

## DIVISION 33

### AGRICULTURAL LAND

#### 1 **660-033-0010**

#### 2 **Purpose**

3 The purpose of this division is to preserve and maintain agricultural lands as defined by Goal 3  
4 for farm use, and to implement ORS 215.203 through 215.327 and 215.438 through 215.459 and  
5 215.700 through 215.799.

6 Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245

7 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700

8 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDD 4-  
9 2011, f. & cert. ef. 3-16-11

#### 10 **660-033-0020**

#### 11 **Definitions**

12 For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and  
13 OAR chapter 660 shall apply. In addition, the following definitions shall apply:

14 (1)(a) "Agricultural Land" as defined in Goal 3 includes:

15 (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as  
16 predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

17 (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a),  
18 taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and  
19 future availability of water for farm irrigation purposes; existing land use patterns; technological  
20 and energy inputs required; and accepted farming practices; and

21 (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby  
22 agricultural lands.

23 (b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands  
24 in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even  
25 though this land may not be cropped or grazed;

26 (c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or  
27 land within acknowledged exception areas for Goal 3 or 4.

28 (2)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

29 (A) Contribute in a substantial way to the area's existing agricultural economy; and

- 1 (B) Help maintain agricultural processors and established farm markets.
- 2 (b) When determining whether a farm is part of the commercial agricultural enterprise, not only  
3 what is produced, but how much and how it is marketed shall be considered. These are important  
4 factors because of the intent of Goal 3 to maintain the agricultural economy of the state.
- 5 (3) "Contiguous" means connected in such a manner as to form a single block of land.
- 6 (4) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant to  
7 applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for  
8 the siting of a dwelling, the date of the reconfiguration is the date of creation or existence.  
9 Reconfigured means any change in the boundary of the lot, parcel or tract.
- 10 (5) "Eastern Oregon" means that portion of the state lying east of a line beginning at the  
11 intersection of the northern boundary of the State of Oregon and the western boundary of Wasco  
12 County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes  
13 and Klamath to the southern boundary of the State of Oregon.
- 14 (6) "Exception Area" means an area no longer subject to the requirements of Goal 3 or 4 because  
15 the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and  
16 OAR chapter 660, division 4.
- 17 (7)(a) "Farm Use" as that term is used in ORS chapter 215 and this division means "farm use" as  
18 defined in ORS 215.203.
- 19 (b) As used in the definition of "farm use" in ORS 215.203 and in this division:
- 20 (A) "Preparation" of products or by-products includes but is not limited to the cleaning,  
21 treatment, sorting, or packaging of the products or by-products; and
- 22 (B) "Products or by-products raised on such land" means that those products or by-products are  
23 raised on the farm operation where the preparation occurs or on other farm land provided the  
24 preparation is occurring only on land being used for the primary purpose of obtaining a profit in  
25 money from the farm use of the land.
- 26 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:
- 27 (A) Irrigated and classified prime, unique, Class I or II; or
- 28 (B) Not irrigated and classified prime, unique, Class I or II.
- 29 (b) In addition to that land described in subsection (a) of this section, high-value farmland, if  
30 outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by  
31 the most recent aerial photography of the Agricultural Stabilization and Conservation Service of  
32 the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials"  
33 means perennials grown for market or research purposes including, but not limited to, nursery

- 1 stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay,  
2 pasture or alfalfa;
- 3 (c) In addition to that land described in subsection (a) of this section, high-value farmland, if in  
4 the Willamette Valley, includes tracts composed predominantly of the following soils in Class III  
5 or IV or composed predominantly of a combination of the soils described in subsection (a) of this  
6 section and the following soils:
- 7 (A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton,  
8 Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory,  
9 Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum,  
10 Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;
- 11 (B) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick  
12 surface) and Sifton (occasionally flooded);
- 13 (C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory,  
14 Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and
- 15 (D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and  
16 Whiteson.
- 17 (d) In addition to that land described in subsection (a) of this section, high-value farmland, if  
18 west of the summit of the Coast Range and used in conjunction with a dairy operation on January  
19 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or  
20 composed predominantly of a combination of the soils described in subsection (a) of this section  
21 and the following soils:
- 22 (A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and  
23 Winema;
- 24 (B) Subclassification IIIw, specifically, Brenner and Chitwood;
- 25 (C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and  
26 Winema; and
- 27 (D) Subclassification IVw, specifically, Coquille.
- 28 (e) In addition to that land described in subsection (a) of this section, high-value farmland  
29 includes tracts located west of U.S. Highway 101 composed predominantly of the following soils  
30 in Class III or IV or composed predominantly of a combination of the soils described in  
31 subsection (a) of this section and the following soils:
- 32 (A) Subclassification IIIw, specifically, Etersburg Silt Loam and Crofland Silty Clay Loam;
- 33 (B) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

- 1 (C) Subclassification IVw, specifically, Huffling Silty Clay Loam.
- 2 (f) Lands designated as "marginal lands" according to the marginal lands provisions adopted  
3 before January 1, 1993, and according to the criteria in former ORS 215.247 (1991), are  
4 excepted from this definition of "high-value farmlands";
- 5 (9) "Irrigated" means watered by an artificial or controlled means, such as sprinklers, furrows,  
6 ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has  
7 established rights to use water for irrigation, including such tracts that receive water for irrigation  
8 from a water or irrigation district or other provider. For the purposes of this division, an area or  
9 tract within a water or irrigation district that was once irrigated shall continue to be considered  
10 "irrigated" even if the irrigation water was removed or transferred to another tract.
- 11 (10) "Lot" shall have the meaning set forth in ORS 92.010.
- 12 (11) "Manufactured dwelling" and "manufactured home" shall have the meaning set forth in  
13 ORS 446.003(26).
- 14 (12) "Parcel" shall have the meaning set forth in ORS 215.010.
- 15 (13) "Tract" means one or more contiguous lots or parcels under the same ownership.
- 16 (14) "Western Oregon" means that portion of the state lying west of a line beginning at the  
17 intersection of the northern boundary of the State of Oregon and the western boundary of Wasco  
18 County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes  
19 and Klamath to the southern boundary of the State of Oregon.
- 20 (15) "Willamette Valley" is Clackamas, Linn, Marion, Multnomah, Polk, Washington and  
21 Yamhill Counties and that portion of Benton and Lane Counties lying east of the summit of the  
22 Coast Range.

23 [Publications: Publications referenced are available from the agency.]

24 Stat. Auth.: ORS 197.040

25 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283 &  
26 215.700 - 215.710

27 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-  
28 1994, f. & cert. ef. 6-3-94; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-  
29 1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004,  
30 f. & cert. ef. 4-30-04; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 4-2011, f. & cert. ef. 3-16-11

31 **660-033-0030**

32 **Identifying Agricultural Land**

1 (1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as  
2 agricultural land.

3 (2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel  
4 it need only look to the land within the lot or parcel being inventoried. However, whether land is  
5 "suitable for farm use" requires an inquiry into factors beyond the mere identification of  
6 scientific soil classifications. The factors are listed in the definition of agricultural land set forth  
7 at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing  
8 outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV  
9 soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes  
10 which are necessary to permit farm practices to be undertaken on adjacent or nearby lands." A  
11 determination that a lot or parcel is not agricultural land requires findings supported by  
12 substantial evidence that addresses each of the factors set forth in OAR 660-033-0020(1).

13 (3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether  
14 it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the  
15 extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices  
16 to be undertaken on adjacent or nearby lands" outside the lot or parcel.

17 (4) When inventoried land satisfies the definition requirements of both agricultural land and  
18 forest land, an exception is not required to show why one resource designation is chosen over  
19 another. The plan need only document the factors that were used to select an agricultural, forest,  
20 agricultural/forest, or other appropriate designation.

21 (5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources  
22 Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land.  
23 However, the more detailed soils data shall be related to the NRCS land capability classification  
24 system.

25  
26 (b) If a person concludes that more detailed soils information than that contained in the Internet  
27 soil survey of soil data and information produced by the National Cooperative Soil Survey  
28 operated by the NRCS of the USDA as of January 2, 2012, would assist a county to make a  
29 better determination of whether land qualifies as agricultural land, the person must request that  
30 the department arrange for an assessment of the capability of the land by a professional soil  
31 classifier who is chosen by the person, using the process described in **OAR 660-033-**  
32 **0045**~~[section (9) of this rule]~~.

33  
34 (c) This section and **OAR 660-033-0045**~~[section (9) of this rule]~~ apply to:

35  
36 (A) A change to the designation of land planned and zoned for exclusive farm use, forest use or  
37 mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is  
38 not agricultural land; and

39  
40 (B) Excepting land use decisions under section (7) of this rule, any other proposed land use  
41 decision in which more detailed data is used to demonstrate that land planned and zoned for

1 exclusive farm use does not meet the definition of agricultural land under OAR 660-033-  
2 0020(1)(a)(A).

3  
4 (d) This section and **OAR 660-033-0045**~~[section (9) of this rule]~~ implement Oregon Laws 2010,  
5 chapter 44, section 1, effective on October 1, 2011. After this date, only those soils assessments  
6 certified by the department under section (9) of this rule may be considered by local  
7 governments in land use proceedings described in subsection (c) of this section. However, a local  
8 government may consider soils assessments that have been completed and submitted prior to  
9 October 1, 2011.

10  
11 (e) This section and **OAR 660-033-0045**~~[section (9) of this rule]~~ authorize a person to obtain  
12 additional information for use in the determination of whether land qualifies as agricultural land,  
13 but do not otherwise affect the process by which a county determines whether land qualifies as  
14 agricultural land as defined by Goal 3 and OAR 660-033-0020.

15  
16 (6) Any county that adopted marginal lands provisions before January 1, 1993, may continue to  
17 designate lands as “marginal lands” according to those provisions and criteria in *former* ORS  
18 197.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to 215.750  
19 to lands zoned for exclusive farm use.

20  
21 (7)(a) For the purposes of approving a land use application on high-value farmland under ORS  
22 215.705, the county may change the soil class, soil rating or other soil designation of a specific  
23 lot or parcel if the property owner:

24  
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  
28 (B) Submits a report from a soils scientist whose credentials are acceptable to the Oregon  
29 Department of Agriculture that the soil class, soil rating or other soil designation should be  
30 changed; and

31  
32 (C) Submits a statement from the Oregon Department of Agriculture that the Director of  
33 Agriculture or the director’s designee has reviewed the report described in subsection (7)(B) of  
34 this section and finds the analysis in the report to be soundly and scientifically based.

35  
36 (b) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are  
37 those of the NRCS Internet soil survey for that class, rating or designation before November 4,  
38 1993, except for changes made pursuant to subsection (a) of this section.

39  
40 (8) For the purposes of approving a land use application on high-value farmland under OAR  
41 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other  
42 soil designations used in or made pursuant to this definition are those of the NRCS Internet  
43 survey as of January 2, 2012 for that class, rating or designation.

44  
45 ~~[(9) Soils Assessments by Professional Soil Classifiers.~~

1 ~~(a) A “professional soil classifier” means any professional in good standing with the Soil Science~~  
2 ~~Society of America (SSSA) who has been certified by the SSSA to have met the requirements~~  
3 ~~that existed as of October 1, 2011 for:~~

4  
5 ~~(A) Certified Professional Soil Classifier; or~~

6  
7 ~~(B) Certified Professional Soil Scientist, and who has been determined by an independent panel~~  
8 ~~of soils professionals as defined in subsection (h) of this section to have:~~

9  
10 ~~(i) Completed five semester hours in soil genesis, morphology and classification;~~

11  
12 ~~(ii) At least five years of field experience in soils classification and mapping that meets National~~  
13 ~~Cooperative Soil Survey standards, as maintained by the NRCS or three years of field~~  
14 ~~experience if the applicant holds an MS or PhD degree; and~~

15  
16 ~~(iii) Demonstrated competence in practicing soils classification and mapping without direct~~  
17 ~~supervision, based on published SSSA standards.~~

18  
19 ~~(b) The department will develop, update quarterly and post a list of professional soil classifiers~~  
20 ~~(henceforth ‘soils professionals’) who are qualified to perform soils assessments under this rule.~~

21  
22 ~~(A) Qualified soils professionals shall include those individuals who have either met the~~  
23 ~~requirements of paragraph (a)(A) of this section or the requirements of paragraph (a)(B) of this~~  
24 ~~section as determined by a majority vote of an independent panel of soils professionals.~~

25  
26 ~~(i) A person must apply to the department for initial inclusion on the list described in subsection~~  
27 ~~(b) of this section.~~

28  
29 ~~(ii) Qualified soils professionals must reapply to the department for listing on a biennial basis.~~

30  
31 ~~(B) A soils assessment auditing committee as defined in subsection (i) of this section will~~  
32 ~~periodically reevaluate qualifications of soils professionals by auditing soils assessments;~~  
33 ~~considering sample department reviews and field checks as described in subsection (f) of this~~  
34 ~~section and verifying continued good standing of soils professionals with the SSSA.~~

35  
36 ~~(i) When reviewing applications for relisting, the department will consider the recommendations~~  
37 ~~of the auditing committee and make final determinations as to the continued qualifications of~~  
38 ~~soils professionals to perform soils assessments under this rule.~~

39  
40 ~~(ii) The department will re-approve soils professionals for listing when audits, sample reviews~~  
41 ~~and field checks reveal a pattern of demonstrated competence in practicing soils classification~~  
42 ~~and mapping consistent with subparagraph (9)(a)(B)(iii) of this rule, and when the SSSA verifies~~  
43 ~~that the soils professional is in good standing with the SSSA.~~

44  
45 ~~(c) A person requesting a soils assessment shall:~~

- 1 ~~(A) Choose a soils professional from the posted list described in subsection (b) of this section:~~  
2  
3 ~~(B) Privately contract for a soils assessment to be prepared; and~~  
4  
5 ~~(C) On completion of the soils assessment, submit to the department payment of a non-~~  
6 ~~refundable administrative fee to be established by the department as provided in statute to meet~~  
7 ~~department costs to administer this rule.~~  
8  
9 ~~(d) On completion of the soils assessment, the selected soils professional shall submit to the~~  
10 ~~department:~~  
11  
12 ~~(A) A Soils Assessment Submittal Form that includes the property owner's and soils~~  
13 ~~professional's authorized signatures and a liability waiver for the department; and~~  
14  
15 ~~(B) A soils assessment that is soundly and scientifically based and that meets reporting~~  
16 ~~requirements as established by the department.~~  
17  
18 ~~(e) The department shall deposit fees collected under this rule in the Soils Assessment Fund~~  
19 ~~established under Oregon Laws 2010, chapter 44, section 2.~~  
20  
21 ~~(f) The department shall review the soils assessment by:~~  
22  
23 ~~(A) Performing completeness checks for consistency with reporting requirements for all~~  
24 ~~submitted soils assessments; and~~  
25  
26 ~~(B) Performing sample reviews and field checks for some submitted soils assessments, as~~  
27 ~~follows:~~  
28  
29 ~~(i) The department shall arrange for a person who meets the qualifications of 'professional soil~~  
30 ~~classifier' in subsection (a) of this section to conduct systematic sample reviews and field checks~~  
31 ~~of soils assessments and make recommendations to the department as to whether they are~~  
32 ~~soundly and scientifically based.~~  
33  
34 ~~(ii) Within 30 days of the receipt of a soils assessment subject to review under this paragraph, the~~  
35 ~~department shall determine whether the soils assessment is soundly and scientifically based.~~  
36 ~~Where soils assessments are determined not to be soundly and scientifically based, the~~  
37 ~~department will provide an opportunity to the soils professional to correct any noted deficiencies.~~  
38 ~~Where noted deficiencies are not corrected to the satisfaction of the department, written~~  
39 ~~notification of the noted deficiencies will be provided to the soils professional, property owner~~  
40 ~~and person who requested the soils assessment.~~  
41  
42 ~~(g) A soils assessment produced under this rule is not a public record, as defined in ORS~~  
43 ~~192.410, unless the person requesting the assessment utilizes the assessment in a land use~~  
44 ~~proceeding. If the person decides to utilize a soils assessment produced under this section in a~~  
45 ~~land use proceeding, the person shall inform the department and consent to the release by the~~  
46 ~~department of certified copies of all assessments produced under this section regarding the land~~

1 to the local government conducting the land use proceeding. The department may not disclose a  
2 soils assessment prior to its utilization in a land use proceeding as described in this rule without  
3 written consent of the person paying the fee for the assessment and the property owner.

4  
5 (A) On receipt of written consent, the department shall release to the local government all soils  
6 assessments produced under this rule as well as any department notifications provided under  
7 subsection (f) of this section regarding land to which the land use proceeding applies.

8  
9 (h) As used in this rule, “Independent panel of soils professionals” means a committee of three  
10 professionals appointed by the department that, quarterly or as needed, reviews and makes  
11 determinations regarding the qualifications of individuals seeking to be listed as soils  
12 professionals to perform soils analyses.

13  
14 (A) Such panel shall consist of:

15  
16 (i) A member of the SSSA;

17  
18 (ii) The Oregon State Soil Scientist; and

19  
20 (iii) An Oregon college or university soils professional.

21  
22 (B) Panel members shall meet the qualifications of professional soil classifiers as defined in this  
23 rule or shall have experience mapping and teaching soil genesis, morphology and classification  
24 in a college or university setting.

25  
26 (C) The department’s farm and forest lands specialist shall serve as staff to the panel.

27  
28 (D) In reviewing qualifications of applicants with respect to required semester hours of academic  
29 study under subparagraph (9)(a)(A)(i) of this rule, panel members may adjust for differences in  
30 academic calendars.

31  
32 (i) As used in this rule, “Soils assessment auditing committee” means a group of three  
33 professionals that, annually or as needed, reviews and makes recommendations to the department  
34 regarding the continuing qualifications of soils professionals to perform soils analyses under this  
35 rule.

36  
37 (A) Committee members shall be appointed by the independent panel of soils professionals and  
38 shall meet the qualifications of professional soil classifier as defined in subsection (9)(a) of this  
39 rule.

40  
41 (B) The department’s farm and forest lands specialist shall serve as staff to the committee.

42  
43 (j) As used in this rule, “person” shall have the meaning set forth in ORS 197.015(18).]

1 Stat. Auth.: ORS 197.040  
2 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700 -  
3 215.710  
4 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD  
5 3-2008, f. & cert. ef. 4-18-08; LCDD 4-2011, f. & cert. ef. 3-16-11

6 **660-033-0045**

7 **Soils Assessments by Professional Soil Classifiers.**

8  
9 **(1) A “professional soil classifier” means any professional in good standing with the Soil**  
10 **Science Society of America (SSSA) who the SSSA has certified to have met its requirements**  
11 **that existed as of October 1, 2011 for:**

12  
13 **(a) Certified Professional Soil Classifier; or**

14  
15 **(b) Certified Professional Soil Scientist, and who has been determined by an independent**  
16 **panel of soils professionals as defined in section (8) of this rule to have:**

17  
18 **(A) Completed five semester hours in soil genesis, morphology and classification;**

19  
20 **(B) At least five years of field experience in soils classification and mapping that meets**  
21 **National Cooperative Soil Survey standards, as maintained by the NRCS, or three years of**  
22 **field experience if the applicant holds an MS or PhD degree; and**

23  
24 **(C) Demonstrated competence in practicing soils classification and mapping without direct**  
25 **supervision, based on published SSSA standards.**

26  
27 **(2) The department will develop, update quarterly and post a list of professional soil**  
28 **classifiers (henceforth ‘soils professionals’) who are qualified to perform soils assessments**  
29 **under this rule.**

30  
31 **(a) Qualified soils professionals shall include those individuals who have either met the**  
32 **requirements of subsection (1)(a) of this section or the requirements of subsection (1)(b) of**  
33 **this section as determined by a majority vote of an independent panel of soils professionals.**

34  
35 **(A) A person must apply to the department for initial inclusion on the list described in**  
36 **section (2) of this rule.**

37  
38 **(B) Qualified soils professionals must reapply to the department for listing on a biennial**  
39 **basis.**

40  
41 **(b) A soils assessment auditing committee as defined in section (9) of this rule will**  
42 **periodically reevaluate qualifications of soils professionals by auditing soils assessments,**  
43 **considering sample department reviews and field checks as described in section (6) of this**  
44 **rule and verifying continued good standing of soils professionals with the SSSA.**

1  
2 **(A) When reviewing applications for relisting, the department will consider the**  
3 **recommendations of the auditing committee and make final determinations as to the**  
4 **continued qualifications of soils professionals to perform soils assessments under this rule.**  
5

6 **(B) The department will re-approve soils professionals for listing when audits, sample**  
7 **reviews and field checks reveal a pattern of demonstrated competence in practicing soils**  
8 **classification and mapping consistent with paragraph (1)(b)(C) of this rule, and when the**  
9 **SSSA verifies that the soils professional is in good standing with the SSSA.**

10  
11 **(3) A person requesting a soils assessment shall:**  
12

13 **(a) Choose a soils professional from the posted list described in section (2) of this rule:**  
14

15 **(b) Privately contract for a soils assessment to be prepared; and**  
16

17 **(c) On completion of the soils assessment, submit to the department payment of the non-**  
18 **refundable administrative fee established by the department as provided in statute to meet**  
19 **department costs to administer this rule.**  
20

21 **(4) On completion of the soils assessment, the selected soils professional shall submit to the**  
22 **department:**  
23

24 **(a) A Soils Assessment Submittal Form that includes the property owner's and soils**  
25 **professional's authorized signatures and a liability waiver for the department; and**  
26

27 **(b) A soils assessment that is soundly and scientifically based and that meets reporting**  
28 **requirements as established by the department.**  
29

30 **(5) The department shall deposit fees collected under this rule in the Soils Assessment Fund**  
31 **established under Oregon Laws 2010, chapter 44, section 2.**  
32

33 **(6) The department shall review the soils assessment by:**  
34

35 **(a) Performing completeness checks for consistency with reporting requirements for all**  
36 **submitted soils assessments; and**  
37

38 **(b) Performing sample reviews and field checks for some submitted soils assessments, as**  
39 **follows:**  
40

41 **(A) The department shall arrange for a person who meets the qualifications of**  
42 **'professional soil classifier' in section (1) of this rule to conduct systematic sample reviews**  
43 **and field checks of soils assessments and make recommendations to the department as to**  
44 **whether they are soundly and scientifically based.**  
45

1 **(B) Within 30 days of the receipt of a soils assessment subject to review under this**  
2 **subsection, the department shall determine whether the soils assessment is soundly and**  
3 **scientifically based. Where soils assessments are determined not to be soundly and**  
4 **scientifically based, the department will provide an opportunity to the soils professional to**  
5 **correct any noted deficiencies. Where noted deficiencies are not corrected to the**  
6 **satisfaction of the department, the department will provide written notification of the noted**  
7 **deficiencies to the soils professional, property owner and person who requested the soils**  
8 **assessment.**

9  
10 **(7) A soils assessment produced under this rule is not a public record, as defined in ORS**  
11 **192.410, unless the person requesting the assessment utilizes the assessment in a land use**  
12 **proceeding. If the person decides to utilize a soils assessment produced under this section in**  
13 **a land use proceeding, the person shall inform the department and consent to the release by**  
14 **the department of certified copies of all assessments produced under this section regarding**  
15 **the land to the local government conducting the land use proceeding. The department may**  
16 **not disclose a soils assessment prior to its utilization in a land use proceeding as described**  
17 **in this rule without written consent of the person paying the fee for the assessment and the**  
18 **property owner.**

19  
20 **(a) On receipt of written consent, the department shall release to the local government all**  
21 **soils assessments produced under this rule as well as any department notifications provided**  
22 **under section (6) of this rule regarding land to which the land use proceeding applies.**

23  
24 **(8) As used in this rule, “Independent panel of soils professionals” means a committee of**  
25 **three professionals appointed by the department that, quarterly or as needed, reviews and**  
26 **makes determinations regarding the qualifications of individuals seeking to be listed as**  
27 **soils professionals to perform soils analyses.**

28  
29 **(a) Such panel shall consist of:**

30  
31 **(A) A member of the SSSA;**

32  
33 **(B) The Oregon State Soil Scientist; and**

34  
35 **(C) An Oregon college or university soils professional.**

36  
37 **(b) Panel members shall meet the qualifications of professional soil classifiers as defined in**  
38 **this rule or shall have experience mapping and teaching soil genesis, morphology and**  
39 **classification in a college or university setting.**

40  
41 **(c) The department’s farm and forest lands specialist shall serve as staff to the panel.**

42  
43 **(d) In reviewing qualifications of applicants with respect to required semester hours of**  
44 **academic study under paragraph (1)(b)(A) of this rule, panel members may adjust for**  
45 **differences in academic calendars.**

1 **(9) As used in this rule, “Soils assessment auditing committee” means a group of three**  
2 **professionals that, annually or as needed, reviews and makes recommendations to the**  
3 **department regarding the continuing qualifications of soils professionals to perform soils**  
4 **analyses under this rule.**

5  
6 **(a) Committee members shall be appointed by the independent panel of soils professionals**  
7 **and shall meet the qualifications of professional soil classifier as defined in section (1) of**  
8 **this rule.**

9  
10 **(b) The department’s farm and forest lands specialist shall serve as staff to the committee.**

11  
12 **(10) As used in this rule, “person” shall have the meaning set forth in ORS 197.015(18).**  
13

14 **660-033-0080**

15 **Designation of High-Value Farmland**

16 (1) The commission may review comprehensive plan and land use regulations related to the  
17 identification and designation of high-value farmland under procedures set forth in ORS 197.251  
18 or 197.628 through 197.644.

19 (2) Counties shall submit maps of high-value farmland described in OAR 660-033-0020(8) and  
20 such amendments of their plans and land use regulations as are necessary to implement the  
21 requirements of this division to the commission for review. Counties shall submit high-value  
22 farmland maps no later than the time of the first periodic review after December 31, 1994. The  
23 submittal shall include the notice required by OAR chapter 660, division 18 or 25, whichever  
24 applies.

25 Stat. Auth.: ORS 197.040, 197.230& 197.245

26 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700 -  
27 215.710

28 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94

29 **660-033-0090**

30 **Uses on High-Value and Non High-Value Farmland**

31 (1) Uses on land identified as high-value farmland and uses on land not identified as high-value  
32 farmland shall be limited to those specified in OAR 660-033-0120. Except as provided for in  
33 section (2) of this rule, counties shall apply zones that qualify as exclusive farm use zones under  
34 ORS chapter 215 to "agricultural land" as identified under OAR 660-033-0030, which includes  
35 land identified as high-value farmland and land not identified as high-value farmland.

36 (2) "Abandoned mill sites" may be zoned for industrial use as provided for by ORS 197.719.

1 Stat. Auth.: ORS 197.040 & 215  
2 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 197.719, 215.203, 215.243,  
3 215.283 & 215.700 - 215.710  
4 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2004, f. & cert. ef. 4-30-04

5 **660-033-0100**

6 **Minimum Parcel Size Requirements**

7 (1) Counties shall establish minimum sizes for new parcels for land zoned for exclusive farm  
8 use. For land not designated rangeland, the minimum parcel size shall be at least 80 acres. For  
9 land designated rangeland, the minimum parcel size shall be at least 160 acres.

10 (2)(a) A county may adopt a minimum parcel size lower than that described in section (1) of this  
11 rule by demonstrating to the Commission that it can do so while continuing to meet the  
12 requirements of ORS 215.243 and that parcel sizes below the 80 or 160 acre minimum sizes are  
13 appropriate to maintain the existing commercial agricultural enterprise within an area. This  
14 standard is intended to prevent division of farmland into parcels that are too small to contribute  
15 to commercial agriculture in an area. This standard does not require that every new parcel  
16 created be as large as existing farms or ranches in an area. The minimum parcel size may allow  
17 creation of parcels smaller than the size of existing farms or ranches. However, the minimum  
18 parcel size shall be large enough to keep commercial farms and ranches in the area successful  
19 and not contribute to their decline. Lots or parcels used, or to be used, for training or stabling  
20 facilities shall not be considered appropriate to maintain the existing commercial agricultural  
21 enterprise in any area where other types of agriculture occur.

22 **(b)**~~(3)~~ To determine a minimum parcel size under this **section**~~rule~~, the county shall complete  
23 the following steps:

24 **(A)**~~(a)~~ Identify different agricultural areas within the county, if any;

25 **(B)**~~(b)~~ Determine the nature of the commercial agricultural enterprise in the county, or within  
26 areas of the county;

27 **(C)**~~(c)~~ Identify the type(s) and size(s) of farms or ranches that comprise this commercial  
28 agricultural enterprise; and

29 **(D)**~~(d)~~ Determine the minimum size for new parcels that will maintain this commercial  
30 agricultural enterprise.

31 **(c)**~~(4)~~ To determine whether there are distinct agricultural areas in a county, the county should  
32 consider soils, topography and land forms, land use patterns, farm sizes, ranch sizes and field  
33 sizes, acreage devoted to principal crops, and grazing areas and accepted farming practices for  
34 the principal crops and types of livestock.

1 **(d)**~~(5)~~ To determine the nature of the existing commercial agricultural enterprise within an  
2 area, a county shall identify the following characteristics of farms and ranches in the area: Type  
3 and size of farms and ranches, size of fields or other parts, acreage devoted to principal crops, the  
4 relative contribution of the different types and sizes of farms and ranches to the county's gross  
5 farm sales, and their contribution to local processors and established farm markets. The  
6 following sources may assist in a county's analysis: The most recent Census of Agriculture and  
7 special tabulations from the census developed by Oregon State University, the Oregon  
8 Department of Agriculture, the United States Department of Agriculture's Agricultural  
9 Stabilization and Conservation Service (AACCS), Soil and Water Conservation Districts, the  
10 Oregon State University Extension Service and the county assessors office.

11 **(e)**~~(6)~~ To determine the minimum parcel size, a county shall evaluate available data and choose  
12 a size that maintains the existing commercial agricultural enterprise within the county or within  
13 each area of the county. In areas where the size of commercial farms and ranches is mixed, and  
14 the size of parcels needed to maintain those commercial farms and ranches varies, the county  
15 shall not choose a minimum parcel size that allows larger farms, lots or parcels to be divided to  
16 the size of the smallest farms, lots or parcels in the area. The activities of the larger as well as  
17 smaller holdings must be maintained.

18 **(3)**~~(7)~~ A minimum size for new parcels for farm use does not mean that dwellings may be  
19 approved automatically on parcels that satisfy the minimum parcel size for the area. New  
20 dwellings in conjunction with farm use shall satisfy the criteria for such dwellings set forth in  
21 OAR 660-033-0130(1).

22 **(4)**~~(8)~~ A minimum size for new parcels may be appropriate to maintain the existing agricultural  
23 enterprise in the area, but it may not be adequate to protect wildlife habitat pursuant to Goal 5.  
24 When farmland is located in areas of wildlife habitat, the provisions of Goal 5 continue to apply.

25 **(5)**~~(9)~~ A county may choose to establish a different minimum parcel size for distinct  
26 commercial agricultural areas of the county. The appropriate minimum lot or parcel size for each  
27 area shall reflect the type of commercial agriculture in the area, consistent with section[s-~~(3)~~-~~(6)~~]  
28 **(2)** of this rule.

29 **(6)**~~(10)~~ Counties may allow the creation of new parcels for nonfarm uses only as authorized by  
30 ORS 215.263. Such new parcels shall be the minimum size needed to accommodate the use in a  
31 manner consistent with other provisions of law except as required for the nonfarm dwellings  
32 authorized by section **(7)**~~(11)~~ of this rule.

33 **(7)**~~(11)~~(a) Counties may allow the creation of new lots or parcels for dwellings not in  
34 conjunction with farm use pursuant to ORS 215.263(4) or (5), whichever is applicable.

35 (b) In the Willamette Valley, a new lot or parcel may be allowed if the originating lot or parcel is  
36 equal to or larger than the applicable minimum lot or parcel size, and:

37 (A) Is not stocked to the requirements under ORS 527.610 to 527.770;

- 1 (B) Is composed of at least 95 percent Class VI through VIII soils; and  
2 (C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per  
3 year of wood fiber; and  
4 (D) The new lot or parcel will not be smaller than 20 acres.  
5 (c) No new lot or parcel may be created for this purpose until the county finds that the dwelling  
6 to be sited on the new lot or parcel has been approved under the requirements for dwellings not  
7 in conjunction with farm use in ORS 215.284(3) or (4), 215.236 and OAR 660-033-0130(4).

8 Stat. Auth.: ORS 197.040, 197.230 & 197.245

9 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283,  
10 215.700 - 215.710 & 215.780

11 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 1994, f. & cert. ef. 1994; LCDC 5-  
12 1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-  
13 24-00; LCDD 1-2002, f. & cert. ef. 5-22-02

#### 14 **660-033-0120**

#### 15 **Uses Authorized on Agricultural Lands**

16 The specific development and uses listed in the following table are allowed or may be allowed in  
17 the areas that qualify for the designation pursuant to this division. All uses are subject to the  
18 general provisions, special conditions, additional restrictions and exceptions set forth in this  
19 division. The abbreviations used within the schedule shall have the following meanings:

20 (1) A — Use is allowed. Authorization of some uses may require notice and the opportunity for a  
21 hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197.  
22 Minimum standards for uses in the table that include a numerical reference are specified in OAR  
23 660-033-0130. Counties may prescribe additional limitations and requirements to meet local  
24 concerns only to the extent authorized by law.

25 (2) R — Use may be allowed, after required review. The use requires notice and the opportunity  
26 for a hearing. Minimum standards for uses in the table that include a numerical reference are  
27 specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements  
28 to meet local concerns.

29 (3) \* — Use not allowed.

30 (4) # — Numerical references for specific uses shown on the chart refer to the corresponding  
31 section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this  
32 rule does not establish criteria for the use.

33 [ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of](#)  
34 [table\(s\).](#)]

1 Stat. Auth.: ORS 197.040 & 197.245  
2 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283,  
3 215.700 - 215.710 & 215.780  
4 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-  
5 1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert.  
6 ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-  
7 2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-  
8 15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD  
9 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef.  
10 3-16-11

11 **660-033-0130**

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

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

18 (1) A dwelling on farmland may be considered customarily provided in conjunction with farm  
19 use if it meets the requirements of OAR 660-033-0135.

20 (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of  
21 structures with a total design capacity of greater than 100 people, shall be approved in  
22 connection with the use within three miles of an urban growth boundary, unless an exception is  
23 approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is  
24 described in a master plan adopted under the provisions of OAR chapter 660, division 34.

25 (b) Any enclosed structures or group of enclosed structures described in subsection (a) within a  
26 tract must be separated by at least one-half mile. For purposes of this section, "tract" means a  
27 tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

28 (c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded  
29 on the same tract, subject to other requirements of law, but enclosed existing structures within a  
30 farm use zone within three miles of an urban growth boundary may not be expanded beyond the  
31 requirements of this rule.

32 (3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

33 (A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired  
34 and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

35 (i) Since prior to January 1, 1985; or

- 1 (ii) By devise or by intestate succession from a person who acquired and had owned  
2 continuously the lot or parcel since prior to January 1, 1985.
- 3 (B) The tract on which the dwelling will be sited does not include a dwelling;
- 4 (C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4,  
5 1993, no dwelling exists on another lot or parcel that was part of that tract;
- 6 (D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the  
7 acknowledged comprehensive plan and land use regulations and other provisions of law;
- 8 (E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as  
9 provided in subsections (3)(c) and (d) of this rule; and
- 10 (F) When the lot or parcel on which the dwelling will be sited lies within an area designated in  
11 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is  
12 consistent with the limitations on density upon which the acknowledged comprehensive plan and  
13 land use regulations intended to protect the habitat are based.
- 14 (b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining  
15 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
- 16 (c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling  
17 may be sited on high-value farmland if:
- 18 (A) It meets the other requirements of subsections (3)(a) and (b) of this rule;
- 19 (B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);
- 20 (C) A hearings officer of a county determines that:
- 21 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with  
22 other land, due to extraordinary circumstances inherent in the land or its physical setting that do  
23 not apply generally to other land in the vicinity. For the purposes of this section, this criterion  
24 asks whether the subject lot or parcel can be physically put to farm use without undue hardship  
25 or difficulty because of extraordinary circumstances inherent in the land or its physical setting.  
26 Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel  
27 cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent  
28 in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads,  
29 railroad or utility lines or other similar natural or physical barriers that by themselves or in  
30 combination separate the subject lot or parcel from adjacent agricultural land and prevent it from  
31 being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot  
32 or parcel that has been put to farm use despite the proximity of a natural barrier or since the  
33 placement of a physical barrier shall be presumed manageable for farm use;
- 34 (ii) The dwelling will comply with the provisions of ORS 215.296(1); and

- 1 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the area  
2 by applying the standards set forth in paragraph (4)(a)(D) of this rule; and
- 3 (D) A local government shall provide notice of all applications for dwellings allowed under  
4 subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided  
5 in accordance with the governing body's land use regulations but shall be mailed at least 20  
6 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of  
7 this rule.
- 8 (d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family  
9 dwelling may be sited on high-value farmland if:
- 10 (A) It meets the other requirements of subsections (3)(a) and (b) of this rule;
- 11 (B) The tract on which the dwelling will be sited is:
- 12 (i) Identified in OAR 660-033-0020(8)(c) or (d);
- 13 (ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and
- 14 (iii) Twenty-one acres or less in size; and
- 15 (C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21  
16 acres, and at least two such tracts had dwellings on January 1, 1993; or
- 17 (D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that  
18 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-  
19 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an  
20 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
- 21 (E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are  
22 smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter  
23 mile of the center of the subject tract and on the same side of the public road that provides access  
24 to the subject tract. The governing body of a county must interpret the center of the subject tract  
25 as the geographic center of the flaglot if the applicant makes a written request for that  
26 interpretation and that interpretation does not cause the center to be located outside the flaglot.  
27 Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject  
28 tract abuts an urban growth boundary:
- 29 (i) "flaglot" means a tract containing a narrow strip or panhandle of land providing access from  
30 the public road to the rest of the tract.
- 31 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines  
32 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to  
33 the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

- 1 (e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in  
2 compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS  
3 chapter 215, a county may apply the standards for siting a dwelling under either section (3) of  
4 this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1,  
5 1993;
- 6 (f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling  
7 allowed under section (3) of this rule in any area where the county determines that approval of  
8 the dwelling would:
- 9 (A) Exceed the facilities and service capabilities of the area;
- 10 (B) Materially alter the stability of the overall land use pattern of the area; or
- 11 (C) Create conditions or circumstances that the county determines would be contrary to the  
12 purposes or intent of its acknowledged comprehensive plan or land use regulations.
- 13 (g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son,  
14 daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-  
15 law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent  
16 or grandchild of the owner or a business entity owned by any one or a combination of these  
17 family members;
- 18 (h) The county assessor shall be notified that the governing body intends to allow the dwelling.
- 19 (i) When a local government approves an application for a single-family dwelling under section  
20 (3) of this rule, the application may be transferred by a person who has qualified under section  
21 (3) of this rule to any other person after the effective date of the land use decision.
- 22 (4) A single-family residential dwelling not provided in conjunction with farm use requires  
23 approval of the governing body or its designate in any farmland area zoned for exclusive farm  
24 use:
- 25 (a) In the Willamette Valley, the use may be approved if:
- 26 (A) The dwelling or activities associated with the dwelling will not force a significant change in  
27 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted  
28 to farm or forest use;
- 29 (B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV  
30 through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II  
31 soils;
- 32 (C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

1 (D) The dwelling will not materially alter the stability of the overall land use pattern of the area.  
2 In determining whether a proposed nonfarm dwelling will alter the stability of the land use  
3 pattern in the area, a county shall consider the cumulative impact of possible new nonfarm  
4 dwellings and parcels on other lots or parcels in the area similarly situated. To address this  
5 standard, the county shall:

6 (i) Identify a study area for the cumulative impacts analysis. The study area shall include at least  
7 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural  
8 area based on topography, soil types, land use pattern, or the type of farm or ranch operations or  
9 practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the  
10 study area, its boundaries, the location of the subject parcel within this area, why the selected  
11 area is representative of the land use pattern surrounding the subject parcel and is adequate to  
12 conduct the analysis required by this standard. Lands zoned for rural residential or other urban or  
13 nonresource uses shall not be included in the study area;

14 (ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops,  
15 pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm,  
16 hardship, etc.), and the dwelling development trends since 1993. Determine the potential number  
17 of nonfarm/lot-of-record dwellings that could be approved under subsections (3)(a) and section  
18 (4) of this rule, including identification of predominant soil classifications, the parcels created  
19 prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to  
20 create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the  
21 existing land use pattern of the study area including the distribution and arrangement of existing  
22 uses and the land use pattern that could result from approval of the possible nonfarm dwellings  
23 under this subparagraph; and

24 (iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with  
25 existing nonfarm dwellings will materially alter the stability of the land use pattern in the area.  
26 The stability of the land use pattern will be materially altered if the cumulative effect of existing  
27 and potential nonfarm dwellings will make it more difficult for the existing types of farms in the  
28 area to continue operation due to diminished opportunities to expand, purchase or lease  
29 farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a  
30 manner that will destabilize the overall character of the study area; and

31 (E) The dwelling complies with such other conditions as the governing body or its designate  
32 considers necessary.

33 (b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(11), the use  
34 may be approved if:

35 (A) The dwelling or activities associated with the dwelling will not force a significant change in  
36 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted  
37 to farm or forest use;

38 (B) The dwelling will not materially alter the stability of the overall land use pattern of the area.  
39 In determining whether a proposed nonfarm dwelling will alter the stability of the land use

1 pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other  
2 lots or parcels in the area similarly situated and whether creation of the parcel will lead to  
3 creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the  
4 standards set forth in paragraph (4)(a)(D) of this rule; and

5 (C) The dwelling complies with such other conditions as the governing body or its designate  
6 considers necessary.

7 (c) In counties located outside the Willamette Valley require findings that:

8 (A) The dwelling or activities associated with the dwelling will not force a significant change in  
9 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted  
10 to farm or forest use;

11 (B)(i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is  
12 generally unsuitable land for the production of farm crops and livestock or merchantable tree  
13 species, considering the terrain, adverse soil or land conditions, drainage and flooding,  
14 vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be  
15 considered unsuitable solely because of size or location if it can reasonably be put to farm or  
16 forest use in conjunction with other land; and

17 (ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is  
18 too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be  
19 sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or  
20 parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a  
21 lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of  
22 Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just  
23 because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it  
24 is not suitable for another farm use; or

25 (iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally  
26 unsuitable land for the production of merchantable tree species recognized by the Forest  
27 Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding,  
28 vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is  
29 not "generally unsuitable" simply because it is too small to be managed for forest production  
30 profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or  
31 otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or  
32 parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed  
33 predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in  
34 Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of  
35 wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible  
36 and not seriously interfere with forest uses on surrounding land it must not force a significant  
37 change in forest practices or significantly increase the cost of those practices on the surrounding  
38 land;

1 (C) The dwelling will not materially alter the stability of the overall land use pattern of the area.  
2 In determining whether a proposed nonfarm dwelling will alter the stability of the land use  
3 pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other  
4 lots or parcels in the area similarly situated by applying the standards set forth in paragraph  
5 (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm  
6 dwelling, a county shall consider whether creation of the parcel will lead to creation of other  
7 nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in  
8 paragraph (4)(a)(D) of this rule; and

9 (D) The dwelling complies with such other conditions as the governing body or its designate  
10 considers necessary.

11 (d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this  
12 rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of  
13 section (4) of this rule;

14 (e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the  
15 standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned  
16 exclusive farm use that are not designated marginal or high-value farmland.

17 (5) Approval requires review by the governing body or its designate under ORS 215.296. Uses  
18 may be approved only where such uses:

19 (a) Will not force a significant change in accepted farm or forest practices on surrounding lands  
20 devoted to farm or forest use; and

21 (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding  
22 lands devoted to farm or forest use.

23 (6) A facility for the primary processing of forest products shall not seriously interfere with  
24 accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2).  
25 Such facility may be approved for a one-year period that is renewable and is intended to be only  
26 portable or temporary in nature. The primary processing of a forest product, as used in this  
27 section, means the use of a portable chipper or stud mill or other similar methods of initial  
28 treatment of a forest product in order to enable its shipment to market. Forest products as used in  
29 this section means timber grown upon a tract where the primary processing facility is located.

30 (7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft  
31 emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests,  
32 and by commercial aviation activities in connection with agricultural operations. No aircraft may  
33 be based on a personal-use airport other than those owned or controlled by the owner of the  
34 airstrip. Exceptions to the activities permitted under this definition may be granted through  
35 waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport  
36 lawfully existing as of September 13, 1975, shall continue to be permitted subject to any  
37 applicable rules of the Oregon Department of Aviation.

1 (8)(a) A lawfully established dwelling is a single-family dwelling which:

2 (A) Has intact exterior walls and roof structure;

3 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a  
4 sanitary waste disposal system;

5 (C) Has interior wiring for interior lights; and

6 (D) Has a heating system.

7 (b) In the case of replacement, the dwelling to be replaced shall be:

8 (i) Removed, demolished, or converted to an allowable nonresidential use within three months of  
9 the completion of the replacement dwelling. A replacement dwelling may be sited on any part of  
10 the same lot or parcel. A dwelling established under this section shall comply with all applicable  
11 siting standards. However, the standards shall not be applied in a manner that prohibits the siting  
12 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not  
13 zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record  
14 in the deed records for the county where the property is located a deed restriction prohibiting the  
15 siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be  
16 irrevocable unless a statement of release is placed in the deed records for the county. The release  
17 shall be signed by the county or its designee and state that the provisions of this section  
18 regarding replacement dwellings have changed to allow the siting of another dwelling. The  
19 county planning director or the director's designee shall maintain a record of the lots and parcels  
20 that do not qualify for the siting of a new dwelling under the provisions of this section, including  
21 a copy of the deed restrictions and release statements filed under this section; and

22 (ii) For which the applicant has requested a deferred replacement permit, is removed or  
23 demolished within three months after the deferred replacement permit is issued. A deferred  
24 replacement permit allows construction of the replacement dwelling at any time. If, however, the  
25 established dwelling is not removed or demolished within three months after the deferred  
26 replacement permit is issued, the permit becomes void. The replacement dwelling must comply  
27 with applicable building codes, plumbing codes, sanitation codes and other requirements relating  
28 to health and safety or to siting at the time of construction. A deferred replacement permit may  
29 not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the  
30 applicant.

31 (c) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may  
32 only be replaced by a manufactured dwelling.

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

1 (b) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under  
2 ORS 215.780, if the owner of a dwelling described in OAR 660-033-0130(9) obtains  
3 construction financing or other financing secured by the dwelling and the secured party  
4 forecloses on the dwelling, the secured party may also foreclose on the “homesite,” as defined in  
5 ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new  
6 parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

7 (c) For the purpose of OAR 660-033-0130(9)(b), "foreclosure" means only those foreclosures  
8 that are exempt from partition under ORS 92.010(9)(a).

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

23 (11) Subject to the issuance of a license, permit or other approval by the Department of  
24 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in  
25 compliance with rules adopted under ORS 468B.095, and with the requirements of ORS  
26 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural  
27 process or industrial process water or biosolids for agricultural, horticultural or silvicultural  
28 production, or for irrigation in connection with a use allowed in an exclusive farm use zones  
29 under this division is allowed.

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

32 (13) Roads, highways and other transportation facilities, and improvements not otherwise  
33 allowed under this rule may be established, subject to the adoption of the governing body or its  
34 designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with  
35 which the facility or improvement does not comply. In addition, transportation uses and  
36 improvements may be authorized under conditions and standards as set forth in OAR 660-012-  
37 0035 and 660-012-0065.

38 (14) Home occupations and the parking of vehicles may be authorized. Home occupations shall  
39 be operated substantially in the dwelling or other buildings normally associated with uses  
40 permitted in the zone in which the property is located. A home occupation shall be operated by a

1 resident or employee of a resident of the property on which the business is located, and shall  
2 employ on the site no more than five full-time or part-time persons.

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

7 (16)(a) A utility facility is necessary for public service if the facility must be sited in an exclusive  
8 farm use zone in order to provide the service. To demonstrate that a utility facility is necessary,  
9 an applicant must show that reasonable alternatives have been considered and that the facility  
10 must be sited in an exclusive farm use zone due to one or more of the following factors:

11 (A) Technical and engineering feasibility;

12 (B) The proposed facility is locationally dependent. A utility facility is locationally dependent if  
13 it must cross land in one or more areas zoned for exclusive farm use in order to achieve a  
14 reasonably direct route or to meet unique geographical needs that cannot be satisfied on other  
15 lands;

16 (C) Lack of available urban and nonresource lands;

17 (D) Availability of existing rights of way;

18 (E) Public health and safety; and

19 (F) Other requirements of state and federal agencies.

20 (b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be  
21 considered, but cost alone may not be the only consideration in determining that a utility facility  
22 is necessary for public service. Land costs shall not be included when considering alternative  
23 locations for substantially similar utility facilities and the siting of utility facilities that are not  
24 substantially similar.

25 (c) The owner of a utility facility approved under this section shall be responsible for restoring,  
26 as nearly as possible, to its former condition any agricultural land and associated improvements  
27 that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of  
28 the facility. Nothing in this subsection shall prevent the owner of the utility facility from  
29 requiring a bond or other security from a contractor or otherwise imposing on a contractor the  
30 responsibility for restoration.

31 (d) The governing body of the county or its designee shall impose clear and objective conditions  
32 on an application for utility facility siting to mitigate and minimize the impacts of the proposed  
33 facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change  
34 in accepted farm practices or a significant increase in the cost of farm practices on surrounding  
35 farmlands.

1 (e) Utility facilities necessary for public service may include on-site and off-site facilities for  
2 temporary workforce housing for workers constructing a utility facility. Such facilities must be  
3 removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule  
4 when project construction is complete. Off-site facilities allowed under this paragraph are subject  
5 to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial  
6 approval may be considered through a minor amendment request. A minor amendment request  
7 shall have no effect on the original approval.

8 (f) In addition to the provisions of subsections (16)(a) to (d) of this rule, the establishment or  
9 extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use  
10 zone shall be subject to the provisions of OAR 660-011-0060.

11 (g) The provisions of subsections (16)(a) to (d) of this rule do not apply to interstate natural gas  
12 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy  
13 Regulatory Commission.

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

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

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

34 (c) A nonconforming use described in subsection (b) of this section may be expanded under this  
35 section if:

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

1 (B) The expansion occurs on:

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

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

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

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

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

30 (20) "Golf Course" means an area of land with highly maintained natural turf laid out for the  
31 game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green,  
32 and often one or more natural or artificial hazards. A "golf course" for purposes of ORS  
33 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or  
34 a combination nine and 18 hole regulation golf course consistent with the following:

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

37 (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres  
38 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 (d) Counties shall limit accessory uses provided as part of a golf course consistent with the  
6 following standards:

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

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

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

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

39 (22) A power generation facility may include on-site and off-site facilities for temporary  
40 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 (23) A farm stand may be approved if:

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

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

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

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

27 (24) Accessory farm dwellings as defined by subsection (24)(e) of this section may be  
28 considered customarily provided in conjunction with farm use if:

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

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

34 (B) The accessory farm dwelling will be located:

35 (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; or
- 4 (iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory  
5 farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed  
6 restriction shall be filed with the county clerk and require the manufactured dwelling to be  
7 removed when the lot or parcel is conveyed to another party. The manufactured dwelling may  
8 remain if it is reapproved under these rules; or
- 9 (iv) On any lot or parcel [~~on which the primary farm dwelling is not located~~], when the accessory  
10 farm dwelling is limited to only attached multi- unit residential structures allowed by the  
11 applicable state building code or similar types of farm [~~labor~~]worker housing as that existing  
12 [~~farm labor housing~~] on [the] farm or ranch operations registered with the Department of  
13 Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS  
14 658.750. A county shall require all accessory farm dwellings approved under this subparagraph  
15 to be removed, demolished or converted to a nonresidential use when farmworker housing is no  
16 longer required. **“Farmworker housing” shall have the meaning set forth in ORS 215.278**  
17 **and not the meaning in ORS 315.163;** or
- 18 (v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory  
19 farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size  
20 under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in  
21 OAR 660-033-0135(3) or (4), whichever is applicable; and
- 22 (C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm  
23 operator that is vacant or currently occupied by persons not working on the subject farm or ranch  
24 and that could reasonably be used as an accessory farm dwelling.
- 25 (b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to  
26 which the proposed dwelling would be accessory, meets one of the following:
- 27 (A) On land not identified as high-value farmland, the primary farm dwelling is located on a  
28 farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and  
29 produced in the last two years, **or three of the last five years** or **an average of** three of the last  
30 five years the lower of the following:
- 31 (i) At least \$40,000 in gross annual income from the sale of farm products. In determining the  
32 gross income, the cost of purchased livestock shall be deducted from the total gross income  
33 attributed to the tract; or
- 34 (ii) Gross annual income of at least the midpoint of the median income range of gross annual  
35 sales for farms in the county with the gross annual sales of \$10,000 or more according to the  
36 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased  
37 livestock shall be deducted from the total gross income attributed to the tract; or

- 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, and  
3 produced at least \$80,000 in gross annual income from the sale of farm products in the last two  
4 years, **or three of the last five years** or **an average of** three of the last five years. In determining  
5 the gross income, the cost of purchased livestock shall be deducted from the total gross income  
6 attributed to the tract; or
- 7 (C) On land not identified as high-value farmland in counties that have adopted marginal lands  
8 provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm  
9 dwelling is located on a farm or ranch operation that meets the standards and requirements of  
10 ORS 215.213(2)(a) or (b) or OAR 660-033-0130(24)(b)(A); or
- 11 (D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and
- 12 (i) The building permits, if required, have been issued and construction has begun or been  
13 completed for the buildings and animal waste facilities required for a commercial dairy farm;
- 14 (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding  
15 operation" under ORS 468B.050 and 468B.200 to 468B.230; and
- 16 (iii) A Producer License for the sale of dairy products under ORS 621.072.
- 17 (c) The governing body of a county shall not approve any proposed division of a lot or parcel for  
18 an accessory farm dwelling approved pursuant to this section. If it is determined that an  
19 accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be  
20 created consistent with the minimum parcel size requirements in OAR 660-033-0100.
- 21 (d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy  
22 the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4)  
23 of this rule.
- 24 (e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of  
25 residential structures allowed by the applicable state building code.
- 26 (25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991  
27 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within  
28 one-half mile of a community college. An "armed forces reserve center" includes an armory or  
29 National Guard support facility.
- 30 (26) Buildings and facilities shall not be more than 500 square feet in floor area or placed on a  
31 permanent foundation unless the building or facility preexisted the use approved under this  
32 section. The site shall not include an aggregate surface or hard surface area unless the surface  
33 preexisted the use approved under this section. An owner of property used for the purpose  
34 authorized in this section may charge a person operating the use on the property rent for the  
35 property. An operator may charge users of the property a fee that does not exceed the operator's  
36 cost to maintain the property, buildings and facilities. As used in this section, "model aircraft"

1 means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or  
2 intended to be used for flight and is controlled by radio, lines or design by a person on the  
3 ground.

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

9 (28) The farm on which the processing facility is located must provide at least one-quarter of the  
10 farm crops processed at the facility. The building established for the processing facility shall not  
11 exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation,  
12 storage or other farm use or devote more than 10,000 square feet to the processing activities  
13 within another building supporting farm use. A processing facility shall comply with all  
14 applicable siting standards but the standards shall not be applied in a manner that prohibits the  
15 siting of the processing facility. A county shall not approve any division of a lot or parcel that  
16 separates a processing facility from the farm operation on which it is located.

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

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

33 (30) The County governing body or its designate shall require as a condition of approval of a  
34 single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest  
35 zone, that the landowner for the dwelling sign and record in the deed records for the county a  
36 document binding the landowner, and the landowner's successors in interest, prohibiting them  
37 from pursuing a claim for relief or cause of action alleging injury from farming or forest  
38 practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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

- 1 (32) Utility facility service lines are utility lines and accessory facilities or structures that end at  
2 the point where the utility service is received by the customer and that are located on one or more  
3 of the following:
- 4 (a) A public right of way;
- 5 (b) Land immediately adjacent to a public right of way, provided the written consent of all  
6 adjacent property owners has been obtained; or
- 7 (c) The property to be served by the utility.
- 8 (33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer  
9 persons that is not anticipated to continue for more than 120 hours in any three-month period is  
10 not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division.
- 11 (34) Any outdoor [~~mass~~] gathering of more than 3,000 persons that is anticipated to continue for  
12 more than 120 hours in any three-month planning period is subject to review by a county  
13 planning commission under the provisions of ORS 433.763.
- 14 (35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-  
15 0130(5), for the purpose of verifying the existence, continuity and nature of the business  
16 described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to  
17 the county and submit evidence including, but not limited to, sworn affidavits or other  
18 documentary evidence that the business qualifies; and
- 19 (b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or  
20 215.283(2)(y) may be altered, restored or replaced pursuant to ORS 215.130(5), (6) and (9).
- 21 (36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under  
22 this section may provide services to veterans, including but not limited to emergency and  
23 transitional shelter, preparation and service of meals, vocational and educational counseling and  
24 referral to local, state or federal agencies providing medical, mental health, disability income  
25 replacement and substance abuse services, only in a facility that is in existence on January 1,  
26 2006. The services may not include direct delivery of medical, mental health, disability income  
27 replacement or substance abuse services.
- 28 (37) For purposes of this rule a wind power generation facility includes, but is not limited to, the  
29 following system components: all wind turbine towers and concrete pads, permanent  
30 meteorological towers and wind measurement devices, electrical cable collection systems  
31 connecting wind turbine towers with the relevant power substation, new or expanded private  
32 roads (whether temporary or permanent) constructed to serve the wind power generation facility,  
33 office and operation and maintenance buildings, temporary lay-down areas and all other  
34 necessary appurtenances, including but not limited to on-site and off-site facilities for temporary  
35 workforce housing for workers constructing a wind power generation facility. Such facilities  
36 must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute  
37 or rule when project construction is complete. Temporary workforce housing facilities not

1 included in the initial approval may be considered through a minor amendment request filed after  
2 a decision to approve a power generation facility. A minor amendment request shall be subject to  
3 OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind  
4 power generation facility shall be subject to the following provisions:

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

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

11 (i) Technical and engineering feasibility;

12 (ii) Availability of existing rights of way; and

13 (iii) The long term environmental, economic, social and energy consequences of siting the  
14 facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B);

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

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

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

29 (E) The criteria of OAR 660-033-0130(37)(b) are satisfied.

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

33 (A) The proposed wind power facility will not create unnecessary negative impacts on  
34 agricultural operations conducted on the subject property. Negative impacts could include, but  
35 are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in

1 such a way that creates small or isolated pieces of property that are more difficult to farm, and  
2 placing wind farm components such as meteorological towers on lands in a manner that could  
3 disrupt common and accepted farming practices;

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

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

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

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

23 (d) In the event that a wind power generation facility is proposed on a combination of arable and  
24 nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR  
25 660-033-0130(37)(b) shall apply to the entire project.

26 **(e) Excavation and other activities associated with wind power generation facilities must**  
27 **comply with the requirements of ORS 358.920 regarding archaeological objects and sites.**

28  
29 (38) A proposal to site a photovoltaic solar power generation facility shall be subject to the  
30 following definitions and provisions:

31  
32 (a) “Arable land” means land in a tract that is predominantly cultivated or, if not currently  
33 cultivated, predominantly comprised of arable soils.

34  
35 (b) “Arable soils” means soils that are suitable for cultivation as determined by the governing  
36 body or its designate based on substantial evidence in the record of a local land use application,  
37 but **“arable soils” does** not include high-value farmland soils described at ORS 195.300(10)  
38 unless otherwise stated.  
39

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

3  
4 (d) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS  
5 agricultural capability class V-VIII and no history of irrigation shall be considered nonarable in  
6 all cases. The governing body or its designate may determine other soils, including soils with a  
7 past history of irrigation, to be nonarable based on substantial evidence in the record of a local  
8 land use application.

9  
10 (e) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of  
11 equipment that converts sunlight into electricity and then stores, transfers, or both, that  
12 electricity. This includes photovoltaic modules, mounting and solar tracking equipment,  
13 foundations, inverters, wiring, ~~and~~ storage devices and other components. Photovoltaic solar  
14 power generation facilities also include electrical cable collection systems connecting the  
15 photovoltaic solar generation facility to a transmission line, all necessary grid integration  
16 equipment, new or expanded private roads constructed to serve the photovoltaic solar power  
17 generation facility, office, operation and maintenance buildings, staging areas and all other  
18 necessary appurtenances. For purposes of applying the acreage standards of this section, a  
19 photovoltaic solar power generation facility includes all existing and proposed facilities on a  
20 single tract, as well as any existing and proposed facilities determined to be under common  
21 ownership~~[-]~~ on lands with **fewer**~~[less]~~ than 1320~~[-]~~feet of separation from the tract on which the  
22 new facility is proposed to be sited. Projects connected to the same parent company or  
23 individuals shall be considered to be in common ownership, regardless of the operating business  
24 structure. A photovoltaic solar power generation facility does not include a net metering project  
25 established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff  
26 project established consistent with ORS 757.365 and OAR chapter 860, division 84.

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

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

40  
41 (B) The presence of a photovoltaic solar power generation facility will not result in unnecessary  
42 soil erosion or loss that could limit agricultural productivity on the subject property. This  
43 provision may be satisfied by the submittal and county approval of a soil and erosion control  
44 plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will  
45 be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The  
46 approved plan shall be attached to the decision as a condition of approval;

1  
2 (C) Construction or maintenance activities will not result in unnecessary soil compaction that  
3 reduces the productivity of soil for crop production. This provision may be satisfied by the  
4 submittal and county approval of a plan prepared by an adequately qualified individual, showing  
5 how unnecessary soil compaction will be avoided or remedied in a timely manner through deep  
6 soil decompaction or other appropriate practices. The approved plan shall be attached to the  
7 decision as a condition of approval;  
8

9 (D) Construction or maintenance activities will not result in the unabated introduction or spread  
10 of noxious weeds and other undesirable weed[s] species. This provision may be satisfied by the  
11 submittal and county approval of a weed control plan prepared by an adequately qualified  
12 individual that includes a long-term maintenance agreement. The approved plan shall be attached  
13 to the decision as a condition of approval;  
14

15 (E) The project is not located on high-value farmland soils unless it can be demonstrated that:  
16

17 (i) Non high-value farmland soils are not available on the subject tract;  
18

19 (ii) Siting the project on non high-value farmland soils present on the subject tract would  
20 significantly reduce the project's ability to operate successfully; or  
21

22 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or  
23 ranching operation on the subject tract than other possible sites also located on the subject tract,  
24 including those comprised of non high-value farmland soils; and  
25

26 (F) A study area consisting of lands zoned for exclusive farm use located within one mile  
27 measured from the center of the proposed project shall be established and:  
28

29 (i) If fewer than 48[-]acres of photovoltaic solar power generation facilities have been  
30 constructed or received land use approvals and obtained building permits within the study area,  
31 no further action is necessary.  
32

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

44 (g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than  
45 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant

1 to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find  
2 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) Nonarable soils are not available on the subject tract;

8  
9 (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce  
10 the project's ability to operate successfully; or

11  
12 (iii) The proposed site is better suited to allow continuation of an existing commercial farm or  
13 ranching operation on the subject tract than other possible sites also located on the subject tract,  
14 including those comprised of nonarable soils;

15  
16 (B) No more than 12[-]acres of the project will be sited on high-value farmland soils described as  
17 ORS 195.300(10) unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660,  
18 division 4;

19  
20 (C) A study area consisting of lands zoned for exclusive farm use located within one mile  
21 measured from the center of the proposed project shall be established and:

22  
23 (i) If fewer than 80[-]acres of photovoltaic solar power generation facilities have been  
24 constructed or received land use approvals and obtained building permits within the study area  
25 no further action is necessary.

26  
27 (ii) When at least 80[-]acres of photovoltaic solar power generation have been constructed or  
28 received land use approvals and obtained building permits, either as a single project or as  
29 multiple facilities, within the study area the local government or its designate must find that the  
30 photovoltaic solar energy generation facility will not materially alter the stability of the overall  
31 land use pattern of the area. The stability of the land use pattern will be materially altered if the  
32 overall effect of existing and potential photovoltaic solar energy generation facilities will make it  
33 more difficult for the existing farms and ranches in the area to continue operation due to  
34 diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish  
35 the number of tracts or acreage in farm use in a manner that will destabilize the overall character  
36 of the study area; and

37  
38 (D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

39  
40 (h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more  
41 than 100[-]acres from use as a commercial agricultural enterprise unless an exception is taken  
42 pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate  
43 must find that:

44  
45 (A) The project is not located on high-value farmland soils or arable soils unless it can be  
46 demonstrated that:

1  
2 (i) Siting the project on nonarable soils present on the subject tract would significantly reduce the  
3 project's ability to operate successfully; or  
4

5 (ii) The proposed site is better suited to allow continuation of an existing commercial farm or  
6 ranching operation on the subject tract as compared to other possible sites also located on the  
7 subject tract, including sites that are comprised of nonarable soils;  
8

9 (B) No more than 12[-]acres of the project will be sited on high-value farmland soils described at  
10 ORS 195.300(10);  
11

12 (C) No more than 20[-]acres of the project will be sited on arable soils unless an exception is  
13 taken pursuant to ORS 197.732 and OAR chapter 660, division 4;  
14

15 (D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;  
16

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

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

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

1  
2 (i) The county governing body or its designate shall require as a condition of approval for a  
3 photovoltaic solar power generation facility, that the project owner sign and record in the deed  
4 records for the county a document binding the project owner[<sup>5</sup>] and the project owner's  
5 successors in interest, prohibiting them from pursuing a claim for relief or cause of action  
6 alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

7  
8 (j) Nothing in this section shall prevent a county from requiring a bond or other security from a  
9 developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic  
10 solar power generation facility.

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

14  
15 **(i) Excavation and other activities associated with photovoltaic solar power generation**  
16 **facilities must comply with the requirements of ORS 358.920 regarding archaeological**  
17 **objects and sites.**

18  
19 Stat. Auth.: ORS 197.040

20 Stats. Implemented: ORS 197.040 & 215.213

21 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-  
22 1994, f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 5-1996, f. & cert. ef. 12-  
23 23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-  
24 2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-  
25 22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-  
26 2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. &  
27 cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-  
28 10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10;  
29 LCDD 4-2011, f. & cert. ef. 3-16-11

30 **660-033-0135**

31 **Dwellings in Conjunction with Farm Use**

32 (1) On land not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling  
33 may be considered customarily provided in conjunction with farm use if:

34 (a) The parcel on which the dwelling will be located is at least:

35 (A) 160 acres and not designated rangeland; or

36 (B) 320 acres and designated rangeland; or

37 (C) As large as the minimum parcel size if located in a zoning district with an acknowledged  
38 minimum parcel size larger than indicated in paragraph (A) or (B) of this subsection.

- 1 (b) The subject tract is currently employed for farm use, as defined in ORS 215.203.
- 2 (c) The dwelling will be occupied by a person or persons who will be principally engaged in the  
3 farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a  
4 commercial scale.
- 5 (d) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition), there is no other  
6 dwelling on the subject tract.
- 7 (2)(a) If a county prepares the potential gross sales figures pursuant to subsection (c) of this  
8 section, the county may determine that on land not identified as high-value farmland pursuant to  
9 OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with  
10 farm use if:
- 11 (A) The subject tract is at least as large as the median size of those commercial farm or ranch  
12 tracts capable of generating at least \$10,000 in annual gross sales that are located within a study  
13 area that includes all tracts wholly or partially within one mile from the perimeter of the subject  
14 tract;
- 15 (B) The subject tract is capable of producing at least the median level of annual gross sales of  
16 county indicator crops as the same commercial farm or ranch tracts used to calculate the tract  
17 size in paragraph (A) of this subsection;
- 18 (C) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level  
19 capable of producing the annual gross sales required in paragraph (B) of this subsection;
- 20 (D) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres in  
21 western Oregon or 20 acres in eastern Oregon;
- 22 (E) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other  
23 dwelling on the subject tract;
- 24 (F) The dwelling will be occupied by a person or persons who will be principally engaged in the  
25 farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a  
26 commercial scale; and
- 27 (G) If no farm use has been established at the time of application, land use approval shall be  
28 subject to a condition that no building permit may be issued prior to the establishment of the  
29 farm use required by paragraph (C) of this subsection.
- 30 (b) In order to identify the commercial farm or ranch tracts to be used in paragraph (2)(a)(A) of  
31 this rule, the gross sales capability of each tract in the study area, including the subject tract,  
32 must be determined, using the gross sales figures prepared by the county pursuant to subsection  
33 (2)(c) of this section as follows:

- 1 (A) Identify the study area. This includes all the land in the tracts wholly or partially within one  
2 mile of the perimeter of the subject tract;
- 3 (B) Determine for each tract in the study area the number of acres in every land classification  
4 from the county assessor's data;
- 5 (C) Determine the potential earning capability for each tract by multiplying the number of acres  
6 in each land class by the gross sales per acre for each land class provided by the commission  
7 pursuant to subsection (2)(c) of this section. Add these to obtain the potential earning capability  
8 for each tract;
- 9 (D) Identify those tracts capable of grossing at least \$10,000 based on the data generated in  
10 paragraph (C) of this subsection; and
- 11 (E) Determine the median size and median gross sales capability for those tracts capable of  
12 generating at least \$10,000 in annual gross sales to use in paragraphs (2)(a)(A) and (B) of this  
13 subsection.
- 14 (c) In order to review a farm dwelling pursuant to subsection (2)(a) of this section, a county may  
15 prepare, subject to review by the director, a table of the estimated potential gross sales per acre  
16 for each assessor land class (irrigated and nonirrigated) required in subsection (2)(b) of this  
17 section. The director shall provide assistance and guidance to a county in the preparation of this  
18 table. The table shall be prepared as follows:
- 19 (A) Determine up to three indicator crop types with the highest harvested acreage for irrigated  
20 and for nonirrigated lands in the county using the most recent OSU Extension Service  
21 Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates," or  
22 other USDA/Extension Service documentation;
- 23 (B) Determine the combined weighted average of the gross sales per acre for the three indicator  
24 crop types for irrigated and for nonirrigated lands, as follows:
- 25 (i) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e.,  
26 divide each crop type's gross annual sales by the harvested acres for each crop type);
- 27 (ii) Determine the average gross sales per acre for each crop type for three years, discarding the  
28 highest and lowest sales per acre amounts during the five year period;
- 29 (iii) Determine the percentage each indicator crop's harvested acreage is of the total combined  
30 harvested acres for the three indicator crop types;
- 31 (iv) Multiply the combined sales per acre for each crop type identified under subparagraph (ii) of  
32 this paragraph by its percentage of harvested acres to determine a weighted sales per acre amount  
33 for each indicator crop; and

- 1 (v) Add the weighted sales per acre amounts for each indicator crop type identified in  
2 subparagraph (iv) of this paragraph. The result provides the combined weighted gross sales per  
3 acre.
- 4 (C) Determine the average land rent value for irrigated and nonirrigated land classes in the  
5 county's exclusive farm use zones according to the annual "income approach" report prepared by  
6 the county assessor pursuant to ORS 308A.092; and
- 7 (D) Determine the percentage of the average land rent value for each specific land rent for each  
8 land classification determined in paragraph (C) of this subsection. Adjust the combined weighted  
9 sales per acre amount identified in subparagraph (B)(v) of this subsection using the percentage of  
10 average land rent (i.e., multiply the weighted average determined in subparagraph (B)(v) of this  
11 subsection by the percent of average land rent value from paragraph (C) of this subsection). The  
12 result provides the estimated potential gross sales per acre for each assessor land class that will  
13 be provided to each county to be used as explained under paragraph (2)(b)(C) of this section.
- 14 (3) On land not identified as high-value farmland, a dwelling may be considered customarily  
15 provided in conjunction with farm use if:
- 16 (a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that  
17 produced in the last two years, or three of the last five years or an average of three of the last  
18 five years the lower of the following:
- 19 (A) At least \$40,000 in gross annual income from the sale of farm products; or
- 20 (B) Gross annual income of at least the midpoint of the median income range of gross annual  
21 sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992  
22 Census of Agriculture, Oregon; and
- 23 (b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other  
24 dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed  
25 farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the  
26 farm or ranch operation;
- 27 (c) The dwelling will be occupied by a person or persons who produced the commodities that  
28 grossed the income in subsection (a) of this section; and
- 29 (d) In determining the gross income required by subsection (a) of this section:
- 30 (A) The cost of purchased livestock shall be deducted from the total gross income attributed to  
31 the farm or ranch operation;
- 32 (B) Only gross income from land owned, not leased or rented, shall be counted; and
- 33 (C) Gross farm income earned from a lot or parcel that has been used previously to qualify  
34 another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

- 1 (4) On land identified as high-value farmland, a dwelling may be considered customarily  
2 provided in conjunction with farm use if:
- 3 (a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that  
4 produced at least \$80,000 in gross annual income from the sale of farm products in the last two  
5 years, **or three of the last five years** or **an average of** three of the last five years; and
- 6 (b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other  
7 dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed  
8 farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the  
9 farm or ranch operation; and
- 10 (c) The dwelling will be occupied by a person or persons who produced the commodities that  
11 grossed the income in subsection (a) of this section;
- 12 (d) In determining the gross income required by subsection (a) of this section;
- 13 (A) The cost of purchased livestock shall be deducted from the total gross income attributed to  
14 the farm or ranch operation;
- 15 (B) Only gross income from land owned, not leased or rented, shall be counted; and
- 16 (C) Gross farm income earned from a lot or parcel that has been used previously to qualify  
17 another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- 18 (5)(a) For the purpose of sections (3) or (4) of this rule, noncontiguous lots or parcels zoned for  
19 farm use in the same county or contiguous counties may be used to meet the gross income  
20 requirements. Except for Hood River and Wasco counties and Jackson and Klamath counties,  
21 when a farm or ranch operation has lots or parcels in both "western" and "eastern" Oregon as  
22 defined by this division, lots or parcels in eastern or western Oregon may not be used to qualify a  
23 dwelling in the other part of the state.
- 24 (b) Prior to the final approval for a dwelling authorized by sections (3) and (4) of this rule that  
25 requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to  
26 comply with the gross farm income requirements, the applicant shall provide evidence that the  
27 covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the  
28 county clerk of the county or counties where the property subject to the covenants, conditions  
29 and restrictions is located. The covenants, conditions and restrictions shall be recorded for each  
30 lot or parcel subject to the application for the primary farm dwelling and shall preclude:
- 31 (A) All future rights to construct a dwelling except for accessory farm dwellings, relative farm  
32 assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS  
33 chapter 215; and
- 34 (B) The use of any gross farm income earned on the lots or parcels to qualify another lot or  
35 parcel for a primary farm dwelling.

- 1 (c) The covenants, conditions and restrictions are irrevocable, unless a statement of release is  
2 signed by an authorized representative of the county or counties where the property subject to the  
3 covenants, conditions and restrictions is located;
- 4 (d) Enforcement of the covenants, conditions and restrictions may be undertaken by the  
5 department or by the county or counties where the property subject to the covenants, conditions  
6 and restrictions is located;
- 7 (e) The failure to follow the requirements of this section shall not affect the validity of the  
8 transfer of property or the legal remedies available to the buyers of property that is subject to the  
9 covenants, conditions and restrictions required by this section;
- 10 (f) The county planning director shall maintain a copy of the covenants, conditions and  
11 restrictions filed in the county deed records pursuant to this section and a map or other record  
12 depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the  
13 county deed records pursuant to this section. The map or other record required by this subsection  
14 shall be readily available to the public in the county planning office.
- 15 (6) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991  
16 Edition) before January 1, 1993, a dwelling may be considered customarily provided in  
17 conjunction with farm use if it is not on a lot or parcel identified as high-value farmland and it  
18 meets the standards and requirements of ORS 215.213(2)(a) or (b).
- 19 (7) A dwelling may be considered customarily provided in conjunction with a commercial dairy  
20 farm as defined by OAR 660-033-0135(8) if:
- 21 (a) The subject tract will be employed as a commercial dairy as defined by OAR 660-033-  
22 0135(8);
- 23 (b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial  
24 dairy;
- 25 (c) Except as permitted by ORS 215.213(r) and 215.283(1)(p) (1999 Edition), there is no other  
26 dwelling on the subject tract;
- 27 (d) The dwelling will be occupied by a person or persons who will be principally engaged in the  
28 operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy  
29 animals or other farm use activities necessary to the operation of the commercial dairy farm;
- 30 (e) The building permits, if required, have been issued for and construction has begun for the  
31 buildings and animal waste facilities required for a commercial dairy farm; and
- 32 (f) The Oregon Department of Agriculture has approved the following:
- 33 (A) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to  
34 468B.230; and

- 1 (B) A Producer License for the sale of dairy products under ORS 621.072.
- 2 (8) As used in this division, the following definitions apply:
- 3 (a) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing  
 4 dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a)  
 5 or (4)(a), whichever is applicable, from the sale of fluid milk; and
- 6 (b) "Farm or ranch operation" means all lots or parcels of land in the same ownership that are  
 7 used by the farm or ranch operator for farm use as defined in ORS 215.203.
- 8 (9) A dwelling may be considered customarily provided in conjunction with farm use if:
- 9 (a) Within the previous two years, the applicant owned and operated a **different** farm or ranch  
 10 operation that earned the gross farm income in the last five years or four of the last seven years  
 11 as required by OAR 660-033-0135(3) or (4) of this rule, whichever is applicable;
- 12 (b) The subject lot or parcel on which the dwelling will be located is:
- 13 (A) Currently employed for the farm use, as defined in ORS 215.203, that produced in the last  
 14 two years, **or three of the last five years** or **an average in** three of the last five years **of** the  
 15 gross farm income required by OAR 660-033-0135(3) or (4) of this rule, whichever is  
 16 applicable; and
- 17 (B) At least the size of the applicable minimum lot size under OAR 215.780; and
- 18 (c) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other  
 19 dwelling on the subject tract;
- 20 (d) The dwelling will be occupied by a person or persons who produced the commodities that  
 21 grossed the income in subsection (a) of this section; and
- 22 (e) In determining the gross income required by subsections (a) and (b)(A) of this section:
- 23 (A) The cost of purchased livestock shall be deducted from the total gross income attributed to  
 24 the tract; and
- 25 (B) Only gross income from land owned, not leased or rented, shall be counted.

26 [ED. NOTE: Exhibits referenced are available from the agency.]

27 Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245  
 28 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283,  
 29 215.700 - 215.710 & 215.780  
 30 Hist.: LCDC 3-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f.  
 31 & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 4-2011, f. & cert. ef. 3-16-11

1 **660-033-0140**

2 **Permit Expiration Dates**

3 (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land  
4 division, made after the effective date of this division approving a proposed development on  
5 agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and  
6 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two  
7 years from the date of the final decision if the development action is not initiated in that period.

8 (2) A county may grant one extension period of up to 12 months if:

9 (a) An applicant makes a written request for an extension of the development approval period;

10 (b) The request is submitted to the county prior to the expiration of the approval period;

11 (c) The applicant states reasons that prevented the applicant from beginning or continuing  
12 development within the approval period; and

13 (d) The county determines that the applicant was unable to begin or continue development during  
14 the approval period for reasons for which the applicant was not responsible.

15 (3) Approval of an extension granted under this rule is an administrative decision, is not a land  
16 use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

17 (4) Additional one-year extensions may be authorized where applicable criteria for the decision  
18 have not changed.

19 (5)(a) If a permit is approved for a proposed residential development on agricultural or forest  
20 land outside of an urban growth boundary, the permit shall be valid for four years.

21 (b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two  
22 years.

23 (6) For the purposes of section (5) of this rule, "residential development" only includes the  
24 dwellings provided for under ORS 215.213(1)(q), (3) and (4), 215.283(1)(p), 215.284,  
25 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).

26 Stat. Auth.: ORS 197.040 & 215

27 Stats. Implemented: ORS 197.015, 197.040, 197.230 & 197.245

28 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD  
29 4-2011, f. & cert. ef. 3-16-11

30 **660-033-0145**

31 **Agriculture/Forest Zones**

1 (1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-  
2 0050;

3 (2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-  
4 006-0055; and

5 (3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-  
6 0057.

7 Stat. Auth.: ORS 183, 197.040, 197.230 & 197.245

8 Stats. Implemented: ORS 197.040, 197.213, 197.215, 197.230, 197.245, 197.283, 197.700,

9 197.705, 197.720, 197.740, 197.750 & 197.780

10 Hist.: LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 4-2011, f. & cert. ef. 3-16-11

### 11 **660-033-0150**

#### 12 **Notice of Decisions in Agriculture Zones**

13 (1) Counties shall notify the department of all applications for dwellings and land divisions in  
14 exclusive farm use zones. Such notice shall be in accordance with the county's acknowledged  
15 comprehensive plan and land use regulations, and shall be mailed to the department's Salem  
16 office at least 10 calendar days before any hearing or decision on such application.

17 (2) Notice of proposed actions described in section (1) of this rule shall be provided as required  
18 by procedures for notice contained in ORS 197.763 and 215.402 to 215.438.

19 (3) The provisions of sections (1) and (2) of this rule are repealed on September 6, 1995.

20 Stat. Auth.: ORS 197.040, 197.230& 197.245

21 Stats. Implemented: ORS 197.015, 197.040, 197.230& 197.245

22 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. e.f 3-1-94

### 23 **660-033-0160**

#### 24 **Effective Date**

25 The provisions of this division shall become effective upon filing.

26 Stat. Auth.: ORS 197.040, 197.230& 197.245

27 Stats. Implemented: 215

28 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 5-  
29 1996, 12-23-96

30

1 **LAND CONSERVATION AND DEVELOPMENT DEPARTMENT**

2  
3 **OREGON ADMINISTRATIVE RULES**

4  
5 **CHAPTER 660, DIVISION 033, RULE 0120, TABLE 1**

6  
7  
8 **Uses Authorized on Agricultural Lands**

9 **OAR 660-033-0120** The specific development and uses listed in the following table are allowed in the areas that qualify for the  
10 designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and  
11 exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

12 **A** Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies  
13 as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are  
14 specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent  
15 authorized by law.

16 **R** Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in  
17 the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and  
18 requirements to meet local concerns.

19 \* Use not allowed.

20 # Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no  
21 numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

22  
23 HV All  
24 Farmland Other USES

25 **Farm/Forest Resource**

26  
27  
28 A A Farm use as defined in ORS 215.203.

29  
30 A A Other buildings customarily provided in conjunction with farm use.

31  
32 A A Propagation or harvesting of a forest product.

33  
34 R6 R6 A facility for the primary processing of forest products.

35  
36 R28 R28 A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.

37 **Natural Resource**

38  
39  
40 A A Creation of, restoration of, or enhancement of wetlands.

41  
42 R5,27 R5,27 The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the  
43 State Fish and Wildlife Commission or insect species.

44 **Residential**

45  
46  
47 A1,30 A1,30 Dwelling customarily provided in conjunction with farm use.

48  
49 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  
50 occupied by a relative of the farm operator or farm operator’s spouse, which means grandparent, step-grandparent,  
51 grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the  
52 farm operator does, or will, require the assistance of the relative in the management of the farm use.

53  
54 A24,30 A24,30 Accessory Farm Dwellings for year-round and seasonal farm workers.

55  
56 A3,30 A3,30 One single-family dwelling on a lawfully created lot or parcel.

57  
58 R5,10 R5,10, One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30  
59 30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the  
60 existing resident or a relative of the resident.

1			
2	R4,30	R4,30	Single-family residential dwelling, not provided in conjunction with farm use.
3			
4	R5,30	R5,30	Residential home or facility as defined in ORS 197.660, in existing dwellings.
5			
6	R5, 0	R5,30	Room and board arrangements for a maximum of five unrelated persons in existing residences.
7			
8	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.
9			
10			
11	A8,30	A8,30	Alteration, restoration, or replacement of a lawfully established dwelling.
12			
13	R5[-]	R5	A wildlife habitat conservation and management plan pursuant to <i>former</i> ORS 215.800 to 215.808.
14			<b>Commercial Uses</b>
15	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).
16			
17	R5,14	R5,14	Home occupations as provided in ORS 215.448.
18			
19	*18(a)	R5	Dog kennels.
20			
21			
22	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.
23			
24			
25	*18(a)	R5	Destination resort which is approved consistent with the requirements of Goal 8.
26			
27	A	A	A winery as described in ORS 215.452.
28			
29	<b><u>R5</u></b>	<b><u>R5</u></b>	<b><u>A restaurant in conjunction with a winery as described in ORS 215.452 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 215.452 that occur on more than 25 days in a calendar year.</u></b>
30			
31			
32			
33	<b><u>R or</u></b>	<b><u>R or</u></b>	<b><u>Agri-tourism and other commercial events or activities that are related to and supportive of</u></b>
34	<b><u>R5</u></b>	<b><u>R5</u></b>	<b><u>Agriculture, as described in ORS 215.213(11) and 215.283(4).</u></b>
35			
36	A23	A23	Farm stands.
37			
38	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.
39			
40			
41			
42			<b>Mineral, Aggregate, Oil, and Gas Uses</b>
43			
44	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.
45			
46			
47			
48	A	A	Operations for the exploration for minerals as defined by ORS 517.750.
49			
50	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.
51			
52			
53	R5	R5	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
54			
55			
56	R5,15	R5,15	Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
57			
58	R5	R5	Processing of other mineral resources and other subsurface resources.
59			
60			<b>Transportation</b>
61			
62	R5,7	R5,7	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
63			

1	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.
2			
3	R5	R5	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the
4			creation of new land parcels.
5			
6	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead
7			and in the subsurface of public roads and highways along the public right of way, but not including the addition of
8			travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
9			
10	R5	R5	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but
11			not resulting in the creation of new land parcels.
12			
13	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such
14			time as no longer needed.
15			
16	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and
17			rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support
18			the operation and maintenance of public roads and highways.
19			
20	R5	R5	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas,
21			where additional property or right of way is required but not resulting in the creation of new land parcels.
22			
23	R13	R13	Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule.
24			
25	R	R	Transportation improvements on rural lands allowed by OAR 660-012-0065.
26			
27			<b>Utility/Solid Waste Disposal Facilities</b>
28			
29	R16	R16	Utility facilities necessary for public service, including wetland waste treatment systems but not including
30			commercial facilities for the purpose of generating electrical power for public use by sale or transmission
31			towers over 200 feet in height.
32			
33	R5	R5	Transmission towers over 200 feet in height.
34			
35	<del>A</del>	<del>A</del>	<del>Fire service facilities providing rural fire protection services.</del>
36			
37	A	A	Irrigation <b>reservoirs</b> , canals, delivery lines and those structures and accessory operational facilities, <b>not including</b>
38			<b>parks or other recreational structures and facilities</b> , associated with a district as defined in ORS 540.505.
39			
40	A32	A32	Utility facility service lines.
41			
42	R5, 17	R5, 22	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power
43			generation <b>facilities</b> [projects] or photovoltaic solar power generation <b>facilities</b> [facility].
44			
45	R5, 37	R5, 37	Wind power generation <b>facilities</b> [projects] as commercial utility facilities for the purpose of generating power for
46			public use by sale.
47			
48	R5, 38	R5, 38	Photovoltaic solar power generation <b>facilities</b> [facility] as commercial utility facilities for the purpose of generating
49			power for public use by sale.
50			
51	*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
52			permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment,
53			facilities or buildings necessary for its operation.
54			
55	18(a), <b>A or</b>		Composting facilities on farms or for which a permit has been granted by the Department of Environmental
56	29(a)	R5,29(b)	Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.

57 **Parks/Public/Quasi-Public**

58			
59	2,*18(a)		
60	or R2	R2,5,	Public or private schools for kindergarten through grade 12, including all buildings essential to the
61	18(b-c)	18(b-c)	operation of a school, primarily for residents of the rural area in which the school is located.
62			
63	2,*18(a)	R2	Churches and cemeteries in conjunction with churches consistent with ORS 215.441.
64			

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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).

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 Any outdoor [~~mass~~] 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)