

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A hearings officer does not err in interpreting a code provision that allows the “preparation of land for cultivation” that is a “customarily accepted agricultural activity” without a permit in agricultural zones to require the landowner to demonstrate that a proposal to cover an existing landfill with 100,000 cubic yards of soil not only involves “preparation of land for cultivation” but is also a “customarily accepted agricultural activity.” *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Any inquiry into whether a proposal to place 100,000 cubic yards of soil on an existing landfill is a “customarily accepted agricultural activity” is necessarily a fact-specific inquiry. In answering that question, a hearings officer does not err in considering as relevant facts the absence of ongoing agricultural activity on the property and the lack of specificity in the landowner’s plans for post-fill agricultural use. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Any inquiry into what is a customarily accepted agricultural activity necessarily requires whether other similar farms have engaged in the proposed activity. A hearings officer does not err in considering the absence of evidence that other farms have placed 100,000 cubic yards of fill in a 13-acre area to prepare the land for cultivation. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Given the history of the subject property as a landfill, a hearings officer does not err in considering the lack of evidence that it is customary for farmers to charge a fee to persons to deposit soil on farm land, in determining whether a proposal to place 100,000 cubic yards of fill on farm land is a “customarily accepted agricultural activity” allowed without a permit, or something else that requires a permit. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where a regulation specifically authorizes a use in one zone and does not authorize that specific use in a second zone, a more general authorization of uses in the second zone should not be interpreted to include the more specifically authorized use in the first zone. However, that principle would not apply to bar finding a particular feedlot qualifies as a “farm use” rather than a “commercial activity * * * in conjunction with farm use,” where the legislature’s authorization of “commercial activities that are in conjunction with farm use” is no more specific than its authorization of “farm uses.” *Friends of Jefferson County v. Jefferson County*, 48 Or LUBA 107 (2004).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Evidence that a livestock operation is conducted on a parcel for part of the year is sufficient to establish that the property contains an “existing” livestock operation, for purposes of the requirements for siting a guest ranch on EFU-zoned land, where the record shows that rotation of cattle from the property during the wet months, to allow pasture to rest, is a

matter of good animal husbandry. *Durdan v. Deschutes County*, 43 Or LUBA 248 (2002).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. While the guest ranch statute requires an existing livestock operation on a parcel of at least 160 acres on which the proposed guest ranch and qualifying dwelling must be located, nothing in the statute requires that the livestock operation exist exclusively on that parcel, or prohibits the livestock operation from being part of a larger operation on non-contiguous properties. *Durdan v. Deschutes County*, 43 Or LUBA 248 (2002).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The guest ranch statute requires that the subject parcel contain the dwelling of the livestock operator, but does not require that the dwelling exist on the date of application for approval of a guest ranch. A condition of approval requiring that the dwelling be completed prior to construction of the guest ranch is sufficient to satisfy the statute. *Durdan v. Deschutes County*, 43 Or LUBA 248 (2002).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. While the guest ranch statute allows provision of food services to “guests” that “visit or stay” at the ranch, and does not expressly prohibit providing food services to visitors who are not overnight guests, it is reasonably clear in context that “guests” are those persons who have paid a fee to stay at the lodge, bunkhouse or cottage authorized by the statute, and therefore the statute does not allow provision of food services to visitors who are not overnight guests. *Durdan v. Deschutes County*, 43 Or LUBA 248 (2002).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. In adopting ORS 215.275, the legislature struck a particular balance between the siting of utility facilities in EFU zones and the statutory policy to preserve farmland for farm uses. Once that balance is struck, however, the county’s task is to apply the terms of the statute. Nothing in ORS 215.275 requires direct consideration of agricultural land preservation policies, external to the statute, in applying its terms, or “balancing” the technical difficulty of alternatives against farmland preservation. *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Under ORS 215.275, a utility provider and the local government are not required to consider under ORS 215.275(2) any alternative that requires a different type of facility or that would not meet the essential features of the chosen facility, as defined by the utility provider. However, the utility provider and local government must consider under ORS 215.275(2) an alternative that appears to satisfy the applicant’s defined objectives, even if the alternative is a facility in a non-EFU location that requires a different component design than the preferred EFU location. *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. In addressing consideration of land costs in comparing “utility facilities that are not substantially similar,” ORS 215.275(3) implies that the scope of “reasonable alternatives” that must be considered under ORS 215.275(2) includes non-EFU-zoned sites with conditions that

may require at least some design modifications to the facility. However, nothing in the statute requires that a utility provider consider alternatives that cannot satisfy the provider's defined objectives in providing the public service. *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A utility provider need not consider and disqualify as “reasonable alternatives” under ORS 215.275(2) alternatives that require reassessment of its fundamental technology or its business plan, or that involve sites or facilities that would fail to provide public services to the desired coverage area. *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where a telecommunications provider defines as one of its objectives building its own wireless tower in order to lease space to other providers, any alternative such as collocation on existing telephone poles will not satisfy at least one of the provider's defined objectives, and therefore need not be considered and disqualified as a “reasonable alternative” under ORS 215.275(2). *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. ORS 215.275 does not require a utility provider to consider and disqualify as “reasonable alternatives” non-EFU locations on which the proposed utility facility would require a variance from applicable zoning standards. Such lands are either not “reasonable alternatives” or simply not “available” under ORS 215.275(2)(c), as a matter of law. *Sprint PCS v. Washington County*, 42 Or LUBA 512.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where it is unclear who would own a proposed “personal use airport” in an EFU zone, and whether the uses that the owner plans to make of the airport would be consistent with the uses allowed under ORS 215.283(2)(h), the owner must be identified and the county's findings must explain why it concludes that the proposed uses fall within the uses allowed with a personal use airport. *Oregon Natural Desert Assoc. v. Grant County*, 42 Or LUBA 9.

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The fact that wineries are a permitted use in EFU zones under ORS 215.213(1) and 215.283(1) does not mean that wineries are “agricultural uses” permitted in a rural residential zone, where the code definition of “agricultural uses” does not include wineries, and wineries are not among the uses allowed in the rural residential zone. *Roth v. Jackson County*, 40 Or LUBA 531 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Absent text or contextual support in the statutes for a narrower interpretation of “community center,” a mixed-use building that contains a public library, community meeting space, office space for a local nonprofit community organization and public restrooms may be properly considered a “community center” as that term is used in ORS 215.283(2)(d). *Hendrix v. Benton County*, 40 Or LUBA 362 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Collocation of cellular telecommunication facilities is not a reasonable alternative to constructing a new telecommunications tower on EFU-zoned property, where the applicant’s siting requirements include constructing a facility where space will be leased to other telecommunication providers and collocation with existing towers will not meet that requirement. *Jordan v. Douglas County*, 40 Or LUBA 192 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. In evaluating reasonable alternatives to siting a utility facility necessary for public service in an EFU zone, a county must consider alternative sites identified by opponents that appear to satisfy an applicant’s siting requirements and are not located on EFU-zoned land. *Jordan v. Douglas County*, 40 Or LUBA 192 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Reasonable alternatives to siting a utility facility necessary for public service in an EFU zone do not include non-EFU sites that the owner will not sell or lease to the utility provider. *Jordan v. Douglas County*, 40 Or LUBA 192 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where a permit application identifies ORS 215.275 as a criterion applicable to the county’s decision approving a cellular communications tower on EFU-zoned land and proposes findings of compliance with the statute, the issue of compliance with the statute was raised below and the county’s failure to address the statute can be assigned as error, notwithstanding petitioners’ failure to raise that issue below. *Central Klamath County CAT v. Klamath County*, 40 Or LUBA 129 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Evidence that a proposed cellular communications tower on EFU land is within an optimal area for telecommunication coverage is insufficient to allow LUBA to conclude, under ORS 197.835(11)(b), that the record “clearly supports” a finding of compliance with ORS 215.275, which requires that the local government consider reasonable alternatives to siting the tower on EFU-zoned land. *Central Klamath County CAT v. Klamath County*, 40 Or LUBA 129 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The standard a county must apply under ORS 215.275 in considering siting of a public utility facility on EFU land is the same standard mandated by *Clackamas Co. Svc. Dist. No. 1 v. Clackamas County*, 35 Or LUBA 374 (1998): “whether the facility must be sited in an EFU zone in order to provide the service.” The factors specified in ORS 215.275 may be used merely to demonstrate compliance with that ultimate standard. *City of Albany v. Linn County*, 40 Or LUBA 38 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. When considering approval of a public utility facility on EFU land, the factors listed in ORS 215.275(2) are intended to be applied not only to the proposed EFU site, but also to the non-EFU sites considered as potential alternatives. *City of Albany v. Linn County*, 40 Or LUBA 38 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Justification for siting one component of a utility facility in an EFU zone does not necessarily justify siting other components in that zone. *City of Albany v. Linn County*, 40 Or LUBA 38 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Under ORS 215.275, when a county considers siting of a certain type of public utility facility on EFU land, the county need not consider as a “reasonable alternative” a different type of utility facility designed to meet the same need as the proposed facility type. *City of Albany v. Linn County*, 40 Or LUBA 38 (2001).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The limitations on activities in public parks imposed by OAR 660-034-0035 do not apply to private parks allowed on agricultural and forest lands under ORS 215.283(2)(c), OAR 660-033-0120 and OAR 660-006-0025(4)(e). *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Unlike Goal 4 and the Goal 4 rule, which limit recreational activities on forest lands to those “appropriate for a forest environment,” ORS 215.283(2)(c) and OAR 660-033-0120 contain no express language restricting the scope or intensity of activities allowed in “private parks” on agricultural land. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Nothing in the context of the term “kennel” as used in ORS 215.283(2)(m) demonstrates that the intended meaning of that term is narrower than the plain dictionary definition, which refers to establishments for the breeding and boarding of dogs. A proposal to breed and propagate dogs for sale is thus a “kennel” subject to county regulation and not a “farm use” allowed outright in an EFU zone. *Tri-River Investment Co. v. Clatsop County*, 37 Or LUBA 195 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The scope of the “solid waste disposal facility” subject to county regulation under ORS 215.283(2)(j) is coextensive with the scope of the facility for which DEQ grants a permit pursuant to ORS 459.245. Where the DEQ permit issued pursuant to ORS 459.245 governs only the septic treatment ponds on the subject property and does not govern the land application of treated wastes on adjacent parcels, the “solid waste disposal facility” subject to compliance with the county’s conditional use criteria does not include those adjacent parcels. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. ORS 215.283(2)(j) authorizes a county to allow infrastructure such as equipment, facilities or buildings necessary for the operation of a solid waste disposal facility, but does not require a county to consider or approve off-site infrastructure that is not necessary for that facility. An adjacent farm parcel on which treated waste from the facility will be applied as fertilizer and for irrigation purposes is not “necessary” for the operation of the facility, and thus is not subject to the county’s regulation under ORS 215.283(2)(j). *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Petitioners’ argument that the county used a different definition of “accepted farming practices” than the definition provided in ORS 215.203(2)(c) does not provide a basis for reversal or remand, where petitioners do not demonstrate that the county’s definition is inconsistent with the statutory definition, or that application of the county’s definition supports a different result than would application of the statutory definition. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. It is inconsistent with ORS 215.296(1) to arbitrarily limit the scope of analysis to properties within 500 feet of the subject property, where doing so results in failure to consider substantial evidence in the record of significant impacts from the proposed use to accepted farming practices on lands beyond 500 feet. However, where petitioners fail to challenge a finding that there are no significant impacts within 500 feet, and an extrapolation of that finding to lands beyond 500 feet, the county’s error does not provide a basis for reversal or remand. *Wilbur Residents v. Douglas County*, 37 Or LUBA 156 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A decision that disposal of sewage effluent by applying it to farm land constitutes a “utility facility necessary for public service” within the meaning of ORS 215.283(1)(d) requires the exercise of policy or legal judgment and for that reason the decision does not qualify for the exception to the statutory definition of land use decision provided by ORS 197.015(10)(b)(A) for certain ministerial decisions. *Friends of the Creek v. Jackson County*, 36 Or LUBA 562 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A decision that disposal of sewage effluent by applying it to farm land constitutes a “farm use” within the meaning of ORS 215.203 requires the exercise of policy or legal judgment and for that reason the decision does not qualify for the exception to the statutory definition of “land use decision” provided by ORS 197.015(10)(b)(A) for certain ministerial decisions. *Friends of the Creek v. Jackson County*, 36 Or LUBA 562 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A decision that a proposal to transport treated effluent to an EFU-zoned parcel and apply that effluent to poplar trees constitutes a “farm use” within the meaning of ORS 215.283(1)(d) requires the exercise of policy or legal judgment and for that reason the decision does not qualify for the exception to the statutory definition of land use decision provided by ORS 197.015(10)(b)(A) for certain ministerial decisions. *Friends of Clean Living v. Polk County*, 36 Or LUBA 544 (1999).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Under OAR 660-033-0130(16) a "utility facility necessary for public service" may only be located in an EFU zone if "it must be situated in the EFU zone in order for the service to be provided." *Clackamas Co. Svc. Dist. No. 1 v. Clackamas County*, 35 Or LUBA 374 (1998).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. An applicant for approval of a utility facility on EFU-zoned land must demonstrate that constructing the

utility on non-EFU-zoned land is not a feasible alternative. *Clackamas Co. Svc. Dist. No. 1 v. Clackamas County*, 35 Or LUBA 374 (1998).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. It is reasonable and correct to interpret a code provision requiring that "vehicle to be repaired shall be located within an enclosed building" to require that repaired vehicles remain within an enclosed building until they are removed from the property. *Gibbons v. Clackamas County*, 35 Or LUBA 210 (1998).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. It is reasonable and correct to consider vehicles used to pick up and drop off customers who have vehicles waiting to be repaired as "vehicles associated with" an auto repair home occupation. *Gibbons v. Clackamas County*, 35 Or LUBA 210 (1998).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Because OAR 660-033-0120 and 660-33-0130 prohibit establishment of a church on high-value farmland, the only procedure available to site a church on high-value farmland is to apply for an exception to the applicable goals under Goal 2. *Corp. of Presiding Bishop v. Klamath County*, 34 Or LUBA 131 (1998).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Article 1, section 20 of the Oregon Constitution does not prohibit a county from limiting park ownership in EFU zones to fee owners because such a classification is not closed to petitioner nor is it based on antecedent personal or social status or characteristics. *R/C Pilots Association v. Marion County*, 33 Or LUBA 532 (1997).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where the county's interpretation of a local ordinance allows dog kennels that were in existence in 1986 to be established as permitted uses without a showing of compliance with the ORS 215.296 farm impact standards, the county's interpretation violates ORS 215.283(2). *Marquam Farms Corp. v. Multnomah County*, 32 Or LUBA 240 (1996).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Nothing in ORS chapter 215 requires a conditional use process before a county can impose on the application of a mineral and aggregate overlay zone conditions requiring minor road improvements of the type listed in ORS 215.283(1)(L), which "may be established" in any EFU-zoned area. *Mission Bottom Assoc. v. Marion County*, 29 Or LUBA 281 (1995).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Although a county may regulate or define "commercial activities that are in conjunction with farm use" more restrictively than required by state law, the county's EFU zones may not allow uses that are not authorized by statutory exclusive farm use zoning provisions. *City of Sandy v. Clackamas County*, 28 Or LUBA 316 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The scope and proper construction of the term "commercial activities that are in conjunction with farm use,"

used in ORS 215.213(2)(c) and 215.283(2)(a), is a question of state law. LUBA is not required to defer to a local government hearings officer's understanding of the scope of that term. *City of Sandy v. Clackamas County*, 28 Or LUBA 316 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Even if a commercial activity sells primarily to farm uses, it is not a "commercial activity * * * in conjunction with farm use" unless the products and services provided are "essential to the practice of agriculture." *City of Sandy v. Clackamas County*, 28 Or LUBA 316 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Products and services which could be used by farm uses and farm workers, but are also used by a variety of other nonfarm uses and users, lack a sufficient connection to the "essential practice of agriculture" to be considered "commercial activities * * * in conjunction with farm use." *City of Sandy v. Clackamas County*, 28 Or LUBA 316 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. OAR 660-33-130(3) precludes approval of churches or public or private schools on agricultural lands "within 3 miles of an urban growth boundary." *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where an EFU zone includes two provisions allowing churches and schools, and one of those provisions includes the OAR 660-33-130(3) restriction against approving churches and schools within three miles of an urban growth boundary but the other provision does not, LUBA will not assume the county will apply the provision that lacks the three-mile limitation as though it includes the three-mile limitation. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. OAR 660-06-025(4)(i) allows power generation facilities on forestlands without a Goal 4 exception, provided such facilities do not remove more than 10 acres of land from resource use. OAR 660-33-130(23) includes similar provisions for power generation facilities on agricultural lands without a Goal 3 exception, but requires that the power generation facilities not remove more than 20 acres of land from resource use. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where an EFU zone allows "golf courses" as a conditional use, it must incorporate the definition of "golf course" in OAR 660-33-130(20) or specify that the rule definition applies. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A county does not err by interpreting a local code provision allowing "commercial or processing activities that are in conjunction with timber and farm uses," in a rural residential zone, in the same way the Oregon Supreme Court has interpreted similar language in the exclusive farm use zoning statutes. *Stroupe v. Clackamas County*, 28 Or LUBA 107 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. The Oregon Supreme Court's decision in *Craven v. Jackson County*, 308 Or 281, 779 P2d 1011 (1989), requires that a winery, as a commercial activity in conjunction with farm use, be primarily a buyer and processor of grapes into wine, and only incidentally a retail seller of souvenirs. *Stroupe v. Clackamas County*, 28 Or LUBA 107 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where a local code provision implementing ORS 215.283(1)(a) lists schools "including all buildings essential to the operation of a school" as a conditional use in an EFU zone, and the local government fails to interpret and apply the quoted provision in approving a conditional use permit for a school, LUBA must remand the decision for the local government to interpret its code provision in the first instance. *Eppich v. Clackamas County*, 26 Or LUBA 498 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where the relevant EFU code provisions permit boarding kennels but do not permit training kennels, a boarding kennel that includes up to three hours a day of on-site training may not be approved unless it is established that such on-site training is customary at boarding kennels. *Larry Kelly Farms, Inc. v. Marion County*, 26 Or LUBA 401 (1994).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. ORS 215.213(2)(q) through (s) all refer to *existing* roads. Consequently, a new bridge terminus and new road to connect that bridge to an existing road are not allowed on land designated and zoned for forest uses under OAR 660-06-025(4)(u) and ORS 215.213(2)(q) through (s). *Pacific Rivers Council, Inc. v. Lane County*, 26 Or LUBA 323 (1993).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Construction of a new bridge terminus or a new road to connect that bridge to an existing road are not uses allowed on forest zoned land under OAR 660-04-025(3)(h) and ORS 215.213(1)(m) to (p). *Pacific Rivers Council, Inc. v. Lane County*, 26 Or LUBA 323 (1993).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Median turn lanes are prohibited on rural lands under OAR 660-12-065(4), even on rural EFU-zoned lands where they might otherwise be permissible under ORS 215.213(1) or (2). *Bicycle Transportation Alliance v. Washington Co.*, 26 Or LUBA 265 (1993).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. A privately owned and managed paintball game park is potentially allowable in an EFU zone as a "park" under ORS 215.213(2)(e). *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Under ORS 215.283, construction of new roads and road improvements other than the types identified in ORS 215.283(1)(k)-(n) and (2)(p)-(r) is not allowed in EFU zones. *Schrock Farms, Inc. v. Linn County*, 25 Or LUBA 187 (1993).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. In the absence of evidence in the record establishing the quantity of products delivered or dollar amount of sales by petitioners' business to farm uses within the local agricultural community, petitioners cannot demonstrate as a matter of law that their proposed use is a commercial activity in conjunction with farm use. *Chauncey v. Multnomah County*, 23 Or LUBA 599 (1992).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Under ORS 215.283(1)(d) and 215.283(2)(L), transmission towers are allowable in EFU zones as "[u]tility facilities necessary for public service." Such towers may be allowed outright under ORS 215.283(1)(d), if they do not exceed 200 feet in height. Such towers may be allowed under ORS 215.283(2)(L), subject to the standards set forth at ORS 215.296(1), if they are over 200 feet in height. *Harris v. Polk County*, 23 Or LUBA 152 (1992).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. Where a code standard requires a determination that there is a demonstrated need for a proposed golf course "which outweighs the need for, or benefits of, the existing or potential farm or forest use," the county correctly applied that standard by determining even though there is a need for more golf courses in the county, the value of the property for farmland outweighs that need. *Barber v. Marion County*, 23 Or LUBA 71 (1992).

3.3.9 EFU Statute/Ordinances – Nonfarm Uses – Other Uses. As a matter of law, a cellular communication facility is a "utility facility" which provides "public service." However, the requirement that a cellular communication facility proposed to be located in an exclusive farm use (EFU) zone be a "utility facility *necessary* for public service" is not satisfied unless the county finds that it is necessary to locate the proposed facility in the EFU zone in order to provide that service. *McCaw Communications, Inc. v. Polk County*, 20 Or LUBA 456 (1991).