8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where the record contains evidence that the fire safety measures required for a proposed solar facility exceed those required for an existing Christmas tree farm and extensive observations of fires involving solar panels but no evidence of incidents of injury to fire suppression personnel from electrified solar panels, a conclusion that the solar facility will not "significantly increase risks to fire suppression personnel" for purposes of OAR 660-006-0025(5)(b) is supported by substantial evidence, even though electrical equipment is present on a solar facility and not present on a Christmas tree farm. *York v. Clackamas County*, 81 Or LUBA 20 (2020).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. "In-home commercial activities" are not authorized by right in resource zones, even where (1) such activities are accessory to residential uses and would have minimal to no impact on resource lands, (2) such an approach would streamline local permitting by avoiding the conditional use process required for home occupations, and (3) such activities are consistent with a model ordinance prepared by DLCD. *Landwatch Lane County v. Lane County*, 80 Or LUBA 80 (2019).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where certain activities are allowed as accessory to a home occupation use, they may not be allowed through a Type I process (i.e., ministerial review of an application based on clear and objective standards and criteria) that does not provide the review that is required by ORS 215.448(1) and (4). *Landwatch Lane County v. Lane County*, 80 Or LUBA 80 (2019).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A condition of approval requiring an applicant that has applied to site a solar facility in an area currently used for growing Christmas trees to offer a fire safety training course to the local fire district is inadequate to establish that "[t]he proposed use will not * * * significantly increase risks to fire suppression personnel" for purposes of OAR 660-006-0025(5)(b) and local code provisions implementing that rule. *Chang v. Clackamas County*, 80 Or LUBA 321 (2019).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Petitioner's argument that a proposed detached accessory structure for an "art studio" is not a permissible "accessory" structure allowed in the Impacted Forest Lands (F-2) zone provides no basis for reversal or remand where petitioner cites to no local code, state statute or administrative rule governing forest lands, suggesting limitations on accessory structures to a primary dwelling that is otherwise allowed on forest lands under state law. *Landwatch Lane County v. Lane County*, 78 Or LUBA 272 (2018).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A petitioner's argument that locating an art studio several hundred feet from an existing dwelling on forest land instead of adjacent to the dwelling and within the dwelling's existing fire breaks does not provide a basis for reversal or remand, where the petitioner does not identify any rule or other requirement that an accessory structure be clustered with the existing dwelling. *Landwatch Lane County v. Lane County*, 78 Or LUBA 272 (2018).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. LUBA will reject petitioner's argument that a proposed "art studio" is in reality an "accessory dwelling" in the forest zone in violation of state and local law where the county hearings officer imposed several conditions

intended to ensure that the proposed "art studio" would not be used as an "accessory dwelling," and petitioner's speculation that the applicant might violate one or more conditions of approval provides no basis for reversal or remand. *Landwatch Lane County v. Lane County*, 78 Or LUBA 272 (2018).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A hearings officer's finding that land in the forest zone upon which development is proposed is "flat" is not supported by substantial evidence where the finding is supported only by the applicant's assertion that the relevant slope is "less than 3" percent, but the record includes two topographic maps that appear to show that the slope exceeds 10 percent, which if so triggers additional fire safety requirements. *Landwatch Lane County v. Lane County*, 78 Or LUBA 272 (2018).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. In forest zones ORS 215.760 authorizes "agricultural buildings" as defined by ORS 455.315 but does not authorize "equine facilities," as defined by the statute. A county code provision that purported to define "agricultural building" broadly enough to allow equine facilities in the county's forest zone would be more permissive than ORS 215.760, and would therefore be inconsistent with ORS 215.760. *Kaplowitz v. Lane County*, 74 Or LUBA 386 (2016).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where the issue is whether a statute and corresponding code provision that both authorize agricultural buildings and prohibit their conversion to other uses was in effect when a horse barn/arena was constructed in 2000, and the statute and corresponding code provision were first enacted in 2014, LUBA will conclude that the statutory and code authorization and prohibition do not apply to the horse barn/arena. *Kaplowitz v. Lane County*, 74 Or LUBA 386 (2016).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A board of county commissioners erroneously interprets a county zoning standard that replicates the OAR 660-006-0025(5)(a) requirement that certain nonforest uses in forest zones must not "[f]orce a significant change in, or significantly increase the cost of" forest practices, where under the board of commissioners' interpretation that standard is treated as a broader "significant impacts" standard that is unconnected to "costs" or "changes in" "forest practices." *Oregon Pipeline Company v. Clatsop County*, 71 Or LUBA 246 (2015).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Even under the deferential standard of review required by ORS 197.829(1) and *Siporen v. City of Medford*, 349 Or 247, 260-61, 243 P3d 776 (2010), interpreting a generally worded forest land protection policy so strictly that a use that is expressly allowed as a conditional use in the forest zone could never be approved is inconsistent with the text of the policy and implausible. *Oregon Pipeline Company v. Clatsop County*, 71 Or LUBA 246 (2015).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The meaning of "permanent facility for the primary processing of forest products" allowed as a conditional use in forest zones is unclear, but the plain dictionary meanings of "primary" and "processing" indicate that the phrase means the initial or first steps in transforming raw forest products into products for market, manufacturing or other commercial use. *Fritch v. Clackamas County*, 68 Or LUBA 184 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The "primary processing of forest products" allowed as a conditional use in forest zones does not include subsequent steps in the process that constitute manufacturing. *Fritch v. Clackamas County*, 68 Or LUBA 184 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The "primary processing of forest products" allowed as a conditional use in forest zones includes the initial steps employed in a log home manufacturing facility, such as log debarking, milling and curing or kilning of lumber, but does not include the portions of a log home manufacturing facility that involve the partial assembly of log homes. *Fritch v. Clackamas County*, 68 Or LUBA 184 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The "primary processing of forest products" allowed as a conditional use in forest zones does not include the portions of a log home manufacturing facility that involve custom notching and shaping of log ends to form the interlocking components of the walls of a log home. *Fritch v. Clackamas County*, 68 Or LUBA 184 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. In approving a wedding venue and event business in a forest zone under a code provision that allows, on a "temporary" basis, uses otherwise not allowable in the applicable zone, a county must consider whether the proposed use is properly characterized as a "home occupation," which is an allowed conditional use in the forest zone, subject to restrictions. If the proposed is properly characterized as a home occupation allowable in the forest zone, then the code does not allow the county to issue a temporary use permit for that use. *White v. Lane County*, 68 Or LUBA 423 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a county fails to implement a new administrative rule, pursuant to ORS 197.646(3) the rule applies directly to county land use decisions until the county amends its code to implement the rule. However, once the county implements the Goal 4 rule at OAR 660-006-0025 by adopting the substance of the rule into its land use code, ORS 197.646(3) does not operate to apply the rule directly to nonforest uses the county approves in a forest zone. *White v. Lane County*, 68 Or LUBA 423 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. OAR 660-033-0140 provides that certain permits on agricultural and forest land are void after two years if the use is not initiated within that time period. Where the county development code includes language that is nearly identical to much of the language in OAR 660-033-0140, it is reasonable to conclude the code was adopted to implement OAR 660-033-0140. *Gould v. Deschutes County*, 67 Or LUBA 1 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a county makes it sufficiently clear that it adopted its similarly worded version of OAR 660-033-0140 to apply in all county zones, including those that apply to agricultural and forest lands, the county code version of OAR 660-033-0140 applies in place of OAR 660-033-0140 on agricultural and forest lands after the county code version of OAR 660-033-0140 is acknowledged. *Gould v. Deschutes County*, 67 Or LUBA 1 (2013).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. OAR 660-006-0025(4)(q) authorizes a 50-foot right-of-way for gas pipelines in forest zones. It is not inconsistent with OAR 660-006-0025(4)(q), and is expressly authorized by ORS 772.510(3), for a utility provider to obtain a temporary construction easement for stockpiling, storage, etc., in addition to the 50-foot permanent right-of-way authorized under the rule. *Citizens Against LNG v. Coos County*, 63 Or LUBA 162 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. LUBA will affirm a hearings officer's determination that a short-term vacation rental operated using a dwelling on a forest-zoned parcel is a commercial "visitor accommodation" use not permitted in the forest zone rather than a residential use permitted in the zone, where the county's code distinguishes between residential tenancies arranged on a month-to-month basis or longer and commercial "visitor accommodations" with a tenancy less than 30 days. *Davis v. Jackson County*, 63 Or LUBA 486 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where the Goal 4 rule incorporates a definition in the Oregon Structural Specialty Code, the version of the Code in effect when the Goal 4 rule was adopted controls, not the Code as subsequently amended, to avoid running afoul of constitutional prohibitions on delegating legislative authority. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Under OAR 660-006-0025(4)(w), which authorizes "private accommodations for fishing" limited to no more than "15 guest rooms," LCDC intended to authorize a single fishing lodge with up to 15 "rooms," meaning internal private sleeping areas within a larger structure, not 15 separate cabins with permanent provisions for living, sleeping, cooking and sanitation. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Single family dwellings, with permanent provisions for living, sleeping, cooking and sanitation, do not constitute "guest rooms" or "private accommodations for fishing" under OAR 660-006-0025(4)(w), even if the dwellings are not permanently occupied. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Exclusive owner-occupancy of a "guest room" in a fishing accommodation is likely inconsistent with the intent of OAR 660-006-0025(4)(w), which contemplates a fishing lodge-type accommodation with rooms temporarily rented to and occupied by visitors. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Occupancy of a guest room in a private accommodation for fishing authorized under OAR 660-006-0025(4)(w) for up to six months per year is not "temporary" occupancy for purposes of the rule. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a proposed private accommodation for fishing is located on a large reservoir, the arms of which are easily accessible by boat but which are controlled by different fishing seasons, the limitation in OAR 660-006-0025(4)(w) that guest rooms at a fishing lodge be occupied during the "fishing season" is not limited to the particular arm of the lake that the lodge is located on. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Depending on the circumstances and a particular proposal for private accommodations for fishing, the county may have to impose conditions necessary to ensure that the accommodations will be occupied "for the purpose of fishing" and not other purposes. *Central Oregon Landwatch v. Jefferson County*, 62 Or LUBA 443 (2011).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The requirement that a dwelling sought to be replaced be a "building * * * which is occupied in whole or in part" does not include a requirement for continuous occupancy. *Dalton v. Polk County*, 61 Or LUBA 27 (2010).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. When a replacement dwelling approval standard requires that the dwelling sought to be replaced have been "lawfully constructed," if there is a final unappealed decision that removed a use restriction from a lawfully established dwelling, the fact that that decision may have been incorrect does not change the fact that dwelling was legally established and may be replaced. *Dalton v. Polk County*, 61 Or LUBA 27 (2010).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a proposed replacement dwelling is in a forest zone rather than an EFU-zone, case law regarding the interpretation of "intact" for purposes of establishing that a dwelling sought to be replaced has "intact exterior walls" is not binding on the local government. *Dalton v. Polk County*, 61 Or LUBA 27 (2010).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. That a park model recreational vehicle (RV) is defined in the state building code as one type of recreational vehicle does not mean that the permanent installation of park model RVs on rural forest land is equivalent to temporary campground use by self-propelled or pull-behind RVs, under Oregon's statewide planning goals, administrative rules, and implementing land use regulations. *Campers Cove Resort v. Jackson County*, 61 Or LUBA 62 (2010).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A county does not err in failing to define a geographic area of analysis for the impacts of a non-forest use in a forest zone under a code "significant change/increase" standard that does not implement the similar significant change/increase standard applicable to EFU zones and that, unlike the statute, does not require analysis of impacts on "surrounding lands" or any other particular geographic area. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Findings that describe the only forest practice that adjoining timber operators identified as impacted by proposed mining on forest land are adequate for purposes of a code significant change/increase standard, where the code standard

does not implement the statutory significant change/increase standard, and the petitioners do not explain why the code standard requires an exhaustive description of all forest practices on nearby lands. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. LUBA will affirm a county's finding that fire protection measures that typically apply to logging operations are sufficient to ensure that a proposed mining operation in a forest zone will not significantly increase fire hazards, notwithstanding that a permanent mining operation will have greater duration and intensity than a seasonal logging operation, where the petitioners cite to no evidence substantiating their assertion that the nature and intensity of the mining operation require more stringent fire protection measures than logging operations. *Comden v. Coos County*, 56 Or LUBA 214 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. In addressing a requirement that a proposed use on forestland not interfere with nearby farming practices, a county must address the impacts on an adjacent parcel when the petitioner alleges that there will be adverse impacts on the adjacent parcel. *Tennant v. Polk County*, 56 Or LUBA 455 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. In order to constitute a private park that can be allowed on Goal 4 forestlands pursuant to OAR 660-006-0025, a proposed use must not only be a public recreational use, but also must be appropriate in a forest environment. *Tennant v. Polk County*, 56 Or LUBA 455 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. In considering whether a paintball operation is appropriate for a forest environment as an allowed private park on forestlands, the fact that the paintball operation will be noisy does not in itself render the use inappropriate for a forest environment. *Tennant v. Polk County*, 56 Or LUBA 455 (2008).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. OAR 660-034-0035—and by cross-reference OAR 660-034-0040—provide a list of uses that are allowed in state and local parks, some of which are generally not allowed on resource lands without an exception to the resource goals. However, no exception is required if the uses are authorized in a state or local park master plan. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. By implication, some of the park uses listed in OAR 660-034-0035(2) do not require a goal exception, even if there is no acknowledged park master plan. However, the rule does not specify which uses do or do not require a goal exception in the absence of a park master plan. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Park uses listed in OAR 660-034-0035(2) that are passive, low-intensity uses similar to those allowed in campgrounds in resource zones do not require a goal exception to be placed in state or local parks. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The scope of "accepted farming or forest practices" that must be evaluated under the no significant change/increase standard is a fact-

specific inquiry. A hearings officer does not err in evaluating the scope and intensity of "accepted forest practices" on adjacent lands based on the forest uses currently or recently occurring in the area, and need not assume that forest practices on adjacent parcels will occur at the most intensive level possible. *Central Oregon Landwatch v. Deschutes County*, 53 Or LUBA 290 (2007).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A metal storage structure placed on a permanent foundation that is designed and intended to support multiple forest operations over multiple growth cycles is not a "temporary on-site structure" within the meaning of OAR 660-006-0025(2)(b), which is limited to temporary structures that are not designed to remain for the entire planting to harvesting growth cycle and are removed when a particular forest practice has concluded. *Central Oregon Landwatch v. Deschutes County*, 52 Or LUBA 582 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Counties have no inherent authority to allow uses in forest zones free of restrictions imposed by the Goal 4 rule, although counties may regulate more restrictively than required by the rule. *Central Oregon Landwatch v. Deschutes County*, 52 Or LUBA 582 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. OAR 660-004-0025 divides the universe of uses allowed in forest zones into outright permitted and conditional uses, with limitations on the types of auxiliary and accessory uses allowed. It is inconsistent with the rule for a county to allow as an outright permitted "accessory" use a use that the rule expressly categorizes as a conditional use. *Central Oregon Landwatch v. Deschutes County*, 52 Or LUBA 582 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where two parcels are divided by a fee interest in a strip of land owned by the county for use as a public roadway, the two parcels are not contiguous and are not part of the same "tract." In that circumstance, where one of the parcels already contains a dwelling, the approval of a forest template dwelling on the other parcel does not violate ORS 215.750(4)(d), which prohibits the approval of a forest template dwelling on a "tract" that already includes a dwelling. *Lovinger v. Lane County*, 51 Or LUBA 29 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a strip of land was transferred in fee title to the county for roadway purposes, the resulting units of land lying on either side of that strip do not violate the requirement in ORS 92.014 (1955) that "[n]o person shall create a street or way for the purpose of partitioning a parcel of land without the approval of the agency or body authorized to give approval of plans for subdivision," where the record does not indicate that the roadway was created "for the purpose of partitioning land." Accordingly, the county does not err in determining that one of those resulting units of land is a lawfully created "parcel," and complies with the requirement in ORS 215.705(1)(a) that the lot or parcel on which a forest template dwelling is proposed was lawfully created. *Lovinger v. Lane County*, 51 Or LUBA 29 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where the local code fire siting standards require that secondary fuel breaks (*i.e.*, a fuel break extending 130 feet in all directions around structures) "or their equivalent" apply to new residences, the county does not err in determining that secondary fuel breaks are not required in the riparian setback area, where the findings adopted in support of the riparian vegetation setback regulations acknowledge that

riparian vegetation provides a sufficient natural barrier against the spread of fire. *Lovinger v. Lane County*, 51 Or LUBA 29 (2006).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Siting requirements for forest template dwellings that require that impacts and fire risks be "minimized" govern *where* a proposed dwelling should be sited rather than *whether* a dwelling should be approved. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. OAR 629-640-0100(2), an administrative rule implementing the Forest Practices Act (FPA), only applies to an "operation," which is a "commercial activity relating to the growing or harvesting of forest tree species." Because the clearing of a firebreak as a condition of approval for a forest template dwelling is not such an activity, the administrative rule requirements do not apply. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

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

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Even if conditioned to prohibit more intensive types of competition, a 25-acre motocross race track is not "appropriate in a forest environment" and thus not within the scope of recreational activities allowed in a "private park" on forest lands under OAR 660-006-0025. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A single-file off-road vehicle trail system dispersed over 200 acres is a recreational activity "appropriate in a forest environment" and thus allowed in a "private park" under OAR 660-06-0025. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a neighboring farmer identifies significant changes and significant cost increases to his ranching operation from a proposed motocross race track and off-road vehicle park, the county must find that the proposed park, as conditioned, will not cause those impacts. Such findings are inadequate where the county does not address those identified impacts or explain why the proposed park, as conditioned, will not cause those impacts. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Conditions imposed on a proposed motocross race track and off-road vehicle park that noise from the park must comply with DEQ standards and not exceed 99 decibels are inadequate to support a finding of compliance with the noninterference standard, where the county does not determine whether compliance with DEQ standards will prevent identified impacts on surrounding farm and forest practices, and the only mechanism for achieving compliance is to limit the noise from individual vehicles to 99 decibels. Without addressing the cumulative noise impacts of multiple vehicles, the county is no position to conclude that identified impacts will not occur. *Utsey v. Coos County*, 38 Or LUBA 516 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A parcel that lies wholly outside the 160-acre template required to site a nonforest dwelling under ORS 215.750 may not be counted as a qualifying parcel, even if that parcel is part of a tract, some part of which lies inside the template. *Smith v. Jackson County*, 37 Or LUBA 779 (2000).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Transactions that illegally alter access to a forest parcel do not affect whether that parcel was "lawfully created" for purposes of local and statutory provisions allowing the siting of nonforest dwellings on forest lands. Nothing in local or statutory nonforest dwelling provisions requires that, once lawfully created, forest parcels must remain free of involvement in subsequent illegal transactions in order to retain their "lawfully created" status. *Tarjoto v. Lane County*, 36 Or LUBA 645 (1999).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A full-service 120-space recreational vehicle camp is not a "campground" within the meaning of OAR 660-006-0025(4). *Cotter v. Clackamas County*, 36 Or LUBA 172 (1999).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A county's finding that a proposed nonforest dwelling is inconsistent with forest uses is inadequate where the finding is so conclusory that it fails to inform the applicant either what steps are necessary to obtain approval or that it is unlikely that the application can be approved. *Eddings v. Columbia County*, 36 Or LUBA 159 (1999).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where the county followed the wrong local procedure under its code in approving a proposed forest template dwelling and failed to provide required notice of the decision to an adjoining landowner, the county's action resulted in prejudice to the adjoining landowner's substantial rights. *Krieger v. Wallowa County*, 35 Or LUBA 305 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a county's land use decision approving a forest template dwelling consists of a single-page form that contains blanks for the subject property's legal description, zoning, size and the names and addresses of the applicant and any representatives plus signature lines, the decision is not supported by adequate findings. *Krieger v. Wallowa County*, 35 Or LUBA 305 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A county's finding of compliance with a standard requiring that a nonforest dwelling not interfere with forest practices is inadequate, where the county merely finds that the proposed dwelling presents no greater risk of fire than posed by existing residential development, and fails to address evidence that the cumulative risk of fire from the proposed dwelling and existing development will require the owner of an adjacent forestry operation to change forestry practices and incur additional costs. *Thomas v. Wasco County*, 35 Or LUBA 173 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a soil study is needed for approval of a forest template dwelling, OAR 660-006-0005(2) requires that determination of soil capability be based on NRCS data, unless the local government finds that data inaccurate or unavailable, in which case it may consider "equivalent data" generated by an approved method of

determining the capability of soils to produce wood fiber. *Carlson v. Benton County*, 34 Or LUBA 140(1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. The absence of an NRCS productivity rating for a particular soil means only that NRCS data regarding that soil are "not available" within the meaning of OAR 660-006-0005(2). *Carlson v. Benton County*, 34 Or LUBA 140 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. ORS 215.750 does not, through its text, context or legislative history, limit the meaning of the term "wood fiber" to Douglas fir wood fiber, to the exclusion of other commercial tree species. *Carlson v. Benton County*, 34 Or LUBA 140 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a soil study, intended to be an alternative method allowed by OAR 660-006-0005, fails to determine the capability of non-rated soils for producing wood fiber other than Douglas fir, the standard in OAR 660-006-0005 for determining the productivity of the soil by generating equivalent data, has not been met. *Carlson v. Benton County*, 34 Or LUBA 140 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where an NRCS soil survey does not rate certain soils, that nonrating cannot be used to determine the capacity of the soil for producing wood fiber and cannot be the basis of a conclusion that such soils produce 0-49 cf/ac/yr. The nonrating says nothing in quantitative terms or otherwise about the soil's capacity to produce wood fiber, and therefore is not "equivalent data" as required by OAR 660-006-0005 for an alternative method of soil assessment. *Carlson v. Benton County*, 34 Or LUBA 140 (1998).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A golf driving range is not a recreational use auxiliary to forest practices under OAR 660-06-025, where it is proposed as the primary use of the property and does not support or enable a forest practice. *McKy v. Josephine County*, 33 Or LUBA 687 (1997).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. An incidental conservation benefit such as irrigation does not bring a golf driving range within the conservation uses allowed on forest lands under OAR 660-06-025. *McKy v. Josephine County*, 33 Or LUBA 687 (1997).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A use proposed in a forest zone must be found within the list of specific uses identified in OAR 660-06-025 and 660-06-027, and cannot be permitted based only on the general description of uses in OAR 660-06-025(1). *McKy v. Josephine County*, 33 Or LUBA 687 (1997).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where a local government approved a conditional use permit for a nonforest dwelling in 1992, and petitioner's notice of intent to appeal simply identifies the local government's 1994 building permit approval as the appealed decision, petitioner's appeal has the legal effect of appealing only the 1994 building permit decision. *Broderson v. Jackson County*, 28 Or LUBA 645 (1995).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. Where conditions of a prior nonforest dwelling approval do not require a determination of compliance with any discretionary land use standard, the fact that a building permit may only be issued after it is determined that such conditions are satisfied provides no basis for LUBA's jurisdiction. *Broderson v. Jackson County*, 28 Or LUBA 645 (1995).

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

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. ORS 215.780(1) unambiguously imposes an 80-acre minimum lot size on lands designated for forest use, unless the exceptions provided by ORS 215.780(2) or (3) apply. Neither of those exceptions allows the creation of parcels smaller than 80 acres for homestead dwellings. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

8.4 Goal 4 – Forest Lands/ Goal 4 Rule – Nonforest Uses. A local government interpretation of one of its forest zones in a manner that would permit asphalt batch plants to operate permanently, so long as there were periodic interruptions, does not conflict with the Goal 4 rule, which envisions both permanent and temporary asphalt batch plants. *Zippel v. Josephine County*, 27 Or LUBA 11 (1994).