

1 **660-033-0130**

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

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

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9 (38) For purposes of this rule a photovoltaic solar power generation facility includes, but
10 is not limited to, an assembly of equipment that converts sunlight into electricity and then
11 stores and/or transfers that electricity. This includes photovoltaic modules, mounting and
12 solar tracking equipment, foundations, inverters, wiring, and storage devices and other
13 components. Photovoltaic solar power generation facilities also include electrical cable
14 collection systems connecting the photovoltaic solar generation facility to a transmission
15 line, all necessary grid integration equipment, new or expanded private roads constructed
16 to serve the photovoltaic solar power generation facility, office, operation and
17 maintenance buildings, staging areas and all other necessary appurtenances, ~~including~~
18 ~~but not limited to on-site and off-site facilities for temporary workforce housing for~~
19 ~~workers constructing a photovoltaic solar power generation facility. Such facilities must~~
20 ~~be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute~~
21 ~~or rule when project construction is complete. Temporary workforce housing facilities~~
22 ~~not included in the initial approval may be considered through a minor amendment~~
23 ~~request filed after a decision to approve a power generation facility. A minor amendment~~
24 ~~request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original~~
25 ~~approval.~~ For purposes of applying the acreage standards of this rule, a photovoltaic
26 solar power generation facility includes all existing and proposed facilities on a single
27 tract, as well as any existing and proposed facilities under common ownership,
28 development, or operation on lands with less than 1320-feet of separation from the tract
29 on which the new facility is proposed to be sited. A proposal for a photovoltaic solar
30 power generation facility shall be subject to the following provisions:

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

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37 (A) The proposed photovoltaic solar power generation facility will not create unnecessary
38 negative impacts on agricultural operations conducted on any portion of the subject
39 property not occupied by project components. Negative impacts could include, but are
40 not limited to, the unnecessary construction of roads, dividing a field or multiple fields in

41 such a way that creates small or isolated pieces of property that are more difficult to farm,
42 and placing photovoltaic solar power generation facility project components on lands in a
43 manner that could disrupt common and accepted farming practices; and

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

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

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

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66 (E) The long-term environmental, economic, social and energy consequences resulting
67 from the photovoltaic solar power generation facility ~~or any components thereof~~ at the
68 proposed site with measures designed to reduce adverse impacts are not significantly
69 more adverse than would typically result from the same proposal being located on other
70 agricultural lands that do not include high-value farmland soils described at ORS
71 195.300(10) or lands that are not protected under statewide planning goal 3. When
72 applying this criteria the governing body or its designate may consider costs but costs
73 alone may not be the only consideration in determining that siting any component of a
74 photovoltaic solar power generation facility on high-value farmland soils is necessary.

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76 (F) The cumulative effects of siting multiple photovoltaic solar power generation
77 facilities in a single area of a county have been adequately considered and that the
78 presence or possibility of multiple facilities in close proximity will not lead to negative
79 effects on local farming and ranching operations. Satisfying this provision may include,

80 but is not limited to, demonstrating that photovoltaic solar power generation facilities will
81 not surround, or nearly surround all or a significant portion of a single farm or ranch
82 operation and that the introduction of a new photovoltaic solar power generation facility
83 will not tip the balance of existing land use activities away from commercial agriculture.

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85 (b) For arable soils, **meaning soils that are cultivated or suitable for cultivation but**
86 **not including high-value farmland soils described at ORS 195.300, a photovoltaic solar**
87 **power generation facility shall not preclude more than 20 acres from use as a commercial**
88 **agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR**
89 **chapter 660, division 4. The governing body or its designate must find that:**

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91 **A) The long-term environmental, economic, social and energy consequences**
92 **resulting from the photovoltaic solar power generation facility at the proposed site**
93 **with measures designed to reduce adverse impacts are not significantly more**
94 **adverse than would typically result from the same proposal being located on other**
95 **agricultural lands of equal, lesser quality or lands that are not protected under**
96 **statewide planning goal 3. When applying this criteria the governing body or its**
97 **designate may consider costs but costs alone may not be the only consideration in**
98 **determining that siting any component of a photovoltaic solar power generation**
99 **facility at the proposed location is necessary; and**

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

101 (c) For nonarable soils, **meaning soils that are not suitable for cultivation, which for**
102 **purposes of this subsection shall include but are not limited to soils with an NRCS**
103 **agricultural capability class V-VIII and no history of irrigation,** a photovoltaic solar
104 power generation facility shall not preclude more than 100-acres from use as a
105 commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732
106 and OAR chapter 660, division 4. The governing body or its designate must find that: ~~the~~
107 ~~requirements of OAR 660-033-0130(38)(b)(B),(C),(D), (E) and (F) are satisfied; and~~

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109 (A) The requirements of OAR 660-033-0130(38)(a)(D) are satisfied; and

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111 **(B) If a proposed photovoltaic solar power generation facility is proposed to be**
112 **developed on lands that contain a Goal 5 resource protected under the county's**
113 **comprehensive plan, and the plan does not address conflicts between energy facility**
114 **development and the resource, the applicant and the county, together with any state**
115 **or federal agency responsible for protecting the resource or habitat supporting the**
116 **resource, will cooperatively develop a specific resource management plan to**
117 **mitigate potential development conflicts. If there are no standards present in the**
118 **local comprehensive plan or implementing ordinances and the applicant and the**

119 appropriate resource management agency(ies) cannot successfully agree on a
120 cooperative resource management plan, the County will be responsible for
121 determining appropriate mitigation measures.

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Option for Consideration

Option for Consideration

(C) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to State or Federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by ODFW (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site specific assessment of the subject property in consultation with the appropriate state, federal, and/or tribal wildlife management agency. The site specific assessment shall be conducted by a professional biologist using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated and if mitigation measures are necessary. If the applicant's site specific assessment shows that adverse effects cannot be avoided and mitigation measures are necessary, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree whether mitigation is necessary, or if the applicant and the wildlife management agency cannot agree on what mitigation will be carried out, the county will be responsible for determining appropriate mitigation, if any, required for the facility.

(D) The provisions of section (C) are repealed January 1, 2016.

(C) If a proposed photovoltaic solar power generation facility or any component thereof is located on lands where the potential exists for impacts to State or Federal special status species (threatened, endangered, candidate, or species of concern), the applicant shall conduct a detailed site assessment of the subject property in consultation with the appropriate state or federal wildlife management agency. The site assessment shall be conducted by a professional biologist using methodologies accepted by the appropriate wildlife management agency and shall determine whether impacts to special status species are anticipated and if avoidance, minimization or mitigation measures are necessary. If the applicant's site assessment shows that impacts to special status species cannot be avoided and mitigation measures are necessary, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the identified effects of the facility on the resource or cooperatively address mitigation through an agreement to participate in a broader-scale mitigation program at a level sufficient to offset the identified effects of the facility on the resource. Where the applicant's professional biologist and resource management agency agree that mitigation measures are not likely to adequately offset the identified impacts, the county will need to consider the long-term environmental, economic, social and energy consequences per (OAR 660-033-0020(38(9b)(E) before approval of the project.

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127 (d) In the event that a solar power generation facility is proposed on a combination of arable and
128 nonarable soils as described in OAR 660-033-0130(38)(b) and (c) the approval criteria of OAR
129 660-033-0130(38)(b) shall apply to the entire project.

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131 **(e) The County governing body or its designate shall require as a condition of approval for**
132 **a photovoltaic solar power generation facility, that the project owner sign and record in the**
133 **deed records for the county a document binding the project owner, and the project owner's**
134 **successors in interest, prohibiting them from pursuing a claim for relief or cause of action**
135 **alleging injury from farming or forest practices for which no action or claim is allowed**
136 **under ORS 30.936 or 30.937.**

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138 **(f) Nothing in this section shall prevent a county from requiring a bond or other security**
139 **from a developer or otherwise imposing on a developer the responsibility for retiring the**
140 **photovoltaic solar power generation facility.**

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142 **(g) Any amendment to ORS 469.300(11)(a)(D) shall constitute good cause for the Land**
143 **Conservation and Development Commission to re-evaluate the acreage thresholds**
144 **identified at OAR 660-033-0130(38)(a), (b) and (c) above.**