

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**
4 **permitting 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**
18 **previous five property tax years, or, if the dwelling has existed for less than five years, from**
19 **that time; and**

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

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

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

35
36 **(b) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or**
37 **215.283(1)(p):**

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

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

44
45 **(ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a**
46 **state of disrepair that the structure is unsafe for occupancy or constitutes an attractive**

1 nuisance, on or before a date set by the permitting authority that is not less than 90 days
2 after the replacement permit is issued; and

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

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

9
10 (C) As a condition of approval, if the dwelling to be replaced is located on a portion of the
11 lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause
12 to be recorded in the deed records of the county in which the property is located a deed
13 restriction prohibiting the siting of another dwelling on that portion of the lot or parcel.
14 The restriction imposed is irrevocable unless the county planning director, or the director's
15 designee, places a statement of release in the deed records of the county to the effect that
16 the provisions of 2013 Oregon Laws, chapter 462, section 2 and either ORS 215.213 or
17 215.283 regarding replacement dwellings have changed to allow the lawful siting of another
18 dwelling.

19
20 (D) The county planning director, or the director's designee, shall maintain a record of:

21
22 (i) The lots and parcels for which dwellings to be replaced have been removed, demolished
23 or converted; and

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

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

33
34 (A) The siting standards of paragraph (B) of this subsection apply when a dwelling under
35 ORS 215.213(1)(q) or 215.213(1)(p) qualifies for replacement because the dwelling:

36
37 (i) Formerly had the features described in paragraph (a)(A) of this section;

38
39 (ii) Was removed from the tax roll as described in paragraph (C) of subsection (a); or

40
41 (iii) Had a permit that expired as described under paragraph (d)(C) of this section.

42
43 (B) The replacement dwelling must be sited on the same lot or parcel:

44
45 (i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river,
46 property line, forest boundary or another natural boundary of the lot or parcel; and

1
2 **(ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in**
3 **the area, within a concentration or cluster of structures or within 500 yards of another**
4 **structure.**

5
6 **(C) Replacement dwellings that currently have the features described in paragraph (a)(A)**
7 **of this subsection and that have been on the tax roll as described in paragraph (B) of**
8 **subsection (a) may be sited on any part of the same lot or parcel.**

9
10 **(d) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):**

11
12 **(A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:**

13
14 **(i) Formerly had the features described in paragraph (a)(A) of this section; or**

15
16 **(ii) Was removed from the tax roll as described in paragraph (a)(C) of this section;**

17
18 **(B) Is not subject to the time to act limits of ORS 215.417; and**

19
20 **(C) If expired before January 1, 2014, shall be deemed to be valid and effective if, before**
21 **January 1, 2015, the holder of the permit:**

22
23 **(i) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be**
24 **replaced; and**

25
26 **(ii) Causes to be recorded in the deed records of the county a statement that the dwelling to**
27 **be replaced has been removed, demolished or converted.**

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

34 (b) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under
35 215.780, if the owner of a dwelling described in [~~OAR 660-033-0130(9)~~]**this section** obtains
36 construction financing or other financing secured by the dwelling and the secured party
37 forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in
38 ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new
39 parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

40 (c) For the purpose of [~~OAR 660-033-0130(9)~~]**subsection**(b), "foreclosure" means only those
41 foreclosures that are exempt from partition under ORS 92.010(9)(a).

1 (10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an
2 existing building allowed under this provision is a temporary use for the term of the hardship
3 suffered by the existing resident or relative as defined in ORS chapter 215. The manufactured
4 dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if
5 that disposal system is adequate to accommodate the additional dwelling. If the manufactured
6 home will use a public sanitary sewer system, such condition will not be required. Governing
7 bodies shall review the permit authorizing such manufactured homes every two years. Within
8 three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall
9 be removed or demolished or, in the case of an existing building, the building shall be removed,
10 demolished or returned to an allowed nonresidential use. A temporary residence approved under
11 this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).
12 Department of Environmental Quality review and removal requirements also apply. As used in
13 this section "hardship" means a medical hardship or hardship for the care of an aged or infirm
14 person or persons.

15 (11) Subject to the issuance of a license, permit or other approval by the Department of
16 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in
17 compliance with rules adopted under **ORS** 468B.095, and with the requirements of **ORS**
18 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural
19 process or industrial process water or biosolids for agricultural, horticultural or silvicultural
20 production, or for irrigation in connection with a use allowed in an exclusive farm use zones
21 under this division is allowed.

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

24 (13) Roads, highways and other transportation facilities, and improvements not otherwise
25 allowed under this rule may be established, subject to the adoption of the governing body or its
26 designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with
27 which the facility or improvement does not comply. In addition, transportation uses and
28 improvements may be authorized under conditions and standards as set forth in OAR 660-012-
29 0035 and 660-012-0065.

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

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

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

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

6 [~~A~~](i) Technical and engineering feasibility;

7 [~~B~~](ii) The proposed facility is locationally-dependent. A utility facility is locationally-
8 dependent if it must cross land in one or more areas zoned for exclusive farm use in order to
9 achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied
10 on other lands;

11 [~~C~~](iii) Lack of available urban and nonresource lands;

12 [~~D~~](iv) Availability of existing rights of way;

13 [~~E~~](v) Public health and safety; and

14 [~~F~~](vi) Other requirements of state and federal agencies.

15 [~~b~~](B) Costs associated with any of the factors listed in [subsection (16)(a)] **paragraph (A)** of
16 this ~~rule~~ **subsection** may be considered, but cost alone may not be the only consideration in
17 determining that a utility facility is necessary for public service. Land costs shall not be included
18 when considering alternative locations for substantially similar utility facilities and the siting of
19 utility facilities that are not substantially similar.

20 [~~e~~](C) The owner of a utility facility approved under this section shall be responsible for
21 restoring, as nearly as possible, to its former condition any agricultural land and associated
22 improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or
23 reconstruction of the facility. Nothing in this [subsection] **paragraph** shall prevent the owner of
24 the utility facility from requiring a bond or other security from a contractor or otherwise
25 imposing on a contractor the responsibility for restoration.

26 [~~d~~](D) The governing body of the county or its designee shall impose clear and objective
27 conditions on an application for utility facility siting to mitigate and minimize the impacts of the
28 proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a
29 significant change in accepted farm practices or a significant increase in the cost of farm
30 practices on surrounding farmlands.

31 [~~e~~](E) Utility facilities necessary for public service may include on-site and off-site facilities
32 for temporary workforce housing for workers constructing a utility facility. Such facilities must
33 be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
34 when project construction is complete. Off-site facilities allowed under this paragraph are subject
35 to **OAR** 660-033-0130(5). Temporary workforce housing facilities not included in the initial

1 approval may be considered through a minor amendment request. A minor amendment request
2 shall have no effect on the original approval.

3 [~~(f)~~] **(F)** In addition to the provisions of [~~subsections~~] **paragraphs** [~~(16)(a)](A)~~] to [~~(d)](D)~~] of this
4 [~~rule~~] **subsection**, the establishment or extension of a sewer system as defined by OAR 660-011-
5 0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of **OAR** 660-011-
6 0060.

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

10 **(b) An associated transmission line is necessary for public service and shall be approved by**
11 **the governing body of a county or its designee if an applicant for approval under ORS**
12 **215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its**
13 **designee that the associated transmission line meets either the requirements of paragraph**
14 **(A) of this subsection or the requirements of paragraph (B) of this subsection.**

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

17
18 **(i) The associated transmission line is not located on high-value farmland, as defined in**
19 **ORS 195.300, or on arable land;**

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

21
22 **(iii) The associated transmission line parallels an existing transmission line corridor with**
23 **the minimum separation necessary for safety; or**

24
25 **(iv) The associated transmission line is located within an existing right of way for a linear**
26 **facility, such as a transmission line, road or railroad, that is located above the surface of**
27 **the ground.**

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

31
32 **(i) Technical and engineering feasibility;**

33
34 **(ii) The associated transmission line is locationally-dependent because the associated**
35 **transmission line must cross high-value farmland, as defined in ORS 195.300, or arable**
36 **land to achieve a reasonably direct route or to meet unique geographical needs that cannot**
37 **be satisfied on other lands;**

38
39 **(iii) Lack of an available existing right of way for a linear facility, such as a transmission**
40 **line, road or railroad, that is located above the surface of the ground;**

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

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

3
4 **(C) As pertains to paragraph (B), the applicant shall present findings to the governing body**
5 **of the county or its designee on how the applicant will mitigate and minimize the impacts, if**
6 **any, of the associated transmission line on surrounding lands devoted to farm use in order**
7 **to prevent a significant change in accepted farm practices or a significant increase in the**
8 **cost of farm practices on the surrounding farmland.**

9
10 **(D) The governing body of a county or its designee may consider costs associated with**
11 **any of the factors listed in paragraph (B) of this subsection, but consideration of cost may**
12 **not be the only consideration in determining whether the associated transmission line is**
13 **necessary for public service.**

14 (17) A power generation facility may include on-site and off-site facilities for temporary
15 workforce housing for workers constructing a power generation facility. Such facilities must be
16 removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
17 when project construction is complete. Temporary workforce housing facilities not included in
18 the initial approval may be considered through a minor amendment request. A minor amendment
19 request shall be subject to **OAR** 660-033-0130(5) and shall have no effect on the original
20 approval. Permanent features of a power generation facility shall not preclude more than 12 acres
21 from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS
22 197.732 and OAR chapter 660, division 4.

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

27
28 (b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or
29 replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or
30 regulation, a use formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect
31 before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be
32 expanded subject to:

33
34 (A) The requirements of subsection (c) of this section; and

35
36 (B) Conditional approval of the county in the manner provided in ORS 215.296.

37
38 (c) A nonconforming use described in subsection (b) of this section may be expanded under this
39 section if:

40
41 (A) The use was established on or before January 1, 2009; and

42
43 (B) The expansion occurs on:

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

3
4 (ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and
5 that was owned by the applicant on January 1, 2009.

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

20
21 (b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate
22 sewer, water or electric service hook-ups shall not be provided to individual camp sites except
23 that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

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

34
35 (20) "Golf Course" means an area of land with highly maintained natural turf laid out for the
36 game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green,
37 and often one or more natural or artificial hazards. A "golf course" for purposes of ORS
38 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or
39 a combination nine and 18 hole regulation golf course consistent with the following:

40
41 (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres
42 of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

43
44 (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres
45 of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

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

5
6 (d) Counties shall limit accessory uses provided as part of a golf course consistent with the
7 following standards:

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

19
20 (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of
21 persons and their guests who patronize the golf course to golf. An accessory use that provides
22 commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate
23 buildings; and

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

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

44
45 (22) A power generation facility may include on-site and off-site facilities for temporary
46 workforce housing for workers constructing a power generation facility. Such facilities must be

1 removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule
2 when project construction is complete. Temporary workforce housing facilities not included in
3 the initial approval may be considered through a minor amendment request. A minor amendment
4 request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original
5 approval. Permanent features of a power generation facility shall not preclude more than 20 acres
6 from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS
7 197.732 and OAR chapter 660, division 4.

8
9 (23) A farm stand may be approved if:

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

17
18 (b) The farm stand does not include structures designed for occupancy as a residence or for
19 activities other than the sale of farm crops and livestock and does not include structures for
20 banquets, public gatherings or public entertainment.

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

28
29 (d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in
30 Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand
31 is located.

32
33 (24) Accessory farm dwellings as defined by subsection [~~(24)~~](e) of this section may be
34 considered customarily provided in conjunction with farm use if:

35
36 (a) Each accessory farm dwelling meets all the following requirements:

37
38 (A) The accessory farm dwelling will be occupied by a person or persons who will be principally
39 engaged in the farm use of the land and whose seasonal or year-round assistance in the
40 management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or
41 will be required by the farm operator;

42
43 (B) The accessory farm dwelling will be located:

44
45 (i) On the same lot or parcel as the primary farm dwelling; [~~or~~]

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

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

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

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

24
25 (C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm
26 operator that is vacant or currently occupied by persons not working on the subject farm or ranch
27 and that could reasonably be used as an accessory farm dwelling.

28
29 (b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to
30 which the proposed dwelling would be accessory, meets one of the following:

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

36
37 (i) At least \$40,000 in gross annual income from the sale of farm products. In determining the
38 gross income, the cost of purchased livestock shall be deducted from the total gross income
39 attributed to the tract; or

40
41 (ii) Gross annual income of at least the midpoint of the median income range of gross annual
42 sales for farms in the county with the gross annual sales of \$10,000 or more according to the
43 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased
44 livestock shall be deducted from the total gross income attributed to the tract; [Ø]

1 (B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or
2 ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which
3 the farm operator earned at least \$80,000 in gross annual income from the sale of farm products
4 in each of the last two years or three of the last five years or in an average of three of the last five
5 years. In determining the gross income, the cost of purchased livestock shall be deducted from
6 the total gross income attributed to the tract; [Ø]

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

13
14 (D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

15
16 (i) The building permits, if required, have been issued and construction has begun or been
17 completed for the buildings and animal waste facilities required for a commercial dairy farm;

18
19 (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding
20 operation" under ORS 468B.050 and 468B.200 to 468B.230; and

21
22 (iii) A Producer License for the sale of dairy products under ORS 621.072.

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

28
29 (d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy
30 the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4)
31 of this rule.

32
33 (e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of
34 residential structures allowed by the applicable state building code.

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

40
41 (26) Buildings and facilities **associated with a site for the takeoff and landing of model**
42 **aircraft** shall not be more than 500 square feet in floor area or placed on a permanent foundation
43 unless the building or facility preexisted the use approved under this section. The site shall not
44 include an aggregate surface or hard surface area unless the surface preexisted the use approved
45 under this section. An owner of property used for the purpose authorized in this section may
46 charge a person operating the use on the property rent for the property. An operator may charge

1 users of the property a fee that does not exceed the operator's cost to maintain the property,
2 buildings and facilities. As used in this section, "model aircraft" means a small-scale version of
3 an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight
4 and is controlled by radio, lines or design by a person on the ground.
5

6 (27) Insect species shall not include any species under quarantine by the Oregon Department of
7 Agriculture or the United States Department of Agriculture. The county shall provide notice of
8 all applications under this section to the Oregon Department of Agriculture. Notice shall be
9 provided in accordance with the county's land use regulations but shall be mailed at least 20
10 calendar days prior to any administrative decision or initial public hearing on the application.
11

12 (28) ~~[The]~~**A** farm on which ~~[the]~~**a** processing facility is located must provide at least one-quarter
13 of the farm crops processed at the facility. **A farm may also be used for an establishment for**
14 **the slaughter, processing or selling of poultry or poultry products pursuant to ORS**
15 **603.038. [The] If a building is established or used for the processing facility or establishment,**
16 **the farm operator may not devote more than [shall not exceed] 10,000 square feet of floor**
17 **area to the processing facility or establishment,** exclusive of the floor area designated for
18 preparation, storage or other farm use~~[-or devote more than 10,000 square feet to the processing~~
19 ~~activities within another building supporting farm use].~~ A processing facility **or establishment**
20 **must[shall]** comply with all applicable siting standards but the standards ~~[shall]~~ **may** not be
21 applied in a manner that prohibits the siting of the processing facility **or establishment.** A
22 county ~~[shall]~~ **may** not approve any division of a lot or parcel that separates a processing
23 facility **or establishment** from the farm operation on which it is located.
24

25 (29)(a) Composting operations and facilities allowed on high-value farmland are limited to those
26 that are accepted farming practices in conjunction with and auxiliary to farm use on the subject
27 tract, and that meet the performance and permitting requirements of the Department of
28 Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be
29 sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least
30 one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the
31 composting operation shall only be those required for the operation of the subject facility.
32

33 (b) Composting operations and facilities allowed on land not defined as high-value farmland
34 shall meet the performance and permitting requirements of the Department of Environmental
35 Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted
36 farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed
37 uses, while other composting operations are subject to the review standards of ORS 215.296.
38 Buildings and facilities used in conjunction with the composting operation shall only be those
39 required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at
40 least one unit (7.5 cubic yards) in size that are transported in one vehicle.
41

42 (30) The County governing body or its designate shall require as a condition of approval of a
43 single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest
44 zone, that the landowner for the dwelling sign and record in the deed records for the county a
45 document binding the landowner, and the landowner's successors in interest, prohibiting them

1 from pursuing a claim for relief or cause of action alleging injury from farming or forest
2 practices for which no action or claim is allowed under ORS 30.936 or 30.937.

3
4 (31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040,
5 whichever is applicable.

6
7 (32) Utility facility service lines are utility lines and accessory facilities or structures that end at
8 the point where the utility service is received by the customer and that are located on one or more
9 of the following:

10
11 (a) A public right of way;

12
13 (b) Land immediately adjacent to a public right of way, provided the written consent of all
14 adjacent property owners has been obtained; or

15
16 (c) The property to be served by the utility.

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

23
24 (34) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more
25 than 120 hours in any three-month planning period is subject to review by a county planning
26 commission under the provisions of ORS 433.763.

27
28 (35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-
29 0130(5), for the purpose of verifying the existence, continuity and nature of the business
30 described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to
31 the county and submit evidence including, but not limited to, sworn affidavits or other
32 documentary evidence that the business qualifies; and

33
34 (b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or
35 215.283(2)(y) may be altered, restored or replaced pursuant to **ORS** 215.130(5), (6) and (9).

36
37 (36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under
38 this section may provide services to veterans, including but not limited to emergency and
39 transitional shelter, preparation and service of meals, vocational and educational counseling and
40 referral to local, state or federal agencies providing medical, mental health, disability income
41 replacement and substance abuse services, only in a facility that is in existence on January 1,
42 2006. The services may not include direct delivery of medical, mental health, disability income
43 replacement or substance abuse services.

44
45 (37) For purposes of this rule a wind power generation facility includes, but is not limited to, the
46 following system components: all wind turbine towers and concrete pads, permanent

1 meteorological towers and wind measurement devices, electrical cable collection systems
2 connecting wind turbine towers with the relevant power substation, new or expanded private
3 roads (whether temporary or permanent) constructed to serve the wind power generation facility,
4 office and operation and maintenance buildings, temporary lay-down areas and all other
5 necessary appurtenances, including but not limited to on-site and off-site facilities for temporary
6 workforce housing for workers constructing a wind power generation facility. Such facilities
7 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute
8 or rule when project construction is complete. Temporary workforce housing facilities not
9 included in the initial approval may be considered through a minor amendment request filed after
10 a decision to approve a power generation facility. A minor amendment request shall be subject
11 to **OAR** 660-033-0130(5) and shall have no effect on the original approval. A proposal for a
12 wind power generation facility shall be subject to the following provisions:
13

14 (a) For high-value farmland soils described at ORS 195.300(10), the governing body or its
15 designate must find that all of the following are satisfied:
16

17 (A) Reasonable alternatives have been considered to show that siting the wind power generation
18 facility or component thereof on high-value farmland soils is necessary for the facility or
19 component to function properly or if a road system or turbine string must be placed on such soils
20 to achieve a reasonably direct route considering the following factors:
21

22 (i) Technical and engineering feasibility;
23

24 (ii) Availability of existing rights of way; and
25

26 (iii) The long term environmental, economic, social and energy consequences of siting the
27 facility or component on alternative sites, as determined under [~~OAR 660-033-~~
28 ~~0130(37)(a)~~ **paragraph** (B);
29

30 (B) The long-term environmental, economic, social and energy consequences resulting from the
31 wind power generation facility or any components thereof at the proposed site with measures
32 designed to reduce adverse impacts are not significantly more adverse than would typically result
33 from the same proposal being located on other agricultural lands that do not include high-value
34 farmland soils;
35

36 (C) Costs associated with any of the factors listed in [~~OAR 660-033-0130(37)(a)~~ **paragraph** (A)
37 may be considered, but costs alone may not be the only consideration in determining that siting
38 any component of a wind power generation facility on high-value farmland soils is necessary;
39

40 (D) The owner of a wind power generation facility approved under [~~OAR 660-033-~~
41 ~~0130(37)~~ **subsection** (a) shall be responsible for restoring, as nearly as possible, to its former
42 condition any agricultural land and associated improvements that are damaged or otherwise
43 disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this
44 subsection shall prevent the owner of the facility from requiring a bond or other security from a
45 contractor or otherwise imposing on a contractor the responsibility for restoration; and
46

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

2
3 (b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-
4 value farmland soils described at ORS 195.300(10), the governing body or its designate must
5 find that:

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

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

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

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

33
34 (c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body
35 or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

36
37 (d) In the event that a wind power generation facility is proposed on a combination of arable and
38 nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria
39 of OAR 660-033-0130(37)(b) shall apply to the entire project.

40
41 (38) A proposal to site a photovoltaic solar power generation facility shall be subject to the
42 following definitions and provisions:

43
44 (a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently
45 cultivated, predominantly comprised of arable soils.

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

5
6 (c) “Nonarable land” means land in a tract that is predominantly not cultivated and
7 predominantly comprised of nonarable soils.

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

14
15 (e) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of
16 equipment that converts sunlight into electricity and then stores, transfers, or both, that
17 electricity. This includes photovoltaic modules, mounting and solar tracking equipment,
18 foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power
19 generation facilities also include electrical cable collection systems connecting the photovoltaic
20 solar generation facility to a transmission line, all necessary grid integration equipment, new or
21 expanded private roads constructed to serve the photovoltaic solar power generation facility,
22 office, operation and maintenance buildings, staging areas and all other necessary appurtenances.
23 For purposes of applying the acreage standards of this section, a photovoltaic solar power
24 generation facility includes all existing and proposed facilities on a single tract, as well as any
25 existing and proposed facilities determined to be under common ownership on lands with fewer
26 than 1320 feet of separation from the tract on which the new facility is proposed to be sited.
27 Projects connected to the same parent company or individuals shall be considered to be in
28 common ownership, regardless of the operating business structure. A photovoltaic solar power
29 generation facility does not include a net metering project established consistent with ORS
30 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with
31 ORS 757.365 and OAR chapter 860, division 84.

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

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

1 (B) The presence of a photovoltaic solar power generation facility will not result in unnecessary
2 soil erosion or loss that could limit agricultural productivity on the subject property. This
3 provision may be satisfied by the submittal and county approval of a soil and erosion control
4 plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will
5 be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The
6 approved plan shall be attached to the decision as a condition of approval;
7

8 (C) Construction or maintenance activities will not result in unnecessary soil compaction that
9 reduces the productivity of soil for crop production. This provision may be satisfied by the
10 submittal and county approval of a plan prepared by an adequately qualified individual, showing
11 how unnecessary soil compaction will be avoided or remedied in a timely manner through deep
12 soil decompaction or other appropriate practices. The approved plan shall be attached to the
13 decision as a condition of approval;
14

15 (D) Construction or maintenance activities will not result in the unabated introduction or spread
16 of noxious weeds and other undesirable weed species. This provision may be satisfied by the
17 submittal and county approval of a weed control plan prepared by an adequately qualified
18 individual that includes a long-term maintenance agreement. The approved plan shall be attached
19 to the decision as a condition of approval;
20

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

22 (i) Non high-value farmland soils are not available on the subject tract;
23

24 (ii) Siting the project on non high-value farmland soils present on the subject tract would
25 significantly reduce the project's ability to operate successfully; or
26

27 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or
28 ranching operation on the subject tract than other possible sites also located on the subject tract,
29 including those comprised of non high-value farmland soils; and
30

31 (F) A study area consisting of lands zoned for exclusive farm use located within one mile
32 measured from the center of the proposed project shall be established and:
33

34 (i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed
35 or received land use approvals and obtained building permits within the study area, no further
36 action is necessary.
37

38 (ii) When at least 48 acres of photovoltaic solar power generation have been constructed or
39 received land use approvals and obtained building permits, either as a single project or as
40 multiple facilities within the study area, the local government or its designate must find that the
41 photovoltaic solar energy generation facility will not materially alter the stability of the overall
42 land use pattern of the area. The stability of the land use pattern will be materially altered if the
43 overall effect of existing and potential photovoltaic solar energy generation facilities will make it
44 more difficult for the existing farms and ranches in the area to continue operation due to
45 diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will
46

1 reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall
2 character of the study area.

3
4 (g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than
5 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant
6 to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find
7 that:

8
9 (A) The project is not located on high-value farmland soils or arable soils unless it can be
10 demonstrated that:

11
12 (i) Nonarable soils are not available on the subject tract;

13
14 (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce
15 the project's ability to operate successfully; or

16
17 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or
18 ranching operation on the subject tract than other possible sites also located on the subject tract,
19 including those comprised of nonarable soils;

20
21 (B) No more than 12 acres of the project will be sited on high-value farmland soils described at
22 ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660,
23 division 4;

24
25 (C) A study area consisting of lands zoned for exclusive farm use located within one mile
26 measured from the center of the proposed project shall be established and:

27
28 (i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed
29 or received land use approvals and obtained building permits within the study area no further
30 action is necessary.

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

42
43 (D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

44
45 (h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more
46 than 250 acres from use as a commercial agricultural enterprise unless an exception is taken

1 pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate
2 must find 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) Siting the project on nonarable soils present on the subject tract would significantly reduce the
8 project's ability to operate successfully; or

9
10 (ii) The proposed site is better suited to allow continuation of an existing commercial farm or
11 ranching operation on the subject tract as compared to other possible sites also located on the
12 subject tract, including sites that are comprised of nonarable soils;

13
14 (B) No more than 12 acres of the project will be sited on high-value farmland soils described at
15 ORS 195.300(10);

16
17 (C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken
18 pursuant to ORS 197.732 and OAR chapter 660, division 4;

19
20 (D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;

21
22 (E) If a photovoltaic solar power generation facility is proposed to be developed on lands that
23 contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does
24 not address conflicts between energy facility development and the resource, the applicant and the
25 county, together with any state or federal agency responsible for protecting the resource or
26 habitat supporting the resource, will cooperatively develop a specific resource management plan
27 to mitigate potential development conflicts. If there is no program present to protect the listed
28 Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the
29 applicant and the appropriate resource management agency(ies) cannot successfully agree on a
30 cooperative resource management plan, the county is responsible for determining appropriate
31 mitigation measures; and

32
33 (F) If a proposed photovoltaic solar power generation facility is located on lands where the
34 potential exists for adverse effects to state or federal special status species (threatened,
35 endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by
36 the Oregon Department of Fish and Wildlife (including big game winter range and migration
37 corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall
38 conduct a site-specific assessment of the subject property in consultation with all appropriate
39 state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the
40 site-specific assessment by using methodologies accepted by the appropriate wildlife
41 management agency and shall determine whether adverse effects to special status species or
42 wildlife species of concern are anticipated. Based on the results of the biologist's report, the site
43 shall be designed to avoid adverse [a] effects to state or federal special status species or to
44 wildlife species of concern as described above. If the applicant's site-specific assessment shows
45 that adverse effects cannot be avoided, the applicant and the appropriate wildlife management
46 agency will cooperatively develop an agreement for project-specific mitigation to offset the

1 potential adverse effects of the facility. Where the applicant and the resource management
2 agency cannot agree on what mitigation will be carried out, the county is responsible for
3 determining appropriate mitigation, if any, required for the facility.

4
5 (G) The provisions of paragraph (F) are repealed on January 1, 2022.

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

12
13 (j) Nothing in this section shall prevent a county from requiring a bond or other security from a
14 developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic
15 solar power generation facility.

16
17 (k) The commission may re-evaluate the acreage thresholds identified in subsections (f), (g) and
18 (h) should ORS 469.300(11)(a)(D) be amended.

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

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

23 **(b) The number of dogs participating in a testing trial does not exceed 60 and the number**
24 **of testing trials to be conducted on-site does not exceed four per calendar year.**
25

26 Stat. Auth.: ORS 197.040

27 Stats. Implemented: ORS 197.040, 215.213, 215.275, 215.282, 215.283, 215.301, 215.448,
28 215.459, & 215.705

29 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-
30 1994, f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 5-1996, f. & cert. ef. 12-
31 23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-
32 2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-
33 22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-
34 2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. &
35 cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-
36 10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10;
37 LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. &
38 cert. ef. 2-14-12; LCDD 2-2013, f. & cert. ef. 1-29-13

39 **660-033-0140**

40 **Permit Expiration Dates**

- 1 (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land
2 division, made after the effective date of this division approving a proposed development on
3 agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and
4 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two
5 years from the date of the final decision if the development action is not initiated in that period.
- 6 (2) A county may grant one extension period of up to 12 months if:
- 7 (a) An applicant makes a written request for an extension of the development approval period;
- 8 (b) The request is submitted to the county prior to the expiration of the approval period;
- 9 (c) The applicant states reasons that prevented the applicant from beginning or continuing
10 development within the approval period; and
- 11 (d) The county determines that the applicant was unable to begin or continue development during
12 the approval period for reasons for which the applicant was not responsible.
- 13 (3) Approval of an extension granted under this rule is an administrative decision, is not a land
14 use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- 15 (4) Additional one-year extensions may be authorized where applicable criteria for the decision
16 have not changed.
- 17 (5)(a) If a permit is approved for a proposed residential development on agricultural or forest
18 land outside of an urban growth boundary, the permit shall be valid for four years.
- 19 (b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two
20 years.
- 21 (6) For the purposes of section (5) of this rule, "residential development" only includes the
22 dwellings provided for under ORS 215.213~~[(1)(q)]~~, (3) and (4), ~~[215.283(1)(p)]~~ 215.284,
23 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).

24 Stat. Auth.: ORS 197.040 & ORS 215
25 Stats. Implemented: ORS 197.015, ORS 197.040, ORS 197.230 & ORS 197.245
26 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD
27 4-2011, f. & cert. ef. 3-16-11

28

29

30

31

1

2

3

4

5

6

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 R5 R5 Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as described 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)