the list of allowed uses to delete “wildlife habitat conservation and management plan” as it is not a land use authorization;
- Add an extension of the authorization for: “Guest ranch in eastern Oregon” (HB 2753 (2011)); and
- Add a reference to Oregon Laws for the new winery provisions in SB 841 (2013).

OAR 660-033-0130 – New or amended review criteria are proposed for the following uses:

- (8) Replacement dwellings: Amend review criteria to
 - Allow dwellings that formerly had structural integrity to be replaced;
 - Require dwellings to have been tax assessed as dwellings, with some exceptions;
 - Extend the three-month limit for removal, demolition or conversion to one year;
 - Add siting standards for certain replacement dwellings;
 - Delete permit expiration provisions; and
 - Reinstate expired permits for one year (HB 2746 (2013)).

In addition, staff proposes a reorganization of bill provisions for better flow and clarification through minor amendments to bill wording. These minor changes were vetted through two county planning directors.

- (16)(b) Associated transmission lines: These are the lines that connect substations for commercial power generating facilities with the grid. Amend review criteria to allow counties to require that these lines be sited on less suitable agricultural land (HB 2704 (2013)). Staff proposes the reorganization of bill provisions for better flow and clarity.
- (28) A facility for the processing of farm crops: Amend review criteria to apply to the processing of up to 1,000 poultry annually (HB 2393 (2013)).
- (39) Dog training classes and testing trials: Add new review criteria (SB 4170 (2012)).

OAR 660-033-0140(6) – Amend permit expiration date provisions to exempt replacement dwelling permits from the time to act and extension limits of ORS 215.417 (HB 2746 (2013)).

VI. COMMISSION OPTIONS

Alternatives for the commission include:

1. Adopt the proposed rule amendments as drafted.
2. Adopt the proposed rule amendments with revisions by the commission, by motion, at this meeting.
3. Direct staff to prepare revisions to the proposed amendments for the commission to consider at a later meeting.
4. Not adopt the proposed rule amendments, as presented or with revisions.

VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

Staff recommends that the commission adopt the proposed amendments to OAR chapter 660, division 6 and division 33 as described in Attachment A.

Recommended motion: I move the commission adopt revisions to OAR chapter 660 division 6 and division 033 as proposed by the department and presented in Attachment A of the staff report.

Optional motion 1: I move the commission adopt revisions to OAR chapter 660, division 6 and division 33 as presented in Attachment A with the following amendments: [*proposed changes*].

Optional motion 2: I move the commission direct staff to prepare amendments to the proposed rules to address the following issues: ****.

ATTACHMENTS

- A. Proposed amendments to OAR chapter 660, division 6
- B. Proposed amendments to OAR chapter 660 division 33

1 **660-006-0025**

2 **Uses Authorized in Forest Zones**

3 (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and
4 applying comprehensive plan provisions and zoning regulations consistent with the goals and
5 this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as
6 set forth in ORS 527.722, the Commission has determined that five general types of uses, as set
7 forth in the goal, may be allowed in the forest environment, subject to the standards in the goal
8 and in this rule. These general types of uses are:

9 (a) Uses related to and in support of forest operations;

10 (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources,
11 agriculture and recreational opportunities appropriate in a forest environment;

12 (c) Locationally-dependent uses, such as communication towers, mineral and aggregate
13 resources, etc.

14 (d) Dwellings authorized by ORS 215.705 to 215.755; and

15 (e) Other dwellings under prescribed conditions.

16 (2) The following uses pursuant to the Forest Practices Act (ORS [C]hapter 527) and Goal 4
17 shall be allowed in forest zones:

18 (a) Forest operations or forest practices including, but not limited to, reforestation of forest land,
19 road construction and maintenance, harvesting of a forest tree species, application of chemicals,
20 and disposal of slash;

21 (b) Temporary on-site structures that are auxiliary to and used during the term of a particular
22 forest operation;

23 (c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those
24 made for purposes of exploration, mining, commercial gravel extraction and processing,
25 landfills, dams, reservoirs, road construction or recreational facilities; and

26 (d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure
27 or land that provides help or is directly associated with the conduct of a particular forest practice.
28 An auxiliary structure is located on site, temporary in nature, and is not designed to remain for
29 the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a
30 particular forest practice has concluded.

31 (3) The following uses may be allowed outright on forest lands:

32 (a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries
33 resources;

- 1 (b) Farm use as defined in ORS 215.203;
- 2 (c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g.,
3 electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment
4 that provides service hookups, including water service hookups;
- 5 (d) Temporary portable facility for the primary processing of forest products;
- 6 (e) Exploration for mineral and aggregate resources as defined in ORS [C]chapter 517;
- 7 (f) Private hunting and fishing operations without any lodging accommodations;
- 8 (g) Towers and fire stations for forest fire protection;
- 9 (h) Widening of roads within existing rights-of-way in conformance with the transportation
10 element of acknowledged comprehensive plans and public road and highway projects as
11 described in ORS 215.213(1) and 215.283(1);
- 12 (i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;
- 13 (j) Caretaker residences for public parks and public fish hatcheries;
- 14 (k) Uninhabitable structures accessory to fish and wildlife enhancement;
- 15 (l) Temporary forest labor camps;
- 16 (m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons,
17 including the placement and operation of compressors, separators and other customary
18 production equipment for an individual well adjacent to the well head;
- 19 (n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.46[5]7 and Goal
20 8;
- 21 (o) Disposal site for solid waste that has been ordered established by the Oregon Environmental
22 Quality Commission under ORS 459.049, together with the equipment, facilities or buildings
23 necessary for its operation;
- 24 (p) Alteration, restoration or replacement of a lawfully established dwelling that:
 - 25 (A) Has intact exterior walls and roof structures;
 - 26 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a
27 sanitary waste disposal system;
 - 28 (C) Has interior wiring for interior lights;

1 (D) Has a heating system; and

2 (E) In the case of replacement, is removed, demolished or converted to an allowable
3 nonresidential use within three months of the completion of the replacement dwelling; ~~and~~

4 (q) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000
5 persons that is not anticipated to continue for more than 120 hours in any three-month period is
6 not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division;

7 **(r) Dump truck parking as provided in ORS 215.311; and**

8 **(s) An agricultural building, as defined in ORS 455.315, customarily provided in**
9 **conjunction with farm use or forest use. A person may not convert an agricultural building**
10 **authorized by this section to another use.**

11 (4) The following uses may be allowed on forest lands subject to the review standards in section
12 (5) of this rule:

13 (a) Permanent facility for the primary processing of forest products;

14 (b) Permanent logging equipment repair and storage;

15 (c) Log scaling and weigh stations;

16 (d) Disposal site for solid waste approved by the governing body of a city or county or both and
17 for which the Oregon Department of Environmental Quality has granted a permit under ORS
18 459.245, together with equipment, facilities or buildings necessary for its operation;

19 (e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those
20 allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir,
21 campgrounds shall not be allowed within three miles of an urban growth boundary unless an
22 exception is approved pursuant to ORS 197.732 and OAR chapter 660, division [00]4. A
23 campground is an area devoted to overnight temporary use for vacation, recreational or
24 emergency purposes, but not for residential purposes and is established on a site or is contiguous
25 to lands with a park or other outdoor natural amenity that is accessible for recreational use by the
26 occupants of the campground. A campground shall be designed and integrated into the rural
27 agricultural and forest environment in a manner that protects the natural amenities of the site and
28 provides buffers of existing native trees and vegetation or other natural features between
29 campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate
30 sewer, water or electric service hook-ups shall not be provided to individual camp sites.
31 Campgrounds authorized by this rule shall not include intensively developed recreational uses
32 such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in
33 the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during
34 any consecutive [6]~~six~~-month period.

- 1 (B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate
2 sewer, water or electric service hook-ups shall not be provided to individual camp sites except
3 that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.
- 4 (C) Subject to the approval of the county governing body or its designee, a private campground
5 may provide yurts for overnight camping. No more than one-third or a maximum of 10
6 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or
7 on a wood floor with no permanent foundation. Upon request of a county governing body, the
8 Commission may provide by rule for an increase in the number of yurts allowed on all or a
9 portion of the campgrounds in a county if the Commission determines that the increase will
10 comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a
11 round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage
12 disposal hook-up or internal cooking appliance.
- 13 (f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040,
14 whichever is applicable;
- 15 (g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS
16 [C]chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g.,
17 compressors, separators and storage serving multiple wells), and mining and processing of
18 aggregate and mineral resources as defined in ORS [C]chapter 517;
- 19 (h) Television, microwave and radio communication facilities and transmission towers;
- 20 (i) Fire stations for rural fire protection;
- 21 (j) Commercial utility facilities for the purpose of generating power. A power generation facility
22 shall not preclude more than 10[-]acres from use as a commercial forest operation unless an
23 exception is taken pursuant to OAR chapter 660, division [00]4;
- 24 (k) Aids to navigation and aviation;
- 25 (l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
- 26 (m) Reservoirs and water impoundments;
- 27 (n) Firearms training facility;
- 28 (o) Cemeteries;
- 29 (p) Private seasonal accommodations for fee hunting operations may be allowed subject to
30 section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:
- 31 (A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the
32 Oregon Structural Specialty Code;

- 1 (B) Only minor incidental and accessory retail sales are permitted;
- 2 (C) Accommodations are occupied temporarily for the purpose of hunting during either or
3 both game bird ~~and~~or big game hunting seasons authorized by the Oregon Fish and Wildlife
4 Commission; and
- 5 (D) A governing body may impose other appropriate conditions.
- 6 (q) New electric transmission lines with right of way widths of up to 100 feet as specified in
7 ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with
8 rights-of-way 50 feet or less in width;
- 9 (r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;
- 10 (s) Home occupations as defined in ORS 215.448;
- 11 (t) A manufactured dwelling or recreational vehicle, or the temporary residential use of an
12 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
13 hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283.
14 The manufactured dwelling shall use the same subsurface sewage disposal system used by the
15 existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If
16 the manufactured dwelling will use a public sanitary sewer system, such condition will not be
17 required. Within three months of the end of the hardship, the manufactured dwelling or
18 recreational vehicle shall be removed or demolished or, in the case of an existing building, the
19 building shall be removed, demolished or returned to an allowed nonresidential use. A temporary
20 residence approved under this subsection is not eligible for replacement under subsection (3)(p)
21 of this rule. Governing bodies every two years shall review the permit authorizing such mobile
22 homes. When the hardships end, governing bodies or their designate shall require the removal of
23 such mobile homes. Oregon Department of Environmental Quality review and removal
24 requirements also apply to such mobile homes. As used in this section, "hardship" means a
25 medical hardship or hardship for the care of an aged or infirm person or persons;
- 26 (u) Expansion of existing airports;
- 27 (v) Public road and highway projects as described in ORS 215.213(2)~~[(q)]~~(p) through ~~[(s)]~~(r)
28 and (10) and 215.283(2)~~[(p)]~~(q) through ~~[(r)]~~(s) and (3);
- 29 (w) Private accommodations for fishing occupied on a temporary basis may be allowed subject
30 to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following
31 requirements:
- 32 (A) Accommodations limited to no more than 15 guest rooms as that term is defined in the
33 Oregon Structural Specialty Code;
- 34 (B) Only minor incidental and accessory retail sales are permitted;

- 1 (C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons
2 authorized by the Oregon Fish and Wildlife Commission;
- 3 (D) Accommodations must be located within 1/4 mile of fish-bearing Class I waters; and
- 4 (E) A governing body may impose other appropriate conditions.
- 5 (x) Forest management research and experimentation facilities as defined by ORS 526.215 or
6 where accessory to forest operations; and
- 7 (y) An outdoor mass gathering subject to review by a county planning commission under the
8 provisions of ORS 433.763. These gatherings are those of more than 3,000 persons that continue
9 or can reasonably be expected to continue for more than 120 hours within any three-month
10 period and any part of which is held in open spaces.
- 11 (z) Storage structures for emergency supplies to serve communities and households that are
12 located in tsunami inundation zones, if:
- 13 (A) Areas within an urban growth boundary cannot reasonably accommodate the structures;
- 14 (B) The structures are located outside tsunami inundation zones and consistent with evacuation
15 maps prepared by **Department of Geology and Mineral** Industries (**DOGAMI**) or the local
16 jurisdiction;
- 17 (C) Sites where the structures could be co-located with an existing use approved under this
18 section are given preference for consideration;
- 19 (D) The structures are of a number and size no greater than necessary to accommodate the
20 anticipated emergency needs of the population to be served;
- 21 (E) The structures are managed by a local government entity for the single purpose of providing
22 for the temporary emergency support needs of the public; and
- 23 (F) Written notification has been provided to the County Office of Emergency Management of
24 the application for the storage structures.
- 25 (5) A use authorized by section (4) of this rule may be allowed provided the following
26 requirements or their equivalent are met. These requirements are designed to make the use
27 compatible with forest operations and agriculture and to conserve values found on forest lands:
- 28 (a) The proposed use will not force a significant change in, or significantly increase the cost of,
29 accepted farming or forest practices on agriculture or forest lands;
- 30 (b) The proposed use will not significantly increase fire hazard or significantly increase fire
31 suppression costs or significantly increase risks to fire suppression personnel; and

1 (c) A written statement recorded with the deed or written contract with the county or its
2 equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land
3 owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses
4 authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

5 (6) Nothing in this rule relieves governing bodies from complying with other requirement
6 contained in the comprehensive plan or implementing ordinances such as the requirements
7 addressing other resource values (e.g., Goal 5) that exist on forest lands.

8 [Publications: Publications referenced are available from the agency.]

9 Stat. Auth.: ORS [~~483,~~] 197.040, 197.230 & 197.245
10 Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740,
11 215.750, 215.780 & Ch. 792, 1993 OL
12 Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994,
13 f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; ; LCDC 3-1996, f. & cert. ef. 12-23-
14 96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f.
15 & cert. ef. 5-22-02; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2011, f. & cert. ef. 2-2-11;
16 LCDD 1-2013, f. 1-29-13, cert. ef. 2-1-13

17 **660-006-0026**
18 **New Land Division Requirements in Forest Zones**

19 (1) Governing bodies shall legislatively amend their land division standards to incorporate one or
20 more of the following parcel sizes. Under these provisions, a governing body may not determine
21 minimum parcel sizes for forest land on a case-by-case basis:

22 (a) An 80-acre or larger minimum parcel size; or

23 (b) One or more numeric minimum parcel sizes less than 80 acres provided that each parcel size
24 is large enough to ensure:

25 (A) The opportunity for economically efficient forest operations typically occurring in the area;

26 (B) The opportunity for the continuous growing and harvesting of forest tree species;

27 (C) The conservation of other values found on forest lands as described in Goal 4; and

28 (D) That parcel meets the requirements of ORS 527.630.

29 (2) New land divisions less than the parcel size in section (1) of this rule may be approved for
30 any of the following circumstances:

31 (a) For the uses listed in OAR 660-~~006~~[~~0~~]-0025(3)(m) through (o) and (4)(a) through (o)
32 provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the parcel
33 created from the division is the minimum size necessary for the use[~~;~~].

- 1 (b) For the establishment of a parcel for a ~~non-existing~~ dwelling **that has existed since before**
2 **June 1, 1995** ~~[on land zoned for forest use]~~, subject to the following requirements:
- 3 (A) The parcel established ~~[shall]~~ **may** not be larger than five acres, except as necessary to
4 recognize physical factors such as roads or streams, in which case the parcel shall not be larger
5 than 10 acres; **and**
- 6 (B) ~~[The dwelling existed prior to June 1, 1995;]~~
- 7 ~~[(C)](i)~~ The ~~[remaining]~~ parcel~~;~~ **that does** not contain~~[ing]~~ the dwelling~~;~~ ~~[meets the minimum~~
8 ~~land division standards of the zone; or]~~ **is not entitled to a dwelling unless subsequently**
9 **authorized by law or goal and the parcel either:**
- 10 **(i) Meets the minimum land division standards of the zone; or**
- 11 (ii) ~~[The remaining parcel, not containing the dwelling, is]~~ **Is** consolidated with another parcel, and
12 together the parcels meet the minimum land division standards of the zone. ~~[; and]~~
- 13 ~~(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless~~
14 ~~subsequently authorized by law or goal.]~~
- 15 (c) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that
16 results in a parcel that does not meet the minimum area requirements of subsection (1)(a) or (b).
17 Approvals shall be based on findings that demonstrate that there are unique property specific
18 characteristics present in the proposed parcel that require an amount of land smaller than the
19 minimum area requirements of subsections (1)(a) or (b) of this rule in order to conduct the forest
20 practice. Parcels created pursuant to this subsection:
- 21 (A) ~~[Shall]~~ **Are** not ~~[be]~~ eligible for siting of new dwelling;
- 22 (B) ~~[Shall]~~ **May** not serve as the justification for the siting of a future dwelling on other lots or
23 parcels;
- 24 (C) ~~[Shall]~~ **May** not, as a result of the land division, be used to justify redesignation or rezoning
25 of resource lands; **and**
- 26 (D) ~~[Shall]~~ **May** not result in a parcel of less than 35 acres, ~~[except]~~ **unless the purpose of the**
27 **land division is to:**
- 28 (i) ~~[Where the purpose of the land division is to]~~ ~~[f]~~ **F**acilitate an exchange of lands involving a
29 governmental agency; or
- 30 (ii) ~~[Where the purpose of the land division is to]~~ ~~[a]~~ **A**llow transactions in which at least one
31 participant is a person with a cumulative ownership of at least 2,000 acres of forest land. ~~[; and]~~

- 1 [~~(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a~~
2 ~~parcel less than the minimum lot or parcel size of the zone or the minimum size required for~~
3 ~~dwelling approved under OAR 660-006-0027(1)(e).]~~
- 4 (d) To allow a division of a lot or parcel zoned for forest use if:
- 5 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- 6 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213(1)
7 or 215.283(1);
- 8 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two
9 and five acres in size;
- 10 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and
- 11 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a
12 restriction prohibiting the landowner and the landowner's successors in interest from further
13 dividing the lot or parcel has been recorded with the county clerk of the county in which the lot
14 or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a
15 statement of release is signed by the county planning director of the county in which the lot or
16 parcel is located indicating that the comprehensive plan or land use regulations applicable to the
17 lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning
18 goals protecting forestland or unless the land division is subsequently authorized by law or by a
19 change in a statewide planning goal for land zoned for forest use.
- 20 (e) To allow a proposed division of land as provided in ORS 215.783.
- 21 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
22 division under the restrictions imposed by OAR 660-006-0026(2)(d) and (4). The record shall be
23 available to the public.
- 24 (4) A lot or parcel may not be divided under OAR 660-006-0026(2)(d) if an existing dwelling on
25 the lot or parcel was approved under:
- 26 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
27 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
- 28 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
29 use zone under statewide goal 4 (Forest Lands).
- 30 (5)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall
31 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
32 recorded with the county clerk of the county where the property is located. The restriction shall
33 allow no dwellings unless authorized by law or goal on land zoned for forest use except as
34 permitted under section (2) of this rule.

1 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release
2 is signed by the county planning director of the county where the property is located indicating
3 that the comprehensive plan or land use regulations applicable to the property have been changed
4 in such a manner that the parcel is no longer subject to statewide planning goals pertaining to
5 agricultural land or forest land.

6 (c) The county planning director shall maintain a record of parcels that do not qualify for the
7 siting of a new dwelling under restrictions imposed by this rule. The record shall be readily
8 available to the public.

9 (6) A landowner allowed a land division under section (2) of this rule shall sign a statement that
10 shall be recorded with the county clerk of the county in which the property is located, declaring
11 that the landowner will not in the future complain about accepted farming or forest practices on
12 nearby lands devoted to farm or forest use.

13 Stat. Auth.: ORS 197.040, 197.230 & 197.245

14 Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740,
15 215.750, 215.780, 215.783 & Ch. 792, 1993 OL

16 Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7 1992, f. & cert. ef. 12-10-92; LCDC 1-1994,
17 f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98;
18 LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. &
19 cert. ef. 2-2-11

20 **660-006-0055**

21 **New Land Division Requirements in Agriculture/Forest Zones**

22 (1) A governing body shall apply the standards of OAR 660-006-0026 and 660-033-0100 to
23 determine the proper minimum lot or parcel size for a mixed agriculture/forest zone. These
24 standards are designed: To make new land divisions compatible with forest operations; to
25 maintain the opportunity for economically efficient forest and agriculture practices; and to
26 conserve values found on forest lands.

27 (2) New land divisions less than the parcel size established according to the requirements in
28 section (1) of this rule may be approved for any of the following circumstances:

29 (a) For the uses listed in OAR 660-006-0025(3)(m) through (o) and (4)(a) through ~~(n)~~**(o)**
30 provided that such uses have been approved pursuant to OAR 660-060-0025(5) and the land
31 division created is the minimum size necessary for the use.

32 (b) For the establishment of a parcel for a ~~non-existing~~ dwelling **that has existed since before**
33 **June 1, 1995** ~~[on land zoned for mixed farm and forest use]~~, subject to the following
34 requirements:

35 (A) The parcel established ~~[shall]~~ **may** not be larger than five acres, except as necessary to
36 recognize physical factors such as roads or streams, in which case the parcel shall not be larger
37 than 10 acres; **and**

- 1 (B) [~~The dwelling existed prior to June 1, 1995;~~]
- 2 [~~(C)(i)~~] The [~~remaining~~] parcel **that does**[,] not contain[ing] the dwelling[, ~~meets the minimum~~
3 ~~land division standards of the zone; or~~] **is not entitled to a dwelling unless subsequently**
4 **authorized by law or goal and the parcel either:**
- 5 **(i) Meets the minimum land divisions standards of the zone; or**
- 6 (ii) [~~The remaining parcel, not containing the dwelling, i~~]**I**s consolidated with another parcel, and
7 together the parcels meet the minimum land division standards of the zone;
- 8 [~~(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless~~
9 ~~subsequently authorized by law or goal;~~]
- 10 [~~(E)~~]**(C)** The minimum tract eligible under subsection (b) of this section is 40 acres;
- 11 [~~(F)~~]**(D)** The tract shall be predominantly in forest use and that portion in forest use qualified for
12 special assessment under a program under ORS chapter 321; and
- 13 [~~(G)~~]**(E)** The remainder of the tract [~~shall~~]**does** not qualify for any uses allowed under ORS
14 215.213 and 215.283 that are not allowed on forestland.
- 15 (c) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that
16 results in a parcel that does not meet the minimum area requirements of section (1). Parcels
17 created pursuant to this subsection:
- 18 (A) [~~Shall~~] **Are** not [~~be~~] eligible for siting of a new dwelling;
- 19 (B) [~~Shall~~] **May** not serve as the justification for the siting of a future dwelling on other lots or
20 parcels;
- 21 (C) [~~Shall~~] **May** not, as a result of the land division, be used to justify redesignation or rezoning
22 of resource land; **and**
- 23 (D) [~~Shall~~] **May** not result in a parcel of less than 35 acres, [~~except~~] **unless the purpose of the**
24 **land division is to:**
- 25 (i) [~~Where the purpose of the land division is to~~] [~~f~~]**F**acilitate an exchange of lands involving a
26 governmental agency; or
- 27 (ii) [~~Where the purpose of the land division is to~~] [~~a~~]**A**llow transactions in which at least one
28 participant is a person with a cumulative ownership of at least 2,000 acres of forestland. [~~; and~~]
- 29 [~~(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a~~
30 ~~parcel less than the minimum lot or parcel size of the zone.~~]

- 1 (d) To allow a division of a lot or parcel zoned for mixed farm and forest use if:
- 2 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- 3 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213(1)
4 or 215.283(1);
- 5 (C) Except for one lot or parcel, each lot or parcel created under this section is between two and
6 five acres in size;
- 7 (D) At least one dwelling is located on each lot or parcel created under this section; and
- 8 (E) The landowner of a lot or parcel created under this section provides evidence that a
9 restriction prohibiting the landowner and the land owner's successors in interest from further
10 dividing the lot or parcel has been recorded with the county clerk of the county in which the lot
11 or parcel is located. A restriction imposed under this section shall be irrevocable unless a
12 statement of release is signed by the county planning director of the county in which the lot or
13 parcel is located indicating that the comprehensive plan or land use regulations applicable to the
14 lot or parcel have been changed so that the lot or parcel is no longer subject to statewide goal 4
15 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in
16 statewide goal 4 (Forest Land);
- 17 (e) To allow a proposed division of land as provided in ORS 215.783.
- 18 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
19 division under the restrictions imposed by OAR 660-006-0055(2)(d) and (4). The record shall be
20 readily available to the public.
- 21 (4) A lot or parcel may not be divided under OAR 660-006-0055(2)(d) if an existing dwelling on
22 the lot or parcel was approved under:
- 23 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
24 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
- 25 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
26 use zone under statewide goal 4 (Forest Lands).
- 27 (5)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall
28 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
29 recorded with the county clerk of the county where the property is located. The restriction shall
30 allow no dwellings unless authorized by law or goal on land zoned for forest use except as
31 permitted under section (2) of this rule.
- 32 (b) A restriction imposed under this section shall be irrevocable unless a statement of release is
33 signed by the county planning director of the county where the property is located indicating that
34 the comprehensive plan or land use regulations applicable to the property have been changed in

1 such a manner that the parcel is no longer subject to statewide planning goals pertaining to
2 agricultural land or forestland.

3 (c) The county planning director shall maintain a record of parcels that do not qualify for the
4 siting of a new dwelling under restrictions imposed by this section. The record shall be readily
5 available to the public.

6 (6) A landowner allowed a land division under section (2) of this rule shall sign a statement that
7 shall be recorded with the county clerk of the county in which the property is located, declaring
8 that the landowner and the landowner's successors in interest will not in the future complain
9 about accepted farming or forest practices on nearby lands devoted to farm or forest use.

10 Stat. Auth.: ORS 197.040, 197.230 & 197.245
11 Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.213, 215.283, 215.700, 215.705,
12 215.720, 215.740, 215.750, 215.780, 215.783 & Ch. 792, 1993 OL
13 Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994,
14 f. & cert. ef. 3-1-94; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 1-2002, f. & cert. ef. 5-22-02;
15 LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11

1 **660-033-0030**

2 **Identifying Agricultural Land**

3 (1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as
4 agricultural land.

5 (2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel
6 it need only look to the land within the lot or parcel being inventoried. However, whether land is
7 "suitable for farm use" requires an inquiry into factors beyond the mere identification of
8 scientific soil classifications. The factors are listed in the definition of agricultural land set forth
9 at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing
10 outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV
11 soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "[H]Lands in other
12 classes which are necessary to permit farm practices to be undertaken on adjacent or nearby
13 lands." A determination that a lot or parcel is not agricultural land requires findings supported by
14 substantial evidence that addresses each of the factors set forth in OAR 660-033-0020(1).

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

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

23 (5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources
24 Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land.
25 However, the more detailed soils data shall be related to the NRCS land capability classification
26 system.

27 (b) If a person concludes that more detailed soils information than that contained in the [~~Internet~~
28 ~~soil survey of soil data and information produced by the National Cooperative Soil Survey]~~ **Web**
29 **Soil Survey** operated by the NRCS [~~of the USDA]~~ as of January 2, 2012, would assist a county to
30 make a better determination of whether land qualifies as agricultural land, the person must
31 request that the department arrange for an assessment of the capability of the land by a
32 professional soil classifier who is chosen by the person, using the process described in OAR 660-
33 033-0045.

34 (c) This section and OAR 660-033-0045 apply to:

1 (A) A change to the designation of land planned and zoned for exclusive farm use, forest use or
2 mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is
3 not agricultural land; and

4 (B) Excepting land use decisions under section (7) of this rule, any other proposed land use
5 decision in which more detailed data is used to demonstrate that land planned and zoned for
6 exclusive farm use does not meet the definition of agricultural land under OAR 660-033-
7 0020(1)(a)(A).

8 (d) This section and OAR 660-033-0045 implement [~~Oregon Laws 2010, chapter 44, section~~
9 ~~4~~]**ORS 215.211**, effective on October 1, 2011. After this date, only those soils assessments
10 certified by the department under section (9) of this rule may be considered by local
11 governments in land use proceedings described in subsection (c) of this section. However, a local
12 government may consider soils assessments that have been completed and submitted prior to
13 October 1, 2011.

14 (e) This section and OAR 660-033-0045 authorize a person to obtain additional information for
15 use in the determination of whether land qualifies as agricultural land, but do not otherwise affect
16 the process by which a county determines whether land qualifies as agricultural land as defined
17 by Goal 3 and OAR 660-033-0020.

18 (6) Any county that adopted marginal lands provisions before January 1, 1993, may continue to
19 designate lands as “marginal lands” according to those provisions and criteria in *former* ORS
20 197.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to 215.750
21 to lands zoned for exclusive farm use.

22 (7)(a) For the purposes of approving a land use application on high-value farmland under ORS
23 215.705, the county may change the soil class, soil rating or other soil designation of a specific
24 lot or parcel if the property owner:

25 (A) Submits a statement of agreement from the NRCS that the soil class, soil rating or other soil
26 designation should be adjusted based on new information; or

27 (B) Submits a report from a soils scientist whose credentials are acceptable to the Oregon
28 Department of Agriculture that the soil class, soil rating or other soil designation should be
29 changed; and

30 (C) Submits a statement from the Oregon Department of Agriculture that the Director of
31 Agriculture or the director’s designee has reviewed the report described in [~~subsection~~
32 ~~(7)~~]**paragraph (a)(B)** of this section and finds the analysis in the report to be soundly and
33 scientifically based.

1 (b) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are
2 those of the NRCS [~~Internet~~]Web [s]Soil [s]Survey for that class, rating or designation before
3 November 4, 1993, except for changes made pursuant to subsection (a) of this section.

4 (8) For the purposes of approving a land use application on high-value farmland under OAR
5 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other
6 soil designations used in or made pursuant to this definition are those of the NRCS
7 [~~Internet~~] Web Soil [s]Survey as of January 2, 2012 for that class, rating or designation.

8 Stat. Auth.: ORS 197.040

9 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700 -
10 215.710

11 Hist.: LCDD 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD
12 3-2008, f. & cert. ef. 4-18-08; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 10-2011; LCDD 7-
13 2012, f. & cert. ef. 2-14-12

14

15 **660-033-0130**

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

17 The following standards apply to uses listed in OAR 660-033-0120 where the corresponding
18 section number is shown on the chart for a specific use under consideration. Where no numerical
19 reference is indicated on the chart, this division does not specify any minimum review or
20 approval criteria. Counties may include procedures and conditions in addition to those listed in
21 the chart as authorized by law:

22 (1) A dwelling on farmland may be considered customarily provided in conjunction with farm
23 use if it meets the requirements of OAR 660-033-0135.

24 (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of
25 structures with a total design capacity of greater than 100 people, shall be approved in
26 connection with the use within three miles of an urban growth boundary, unless an exception is
27 approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is
28 described in a master plan adopted under the provisions of OAR chapter 660, division 34.

29 (b) Any enclosed structures or group of enclosed structures described in subsection (a) within a
30 tract must be separated by at least one-half mile. For purposes of this section, “tract” means a
31 tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

32 (c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded
33 on the same tract, subject to other requirements of law, but enclosed existing structures within a
34 farm use zone within three miles of an urban growth boundary may not be expanded beyond the
35 requirements of this rule.

36 (3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

- 1 (A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired
2 and owned continuously by the present owner as defined in subsection (3)(g) of this rule:
- 3 (i) Since prior to January 1, 1985; or
- 4 (ii) By devise or by intestate succession from a person who acquired and had owned
5 continuously the lot or parcel since prior to January 1, 1985.
- 6 (B) The tract on which the dwelling will be sited does not include a dwelling;
- 7 (C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4,
8 1993, no dwelling exists on another lot or parcel that was part of that tract;
- 9 (D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the
10 acknowledged comprehensive plan and land use regulations and other provisions of law;
- 11 (E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as
12 provided in subsections (3)(c) and (d) of this rule; and
- 13 (F) When the lot or parcel on which the dwelling will be sited lies within an area designated in
14 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is
15 consistent with the limitations on density upon which the acknowledged comprehensive plan and
16 land use regulations intended to protect the habitat are based.
- 17 (b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining
18 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
- 19 (c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling
20 may be sited on high-value farmland if:
- 21 (A) It meets the other requirements of subsections (3)(a) and (b) of this rule;
- 22 (B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);
- 23 (C) A hearings officer of a county determines that:
- 24 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with
25 other land, due to extraordinary circumstances inherent in the land or its physical setting that do
26 not apply generally to other land in the vicinity. For the purposes of this section, this criterion
27 asks whether the subject lot or parcel can be physically put to farm use without undue hardship
28 or difficulty because of extraordinary circumstances inherent in the land or its physical setting.
29 Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel
30 cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent
31 in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads,
32 railroad or utility lines or other similar natural or physical barriers that by themselves or in
33 combination separate the subject lot or parcel from adjacent agricultural land and prevent it from

- 1 being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot
2 or parcel that has been put to farm use despite the proximity of a natural barrier or since the
3 placement of a physical barrier shall be presumed manageable for farm use;
- 4 (ii) The dwelling will comply with the provisions of ORS 215.296(1); and
- 5 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the area
6 by applying the standards set forth in paragraph (4)(a)(D) of this rule; and
- 7 (D) A local government shall provide notice of all applications for dwellings allowed under
8 subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided
9 in accordance with the governing body's land use regulations but shall be mailed at least 20
10 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of
11 this rule.
- 12 (d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family
13 dwelling may be sited on high-value farmland if:
- 14 (A) It meets the other requirements of subsections (3)(a) and (b) of this rule;
- 15 (B) The tract on which the dwelling will be sited is:
- 16 (i) Identified in OAR 660-033-0020(8)(c) or (d);
- 17 (ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and
- 18 (iii) Twenty-one acres or less in size; and
- 19 (C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21
20 acres, and at least two such tracts had dwellings on January 1, 1993; or
- 21 (D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that
22 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-
23 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an
24 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
- 25 (E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are
26 smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter
27 mile of the center of the subject tract and on the same side of the public road that provides access
28 to the subject tract. The governing body of a county must interpret the center of the subject tract
29 as the geographic center of the flaglot if the applicant makes a written request for that
30 interpretation and that interpretation does not cause the center to be located outside the flaglot.
31 Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject
32 tract abuts an urban growth boundary;

- 1 (i) "flaglot" means a tract containing a narrow strip or panhandle of land providing access from
2 the public road to the rest of the tract.
- 3 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines
4 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to
5 the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.
- 6 (e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in
7 compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS
8 chapter 215, a county may apply the standards for siting a dwelling under either section (3) of
9 this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1,
10 1993;
- 11 (f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling
12 allowed under section (3) of this rule in any area where the county determines that approval of
13 the dwelling would:
- 14 (A) Exceed the facilities and service capabilities of the area;
- 15 (B) Materially alter the stability of the overall land use pattern of the area; or
- 16 (C) Create conditions or circumstances that the county determines would be contrary to the
17 purposes or intent of its acknowledged comprehensive plan or land use regulations.
- 18 (g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son,
19 daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-
20 law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent
21 or grandchild of the owner or a business entity owned by any one or a combination of these
22 family members;
- 23 (h) The county assessor shall be notified that the governing body intends to allow the dwelling.
- 24 (i) When a local government approves an application for a single-family dwelling under section
25 (3) of this rule, the application may be transferred by a person who has qualified under section
26 (3) of this rule to any other person after the effective date of the land use decision.
- 27 (4) A single-family residential dwelling not provided in conjunction with farm use requires
28 approval of the governing body or its designate in any farmland area zoned for exclusive farm
29 use:
- 30 (a) In the Willamette Valley, the use may be approved if:
- 31 (A) The dwelling or activities associated with the dwelling will not force a significant change in
32 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted
33 to farm or forest use;

- 1 (B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV
2 through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II
3 soils;
- 4 (C) The dwelling will be sited on a lot or parcel created before January 1, 1993;
- 5 (D) The dwelling will not materially alter the stability of the overall land use pattern of the area.
6 In determining whether a proposed nonfarm dwelling will alter the stability of the land use
7 pattern in the area, a county shall consider the cumulative impact of possible new nonfarm
8 dwellings and parcels on other lots or parcels in the area similarly situated. To address this
9 standard, the county shall:
- 10 (i) Identify a study area for the cumulative impacts analysis. The study area shall include at least
11 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural
12 area based on topography, soil types, land use pattern, or the type of farm or ranch operations or
13 practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the
14 study area, its boundaries, the location of the subject parcel within this area, why the selected
15 area is representative of the land use pattern surrounding the subject parcel and is adequate to
16 conduct the analysis required by this standard. Lands zoned for rural residential or other urban or
17 nonresource uses shall not be included in the study area;
- 18 (ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops,
19 pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm,
20 hardship, etc.), and the dwelling development trends since 1993. Determine the potential number
21 of nonfarm/lot-of-record dwellings that could be approved under subsection[s](3)(a) and section
22 (4) of this rule, including identification of predominant soil classifications, the parcels created
23 prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to
24 create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the
25 existing land use pattern of the study area including the distribution and arrangement of existing
26 uses and the land use pattern that could result from approval of the possible nonfarm dwellings
27 under this subparagraph; and
- 28 (iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with
29 existing nonfarm dwellings will materially alter the stability of the land use pattern in the area.
30 The stability of the land use pattern will be materially altered if the cumulative effect of existing
31 and potential nonfarm dwellings will make it more difficult for the existing types of farms in the
32 area to continue operation due to diminished opportunities to expand, purchase or lease
33 farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a
34 manner that will destabilize the overall character of the study area; and
- 35 (E) The dwelling complies with such other conditions as the governing body or its designate
36 considers necessary.
- 37 (b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(~~117~~), the use
38 may be approved if:

1 (A) The dwelling or activities associated with the dwelling will not force a significant change in
2 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted
3 to farm or forest use;

4 (B) The dwelling will not materially alter the stability of the overall land use pattern of the area.
5 In determining whether a proposed nonfarm dwelling will alter the stability of the land use
6 pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other
7 lots or parcels in the area similarly situated and whether creation of the parcel will lead to
8 creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the
9 standards set forth in paragraph (4)(a)(D) of this rule; and

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

12 (c) In counties located outside the Willamette Valley require findings that:

13 (A) The dwelling or activities associated with the dwelling will not force a significant change in
14 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted
15 to farm or forest use;

16 (B)(i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is
17 generally unsuitable land for the production of farm crops and livestock or merchantable tree
18 species, considering the terrain, adverse soil or land conditions, drainage and flooding,
19 vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be
20 considered unsuitable solely because of size or location if it can reasonably be put to farm or
21 forest use in conjunction with other land; and

22 (ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is
23 too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be
24 sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or
25 parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a
26 lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of
27 Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just
28 because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it
29 is not suitable for another farm use; or

30 (iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally
31 unsuitable land for the production of merchantable tree species recognized by the Forest
32 Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding,
33 vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is
34 not "generally unsuitable" simply because it is too small to be managed for forest production
35 profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or
36 otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or
37 parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed
38 predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in
39 Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of

1 wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible
2 and not seriously interfere with forest uses on surrounding land it must not force a significant
3 change in forest practices or significantly increase the cost of those practices on the surrounding
4 land;

5 (C) The dwelling will not materially alter the stability of the overall land use pattern of the area.
6 In determining whether a proposed nonfarm dwelling will alter the stability of the land use
7 pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other
8 lots or parcels in the area similarly situated by applying the standards set forth in paragraph
9 (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm
10 dwelling, a county shall consider whether creation of the parcel will lead to creation of other
11 nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in
12 paragraph (4)(a)(D) of this rule; and

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

15 (d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this
16 rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of
17 section (4) of this rule;

18 (e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the
19 standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned
20 exclusive farm use that are not designated marginal or high-value farmland.

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

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

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

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

34 (7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft
35 emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests,
36 and by commercial aviation activities in connection with agricultural operations. No aircraft may
37 be based on a personal-use airport other than those owned or controlled by the owner of the

1 airstrip. Exceptions to the activities [~~permitted~~] **allowed** under this definition may be granted
2 through waiver action by the Oregon Department of Aviation in specific instances. A personal-
3 use airport lawfully existing as of September 13, 1975, shall continue to be
4 [~~permitted~~] **allowed** subject to any applicable rules of the Oregon Department of Aviation.

5 [~~(8)(a) A lawfully established dwelling is a single family dwelling which:~~

6 (~~A) Has intact exterior walls and roof structure;~~

7 (~~B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a
8 sanitary waste disposal system;~~

9 (~~C) Has interior wiring for interior lights; and~~

10 (~~D) Has a heating system.~~

11 (~~b) In the case of replacement, the dwelling to be replaced shall be:~~

12 (~~A) Removed, demolished, or converted to an allowable nonresidential use within three months
13 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part
14 of the same lot or parcel. A dwelling established under this section shall comply with all
15 applicable siting standards. However, the standards shall not be applied in a manner that
16 prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the
17 lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall
18 execute and record in the deed records for the county where the property is located a deed
19 restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction
20 imposed shall be irrevocable unless a statement of release is placed in the deed records for the
21 county. The release shall be signed by the county or its designee and state that the provisions of
22 this section regarding replacement dwellings have changed to allow the siting of another
23 dwelling. The county planning director or the director's designee shall maintain a record of the
24 lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this
25 section, including a copy of the deed restrictions and release statements filed under this section;
26 and~~

27 (~~B) For which the applicant has requested a deferred replacement permit, is removed or
28 demolished within three months after the deferred replacement permit is issued. A deferred
29 replacement permit allows construction of the replacement dwelling at any time. If, however, the
30 established dwelling is not removed or demolished within three months after the deferred
31 replacement permit is issued, the permit becomes void. The replacement dwelling must comply
32 with applicable building codes, plumbing codes, sanitation codes and other requirements relating
33 to health and safety or to siting at the time of construction. A deferred replacement permit may
34 not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the
35 applicant.~~

36 (~~c) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may
37 only be replaced by a manufactured dwelling.]~~

1
2 (8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS
3 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the permitting
4 authority finds to its satisfaction, based on substantial evidence that:

5
6 (A) The dwelling to be altered, restored or replaced has, or formerly had:

7
8 (i) Intact exterior walls and roof structure;

9
10 (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a
11 sanitary waste disposal system;

12
13 (iii) Interior wiring for interior lights; and

14
15 (iv) A heating system; and

16
17 (B) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous
18 five property tax years, or, if the dwelling has existed for less than five years, from that time; and

19
20 (C) Notwithstanding paragraph (B), if the value of the dwelling was eliminated as a result of
21 either of the following circumstances, the dwelling was assessed as a dwelling until such time as
22 the value of the dwelling was eliminated:

23
24 (i) The destruction (*i.e.* by fire or natural hazard), or demolition in the case of restoration, of the
25 dwelling; or

26
27 (ii) The applicant establishes to the satisfaction of the permitting authority that the dwelling was
28 improperly removed from the tax roll by a person other than the current owner. "Improperly
29 removed" means that the dwelling has taxable value in its present state, or had taxable value
30 when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard,
31 and the county stopped assessing the dwelling even though the current or former owner did not
32 request removal of the dwelling from the tax roll.

33
34 (b) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or
35 215.283(1)(p):

36
37 (A) The dwelling to be replaced must be removed, demolished or converted to an allowable
38 nonresidential use:

39
40 (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to
41 ORS 455.055; or

42
43 (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state
44 of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or
45 before a date set by the permitting authority that is not less than 90 days after the replacement
46 permit is issued; and

1
2 (iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant
3 must obtain approval from the permitting authority for the new location.

4
5 (B) The applicant must cause to be recorded in the deed records of the county a statement that
6 the dwelling to be replaced has been removed, demolished or converted.

7
8 (C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or
9 parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be
10 recorded in the deed records of the county in which the property is located a deed restriction
11 prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction
12 imposed is irrevocable unless the county planning director, or the director's designee, places a
13 statement of release in the deed records of the county to the effect that the provisions of 2013
14 Oregon Laws, chapter 462, section 2 and either ORS 215.213 or 215.283 regarding replacement
15 dwellings have changed to allow the lawful siting of another dwelling.

16
17 (D) The county planning director, or the director's designee, shall maintain a record of:

18
19 (i) The lots and parcels for which dwellings to be replaced have been removed, demolished or
20 converted; and

21
22 (ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection (b)
23 of this section, including a copy of the deed restrictions filed under paragraph (B) of this
24 subsection.

25
26 (c) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with
27 applicable building codes, plumbing codes, sanitation codes and other requirements relating to
28 health and safety or to siting at the time of construction. However, the standards may not be
29 applied in a manner that prohibits the siting of the replacement dwelling.

30
31 (A) The siting standards of paragraph (B) of this subsection apply when a dwelling under ORS
32 215.213(1)(q) or 215.213(1)(p) qualifies for replacement because the dwelling:

33
34 (i) Formerly had the features described in paragraph (a)(A) of this section;

35
36 (ii) Was removed from the tax roll as described in paragraph (C) of subsection (a); or

37
38 (iii) Had a permit that expired as described under paragraph (d)(C) of this section.

39
40 (B) The replacement dwelling must be sited on the same lot or parcel:

41
42 (i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property
43 line, forest boundary or another natural boundary of the lot or parcel; and

44
45 (ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the
46 area, within a concentration or cluster of structures or within 500 yards of another structure.

- 1
2 (C) Replacement dwellings that currently have the features described in paragraph (a)(A) of this
3 subsection and that have been on the tax roll as described in paragraph (B) of subsection (a) may
4 be sited on any part of the same lot or parcel.
5
- 6 (d) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):
7
8 (A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
9
10 (i) Formerly had the features described in paragraph (a)(A) of this section; or
11
12 (ii) Was removed from the tax roll as described in paragraph (a)(C) of this section;
13
14 (B) Is not subject to the time to act limits of ORS 215.417; and
15
16 (C) If expired before January 1, 2014, shall be deemed to be valid and effective if, before
17 January 1, 2015, the holder of the permit:
18
19 (i) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be
20 replaced; and
21
22 (ii) Causes to be recorded in the deed records of the county a statement that the dwelling to be
23 replaced has been removed, demolished or converted.
- 24 (9)(a) To qualify **for a relative farm help dwelling**, a dwelling shall be occupied by relatives
25 whose assistance in the management and farm use of the existing commercial farming operation
26 is required by the farm operator. The farm operator shall continue to play the predominant role in
27 the management and farm use of the farm. A farm operator is a person who operates a farm,
28 doing the work and making the day-to-day decisions about such things as planting, harvesting,
29 feeding and marketing.
- 30 (b) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under
31 215.780, if the owner of a dwelling described in [~~OAR 660-033-0130(9)~~]**this section** obtains
32 construction financing or other financing secured by the dwelling and the secured party
33 forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in
34 ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new
35 parcel. Prior conditions of approval for the subject land and dwelling remain in effect.
- 36 (c) For the purpose of [~~OAR 660-033-0130(9)~~]**subsection**(b), "foreclosure" means only those
37 foreclosures that are exempt from partition under ORS 92.010(9)(a).
- 38 (10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an
39 existing building allowed under this provision is a temporary use for the term of the hardship
40 suffered by the existing resident or relative as defined in ORS chapter 215. The manufactured
41 dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if
42 that disposal system is adequate to accommodate the additional dwelling. If the manufactured

1 home will use a public sanitary sewer system, such condition will not be required. Governing
2 bodies shall review the permit authorizing such manufactured homes every two years. Within
3 three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall
4 be removed or demolished or, in the case of an existing building, the building shall be removed,
5 demolished or returned to an allowed nonresidential use. A temporary residence approved under
6 this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).
7 Department of Environmental Quality review and removal requirements also apply. As used in
8 this section "hardship" means a medical hardship or hardship for the care of an aged or infirm
9 person or persons.

10 (11) Subject to the issuance of a license, permit or other approval by the Department of
11 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in
12 compliance with rules adopted under **ORS** 468B.095, and with the requirements of **ORS**
13 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural
14 process or industrial process water or biosolids for agricultural, horticultural or silvicultural
15 production, or for irrigation in connection with a use allowed in an exclusive farm use zones
16 under this division is allowed.

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

19 (13) Roads, highways and other transportation facilities, and improvements not otherwise
20 allowed under this rule may be established, subject to the adoption of the governing body or its
21 designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with
22 which the facility or improvement does not comply. In addition, transportation uses and
23 improvements may be authorized under conditions and standards as set forth in OAR 660-012-
24 0035 and 660-012-0065.

25 (14) Home occupations and the parking of vehicles may be authorized. Home occupations shall
26 be operated substantially in the dwelling or other buildings normally associated with uses
27 permitted in the zone in which the property is located. A home occupation shall be operated by a
28 resident or employee of a resident of the property on which the business is located, and shall
29 employ on the site no more than five full-time or part-time persons.

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

34 (16)(a) A utility facility **established under ORS 215.213(1)(c) or 215.283(1)(c)** is necessary for
35 public service if the facility must be sited in an exclusive farm use zone in order to provide the
36 service. To demonstrate that a utility facility is necessary, an applicant must:

37 **(A)** [s]Show that reasonable alternatives have been considered and that the facility must be sited
38 in an exclusive farm use zone due to one or more of the following factors:

- 1 ~~[(A)]~~**(i)** Technical and engineering feasibility;
- 2 ~~[(B)]~~**(ii)** The proposed facility is locationally-dependent. A utility facility is locationally-
3 dependent if it must cross land in one or more areas zoned for exclusive farm use in order to
4 achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied
5 on other lands;
- 6 ~~[(C)]~~**(iii)** Lack of available urban and nonresource lands;
- 7 ~~[(D)]~~**(iv)** Availability of existing rights of way;
- 8 ~~[(E)]~~**(v)** Public health and safety; and
- 9 ~~[(F)]~~**(vi)** Other requirements of state and federal agencies.
- 10 ~~[(b)]~~**(B)** Costs associated with any of the factors listed in ~~[subsection (16)(a)]~~**paragraph (A)** of
11 this ~~[rule]~~**subsection** may be considered, but cost alone may not be the only consideration in
12 determining that a utility facility is necessary for public service. Land costs shall not be included
13 when considering alternative locations for substantially similar utility facilities and the siting of
14 utility facilities that are not substantially similar.
- 15 ~~[(c)]~~**(C)** The owner of a utility facility approved under this section shall be responsible for
16 restoring, as nearly as possible, to its former condition any agricultural land and associated
17 improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or
18 reconstruction of the facility. Nothing in this ~~[subsection]~~**paragraph** shall prevent the owner of
19 the utility facility from requiring a bond or other security from a contractor or otherwise
20 imposing on a contractor the responsibility for restoration.
- 21 ~~[(d)]~~**(D)** The governing body of the county or its designee shall impose clear and objective
22 conditions on an application for utility facility siting to mitigate and minimize the impacts of the
23 proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a
24 significant change in accepted farm practices or a significant increase in the cost of farm
25 practices on surrounding farmlands.
- 26 ~~[(e)]~~**(E)** Utility facilities necessary for public service may include on-site and off-site facilities
27 for temporary workforce housing for workers constructing a utility facility. Such facilities must
28 be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
29 when project construction is complete. Off-site facilities allowed under this paragraph are subject
30 to **OAR** 660-033-0130(5). Temporary workforce housing facilities not included in the initial
31 approval may be considered through a minor amendment request. A minor amendment request
32 shall have no effect on the original approval.
- 33 ~~[(f)]~~**(F)** In addition to the provisions of ~~[subsections]~~**paragraphs** ~~[(16)(a)]~~**(A)** to ~~[(d)]~~**D** of this
34 ~~[rule]~~**subsection**, the establishment or extension of a sewer system as defined by OAR 660-011-
35 0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of **OAR** 660-011-
36 0060.

1 [~~(g)~~] **(G)** The provisions of [~~subsections~~] **paragraphs** [~~(16)(a)](A)~~ to [~~(d)] D~~ of this
2 ~~rule~~ **subsection** do not apply to interstate natural gas pipelines and associated facilities
3 authorized by and subject to regulation by the Federal Energy Regulatory Commission.

4 **(b) An associated transmission line is necessary for public service and shall be approved by**
5 **the governing body of a county or its designee if an applicant for approval under ORS**
6 **215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its**
7 **designee that the associated transmission line meets either the requirements of paragraph**
8 **(A) of this subsection or the requirements of paragraph (B) of this subsection.**

9 **(A) An applicant demonstrates that the entire route of the associated transmission line**
10 **meets at least one of the following requirements:**

11
12 **(i) The associated transmission line is not located on high-value farmland, as defined in**
13 **ORS 195.300, or on arable land;**

14 **(ii) The associated transmission line is co-located with an existing transmission line;**

15
16 **(iii) The associated transmission line parallels an existing transmission line corridor with**
17 **the minimum separation necessary for safety; or**

18
19 **(iv) The associated transmission line is located within an existing right of way for a linear**
20 **facility, such as a transmission line, road or railroad, that is located above the surface of**
21 **the ground.**

22 **(B) After an evaluation of reasonable alternatives, an applicant demonstrates that the**
23 **entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of**
24 **this subsection, two or more of the following criteria:**

25
26 **(i) Technical and engineering feasibility;**

27
28 **(ii) The associated transmission line is locationally-dependent because the associated**
29 **transmission line must cross high-value farmland, as defined in ORS 195.300, or arable**
30 **land to achieve a reasonably direct route or to meet unique geographical needs that cannot**
31 **be satisfied on other lands;**

32
33 **(iii) Lack of an available existing right of way for a linear facility, such as a transmission**
34 **line, road or railroad, that is located above the surface of the ground;**

35 **(iv) Public health and safety; or**

36 **(v) Other requirements of state or federal agencies.**

37
38 **(C) As pertains to paragraph (B), the applicant shall present findings to the governing body**
39 **of the county or its designee on how the applicant will mitigate and minimize the impacts, if**
40 **any, of the associated transmission line on surrounding lands devoted to farm use in order**

1 **to prevent a significant change in accepted farm practices or a significant increase in the**
2 **cost of farm practices on the surrounding farmland.**

3
4 **(D) The governing body of a county or its designee may consider costs associated with**
5 **any of the factors listed in paragraph (B) of this subsection, but consideration of cost may**
6 **not be the only consideration in determining whether the associated transmission line is**
7 **necessary for public service.**

8 (17) A power generation facility may include on-site and off-site facilities for temporary
9 workforce housing for workers constructing a power generation facility. Such facilities must be
10 removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
11 when project construction is complete. Temporary workforce housing facilities not included in
12 the initial approval may be considered through a minor amendment request. A minor amendment
13 request shall be subject to **OAR** 660-033-0130(5) and shall have no effect on the original
14 approval. Permanent features of a power generation facility shall not preclude more than 12 acres
15 from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS
16 197.732 and OAR chapter 660, division 4.

17 (18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or
18 expanded on the same tract, subject to other requirements of law. An existing golf course may be
19 expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be
20 expanded to contain more than 36 total holes.

21
22 (b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or
23 replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or
24 regulation, a use formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect
25 before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be
26 expanded subject to:

27
28 (A) The requirements of subsection (c) of this section; and

29
30 (B) Conditional approval of the county in the manner provided in ORS 215.296.

31
32 (c) A nonconforming use described in subsection (b) of this section may be expanded under this
33 section if:

34
35 (A) The use was established on or before January 1, 2009; and

36
37 (B) The expansion occurs on:

38
39 (i) The tax lot on which the use was established on or before January 1, 2009; or

40
41 (ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and
42 that was owned by the applicant on January 1, 2009.

1 (19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not
2 be allowed within three miles of an urban growth boundary unless an exception is approved
3 pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to
4 overnight temporary use for vacation, recreational or emergency purposes, but not for residential
5 purposes and is established on a site or is contiguous to lands with a park or other outdoor natural
6 amenity that is accessible for recreational use by the occupants of the campground. A
7 campground shall be designed and integrated into the rural agricultural and forest environment in
8 a manner that protects the natural amenities of the site and provides buffers of existing native
9 trees and vegetation or other natural features between campsites. Campgrounds authorized by
10 this rule shall not include intensively developed recreational uses such as swimming pools, tennis
11 courts, retail stores or gas stations. Overnight temporary use in the same campground by a
12 camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month
13 period.

14
15 (b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate
16 sewer, water or electric service hook-ups shall not be provided to individual camp sites except
17 that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

18
19 (c) Subject to the approval of the county governing body or its designee, a private campground
20 may provide yurts for overnight camping. No more than one-third or a maximum of 10
21 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or
22 on a wood floor with no permanent foundation. Upon request of a county governing body, the
23 commission may provide by rule for an increase in the number of yurts allowed on all or a
24 portion of the campgrounds in a county if the commission determines that the increase will
25 comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a
26 round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage
27 disposal hook-up or internal cooking appliance.

28
29 (20) "Golf Course" means an area of land with highly maintained natural turf laid out for the
30 game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green,
31 and often one or more natural or artificial hazards. A "golf course" for purposes of ORS
32 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or
33 a combination nine and 18 hole regulation golf course consistent with the following:

34
35 (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres
36 of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

37
38 (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres
39 of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

40
41 (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf
42 course" means a golf course or golf course-like development that does not meet the definition of
43 golf course in this rule, including but not limited to executive golf courses, Par three golf
44 courses, pitch and putt golf courses, miniature golf courses and driving ranges;

45

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

3
4 (A) An accessory use to a golf course is a facility or improvement that is incidental to the
5 operation of the golf course and is either necessary for the operation and maintenance of the golf
6 course or that provides goods or services customarily provided to golfers at a golf course. An
7 accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a
8 golf course may include: Parking; maintenance buildings; cart storage and repair; practice range
9 or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro
10 shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf
11 tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to
12 golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations
13 oriented to the non-golfing public; or housing;

14
15 (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of
16 persons and their guests who patronize the golf course to golf. An accessory use that provides
17 commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate
18 buildings; and

19
20 (C) Accessory uses may include one or more food and beverage service facilities in addition to
21 food and beverage service facilities located in a clubhouse. Food and beverage service facilities
22 must be part of and incidental to the operation of the golf course and must be limited in size and
23 orientation on the site to serve only the needs of persons who patronize the golf course and their
24 guests. Accessory food and beverage service facilities shall not be designed for or include
25 structures for banquets, public gatherings or public entertainment.

26
27 (21) "Living History Museum" means a facility designed to depict and interpret everyday life
28 and culture of some specific historic period using authentic buildings, tools, equipment and
29 people to simulate past activities and events. As used in this rule, a living history museum shall
30 be related to resource based activities and shall be owned and operated by a governmental
31 agency or a local historical society. A living history museum may include limited commercial
32 activities and facilities that are directly related to the use and enjoyment of the museum and
33 located within authentic buildings of the depicted historic period or the museum administration
34 building, if areas other than an exclusive farm use zone cannot accommodate the museum and
35 related activities or if the museum administration buildings and parking lot are located within
36 one quarter mile of an urban growth boundary. "Local historical society" means the local
37 historical society, recognized as such by the county governing body and organized under ORS
38 chapter 65.

39
40 (22) A power generation facility may include on-site and off-site facilities for temporary
41 workforce housing for workers constructing a power generation facility. Such facilities must be
42 removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
43 when project construction is complete. Temporary workforce housing facilities not included in
44 the initial approval may be considered through a minor amendment request. A minor amendment
45 request shall be subject to **OAR** 660-033-0130(5) and shall have no effect on the original
46 approval. Permanent features of a power generation facility shall not preclude more than 20 acres

1 from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS
2 197.732 and OAR chapter 660, division 4.

3
4 (23) A farm stand may be approved if:

5
6 (a) The structures are designed and used for sale of farm crops and livestock grown on the farm
7 operation, or grown on the farm operation and other farm operations in the local agricultural
8 area, including the sale of retail incidental items and fee-based activity to promote the sale of
9 farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees
10 from promotional activity do not make up more than 25 percent of the total annual sales of the
11 farm stand; and

12
13 (b) The farm stand does not include structures designed for occupancy as a residence or for
14 activities other than the sale of farm crops and livestock and does not include structures for
15 banquets, public gatherings or public entertainment.

16
17 (c) As used in this section, "farm crops or livestock" includes both fresh and processed farm
18 crops and livestock grown on the farm operation, or grown on the farm operation and other farm
19 operations in the local agricultural area. As used in this subsection, "processed crops and
20 livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and
21 livestock that have been processed and converted into another product but not prepared food
22 items.

23
24 (d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in
25 Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand
26 is located.

27
28 (24) Accessory farm dwellings as defined by subsection [~~24~~](e) of this section may be
29 considered customarily provided in conjunction with farm use if:

30
31 (a) Each accessory farm dwelling meets all the following requirements:

32
33 (A) The accessory farm dwelling will be occupied by a person or persons who will be principally
34 engaged in the farm use of the land and whose seasonal or year-round assistance in the
35 management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or
36 will be required by the farm operator;

37
38 (B) The accessory farm dwelling will be located:

39
40 (i) On the same lot or parcel as the primary farm dwelling; [~~or~~]

41
42 (ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory
43 farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and
44 parcels in the tract; [~~or~~]

1 (iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory
2 farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed
3 restriction shall be filed with the county clerk and require the manufactured dwelling to be
4 removed when the lot or parcel is conveyed to another party. The manufactured dwelling may
5 remain if it is reapproved under these rules; [Ø]

6
7 (iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit
8 residential structures allowed by the applicable state building code or similar types of
9 farmworker housing as that existing on farm or ranch operations registered with the Department
10 of Consumer and Business Services, Oregon Occupational Safety and Health Division under
11 ORS 658.750. A county shall require all accessory farm dwellings approved under this
12 subparagraph to be removed, demolished or converted to a nonresidential use when farmworker
13 housing is no longer required. "Farmworker housing" shall have the meaning set forth
14 in ORS 215.278 and not the meaning in ORS 315.163; or

15
16 (v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory
17 farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size
18 under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in
19 OAR 660-033-0135(3) or (4), whichever is applicable; and

20
21 (C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm
22 operator that is vacant or currently occupied by persons not working on the subject farm or ranch
23 and that could reasonably be used as an accessory farm dwelling.

24
25 (b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to
26 which the proposed dwelling would be accessory, meets one of the following:

27
28 (A) On land not identified as high-value farmland, the primary farm dwelling is located on a
29 farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on
30 which, in each of the last two years or three of the last five years or in an average of three of the
31 last five years, the farm operator earned the lower of the following:

32
33 (i) At least \$40,000 in gross annual income from the sale of farm products. In determining the
34 gross income, the cost of purchased livestock shall be deducted from the total gross income
35 attributed to the tract; or

36
37 (ii) Gross annual income of at least the midpoint of the median income range of gross annual
38 sales for farms in the county with the gross annual sales of \$10,000 or more according to the
39 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased
40 livestock shall be deducted from the total gross income attributed to the tract; [Ø]

41
42 (B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or
43 ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which
44 the farm operator earned at least \$80,000 in gross annual income from the sale of farm products
45 in each of the last two years or three of the last five years or in an average of three of the last five

1 years. In determining the gross income, the cost of purchased livestock shall be deducted from
2 the total gross income attributed to the tract; [Ø€]

3
4 (C) On land not identified as high-value farmland in counties that have adopted marginal lands
5 provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm
6 dwelling is located on a farm or ranch operation that meets the standards and requirements
7 of ORS 215.213(2)(a) or (b) or [~~OAR 660-033-0130(24)(b)~~]**paragraph (A) of this subsection**;
8 or

9
10 (D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

11
12 (i) The building permits, if required, have been issued and construction has begun or been
13 completed for the buildings and animal waste facilities required for a commercial dairy farm;

14
15 (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding
16 operation" under ORS 468B.050 and 468B.200 to 468B.230; and

17
18 (iii) A Producer License for the sale of dairy products under ORS 621.072.

19
20 (c) The governing body of a county shall not approve any proposed division of a lot or parcel for
21 an accessory farm dwelling approved pursuant to this section. If it is determined that an
22 accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be
23 created consistent with the minimum parcel size requirements in OAR 660-033-0100.

24
25 (d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy
26 the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4)
27 of this rule.

28
29 (e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of
30 residential structures allowed by the applicable state building code.

31
32 (25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991
33 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within
34 one-half mile of a community college. An "armed forces reserve center" includes an armory or
35 National Guard support facility.

36
37 (26) Buildings and facilities **associated with a site for the takeoff and landing of model**
38 **aircraft** shall not be more than 500 square feet in floor area or placed on a permanent foundation
39 unless the building or facility preexisted the use approved under this section. The site shall not
40 include an aggregate surface or hard surface area unless the surface preexisted the use approved
41 under this section. An owner of property used for the purpose authorized in this section may
42 charge a person operating the use on the property rent for the property. An operator may charge
43 users of the property a fee that does not exceed the operator's cost to maintain the property,
44 buildings and facilities. As used in this section, "model aircraft" means a small-scale version of
45 an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight
46 and is controlled by radio, lines or design by a person on the ground.

1
2 (27) Insect species shall not include any species under quarantine by the Oregon Department of
3 Agriculture or the United States Department of Agriculture. The county shall provide notice of
4 all applications under this section to the Oregon Department of Agriculture. Notice shall be
5 provided in accordance with the county's land use regulations but shall be mailed at least 20
6 calendar days prior to any administrative decision or initial public hearing on the application.
7

8 (28) ~~[The]~~A farm on which ~~[the]~~a processing facility is located must provide at least one-quarter
9 of the farm crops processed at the facility. **A farm may also be used for an establishment for**
10 **the slaughter, processing or selling of poultry or poultry products pursuant to ORS**
11 **603.038. [The] If a building is established or used for the processing facility or establishment,**
12 **the farm operator may not devote more than [shall not exceed] 10,000 square feet of floor**
13 **area to the processing facility or establishment,** exclusive of the floor area designated for
14 preparation, storage or other farm use~~[-or devote more than 10,000 square feet to the processing~~
15 ~~activities within another building supporting farm use].~~ A processing facility **or establishment**
16 **must[shall]** comply with all applicable siting standards but the standards ~~[shall]~~ **may** not be
17 applied in a manner that prohibits the siting of the processing facility **or establishment**. A
18 county ~~[shall]~~ **may** not approve any division of a lot or parcel that separates a processing
19 facility **or establishment** from the farm operation on which it is located.
20

21 (29)(a) Composting operations and facilities allowed on high-value farmland are limited to those
22 that are accepted farming practices in conjunction with and auxiliary to farm use on the subject
23 tract, and that meet the performance and permitting requirements of the Department of
24 Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be
25 sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least
26 one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the
27 composting operation shall only be those required for the operation of the subject facility.
28

29 (b) Composting operations and facilities allowed on land not defined as high-value farmland
30 shall meet the performance and permitting requirements of the Department of Environmental
31 Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted
32 farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed
33 uses, while other composting operations are subject to the review standards of ORS 215.296.
34 Buildings and facilities used in conjunction with the composting operation shall only be those
35 required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at
36 least one unit (7.5 cubic yards) in size that are transported in one vehicle.
37

38 (30) The County governing body or its designate shall require as a condition of approval of a
39 single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest
40 zone, that the landowner for the dwelling sign and record in the deed records for the county a
41 document binding the landowner, and the landowner's successors in interest, prohibiting them
42 from pursuing a claim for relief or cause of action alleging injury from farming or forest
43 practices for which no action or claim is allowed under ORS 30.936 or 30.937.
44

45 (31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040,
46 whichever is applicable.

1
2 (32) Utility facility service lines are utility lines and accessory facilities or structures that end at
3 the point where the utility service is received by the customer and that are located on one or more
4 of the following:

5
6 (a) A public right of way;

7
8 (b) Land immediately adjacent to a public right of way, provided the written consent of all
9 adjacent property owners has been obtained; or

10
11 (c) The property to be served by the utility.

12
13 (33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer
14 persons that is not anticipated to continue for more than 120 hours in any three-month period is
15 not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division.
16 Agri-tourism and other commercial events or activities may not be permitted as mass gatherings
17 under ORS 215.213(11) and 215.283(4).

18
19 (34) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more
20 than 120 hours in any three-month planning period is subject to review by a county planning
21 commission under the provisions of ORS 433.763.

22
23 (35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-
24 0130(5), for the purpose of verifying the existence, continuity and nature of the business
25 described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to
26 the county and submit evidence including, but not limited to, sworn affidavits or other
27 documentary evidence that the business qualifies; and

28
29 (b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or
30 215.283(2)(y) may be altered, restored or replaced pursuant to ORS 215.130(5), (6) and (9).

31
32 (36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under
33 this section may provide services to veterans, including but not limited to emergency and
34 transitional shelter, preparation and service of meals, vocational and educational counseling and
35 referral to local, state or federal agencies providing medical, mental health, disability income
36 replacement and substance abuse services, only in a facility that is in existence on January 1,
37 2006. The services may not include direct delivery of medical, mental health, disability income
38 replacement or substance abuse services.

39
40 (37) For purposes of this rule a wind power generation facility includes, but is not limited to, the
41 following system components: all wind turbine towers and concrete pads, permanent
42 meteorological towers and wind measurement devices, electrical cable collection systems
43 connecting wind turbine towers with the relevant power substation, new or expanded private
44 roads (whether temporary or permanent) constructed to serve the wind power generation facility,
45 office and operation and maintenance buildings, temporary lay-down areas and all other
46 necessary appurtenances, including but not limited to on-site and off-site facilities for temporary

1 workforce housing for workers constructing a wind power generation facility. Such facilities
2 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute
3 or rule when project construction is complete. Temporary workforce housing facilities not
4 included in the initial approval may be considered through a minor amendment request filed after
5 a decision to approve a power generation facility. A minor amendment request shall be subject
6 to **OAR** 660-033-0130(5) and shall have no effect on the original approval. A proposal for a
7 wind power generation facility shall be subject to the following provisions:
8

9 (a) For high-value farmland soils described at ORS 195.300(10), the governing body or its
10 designate must find that all of the following are satisfied:
11

12 (A) Reasonable alternatives have been considered to show that siting the wind power generation
13 facility or component thereof on high-value farmland soils is necessary for the facility or
14 component to function properly or if a road system or turbine string must be placed on such soils
15 to achieve a reasonably direct route considering the following factors:
16

17 (i) Technical and engineering feasibility;
18

19 (ii) Availability of existing rights of way; and
20

21 (iii) The long term environmental, economic, social and energy consequences of siting the
22 facility or component on alternative sites, as determined under [~~OAR 660-033-~~
23 ~~0130(37)(a)~~]**paragraph** (B);
24

25 (B) The long-term environmental, economic, social and energy consequences resulting from the
26 wind power generation facility or any components thereof at the proposed site with measures
27 designed to reduce adverse impacts are not significantly more adverse than would typically result
28 from the same proposal being located on other agricultural lands that do not include high-value
29 farmland soils;
30

31 (C) Costs associated with any of the factors listed in [~~OAR 660-033-0130(37)(a)~~]**paragraph** (A)
32 may be considered, but costs alone may not be the only consideration in determining that siting
33 any component of a wind power generation facility on high-value farmland soils is necessary;
34

35 (D) The owner of a wind power generation facility approved under [~~OAR 660-033-~~
36 ~~0130(37)~~]**subsection** (a) shall be responsible for restoring, as nearly as possible, to its former
37 condition any agricultural land and associated improvements that are damaged or otherwise
38 disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this
39 subsection shall prevent the owner of the facility from requiring a bond or other security from a
40 contractor or otherwise imposing on a contractor the responsibility for restoration; and
41

42 (E) The criteria of [~~OAR 660-033-0130(37)~~]**subsection** (b) are satisfied.
43

44 (b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-
45 value farmland soils described at ORS 195.300(10), the governing body or its designate must
46 find that:

1
2 (A) The proposed wind power facility will not create unnecessary negative impacts on
3 agricultural operations conducted on the subject property. Negative impacts could include, but
4 are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in
5 such a way that creates small or isolated pieces of property that are more difficult to farm, and
6 placing wind farm components such as meteorological towers on lands in a manner that could
7 disrupt common and accepted farming practices;

8
9 (B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or
10 loss that could limit agricultural productivity on the subject property. This provision may be
11 satisfied by the submittal and county approval of a soil and erosion control plan prepared by an
12 adequately qualified individual, showing how unnecessary soil erosion will be avoided or
13 remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan
14 shall be attached to the decision as a condition of approval;

15
16 (C) Construction or maintenance activities will not result in unnecessary soil compaction that
17 reduces the productivity of soil for crop production. This provision may be satisfied by the
18 submittal and county approval of a plan prepared by an adequately qualified individual, showing
19 how unnecessary soil compaction will be avoided or remedied in a timely manner through deep
20 soil decompaction or other appropriate practices. The approved plan shall be attached to the
21 decision as a condition of approval; and

22
23 (D) Construction or maintenance activities will not result in the unabated introduction or spread
24 of noxious weeds and other undesirable weeds species. This provision may be satisfied by the
25 submittal and county approval of a weed control plan prepared by an adequately qualified
26 individual that includes a long-term maintenance agreement. The approved plan shall be attached
27 to the decision as a condition of approval.

28
29 (c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body
30 or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

31
32 (d) In the event that a wind power generation facility is proposed on a combination of arable and
33 nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria
34 of OAR 660-033-0130(37)(b) shall apply to the entire project.

35
36 (38) A proposal to site a photovoltaic solar power generation facility shall be subject to the
37 following definitions and provisions:

38
39 (a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently
40 cultivated, predominantly comprised of arable soils.

41
42 (b) "Arable soils" means soils that are suitable for cultivation as determined by the governing
43 body or its designate based on substantial evidence in the record of a local land use application,
44 but "arable soils" does not include high-value farmland soils described at ORS 195.300(10)
45 unless otherwise stated.

1 (c) “Nonarable land” means land in a tract that is predominantly not cultivated and
2 predominantly comprised of nonarable soils.

3
4 (d) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS
5 agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in
6 all cases. The governing body or its designate may determine other soils, including soils with a
7 past history of irrigation, to be nonarable based on substantial evidence in the record of a local
8 land use application.

9
10 (e) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of
11 equipment that converts sunlight into electricity and then stores, transfers, or both, that
12 electricity. This includes photovoltaic modules, mounting and solar tracking equipment,
13 foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power
14 generation facilities also include electrical cable collection systems connecting the photovoltaic
15 solar generation facility to a transmission line, all necessary grid integration equipment, new or
16 expanded private roads constructed to serve the photovoltaic solar power generation facility,
17 office, operation and maintenance buildings, staging areas and all other necessary appurtenances.
18 For purposes of applying the acreage standards of this section, a photovoltaic solar power
19 generation facility includes all existing and proposed facilities on a single tract, as well as any
20 existing and proposed facilities determined to be under common ownership on lands with fewer
21 than 1320 feet of separation from the tract on which the new facility is proposed to be sited.
22 Projects connected to the same parent company or individuals shall be considered to be in
23 common ownership, regardless of the operating business structure. A photovoltaic solar power
24 generation facility does not include a net metering project established consistent with ORS
25 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with
26 ORS 757.365 and OAR chapter 860, division 84.

27
28 (f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power
29 generation facility shall not preclude more than 12 acres from use as a commercial agricultural
30 enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division
31 4. The governing body or its designate must find that:

32
33 (A) The proposed photovoltaic solar power generation facility will not create unnecessary
34 negative impacts on agricultural operations conducted on any portion of the subject property not
35 occupied by project components. Negative impacts could include, but are not limited to, the
36 unnecessary construction of roads dividing a field or multiple fields in such a way that creates
37 small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar
38 power generation facility project components on lands in a manner that could disrupt common
39 and accepted farming practices;

40
41 (B) The presence of a photovoltaic solar power generation facility will not result in unnecessary
42 soil erosion or loss that could limit agricultural productivity on the subject property. This
43 provision may be satisfied by the submittal and county approval of a soil and erosion control
44 plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will
45 be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The
46 approved plan shall be attached to the decision as a condition of approval;

1
2 (C) Construction or maintenance activities will not result in unnecessary soil compaction that
3 reduces the productivity of soil for crop production. This provision may be satisfied by the
4 submittal and county approval of a plan prepared by an adequately qualified individual, showing
5 how unnecessary soil compaction will be avoided or remedied in a timely manner through deep
6 soil decompaction or other appropriate practices. The approved plan shall be attached to the
7 decision as a condition of approval;

8
9 (D) Construction or maintenance activities will not result in the unabated introduction or spread
10 of noxious weeds and other undesirable weed species. This provision may be satisfied by the
11 submittal and county approval of a weed control plan prepared by an adequately qualified
12 individual that includes a long-term maintenance agreement. The approved plan shall be attached
13 to the decision as a condition of approval;

14
15 (E) The project is not located on high-value farmland soils unless it can be demonstrated that:

16
17 (i) Non high-value farmland soils are not available on the subject tract;

18
19 (ii) Siting the project on non high-value farmland soils present on the subject tract would
20 significantly reduce the project's ability to operate successfully; or

21
22 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or
23 ranching operation on the subject tract than other possible sites also located on the subject tract,
24 including those comprised of non high-value farmland soils; and

25
26 (F) A study area consisting of lands zoned for exclusive farm use located within one mile
27 measured from the center of the proposed project shall be established and:

28
29 (i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed
30 or received land use approvals and obtained building permits within the study area, no further
31 action is necessary.

32
33 (ii) When at least 48 acres of photovoltaic solar power generation have been constructed or
34 received land use approvals and obtained building permits, either as a single project or as
35 multiple facilities within the study area, the local government or its designate must find that the
36 photovoltaic solar energy generation facility will not materially alter the stability of the overall
37 land use pattern of the area. The stability of the land use pattern will be materially altered if the
38 overall effect of existing and potential photovoltaic solar energy generation facilities will make it
39 more difficult for the existing farms and ranches in the area to continue operation due to
40 diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will
41 reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall
42 character of the study area.

43
44 (g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than
45 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant

1 to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find
2 that:

3
4 (A) The project is not located on high-value farmland soils or arable soils unless it can be
5 demonstrated that:

6
7 (i) Nonarable soils are not available on the subject tract;

8
9 (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce
10 the project's ability to operate successfully; or

11
12 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or
13 ranching operation on the subject tract than other possible sites also located on the subject tract,
14 including those comprised of nonarable soils;

15
16 (B) No more than 12 acres of the project will be sited on high-value farmland soils described at
17 ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660,
18 division 4;

19
20 (C) A study area consisting of lands zoned for exclusive farm use located within one mile
21 measured from the center of the proposed project shall be established and:

22
23 (i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed
24 or received land use approvals and obtained building permits within the study area no further
25 action is necessary.

26
27 (ii) When at least 80 acres of photovoltaic solar power generation have been constructed or
28 received land use approvals and obtained building permits, either as a single project or as
29 multiple facilities, within the study area the local government or its designate must find that the
30 photovoltaic solar energy generation facility will not materially alter the stability of the overall
31 land use pattern of the area. The stability of the land use pattern will be materially altered if the
32 overall effect of existing and potential photovoltaic solar energy generation facilities will make it
33 more difficult for the existing farms and ranches in the area to continue operation due to
34 diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish
35 the number of tracts or acreage in farm use in a manner that will destabilize the overall character
36 of the study area; and

37
38 (D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

39
40 (h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more
41 than 250 acres from use as a commercial agricultural enterprise unless an exception is taken
42 pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate
43 must find that:

44
45 (A) The project is not located on high-value farmland soils or arable soils unless it can be
46 demonstrated that:

- 1
2 (i) Siting the project on nonarable soils present on the subject tract would significantly reduce the
3 project's ability to operate successfully; or
4
5 (ii) The proposed site is better suited to allow continuation of an existing commercial farm or
6 ranching operation on the subject tract as compared to other possible sites also located on the
7 subject tract, including sites that are comprised of nonarable soils;
8
9 (B) No more than 12 acres of the project will be sited on high-value farmland soils described at
10 ORS 195.300(10);
11
12 (C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken
13 pursuant to ORS 197.732 and OAR chapter 660, division 4;
14
15 (D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;
16
17 (E) If a photovoltaic solar power generation facility is proposed to be developed on lands that
18 contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does
19 not address conflicts between energy facility development and the resource, the applicant and the
20 county, together with any state or federal agency responsible for protecting the resource or
21 habitat supporting the resource, will cooperatively develop a specific resource management plan
22 to mitigate potential development conflicts. If there is no program present to protect the listed
23 Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the
24 applicant and the appropriate resource management agency(ies) cannot successfully agree on a
25 cooperative resource management plan, the county is responsible for determining appropriate
26 mitigation measures; and
27
28 (F) If a proposed photovoltaic solar power generation facility is located on lands where the
29 potential exists for adverse effects to state or federal special status species (threatened,
30 endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by
31 the Oregon Department of Fish and Wildlife (including big game winter range and migration
32 corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall
33 conduct a site-specific assessment of the subject property in consultation with all appropriate
34 state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the
35 site-specific assessment by using methodologies accepted by the appropriate wildlife
36 management agency and shall determine whether adverse effects to special status species or
37 wildlife species of concern are anticipated. Based on the results of the biologist's report, the site
38 shall be designed to avoid adverse [a]effects to state or federal special status species or to
39 wildlife species of concern as described above. If the applicant's site-specific assessment shows
40 that adverse effects cannot be avoided, the applicant and the appropriate wildlife management
41 agency will cooperatively develop an agreement for project-specific mitigation to offset the
42 potential adverse effects of the facility. Where the applicant and the resource management
43 agency cannot agree on what mitigation will be carried out, the county is responsible for
44 determining appropriate mitigation, if any, required for the facility.
45
46 (G) The provisions of paragraph (F) are repealed on January 1, 2022.

1
2 (i) The county governing body or its designate shall require as a condition of approval for a
3 photovoltaic solar power generation facility, that the project owner sign and record in the deed
4 records for the county a document binding the project owner and the project owner's successors
5 in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury
6 from farming or forest practices as defined in ORS 30.930(2) and (4).

7
8 (j) Nothing in this section shall prevent a county from requiring a bond or other security from a
9 developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic
10 solar power generation facility.

11
12 (k) The commission may re-evaluate the acreage thresholds identified in subsections (f), (g) and
13 (h) should ORS 469.300(11)(a)(D) be amended.

14 **(39) Dog training classes or testing trials conducted outdoors or in farm buildings that**
15 **existed on January 1, 2013, when:**

16 **(a) The number of dogs participating in training does not exceed 10 per training class and**
17 **the number of training classes to be held on-site does not exceed six per day; and**

18 **(b) The number of dogs participating in a testing trial does not exceed 60 and the number**
19 **of testing trials to be conducted on-site does not exceed four per calendar year.**
20

21 Stat. Auth.: ORS 197.040

22 Stats. Implemented: ORS 197.040, 215.213, 215.275, 215.282, 215.283, 215.301, 215.448,
23 215.459, & 215.705

24 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-
25 1994, f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 5-1996, f. & cert. ef. 12-
26 23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-
27 2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-
28 22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-
29 2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. &
30 cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-
31 10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10;
32 LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. &
33 cert. ef. 2-14-12; LCDD 2-2013, f. & cert. ef. 1-29-13

34 **660-033-0140**

35 **Permit Expiration Dates**

36 (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land
37 division, made after the effective date of this division approving a proposed development on
38 agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and
39 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two
40 years from the date of the final decision if the development action is not initiated in that period.

- 1 (2) A county may grant one extension period of up to 12 months if:
- 2 (a) An applicant makes a written request for an extension of the development approval period;
- 3 (b) The request is submitted to the county prior to the expiration of the approval period;
- 4 (c) The applicant states reasons that prevented the applicant from beginning or continuing
5 development within the approval period; and
- 6 (d) The county determines that the applicant was unable to begin or continue development during
7 the approval period for reasons for which the applicant was not responsible.
- 8 (3) Approval of an extension granted under this rule is an administrative decision, is not a land
9 use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- 10 (4) Additional one-year extensions may be authorized where applicable criteria for the decision
11 have not changed.
- 12 (5)(a) If a permit is approved for a proposed residential development on agricultural or forest
13 land outside of an urban growth boundary, the permit shall be valid for four years.
- 14 (b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two
15 years.
- 16 (6) For the purposes of section (5) of this rule, "residential development" only includes the
17 dwellings provided for under ORS 215.213~~[(4)(e)]~~ (3) and (4), ~~[215.283(1)(p)]~~ 215.284,
18 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).

19 Stat. Auth.: ORS 197.040 & ORS 215
20 Stats. Implemented: ORS 197.015, ORS 197.040, ORS 197.230 & ORS 197.245
21 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD
22 4-2011, f. & cert. ef. 3-16-11

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LAND CONSERVATION AND DEVELOPMENT
DEPARTMENT OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 033, RULE 0120, TABLE

1

[February
2012]
**January
2014**

Uses Authorized on Agricultural Lands

OAR 660-033-0120 The specific development and uses listed in the following table are allowed 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:

A Use is 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 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

R Use may be allowed, 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 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

* Use not allowed.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV All
Farmland Other USES

Farm/Forest Resource

| | | |
|-----|-----|--|
| A | A | Farm use as defined in ORS 215.203. |
| A | A | Other buildings customarily provided in conjunction with farm use. |
| A | A | Propagation or harvesting of a forest product. |
| R6 | R6 | A facility for the primary processing of forest products. |
| R28 | R28 | A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 <u>or an establishment for the slaughter or processing of poultry pursuant to ORS 603.038.</u> |

Natural Resource

| | | |
|-------|-------|--|
| A | A | Creation of, restoration of, or enhancement of wetlands. |
| R5,27 | R5,27 | The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. |

Residential

| | | |
|-------|-------|--|
| A1,30 | A1,30 | Dwelling customarily provided in conjunction with farm use. |
| R9,30 | R9,30 | A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use. |

- A24,30 A24,30 Accessory Farm Dwellings for year-round and seasonal farm workers.
- A3,30 A3,30 One single-family dwelling on a lawfully created lot or parcel.
- R5,10 R5,10, One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30
30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- R4,30 R4,30 Single-family residential dwelling, not provided in conjunction with farm use.
- R5,30 R5,30 Residential home or facility as defined in ORS 197.660, in existing dwellings.
- R5, ~~30~~ R5,30 Room and board arrangements for a maximum of five unrelated persons in existing residences.
- R12,30 R12,30 Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
- A8,30 A8,30 Alteration, restoration, or replacement of a lawfully established dwelling.
- ~~[R5, R5 A wildlife habitat conservation and management plan pursuant to former ORS 215.800 to 215.808.]~~

Commercial Uses

- R5 R5 Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or ORS 215.213(1)(u) and 215.283(1)(r).
- R5,14 R5,14 Home occupations as provided in ORS 215.448.
- A39 A39 Dog training classes or testing trials.**
- ~~[*18(a) [R5] [Dog kennels.]~~
- R5 R5 Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under ORS 215.213(1)(z) or 215.283(1)(x).**
- R5,35 R5,35 An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possess a wholesaler's permit to sell or provide fireworks.
- *18(a) R5 Destination resort which is approved consistent with the requirements of Goal 8.
- A A A winery as described in ORS 215.452 or 215.453, **and 215.237.**
- R5 R5 A restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.
- R or R or Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as described
R5 R5 in ORS 215.213(11) ~~[and]~~ **or** 215.283(4).
- A23 A23 Farm stands.
- R5 R5 A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- R R Guest ranch in eastern Oregon as provided in Chapter 84 Oregon Laws 2010.**
- A A Log truck parking as provided in ORS 215.311.**

Mineral, Aggregate, Oil, and Gas Uses

- A A Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

- A A Operations for the exploration for minerals as defined by ORS 517.750.
- R5 R5 Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this rule.
- R5 R5 Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
- R5,15 R5,15 Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
- R5 R5 Processing of other mineral resources and other subsurface resources.

Transportation

- R5,7 R5,7 Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
- A A Climbing and passing lanes within the right of way existing as of July 1, 1987.
- R5 R5 Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
- A A Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- R5 R5 Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
- A A Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- A A Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- R5 R5 Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- R13 R13 Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule.
- R R Transportation improvements on rural lands allowed by OAR 660-012-0065.

Utility/Solid Waste Disposal Facilities

- R₁ 16(a) or (b) R₁ 16(a) or (b) Utility facilities necessary for public service, including **associated transmission lines as defined in ORS 469.300 and** wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.
- R5 R5 Transmission towers over 200 feet in height.
- A A Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.
- A32 A32 Utility facility service lines.
- R5, 17 R5,22 Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.
- R5, 37 R5,37 Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.

| | | |
|----------------------------------|------------------|---|
| R5, 38 | R5,38 | Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale. |
| *18(a) | R5 | A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. |
| 18(a), 29(a) | A or R5,29(b) | Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060. |
| Parks/Public/Quasi-Public | | |
| 2,*18(a) or R2, 18(b-c) | R2,5, 18(b-c) | Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located. |
| 2,*18(a) | R2 | Churches and cemeteries in conjunction with churches consistent with ORS 215.441. |
| 2,*18(a) | R2,5,19 | Private parks, playgrounds, hunting and fishing preserves, and campgrounds. |
| R2,5,31 | R2,5,31 | Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120. |
| A | A | Fire service facilities providing rural fire protection services. |
| R2,5,36 | R2,5,36 | Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. |
| R2, *18(a) | R2,5, 20 | Golf courses on land determined not to be high-value farmland as defined in ORS 195.300. |
| R2,5,21 | R2,5,21 | Living history museum |
| R2 | R2 | Firearms training facility as provided in ORS 197.770. |
| R2, 25 | R2, 25 | Armed forces reserve center as provided for in ORS 215.213(1)(s). |
| A | A | Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306. |
| R5 | R5 | Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306. |
| A26 | A26 | A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. |
| R5 | R5 | Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210. |
| R5 | R5 | Operations for the extraction and bottling of water. |
| A11 | A11 | Land application of reclaimed water, agricultural or industrial process water or biosolids. |
| R5 | R5 | A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1). |

Outdoor Gatherings

| | | |
|-----|-----|---|
| A33 | A33 | An outdoor mass gathering or other gathering described in ORS 197.015(10)(d). |
| R34 | R34 | <u>Any</u> outdoor gathering subject to review of a county planning commission under ORS 433.763. |

(The numbers in the table above refer to the section numbers in OAR 660-033-0130)