

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

8  
9 **(38) For purposes of this rule a photovoltaic solar power generation facility includes, but is**  
10 **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 maintenance**  
17 **buildings, staging areas and all other necessary appurtenances. For purposes of applying**  
18 **the acreage standards of this rule, a photovoltaic solar power generation facility includes**  
19 **all existing and proposed facilities on a single tract, as well as any existing and proposed**  
20 **facilities under common ownership, development, or operation on lands with less than**  
21 **1320-feet of separation from the tract on which the new facility is proposed to be sited. A**  
22 **proposal for a photovoltaic solar power generation facility shall be subject to the following**  
23 **provisions:**

24  
25 **(a) For high-value farmland soils described at ORS 195.300(10) a photovoltaic solar power**  
26 **generation facility shall not preclude more than 12 acres from use as a commercial**  
27 **agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR**  
28 **chapter 660, division 4. The governing body or its designate must find that:**

29  
30 **(A) The proposed photovoltaic solar power generation facility will not create unnecessary**  
31 **negative impacts on agricultural operations conducted on any portion of the subject**  
32 **property not occupied by project components. Negative impacts could include, but are not**  
33 **limited to, the unnecessary construction of roads, dividing a field or multiple fields in such**  
34 **a way that creates small or isolated pieces of property that are more difficult to farm, and**  
35 **placing photovoltaic solar power generation facility project components on lands in a**  
36 **manner that could disrupt common and accepted farming practices; and**

37  
38 **(B) The presence of a photovoltaic solar power generation facility will not result in**  
39 **unnecessary soil erosion or loss that could limit agricultural productivity on the subject**  
40 **property. This provision may be satisfied by the submittal and county approval of a soil**  
41 **and erosion control plan prepared by an adequately qualified individual, showing how**  
42 **unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped,**

43 stockpiled and clearly marked. The approved plan shall be attached to the decision as a  
44 condition of approval; and

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

51

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

57

58 (E) The long-term environmental, economic, social and energy consequences resulting from  
59 the photovoltaic solar power generation facility at the proposed site with measures  
60 designed to reduce adverse impacts are not significantly more adverse than would typically  
61 result from the same proposal being located on other agricultural lands that do not include  
62 high-value farmland soils described at ORS 195.300(10) or lands that are not protected  
63 under statewide planning goal 3. When applying this criteria the governing body or its  
64 designate shall limit the scope of its review to sites, should any exist, residing within a  
65 reasonable distance from the subject property that are also particularly well suited for  
66 solar power generation based on site conditions, proximity to infrastructure, etc....  
67 Furthermore, costs may be considered but costs alone may not be the only consideration in  
68 determining that siting any component of a photovoltaic solar power generation facility on  
69 high-value farmland soils is necessary.

70

71 (F) The cumulative effects of siting multiple photovoltaic solar power generation facilities  
72 in a single area of a county have been adequately considered and that the presence or  
73 possibility of multiple facilities in close proximity will not lead to negative effects on local  
74 farming and ranching operations. Satisfying this provision may include, but is not limited  
75 to, demonstrating that photovoltaic solar power generation facilities will not immediately  
76 surround, or nearly surround by being present on three immediate sides of, all or a  
77 significant portion of a single farm or ranch operation and that the introduction of a new  
78 photovoltaic solar power generation facility will not tip the balance of existing land use  
79 activities away from commercial agriculture.

80

81 (b) For arable soils, meaning soils that are cultivated or suitable for cultivation but not  
82 including high-value farmland soils described at ORS 195.300, a photovoltaic solar power  
83 generation facility shall not preclude more than 20 acres from use as a commercial

84 agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR  
85 chapter 660, division 4. The governing body or its designate must find that:

86  
87 A) The long-term environmental, economic, social and energy consequences resulting from  
88 the photovoltaic solar power generation facility at the proposed site with measures  
89 designed to reduce adverse impacts are not significantly more adverse than would typically  
90 result from the same proposal being located on other agricultural lands of equal, lesser  
91 quality or lands that are not protected under statewide planning goal 3. When applying this  
92 criteria the governing body or its designate shall limit the scope of its review to sites, should  
93 any exist, residing within a reasonable distance from the subject property that are also  
94 particularly well suited for solar power generation based on site conditions, proximity to  
95 infrastructure, etc.... Furthermore, costs may be considered but costs alone may not be the  
96 only consideration in determining that siting any component of a photovoltaic solar power  
97 generation facility at the proposed location is necessary; and

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

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

105  
106 (A) The requirements of OAR 660-033-0130(38)(a)(D) are satisfied; and

107  
108 (B) If a proposed photovoltaic solar power generation facility is proposed to be developed  
109 on lands that contain a Goal 5 resource protected under the county's comprehensive plan,  
110 and the plan does not address conflicts between energy facility development and the  
111 resource, the applicant and the county, together with any state or federal agency  
112 responsible for protecting the resource or habitat supporting the resource, will  
113 cooperatively develop a specific resource management plan to mitigate potential  
114 development conflicts. If there is no program present to protect the listed Goal 5  
115 resource(s) present in the local comprehensive plan or implementing ordinances and the  
116 applicant and the appropriate resource management agency(ies) cannot successfully agree  
117 on a cooperative resource management plan, the County will be responsible for  
118 determining appropriate mitigation measures.

119  
120 (C) If a proposed photovoltaic solar power generation facility is located on lands where the  
121 potential exists for adverse effects to State or Federal special status species (threatened,  
122 endangered, candidate, or sensitive), or to wildlife species of concern identified and  
123 mapped by ODFW (including big game winter range and migration corridors, golden eagle  
124 and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site specific  
125 assessment of the subject property in consultation with the appropriate state, federal,  
126 and/or tribal wildlife management agency. The site specific assessment shall be conducted

127 **by a professional biologist using methodologies accepted by the appropriate wildlife**  
128 **management agency and shall determine whether adverse effects to special status species or**  
129 **wildlife species of concern are anticipated and if mitigation measures are necessary. If the**  
130 **applicant’s site specific assessment shows that adverse effects cannot be avoided and**  
131 **mitigation measures are necessary, the applicant and the appropriate wildlife management**  
132 **agency will cooperatively develop an agreement for project-specific mitigation to offset the**  
133 **potential adverse effects of the facility. Where the applicant and the resource management**  
134 **agency cannot agree whether mitigation is necessary, or if the applicant and the wildlife**  
135 **management agency cannot agree on what mitigation will be carried out, the county will**  
136 **be responsible for determining appropriate mitigation, if any, required for the facility.**<sup>1</sup>  
137

138 **(D) The provisions of section (C) are repealed on January 1, 2016.**  
139

140 **(d) In the event that a solar power generation facility is proposed on a combination of**  
141 **arable and nonarable soils as described in OAR 660-033-0130(38)(b) and (c) the approval**  
142 **criteria of OAR 660-033-0130(38)(b) shall apply to the entire project.**  
143

144 **(e) The County governing body or its designate shall require as a condition of approval for**  
145 **a photovoltaic solar power generation facility, that the project owner sign and record in the**  
146 **deed records for the county a document binding the project owner, and the project owner's**  
147 **successors in interest, prohibiting them from pursuing a claim for relief or cause of action**  
148 **alleging injury from farming or forest practices as defined in ORS 30.930(2) & (4)..**  
149

150 **(f) Nothing in this section shall prevent a county from requiring a bond or other security**  
151 **from a developer or otherwise imposing on a developer the responsibility for retiring the**  
152 **photovoltaic solar power generation facility.**  
153

154 **(g) Any amendment to ORS 469.300(11)(a)(D) shall constitute good cause for the Land**  
155 **Conservation and Development Commission to re-evaluate the acreage thresholds**  
156 **identified at OAR 660-033-0130(38)(a), (b) and (c) above.**  
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<sup>1</sup> Alternative Language Representing a Minority Opinion for subsection (c)(C) will be presented with the department’s staff report and may be available upon request.