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TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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CONTACT: Casaria Taylor
971-600-7699
casaria.taylor@dlcd.oregon.gov

635 Capitol St.
Ste. 150
Salem,OR 97301

Filed By:
Casaria Taylor
Rules Coordinator

RULES:
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AMEND: 660-004-0022

RULE TITLE: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The adopted rulemaking modifies 004-0022 to provide clarity for the zoning and regulations of county lands for photovoltaic solar power generation facilities.

RULE TEXT:
An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040. Reasons that may justify the establishment of temporary natural disaster related housing on undeveloped rural lands are provided in OAR 660□014□0090.
(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either:
(a) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can

reasonably be obtained; or
(b) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.
(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.
(3) Rural Industrial Development: A local government may consider a photovoltaic solar power generation facility as defined in OAR 660-033-0130(38)(f) to be a rural industrial use. For the siting of rural industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:
(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;
(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or
(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.
(4) A site justified for a photovoltaic solar power generation facility under section (3) and is also found to satisfy OAR 660-004-0020 shall remain zoned for exclusive farm use, forest use or mixed farm and forest; whichever is applicable. A county shall also continue to apply the relevant approval criteria at OAR 660-033-0130(38), OAR 660-033-0130(44) or OAR 660-006-0025(4)(k).
(5) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10) the requirements of subsections (a) through (c) of this section apply:
(a) Appropriate reasons and facts may include findings that there is a demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:
(A) The use requires a location near a resource located on rural land; or
(B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:
(i) For industrial use, it would have a significant comparative advantage due to its location such as, for example, that it must be near a rural energy facility, or near products available from other activities only in the surrounding area, or that it is reliant on an existing work force in an existing unincorporated community;
(ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or urban growth boundary, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.
(b) The findings of need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and urban growth boundaries in the area. For purposes of this subsection, “area” includes those communities, exception areas, and urban growth boundaries that may be affected by an expansion of a

community boundary, taking into account market, economic, and other relevant factors.
(c) Expansion of the unincorporated community boundary requires a demonstrated ability to serve both the expanded area and any remaining infill development potential in the community, at the time of development, with the level of facilities determined to be appropriate for the existing unincorporated community.
(6) Expansion of Urban Unincorporated Communities: In addition to the requirements of section (4) of this rule, the expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
(7) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses that are neither water-dependent nor water-related within the setback line required by section C.3.k of Goal 15 may be approved where reasons demonstrate the following:
(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;
(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;
(c) The use will provide a significant public benefit; and
(d) The use is consistent with the legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by the commission under ORS 390.322.
(8) Goal 16 — Water-Dependent Development: To allow water-dependent industrial, commercial, or recreational uses that require an exception in development and conservation estuaries, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period, considering the following:
(a) Goal 9 or, for recreational uses, the Goal 8 Recreation Planning provisions;
(b) The generally predicted level of market demand for the proposed use;
(c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements;
(d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use; and
(e) The economic analysis must be based on the Goal 9 element of the County Comprehensive Plan and must consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.
(9) Goal 16 – Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water-dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS chapter 196, in any of the circumstances specified in subsections (a) through (e) or (g), of this section:
(a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material, including adjacent upland soils or stockpiling of material from approved dredging projects, cannot reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;
(b) Dredging to maintain adequate depth to permit continuation of the present level of navigation in the area to be dredged;
(c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;
(d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;
(e) Dredge or fill or other alteration for expansion of an existing public non-water-dependent use or a nonsubstantial fill

for a private non-water-dependent use (as provided for in ORS 196.825) where:
(A) A Countywide Economic Analysis based on Goal 9 demonstrates that additional land is required to accommodate the proposed use;
(B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and
(C) The size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.
(f) In each of the situations set forth in subsections (a) to (e) or (g), of this section, the exception must demonstrate that the proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner that minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.
(g) For deep draft navigational channel improvements, an exception to Goal 16 may be taken as provided in section 2, chapter 544, Oregon Laws 2023.
(10) Goal 17 — Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas consistent with subsections (a) through (e) of this section, where applicable:
(a) For purposes of this section, "Coastal Shoreland Areas" include:
(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;
(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and shorelands in unincorporated communities pursuant to OAR chapter 660, division 22 (Unincorporated Communities) that are suitable for water-dependent uses;
(C) Designated dredged material disposal sites; and
(D) Designated mitigation sites.
(b) To allow a use that is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule, the exception must demonstrate:
(A) A need, based on Goal 9, for additional land to accommodate the proposed use;
(B) Why the proposed use or activity needs to be located on the protected site, considering the unique characteristics of the use or the site that require use of the protected site; and
(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and, where applicable, consistent with protection of natural values.
(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area.
(d) Uses that would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible and be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.
(e) Exceptions to designate and protect, for water-dependent uses, an amount of shorelands less than that amount required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate that:
(A) Based on the Recreation Planning requirements of Goal 8 and the requirements of Goal 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority, if any, and be consistent with the Goal 8 Recreation Planning elements and Goal 9 elements of the comprehensive plans of those jurisdictions; and
(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.
(11) Goal 18 — Foredune Breaching: A foredune may be breached when the exception demonstrates that an existing dwelling located on the foredune is experiencing sand inundation and the sand grading or removal:

(a) Does not remove any sand below the grade of the dwelling;
(b) Is limited to the immediate area in which the dwelling is located;
(c) Retains all graded or removed sand within the dune system by placing it on the beach in front of the dwelling; and
(d) Is consistent with the requirements of Goal 18 “Beaches and Dunes” implementation requirement 1.
(12) Goal 18 — Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement 2. Reasons that justify why this state policy embodied in Goal 18 should not apply shall demonstrate that:
(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or the use is of minimal value;
(b) The use is designed to minimize adverse environmental effects; and
(c) The exceptions requirements of OAR 660-004-0020 are met.
(13) Goal 18 – Beachfront Protective Structures: An exception may be taken to the requirements of Goal 18, implementation requirement 5 to permit beachfront protective structures for the primary purpose of protecting and stabilizing ocean-fronting public roads and highways that were developed on January 1, 1977. As used in this section, “public roads and highways” mean roadways that are owned, operated, maintained, or any combination thereof by federal, tribal, state, county, or city government or a special district as defined in ORS 197.015(19). Roads that dead end at the ocean shore as defined in ORS 390.605(2) or otherwise generally run perpendicular to the ocean shore are not eligible for this exception. Uses such as parking lots, waysides, and campgrounds are not roads and are not eligible for this exception. Only a public body that owns, operates, or maintains the public roadway may apply for an exception under this section. Reasons that justify why the requirements of Goal 18, implementation requirement 5 should not apply shall include the following:
(a) Justification that the beachfront protective structure will provide a significant public benefit by protecting and stabilizing the ocean-fronting public road or highway;
(b) Feasibility Assessment: Evaluation of alternatives to a beachfront protective structure that would not require an exception and that shows there are no reasonable alternatives to the proposed activity or project modifications that would better protect public rights, reduce or eliminate the detrimental effects on the ocean shore, or avoid long-term costs to the public. This feasibility assessment shall describe why alternatives are not achievable, or if tried, why they were not successful. Relevant factors may include topographic limitations, environmental constraints, limits of area for relocation, or cost. If, and only if, the feasibility assessment does not identify a viable option that would not require an exception, then the assessment shall also include a description and justification of the preferred erosion mitigation technique that does require an exception. This feasibility assessment shall evaluate, at a minimum, the following alternatives:
(A) Hazard avoidance options, including removing, moving, or relocating the road or highway;
(B) Non-structural stabilization methods (e.g., foredune enhancement, beach nourishment, vegetation plantings, cobble berms);
(C) Site modifications for the control of erosion such as vegetation management, drainage controls, slope regrading, and structure reinforcements; and
(D) Bioengineering techniques (e.g., clay burritos and vegetated terraces).
(c) Demonstration that the proposed beachfront protective structure will:
(A) Minimize visual impacts;
(B) Maintain access to and along the ocean shore, including access to the Oregon Coast Trail;
(C) Minimize negative impacts on adjacent property;
(D) Minimize adverse impacts on water currents, erosion, and accretion patterns;
(E) Account for the impacts of local sea level rise and climate change for the design life of the structure; and
(F) Avoid or mitigate long-term and recurring costs to the public. As used in this subsection, “mitigate” means the reduction of adverse effects of a proposed beachfront protective structure on beach habitats and beach access by evaluating, in the following order:

(i) Avoiding the effect altogether by not taking a certain action or parts of an action;
(ii) Minimizing the effect by limiting the degree or magnitude of the action and its implementation;
(iii) Rectifying the effect by repairing, rehabilitating, or restoring the affected ocean shore area;
(iv) Reducing or eliminating the effect over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures;
(v) Compensating for the effect by creating, restoring, enhancing, or preserving beach habitat, beach access to and along the ocean shore, or both, and within the same general vicinity of the proposed beachfront protective structure. Compensation should consider the Oregon Parks and Recreation Department's Ocean Shore Management Strategy.
(d) Assessment of how the exception requirements of OAR 660-004-0020 are met.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 195.012, ORS 197.040, ORS 197.712, ORS 197.717, ORS 197.732

AMEND: 660-006-0025

RULE TITLE: Uses Authorized in Forest Zones

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The amended rule revises 006-0025 to create a specific category for commercial photovoltaic solar power generation facilities in the forest zone.

RULE TEXT:

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

(a) Uses related to and in support of forest operations;

(b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

(c) Locationally-dependent uses, such as communication towers, mineral and aggregate resources, etc;

(d) Dwellings authorized by ORS 215.705 to 215.757; and

(e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

(b) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;

(c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and

(d) For the purposes of section (2) of this rule “auxiliary” means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

(a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

(b) Farm use as defined in ORS 215.203;

(c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;

(d) Temporary portable facility for the primary processing of forest products;

(e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;

(f) Private hunting and fishing operations without any lodging accommodations;

(g) Towers and fire stations for forest fire protection;

(h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);

(i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;

(j) Caretaker residences for public parks and public fish hatcheries;

(k) Uninhabitable structures accessory to fish and wildlife enhancement;

(l) Temporary forest labor camps;

(m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement

and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;
(n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;
(o)(A) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the county finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:
(i) Intact exterior walls and roof structures;
(ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
(iii) Interior wiring for interior lights; and
(iv) A heating system.
(B) An application under this subsection must be filed within three years following the date that the dwelling last possessed all the features listed under paragraph (o)(A).
(C) Construction of a replacement dwelling approved under this subsection must commence no later than four years after the approval of the application under this section becomes final.
(D) In addition to the provisions of paragraph (o)(A), the dwelling to be replaced meets one of the following conditions:
(i) If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
(I) Five years before the date of the destruction or demolition; or
(II) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
(ii) The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
(I) Five years before the date of the application; or
(II) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
(E) For replacement of a lawfully established dwelling under this subsection:
(i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
(ii) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
(iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
(iv) The county planning director, or the director's designee, shall maintain a record of:
(I) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and
(II) The lots and parcels that do not qualify for the siting of a new dwelling under paragraphs (E) and (F), including a copy of the deed restrictions filed under subparagraph (iii) of this paragraph.
(F)(i) A replacement dwelling under this subsection must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.
(ii) The replacement dwelling may be sited on any part of the same lot or parcel.
(iii) The replacement dwelling must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
(iv) The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
(I) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in

ORS 477.490; or
(II) No statewide map of wildfire risk has been adopted.
(G) If an applicant is granted a deferred replacement permit under this subsection, the deferred replacement permit:
(i) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
(ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
(p) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when the county finds, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (o)(A) through (E). For purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data. The property owner of record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed or the time for replacement has expired.
(q) An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770;
(r) Dump truck parking as provided in ORS 215.311;
(s) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use; and
(t) Temporary storage site for nonhazardous debris resulting from recovery efforts associated with damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.
(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:
(a) Permanent facility for the primary processing of forest products that is:
(A) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
(B) Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body;
(b) Permanent logging equipment repair and storage;
(c) Log scaling and weigh stations;
(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;
(e) Private parks and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
(A) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Campgrounds approved under this subsection must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
(i) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(ii) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
(B) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities. A county must process applications filed pursuant to this section in the manner identified at ORS 215.416(11).
(i) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer hook-ups shall not be provided to individual camp sites.
(ii) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.
(iii) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in paragraph (4)(e)(B) shall be included in the application materials and, upon meeting the county's satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this subparagraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal or conversion activities to be completed.
(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
(D) For applications submitted under paragraph (B) of this rule, the county may find the criteria of section (5) to be satisfied when:
(i) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.
(ii) The number of proposed campsites does not exceed 12; or
(iii) The number of proposed campsites does not exceed 36; and
(iv) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.
(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;
(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;
(h) Television, microwave and radio communication facilities and transmission towers;
(i) Fire stations for rural fire protection;
(j) Commercial utility facilities for the purpose of generating power, not including photovoltaic solar power generation facilities in eastern Oregon. A power generation facility considered under this subsection shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division

4;
(k) Commercial utility facilities for the purpose of generating power as a photovoltaic solar power generation facility in eastern Oregon, under the following standards:
(A) A power generation facility considered under this subsection shall not preclude more than 240 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4.
(B) An application for a facility under this subsection shall comply with the requirements of ORS 215.446(3).
(l) Aids to navigation and aviation;
(m) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
(n) Reservoirs and water impoundments;
(o) Firearms training facility as provided in ORS 197.770;
(p) Cemeteries;
(q) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:
(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
(B) Only minor incidental and accessory retail sales are permitted;
(C) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
(D) A governing body may impose other appropriate conditions.
(r) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;
(s) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;
(t) Home occupations as defined in ORS 215.448;
(u) Temporary hardship residence in conjunction with an existing dwelling. As used in this section, “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215. “Hardship” also includes situations where a natural hazard event has destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).
(A) For a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215 the temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building. A manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
(B) For hardships based on a natural hazard event described in this subsection, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building. Governing bodies shall review the permit authorizing such temporary residences every two years. Within three months of the temporary residence no longer being necessary, the recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
(C) For applications submitted under paragraph (B), the county may find that the criteria of section (5) are satisfied when:
(i) The temporary residence is established within an existing building or, if a recreational vehicle, is located within 100

feet of the primary residence; or
(ii) The temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.
(v) Expansion of existing airports;
(w) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3);
(x) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 660-006-0029 and 660-006-0035 and the following requirements:
(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
(B) Only minor incidental and accessory retail sales are permitted;
(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
(D) Accommodations must be located within 1/4 mile of fish-bearing Class I waters; and
(E) A governing body may impose other appropriate conditions.
(y) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations; and
(z) An outdoor mass gathering:
(A) Of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735. In addition to the review standards in section (5) of this rule, the county must make findings required by ORS 433.763(l)(c).
(B) As defined by ORS 433.735, for which a county decides that a land use permit is required. In addition to findings required by ORS 433.763(1), a county may, when determining review standards, include all, some, or none of the review standards in section (5) of this rule.
(aa) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, if:
(A) Areas within an urban growth boundary cannot reasonably accommodate the structures;
(B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;
(C) Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration;
(D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
(E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
(F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.
(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:
(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.230, ORS 197.245

STATUTES/OTHER IMPLEMENTED: ORS 215.700, ORS 215.705, ORS 215.720, ORS 215.740, ORS 215.750, ORS 215.780, Oregon Laws 1993, ch. 792, ORS 197.770, ORS 215.291, ORS 215.311, ORS 215.448

AMEND: 660-006-0050

RULE TITLE: Uses Authorized in Agriculture/Forest Zones

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The revised rulemaking provides clarity on how counties will apply standards for siting photovoltaic solar power generation facilities in agricultural forest zones.

RULE TEXT:
(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.
(2) Uses authorized in Exclusive Farm Use Zones in ORS chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.
(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.
(4) A county in eastern Oregon shall apply either OAR chapter 660, division 6 or 33 standards for siting a photovoltaic solar power generation facility in an agriculture/forest zone based on the predominant use of the subject lot or parcel on January 1, 2024.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.230, ORS 197.245

STATUTES/OTHER IMPLEMENTED: ORS 197.040, ORS 197.230, ORS 197.245, ORS 215.213, ORS 215.283, ORS 215.700, ORS 215.705, ORS 215.720, ORS 215.740, ORS 215.750, ORS 215.780, Ch. 792 1993 OL

AMEND: 660-023-0190

RULE TITLE: Energy Sources

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The amended rulemaking revises this section to identify that photovoltaic solar energy resources in eastern Oregon now be governed by the new OAR 660-023-0195.

RULE TEXT:

(1) For purposes of this rule:

(a) “Energy source” includes naturally occurring locations, accumulations, or deposits of one or more of the following resources used for the generation of energy: natural gas, surface water (i.e., dam sites), geothermal, solar, and wind areas. Energy sources applied for or approved through the Oregon Energy Facility Siting Council (EFSC) or the Federal Energy Regulatory Commission (FERC) may be deemed significant energy sources for purposes of Goal 5.

(b) “Protect,” for energy sources, means to adopt plan and land use regulations for a significant energy source that limit new conflicting uses within the impact area of the site and authorize the present or future development or use of the energy source at the site.

(2) Local governments may amend their acknowledged comprehensive plans to address energy sources using the standards and procedures in OAR 660-023-0030 through 660-023-0050, and, if applicable OAR 660-023-0195. Except for photovoltaic solar power generation facilities, where EFSC or FERC regulate a local site or an energy facility that relies on a site specific energy source, that source shall be considered a significant energy source under OAR 660-023-0030. Alternatively, local governments may adopt a program to evaluate conflicts and develop a protection program on a case-by-case basis, i.e., upon application to develop an individual energy source, as follows:

(a) For proposals involving energy sources under the jurisdiction of EFSC or FERC that are not relied on for a photovoltaic solar power generation facility, the local government may comply with Goal 5 by amending its comprehensive plan and land use regulations to implement the EFSC or FERC decision on the proposal as per ORS 469.504; and

(b) For proposals involving energy sources not under the jurisdiction of EFSC or FERC, the local government may follow the standards and procedures of OAR 660-023-0030 through 660-023-0050, or OAR 660-023-0195, whichever is applicable.

(3) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 197

STATUTES/OTHER IMPLEMENTED: ORS 197.040, ORS 197.225 - 197.245

ADOPT: 660-023-0195

RULE TITLE: Photovoltaic Solar Energy Resources in Eastern Oregon

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The adopted rule includes this new section dedicated entirely to the siting of photovoltaic solar energy resources in eastern Oregon.

RULE TEXT:

(1) Introduction and Intent. This rule is designed to assist counties in eastern Oregon to identify opportunities and reduce conflicts for the development of photovoltaic solar power energy generation facilities. Projects proposed to be sited in significant photovoltaic solar resource areas are eligible for responsible levels of regulatory relief, subject to the standards and requirements herein. Local programs designating photovoltaic solar resource areas are presumed to comply with Goal 3 when in compliance with this rule. Finally, this rule is intended to help achieve the successful development of photovoltaic solar energy generation in eastern Oregon that:

(a) Makes meaningful contributions to the state's clean energy goals;

(b) Is supported by coordination across all levels of interested parties, including but not limited to, local, state, federal, and tribal government;

(c) Increases potential for local governments, Tribes, and local residents to share the benefits of solar development; and

(d) Suitably accounts for potential conflicts with the values and resources identified under Oregon Laws 2023, chapter 442, section 35(2) compiled as a note after ORS197.732 and this rule.

(2) Definitions. For purposes of this rule, the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010, OAR 660-033-0020, and OAR 660-033-0130(38) apply, unless the context requires otherwise. In addition, the following definitions apply:

(a) "Annual solar utility scale capacity factor" means the amount of energy produced in a typical year, as a fraction of maximum possible energy for 100 percent of the hours of the year.

(b) "Archaeological Resources" is a term that has the meaning as "archaeological site," as defined in ORS 358.905(1)(a), which means a geographic locality in eastern Oregon, including but not limited to submerged and submersible lands, that contains archaeological objects and the contextual associations of the objects with:

(A) Each other; or

(B) Biotic or geological remains or deposits. Examples of archaeological sites include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

(c) "Cultural Resources" means archaeological sites, culturally significant landscape features, and sites where both are present. Also referred to as "cultural resource site."

(d) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

(e) "Historic Resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.

(f) "Microgrid" means a local electric grid with discrete electrical boundaries, acting as a single and controllable entity and able to operate in grid-connected or island mode.

(g) "Military Special Use Airspace" is airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations may be imposed upon aircraft operations that are not a part of those activities. Military special use airspace includes any associated underlying surface and subsurface training areas.

(h) "Military Training Route" means airspace of defined vertical and lateral dimensions established by the Department of Defense for the conduct of military flight training at indicated airspeeds in excess of 250 knots.

(i) "Oregon Renewable Energy Siting Assessment (ORESA)" is a renewable energy mapping tool housed on Oregon Explorer.

(j) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
(k) “Significant photovoltaic solar resource area” means an area consisting of lands that are particularly well suited for the siting of photovoltaic solar power generation facilities because a county determined the area to be significant pursuant to section (4). Multiple photovoltaic solar power generation facilities may be located within a photovoltaic solar resource area.
(l) “Transmission Line” means a linear utility facility by which a utility provider transmits or transfers electricity from a point of origin or generation or between transfer stations.
(m) "Tribe" as defined in ORS 182.162(2), means a federally recognized Indian tribe in Oregon, except where the definition in ORS 97.740 applies by statute.
(3) Standard Process. Counties may amend their acknowledged comprehensive plans to establish significant photovoltaic solar resource areas using the standards and procedures in OAR 660-023-0030 through 660-023-0050.
(4) Significant Photovoltaic Solar Resource Areas. Rather than using the standard process provided in section (3), counties in eastern Oregon may choose the following process to establish significant photovoltaic solar resource areas.
(a) Counties may establish significant photovoltaic solar resource areas through the adoption of a local program that includes a map, comprehensive plan policies and inventory, and implementing land use regulations found to be consistent with the provisions of this rule.
(b) To implement this rule for the purpose of establishing significant photovoltaic solar resource areas a county shall follow the post-acknowledgment plan amendment process pursuant to OAR chapter 660, division 18.
(c) Prior to conducting a hearing to consider establishing a significant photovoltaic solar resource area or areas a county will hold one or more public meetings to solicit input.
(A) The public meeting(s) must occur in areas of the county that include lands likely to be determined significant photovoltaic solar resources.
(B) The county must provide mailed notice of the meeting(s) to Tribes, all incorporated cities within the county, and property owners of lands likely to be determined significant photovoltaic solar resources and within a two-mile radius of such areas. The county must also provide mailed notice to any physical address assigned to property located within the lands requiring notice as shown in county assessor records that are not the same as the property owner’s address.
(C) Public meetings conducted pursuant to this section should use best practices for community engagement identified in documents such as “Putting the People in Planning A guide for local governmental agencies in Oregon June 30, 2019.”
(D) The county should carefully take note of possible local benefits and local concerns regarding photovoltaic solar power generation facility development raised in the public meeting(s), as well as consideration of areas the county may particularly wish to include or exclude, if any.
(E) The county should draft program elements prepared for an eventual public hearing in accordance with input received at the public meeting(s) and consistent with the provisions of this rule.

(F) A county that provides notice under this subsection has complied with OAR 660-023-0060.
(d) In addition to submitting the notice of the proposed amendment to the Director required by ORS 197.610(1), the county shall provide notice of the Post-Acknowledgement Plan Amendment to:
(A) The Oregon Department of Fish and Wildlife (ODFW);
(B) The Oregon Department of Energy;
(C) The State Historic Preservation Officer;
(D) The Oregon Department of Agriculture.
(E) The Oregon Department of Aviation;
(F) The United States Department of Defense;
(G) The Oregon Legislative Commission on Indian Services (LCIS); and
(H) Federally recognized Indian tribes that may be affected by the application. Each county shall obtain a list of tribes with an ancestral connection to land within their jurisdiction from LCIS and shall send notice to all tribes in the commission's response.
(e) When designating a significant photovoltaic solar resource area, a county may choose not to identify conflicting uses as would otherwise be required by OAR 660-023-0030 through 660-023-0050. In the alternative, a county may choose to conduct a more detailed analysis that may lead to the identification of conflicting uses.
(f) If a county chooses to identify conflicting uses under subsection (e), a county may choose not to limit or prohibit conflicting uses on nearby or surrounding lands. In the alternative, a county may choose to conduct a more detailed analysis of economic, social, environmental and energy (ESEE) consequences that could lead to a decision to limit or prohibit conflicting uses within a significant photovoltaic solar resource area.
(g) If a county chooses to conduct an additional analysis of economic, social, environmental and energy (ESEE) consequences as described in subsection (f), it must follow the provisions of OAR 660-023-0040.
(h)(A) Unless otherwise indicated, to qualify as a significant photovoltaic solar resource area, an area must be comprised of lands which have the following characteristics:
(i) Topography with a slope that is predominantly 15 percent or less;
(ii) An estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater; and
(iii) Location within 10 miles of a transmission line with a rating of 69 KV or above.
(B) A county may determine, based on facts and evidence in the record, that additional lands lacking one or more of the characteristics identified by paragraph (A), are suitable for designation as significant photovoltaic solar resource areas;
(C) A county may determine that lands including the characteristics identified by paragraph (A) are not necessary or appropriate to designate as significant photovoltaic solar resource areas.
(D) It is not necessary for a county to consider resources or features beyond those described in paragraph (A) when adopting significant photovoltaic solar resource areas. Instead, the county shall base final project eligibility, including the determination of any necessary mitigation requirements, on information provided by an applicant pursuing approval of a photovoltaic solar energy generation facility and considered in conjunction with subsections (I), (j) and (k) below.
(i) No mitigation is required for a photovoltaic solar power generation facility within an acknowledged significant photovoltaic solar resource area when located on:
(A) Agricultural lands protected under Goal 3 that are:
(i) comprised of soils as classified by the U.S. Natural Resources Conservation Service (NRCS) with an agricultural capability class VII and VIII; or
(ii) comprised of soils as classified by NRCS with an agricultural capability class VI and do not have the ability to produce 300 pounds of herbaceous biomass per acre per year. The ability to produce herbaceous biomass is determined from data available on the Rangeland Analysis Platform and is calculated by averaging the amounts of herbaceous biomass per acre attributed to each year for all of the years for which data is provided.
(B) Lands characterized by ODFW as Category 5 or 6, or other areas of poor to no value as wildlife habitat or with little or no restoration potential based on field data provided by the applicant and developed in consultation with ODFW. The county may refine the exact location or categorization of wildlife habitat during consideration of a photovoltaic

solar power generation facility but must consult ODFW.
(C) Lands where the construction and operation of the photovoltaic solar power generation facility will not result in significant adverse impacts to historic, cultural or archaeological resources because no such resources are present, or if resources are present, they will be avoided through project design to the extent that no additional mitigation is necessary, as provided in section (6).
(D) Notwithstanding paragraphs (A) through (C), a county may find that lands within solar photovoltaic resource areas described in paragraphs (A) through (C) require additional mitigation measures as specified by the county.
(j) Mitigation is required for a photovoltaic solar power generation facility within an acknowledged significant photovoltaic solar resource area when located on lands that include one or more of the following features:
(A) Agricultural lands protected under Goal 3 that are:
(i) Comprised of soils with an agricultural capability class VI as classified by NRCS and have the ability to produce greater than 300 pounds of herbaceous biomass per acre per year if the subject property consists of at least 640 acres. The ability to produce herbaceous biomass is determined from data available on the Rangeland Analysis Platform and is calculated by averaging the amounts of herbaceous biomass per acre attributed to each year for all of the years for which data is provided; or
(ii) Comprised of soils with an agricultural capability class III, IV, or V as classified by NRCS, without an appurtenant water right on January 1, 2024.
(iii) Mitigation for agricultural lands described in this subsection must be consistent with the requirements of section (5).

(B) Wildlife habitat characterized by ODFW as Category 2 that is not otherwise limited by subsection (k) and wildlife habitat characterized by ODFW as Category 3 or 4 based on field data provided by the applicant and developed in consultation with ODFW. The county may refine the exact location or categorization of Category 2, 3, or 4 wildlife habitat during consideration of a photovoltaic solar power generation facility but must consult with ODFW. Mitigation for wildlife habitat described in this paragraph shall be consistent with the requirements of ORS 215.446(3)(a).
(C) Wildlife Habitat: Eastern Oregon Deer Winter Range, Eastern Oregon Elk Winter Range, Big Horn Sheep Habitat, and Pronghorn Essential and Limited Habitat as identified by Oregon Renewable Energy Siting Assessment (ORESA). The county may refine the exact location of wildlife habitat identified by this paragraph during consideration of a photovoltaic solar power generation facility but must consult with ODFW. Mitigation for wildlife habitat described in this paragraph shall be consistent with the requirements of ORS 215.446(3)(a).
(D) Priority Wildlife Connectivity Areas where the ODFW makes a finding, based on site specific conditions, that mitigation for wildlife habitat consistent with the requirements of ORS 215.446(3)(a) reduces impacts from the photovoltaic solar power generation facility to a level acceptable to ODFW.
(E) Lands where the construction and operation of the photovoltaic solar power generation facility may result in significant adverse impacts to historic, cultural or archaeological resources as defined in section (6), but the project incorporates necessary mitigation measures pursuant to subsection (6).
(F) Notwithstanding paragraphs (A) through (E), a county may find that individual locations within solar photovoltaic resource areas described in paragraphs (A) through (E) have impacts that are too significant to be mitigated and thus are not eligible for approval under the provisions of this rule.
(k) Lands with any of the following features are not eligible for photovoltaic solar power generation facility development under the provisions of this rule:
(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6)(a) and (b). The county may refine the exact location of Significant Sage-Grouse Habitat during consideration of a specific project but must consult with ODFW.
(B) Priority Wildlife Connectivity Areas as designated by the ODFW that do not qualify under paragraph (j)(D).
(C) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The county may refine the exact location of high use and very high use wildlife mitigation corridors during consideration of a photovoltaic solar energy facility but must consult with ODFW.
(D) Wildlife habitat characterized by ODFW as Category 1 based on field data provided by the applicant and developed

in consultation with ODFW. The county may refine the exact location and characterization of Category 1 wildlife habitat during consideration of a photovoltaic solar energy facility but must be consult with ODFW.
(E) Soils that are irrigated or not irrigated and classified prime, unique, Class I or Class II as classified by NRCS, unless such soils make up no more than five percent of a proposed Photovoltaic Solar Site and are present in an irregular configuration or configurations that prevent them from being independently managed for farm use. If this paragraph does not apply, then no agricultural mitigation is required.
(F) High-Value Farmland as defined at ORS 195.300(10)(c) through (f) except otherwise described in paragraphs (E) and (G).
(G) Agricultural lands protected under Goal 3 with an appurtenant water right on January 1, 2024. This subsection does not apply if the ability to use the appurtenant water right to irrigate subject property becomes limited or prohibited due to a situation that is beyond the control of the water right holder including but not limited to: prolonged drought, critical groundwater designations or other state regulatory action, reduced federal contract allocations, and other similar regulatory circumstances. If retained, the appurtenant water right has been transferred to another portion of the subject property, tract or another property and maintained for agricultural purposes. Where this paragraph does not apply then no agricultural mitigation is required.
(H) Lands where the construction and operation of the photovoltaic solar power generation facility will result in significant adverse impacts to historic, cultural or archaeological resources that cannot be mitigated pursuant to the provisions of section 6.
(I) Lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.
(J) The Metolius Area of Critical State Concern identified as Area 1 and Area 2 in the management plan adopted by the Land Conservation and Development Commission, as referenced in ORS 197.416.
(5) Agricultural Mitigation:
(a) For the purposes of this section, “compensatory mitigation” means the replacement or enhancement of the impacted resource in equal or greater amounts than predicted to be impacted by a development.
(b) Compensatory mitigation for agricultural land may be accomplished in one of the following ways:
(A) A county may approve a method, or methods proposed by the applicant when substantial evidence in the record demonstrates that the proposed compensatory mitigation will:
(i) Be suitably durable to last until the impact has been removed or no longer exists;
(ii) Be proximate by being located in the same county or an adjacent county or counties as the proposed impact; and either
(iii) Result in no net loss of the agricultural productivity of the local agricultural community; or
(iv) Provide an uplift to the relevant agricultural economy.
(B) As an alternative to mitigation provided under paragraph (A) necessary compensatory mitigation for agricultural lands protected under Goal 3 may be accomplished by use of a one-time compensatory mitigation payment made for the purpose of replacing economic value that is lost by the local community when agricultural land is used for photovoltaic solar development. The compensatory mitigation payment is to be established pursuant to the methodology included as Attachment A. An applicant providing the established compensatory mitigation payment will be considered in all instances to comply with the requirements of this section.
(C) The compensatory mitigation payment established under paragraph (B) may be received by the county, a unit of county government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the applicable agricultural sector.
(6) Historic, Cultural, and Archaeological Resources: The proposed photovoltaic solar power generation facility shall avoid, minimize, or mitigate significant adverse impacts to historic, cultural, and archeological resources pursuant to the requirements of ORS 215.446(3)(b), relevant provisions of OAR chapter 660, division 23, and this section.
(a) Prior to the submittal of an application for development of a photovoltaic solar power generation facility within a significant photovoltaic solar energy area, an applicant shall compile information on the subject location that includes,

among other things a records review, field survey, site inventory and cultural resources survey completed by an Oregon qualified archaeologist who is eligible to receive an archaeological permit based on ORS 390.235.
(b) The applicant shall transmit the information compiled pursuant to subsection (a) to the State Historic Preservation Office (SHPO) and any Tribe that may be affected by the application at least 60 days prior to submitting the application to the county.
(c) The applicant shall provide written notice that does not transmit the information compiled pursuant to subsection (a) to DLCD and ODFW at least 60 days prior to submitting the application to the county.
(d) When provided information on known or potential archaeological sites, local government will use the information to inform land use decisions, recommendations to applicants, and permit conditions in a manner that preserves confidentiality and is consistent with state law. ORS 192.345(11) exempts most information concerning the location of archaeological sites and objects from public records disclosure, except when information on an Indian tribe's cultural or religious activities is requested by the governing body of a tribe. Requirements in this rule are intended to be consistent with ORS 192.345(11).
(A) A professional archaeologist representing either a local government or an applicant may access data relevant to a proposed land use action or permit application, consistent with privileges assigned by state statute and administrative rule.
(B) In the acquisition and publishing of data exempt from disclosure as a public record or which may not be publicly disclosed, local governments may:
(i) Acquire and publish aggregated data in a spatial format to indicate relative likelihood of inadvertent discovery within all or a portion of a local jurisdiction.
(ii) Acquire and publish data on a known archaeological site if the location of the site is approximated so that the precise location of the site is obscured.
(iii) Acquire and keep confidential information on a specific site received from an applicant that is used to inform permit conditions or other strategies for avoiding impacts to a significant site or support compliance with state statutes and rules governing excavation of a significant archaeological site.
(e) Based upon, any historic, cultural, and archaeological resources inventories in the local comprehensive plan, comments received including a letter of concurrence if any from SHPO, and comments received from any Tribe that may be affected by the application regarding the information compiled and submitted pursuant to subsection (a), a county shall make one of the following determinations in its decision regarding the application:
(A) No historical, archaeological, or cultural resources are known to be present;
(B) Historical, archaeological, or cultural resources are known to be present, and will be avoided through project design to the extent that no additional mitigation is necessary;
(C) Historical, archaeological, or cultural resources are known to be present, and mitigation measures will reduce impacts so that there are no significant adverse impacts to historical, archaeological, or cultural resources; or
(D) Historical, archaeological, or cultural resources are known to be present, and development will result in significant adverse impacts which cannot be mitigated and an archaeological permit from SHPO cannot be obtained.
(f) The county shall include mitigation measures including but not limited to those required by any SHPO archeological permit needed, as conditions of approval in the final decision.
(g) The county shall require an Archaeological and Human Remains Inadvertent Discovery Plan (IDP) in all instances.
(7) Community Benefits: All applications for a photovoltaic solar power generation facility within a significant photovoltaic solar resource area shall identify how the project will contribute to addressing community needs and benefits. Identified contributions, financial or otherwise, will be in addition to property tax revenues or payments in lieu of taxes.
(a) A county may approve a community benefit proposal submitted by the applicant when substantial evidence in the record demonstrates that the proposed contribution or contributions are:
(A) Meaningful and reasonable;
(B) Will serve to help improve a community's social health, well-being, and functioning;

(C) Informed through one or more public meetings conducted for the purpose of encouraging community members and any Tribe that may be affected by the application to express needs and interests. Public meetings conducted pursuant to this subsection should use best practices for community engagement identified in documents such as "Putting the People in Planning A guide for local governmental agencies in Oregon June 30, 2019".
(D) If a monetary payment, the contribution(s) is received by an organization identified by the county decision that may include the county or a unit of county government, Tribal government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the community or communities that stand to have the most direct relationship with the subject project.
(b) (A) Rather than the standards provided in subsection (a), a county may require one of the following options to address community needs and benefits, which demonstrate compliance with the requirements of this section:
(i) The applicant commits to contributing a one-time payment in an amount representing $1,000 per nameplate MW prior to construction to be received by an organization identified by the county decision that may include the county or a unit of county government, tribal government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the community or communities that stand to have the most direct relationship with the subject project;
(ii) The applicant commits to ensuring that emergency service providers are guaranteed a source of electricity during a power outage event through providing battery storage or some other method; or
(iii) The applicant creates a Microgrid addressing identified community needs.
(B) Prior to submittal of an application with a proposed community benefit under paragraph (A), the applicant shall conduct detailed public outreach activities that include providing written notice to any Tribe that may be affected by the application, property owners within 750 feet of the exterior boundaries of the subject property, as well as any physical address assigned to lands within 750 feet of the exterior boundaries of the subject property as shown in county assessor records that are not the same as the property owner's address. Detailed public outreach activities shall also include at least one public open-house meeting conducted in person, or at least two public open-house meetings conducted from a virtual platform.
(8) Maximum Size of Photovoltaic Solar Power Generation Facilities:
(a) On high-value farmland that qualifies for an exemption pursuant to the provisions of paragraph (4)(k)(G) and that is not otherwise limited by the provisions of paragraph (4)(k)(E), the facility may not use, occupy, or cover more than 240 acres, not including lands devoted to temporary workforce housing.
(b) On arable land, the facility may not use, occupy or cover more than 2,560 acres, not including lands devoted to temporary workforce housing.
(c) On non-arable land, the size of the facility is not limited by this rule. Instead, the maximum size of a photovoltaic solar power generation facility is governed by the provisions of ORS 215.446.
(9) Additional Review Standards and Criteria. A county may approve a photovoltaic solar power generation facility within a significant photovoltaic solar resource area by determining that the following items have been satisfied:
(a) An application shall identify whether the proposed photovoltaic solar power generation facility is within a Military Special Use Airspace or a Military Training Route, as may be shown by the ORESA mapping tool or equivalent map. Any application located beneath or within a Military Special Use Airspace or a Military Training Route with a proposed floor elevation of 500 feet above ground level or less shall include a glint and glare analysis for the applicable utilized military airspace. Any measures necessary to avoid possible conflicts with low flying aircraft as identified in the glint and glare analysis will be developed in coordination with the United States Department of Defense or Oregon Military Department as applicable, described in the application materials, and attached as conditions of approval to the county decision.
(b) The applicant has satisfied the information transmittal and notice requirements identified in subsections (6)(b) and (c).
(c) The applicant has contacted and sought comments from the United States Department of Defense at least 30 days

prior to submitting a land use application. The requirements of this subsection do not apply when the county code requires a pre-application conference prior to submitting an application that includes at a minimum, the United States Department of Defense.
(d) For a proposed photovoltaic solar power generation facility on high-value farmland or arable land, a study area consisting of lands zoned for exclusive farm use located within two miles measured from the exterior boundary of the subject property shall be established and:
(A) If fewer than 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits wholly or partially within the study area, no further action is necessary.
(B) If at least 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities wholly of partially within the study area, the county must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area
(e)(A) The application will demonstrate that considerations for the amount, type, and location of temporary workforce housing have been made. This provision may be satisfied by the submittal and county approval of a workforce housing plan prepared by an individual with qualifications determined to be acceptable by the county demonstrating that such temporary housing is reasonably likely to occur. The plan need not obligate the applicant to financially secure the temporary housing. The approved workforce housing plan shall be attached to the decision as a condition of approval.
(B) On-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.
(C) The county may consider temporary workforce housing facilities not included in the initial approval through a minor amendment request filed after a decision to approve a photovoltaic solar power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval of the project.
(f) The requirements of OAR 660-033-0130(38)(h)(A) through (D) have been satisfied for proposed photovoltaic solar power generation facilities on high-value farmland and arable land, and the requirements of OAR 660-033-0130(38)(h)(D) have been satisfied for proposed photovoltaic solar power generation facilities on nonarable land.
(g) A county may condition approval of a proposed photovoltaic solar power generation facility to address other issues, including but not limited to assuring that the design and operation of the facility will promote the prevention and mitigate the risk of wildfire.
(h) For a photovoltaic solar power generation facility located on arable or nonarable lands, the project is not located on arable soils unless it can be demonstrated that:
(A) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(B) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
(i) For a photovoltaic solar power generation facility located on nonarable lands no more than 2,560 acres of the project will be located on arable soils.
(j) Notwithstanding any other rule in division 33, a county may determine that ORS 215.296 and OAR 660-033-0130(5) for a proposed photovoltaic solar power generation facility on agricultural land are met when the applicable provisions of this section are found to be satisfied.
(k) The county has identified and attached as conditions of approval all mitigation required pursuant to this rule.
(l) The county shall require as a condition of approval for a photovoltaic solar power generation facility, that the project

owner sign and record in the deed records for the county a document, binding upon the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
(m) Nothing in this rule shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.
(n) Any applicable local provisions have been satisfied.
(10) Duration of Permit. A permit approved for a photovoltaic solar power generation facility shall be valid until commencement of construction or for six years, whichever is less. A county may grant up to two extensions for a period of up to 24 months each when an applicant submits a written request for an extension of the development approval period to the county prior to the expiration of the approval period. The county may consider additional extensions in the manner provided in OAR 660-033-0130(44)(i)(K).
(11) Use of ORESA: In addition to other sources, a county may rely on data from online mapping tools, such as ORESA data, to inform determinations made under this rule.
(12) REVIEW OF RULE EFFECTIVENESS: On or before July 1, 2027, the department will provide a report to the Land Conservation and Development Commission that:
(a) Is informed by coordination with parties consistent with those interests represented on the Rules Advisory Committee established pursuant to Oregon Laws 2023, chapter 442, section 37 compiled as a note after ORS197.732.
(b) Identifies those counties who have chosen to establish significant photovoltaic solar resource areas pursuant to section (4) and have not opted out of the provisions of OAR 660-033-0130(44)(a)(B).
(c) Identifies the number of counties that have chosen not to implement this rule for purposes of considering photovoltaic solar power generation facilities pursuant to subsection (4)(b).
(d) Describes how well the intent of this rule as provided in section (1) is being accomplished.
(e) Includes recommended updates, if any, the department identifies as being necessary to better accomplish the intent of this rule as provided in section (1).
(f) Subsequent reports reviewing the effectiveness of this rule will be provided at four-year intervals beginning on or before September 30, 2031 and will follow the provisions of subsection (a) through (e).

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.225-ORS 197.245

AGRICULTURAL MITIGATION

The purpose of this agricultural mitigation program is not to replace the lost economic value to the producer, who is being paid by the solar company, but the lost economic value to the community in the loss of agricultural production. Therefore, this methodology tries to make simple the process of calculating necessary mitigation for the lost community economic activity from using agricultural land for a photovoltaic solar power generation facility.

Directions

1.0 Getting Started.

1.1 Identify the subject project area.

1.2 Identify if the subject project area is comprised of lands used, or if not currently in use, best suited for - livestock grazing or cultivated agriculture.

1.3 Determine the various soils included within the subject project area and the number of acres in each soil class using data from the National Resource Conservation Service (NRCS). The NRCS On-Line Soil Survey is probably the best source of this information https://websoilsurvey.nrcs.usda.gov/app/.

2.0 Establish the Time Value of Money Adjusted Productivity Value (TVMAPV)[i]. This will include a series of steps.

2.1 For cultivated agriculture use the following:

a. Determine the most recent non-irrigated crop rent from the National Agricultural Statistics Service (NASS). If there is no information available for your county use the "Other Counties" figures (For Example: $52 from 2023).

b. Multiply the crop rate figure by the General Economic Contribution per Farm[ii] percentage of 0.56, which provides the Economic Contribution amount.

Example: Crop Rent of $52 x General Economic Contribution per Farm percentage of 0.56 = Economic Contribution amount of $29.12. This is the amount of revenue expected to be returned to the local economy for each acre in farm production.

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution.

Example: Lease Agreement of 30 years x Economic Contribution of $29.12 = $873.60. This is the total amount of revenue expected not to be returned to the local

economy for each acre included in the subject project area over the life of the Lease Agreement, in this example 30 years. Also described as Future Value (FV).

d. Apply a CAP RATE of 3%[iii] to discount the amount established in c., back to the Present Value (PV) by multiplying that amount by the number shown in table 2. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

Example: *$873.60* as shown above in 2.1.c. *x .6533 for a lease agreement of 30 years as shown in table 2 = $570.76*

2.2 For Livestock Grazing use the following:

a. Determine the most recent pasture rent from the National Agricultural Statistics Service (NASS). If there is no information available for your county use the "Oregon" figures (For Example: $11.50 from 2023).

b. Multiply the crop rate figure by the General Economic Contribution per Farm percentage of 0.79, which provides the Economic Contribution amount.

Example: Pasture Rent of $11.50 x General Economic Contribution per Farm percentage of 0.79 = Economic Contribution of $9.085. This is the amount of revenue expected to be returned to the local economy for each acre in ranch production.

c. Identify the duration of the Lease Agreement in years and multiply by the Economic Contribution amount.

Example: Lease Agreement of 30 years x Economic Contribution of $9.085 = $272.55. This is the total amount of revenue not expected to be returned to the local economy for each acre included in the subject project area over the life of the Lease Agreement, in this example 30 years. Also described as Future Value (FV).

d. Apply a CAP RATE of 3% to discount the amount established in c., back to the Present Value (PV) by multiplying that number by the factor shown in Table 1. The resulting figure is the Time Value of Money Adjusted Productivity Value (TVMAPV).

Table 1.

LEASE AGREEMENT DURATION	***NUMBER***
20 YEARS	***.7439***
25 YEARS	***.6965***
30 YEARS	***.6533***
35 YEARS	***.6017***

Example 1: $873.60 as shown above in 2.1.c. x .6533 for a lease agreement of 30 years as shown in table 2 = $570.76

Example: 2 $272.55 as shown above in 2.2.c. x .6533 for a lease agreement of 30 years as shown in Table 1 = $178.07

3.0 Calculate Mitigation Responsibility.

3.1 Multiply the TVMAPV by the appropriate efficiency factor[iv] identified in Table 2, below.

Table 2

Efficiency Factor	
Class 1 Soils	2.5
Class 2 Soils	2
Class 3 Soils	1.75
Class 4 Soils	1.5
Class 5 Soils	1.25
Class 6 Soils	1

Example 1: $570.76 as shown for cultivated agriculture in 2.1.d. above x 1.75 for class 3 soil = $998.83. This figure represents the base value for cultivated agriculture modified to account for different soil capabilities.

Example 2: $178.07 as shown for livestock grazing in 2.2.d. above x 1 for class 6 soil capable of producing 300 lbs of forage per acre when applicable = $178.07. This figure represents the base value for livestock grazing modified to account for different soil capabilities.

3.2 Multiply the dollar amounts identified at 3.1 above by an administrative cost of 1.2%. Do not include Class 7 and 8 soils, or class 6 soils when not applicable. This is the total per acre mitigation cost for the identified soil class.

Example: *$998.83 x 1.2 = 1,198.60.*

3.3 Calculate the total value for all soil classes identified at 3.2 rounding to the nearest whole dollar.

Example:

62.3 acres of class 2 soils @ $1,369.82 per acre = $85,340.

915.3 acres of class 3 soils @ $1,198.60 per acre = $1,097,079.

3.4 Add the total value of all soil classes identified at 3.4. This is the total agricultural mitigation responsibility.

Example: $85,340 + $1,097,079 = ***$1,182,418.00***

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[i] The Time-Value of Money Adjusted Productivity of a Farm or Ranch is intended to capture the economic productivity of the agricultural land over the life of the solar lease in today's dollars. It is calculated by assessing the Present Value of the agricultural lands contribution by multiplying the Crop Rent as a function of its productivity, by the general economic contribution % to capture its baseline, annual economic contribution to the community. The Present Value is then further calculated off that number using the expected CAP RATE growth and the years of the lease agreement.

[ii] General Economic Contribution per Farm and Ranch is based on an average of the local and non-local farm/ranch contributions from a joint OSU/COIC study of Central Oregon which found that local and non-local farms contributed $.74 and $.36 for every $1 produce sold. Local and non-local ranches contributed $.79 and $.66 for every $1 sold. https://www.coic.org/wp-content/uploads/2020/01/economicimpact_localfoods_centraloregon.pdf

[iii] CAP RATE is based on Farm Credit portfolio standards and USDA Quickstats statistics about agriculture in Eastern Oregon. Farm Credit uses a portfolio CAP Rate of 2-6%, however, Quickfacts tell us many farms in the area make no-profit, and are assumedly not applying for financing. We split the difference in assuming a range of 0-6%, making for a 3% CAP RATE assumption. https://www.fcsamerica.com/resources/learning-center/2021/cap-rate-calculator-streamlined-for-ease-of-use

[iv] The Efficiency Factor is intended to represent a sliding scale of difficulty for replacing the productivity of certain soils, with high productivity soils being very hard to replace, and low productivity soils being only somewhat difficult to replace.

AMEND: 660-033-0120

RULE TITLE: Uses Authorized on Agricultural Lands

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: Amending attachment to reflect changes made to 660-033-0130.

RULE TEXT:

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

(1) “A” Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130 and 660-033-0135. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

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

(3) “*” — The use is not allowed.

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

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.245

STATUTES/OTHER IMPLEMENTED: ORS 197.245, ORS 215.203, ORS 215.243, ORS 215.283, ORS 215.700 - 215.710, ORS 215.780, ORS 197.230, ORS 197.015

Land Conservation and Development Department

Oregon Administrative Rules

Chapter 660, Division 033, Rule 0120, Table

Uses Authorized on Agricultural Lands

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

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

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

***** Use not allowed.

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

HV	**All**	
Farmland	Other	USES
		Farm/Forest Resource
A	A	Farm use as defined in ORS 215.203.
A	A	Other buildings customarily provided in conjunction with farm use.
A	A	Propagation or harvesting of a forest product.

R6	R6	A facility for the primary processing of forest products.
R28	R28	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 or an establishment for the slaughter or processing of poultry pursuant to ORS 603.038.
		Natural Resource
A	A	Creation of, restoration of, or enhancement of wetlands.
R5,27	R5,27	The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.
		Residential
A1,30	A1,30	Dwelling customarily provided in conjunction with farm use.
R9,30	R9,30	A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
A24,30	A24,30	Accessory Farm Dwellings for year-round and seasonal farm workers.
A3,30	A3,30	One single-family dwelling on a lawfully created lot or parcel.
R5,10,30	R5,10,30	One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
R4,30	R4,30	Single-family residential dwelling, not provided in conjunction with farm use.
R5,30	R5,30	Residential home or facility as defined in ORS 197.660, in existing dwellings.
R5,30	R5,30	Room and board arrangements for a maximum of five unrelated persons in existing residences.

R12,30	R12,30	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
A8,30	A8,30	Alteration, restoration, or replacement of a lawfully established dwelling.
		Commercial Uses
R5	R5	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or ORS 215.213(1)(u) and 215.283(1)(r).
R5,14	R5,14	Home occupations as provided in ORS 215.448.
A39	A39	Dog training classes or testing trials.
R5	R5	Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under ORS 215.213(1)(z) or 215.283(1)(x).
R5,35	R5,35	An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possess a wholesaler's permit to sell or provide fireworks.
*18(a)	R5	Destination resort which is approved consistent with the requirements of Goal 8.
A	A	A winery as described in ORS 215.452 or 215.453, and 215.237.
R5	R5	A restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.
R or R5	R or R5	Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as described in ORS 215.213(11) or 215.283(4).
A23	A23	Farm stands.
R5	R5	A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in

		ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
R or R5	R or R5	Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as described in ORS 215.213(11) or 215.283(4).
A23	A23	Farm Stands.
R5	R5	A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
R	R	Guest ranch in eastern Oregon as provided in Chapter 84 Oregon Laws 2010.
A	A	Log truck parking as provided in ORS 215.311.
		Mineral, Aggregate, Oil, and Gas Uses
A	A	Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
A	A	Operations for the exploration for minerals as defined by ORS 517.750.
R5	R5	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this rule.
R5	R5	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
R5,15	R5,15	Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
R5	R5	Processing of other mineral resources and other subsurface resources.

		Transportation
R5,7	R5,7	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.
R5	R5	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way but not resulting in the creation of new land parcels.
R5	R5	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
R5	R5	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
R13	R13	Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule.
R	R	Transportation improvements on rural lands allowed by OAR 660-012-0065
		Utility/Solid Waste Disposal Facilities

R,16(a) or (b)	R,16(a) or (b)	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet high.
R5	R5	Transmission towers over 200 feet in height.
A	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.
A32	A32	Utility facility service lines.
R5,17	R5,22	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.
R5,37	R5,37	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.
R5,38 or 44	R5, 38 or 44	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.
*18(a)	R5	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
18(a),29(a)	A or R5,29(b)	Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060.
		Parks/Public/Quasi-Public
18	R5,40	Youth camps in Eastern Oregon on land that is composed predominantly of class VI, VII or VIII soils.
2,*18(a) or R2,18(b-c)	R2,5,18(b-c)	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

2,*18(a)	R2	Churches and cemeteries in conjunction with churches consistent with ORS 215.441.
2,*18(a)	R2,5,19	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.
R2,5,31	R2,5,31	Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.
A	A	Fire service facilities providing rural fire protection services.
R2,5,36	R2,5,36	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
R2,*18(a)	R2,5,20	Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.
R2,5,21	R2,5,21	Living history museum
R2	R2	Firearms training facility as provided in ORS 197.770.
R2,25	R2,25	Armed forces reserve center as provided for in ORS 215.213(1)(s).
A	A	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
R5	R5	Onsite filing 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 of bottling 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 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)

AMEND: 660-033-0130

RULE TITLE: Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The amended rulemaking modifies this section to account for agrivoltaics development and regulations regarding solar photovoltaic energy generation in eastern Oregon.

RULE TEXT:

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.

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

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

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

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

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

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

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

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to

extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
(ii) The dwelling will comply with the provisions of ORS 215.296(1); and
(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and
(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.
(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:
(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;
(B) The tract on which the dwelling will be sited is:
(i) Identified in OAR 660-033-0020(8)(c) or (d);
(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and
(iii) Twenty-one acres or less in size; and
(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
(E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
(i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.
(e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;
(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

(A) Exceed the facilities and service capabilities of the area;
(B) Materially alter the stability of the overall land use pattern of the area; or
(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.
(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;
(h) The county assessor shall be notified that the governing body intends to allow the dwelling.
(i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.
(4) A single-family residential dwelling not provided in conjunction with farm use requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:
(a) In the Willamette Valley, the use may be approved if:
(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;
(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;
(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:
(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsection (3)(a) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4), ORS 215.263(5), and ORS 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and
(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.
(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(7), the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and
(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.
(c) In counties located outside the Willamette Valley require findings that:
(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
(B)(i) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
(ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;
(C) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and
(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.
(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of section (4) of this rule;
(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.
(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only

where such uses:
(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
(c) For purposes of subsection (a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:
(A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;
(B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices; and
(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.
(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.
(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsections (a) and (b).
(F) In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).
(6) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.
(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.
(8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the county finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:
(A) Intact exterior walls and roof structure;
(B) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
(C) Interior wiring for interior lights; and
(D) A heating system;
(b) An application under this section must be filed within three years following the date that the dwelling last possessed

all the features listed under subsection (a).
(c) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.
(d) In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions;
(A) If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
(i) Five years before the date of the destruction or demolition; or
(ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
(B) The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
(i) Five years before the date of the application; or
(ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
(e) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or 215.283(1)(p):
(A) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
(B) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
(C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
(D) The county planning director, or the director's designee, shall maintain a record of:
(i) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and
(ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection (e), including a copy of the deed restrictions filed under paragraph (C) of this subsection.
(f)(A) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.
(B) The replacement dwelling may be sited on any part of the same lot or parcel:
(C) The replacement dwelling must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
(D) The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
(i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
(ii) No statewide map of wildfire risk has been adopted.
(9)(a) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
(b) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
(c) For the purpose of subsection (a), "relative" means a child, parent, stepparent, grandchild, grandparent,

stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.
(d) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under ORS 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.
(e) For the purpose of subsection (d), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).
(10) Temporary residence for the term of the hardship suffered by the existing resident or relative as defined in ORS chapter 215. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons. "Hardship" also includes a natural hazard event that has destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).
(a) For a medical hardship or hardship for the care of an aged or infirm person or persons the temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building. A manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished, or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
(b) For hardships based on a natural hazard event described in this section, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building. Governing bodies shall review the permit authorizing such temporary residences every two years. Within three months of the end of the hardship, the recreational vehicle shall be removed or demolished, or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
(c) For applications submitted under subsection (b) of this section, the county may find that the criteria of section (5) are satisfied when:
(A) The temporary residence is established within an existing building or, if a recreational vehicle, is located within 100 feet of the primary residence; or
(B) The temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both.
(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.
(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the National Register of Historic Places.
(13) Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule may

be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
(14) Home occupations and the parking of vehicles may be authorized.
(a) Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.
(b) A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.
(c) A governing body may only approve a use provided in OAR 660-033-0120 as a home occupation if:
(A) The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120, and
(B) The use is accessory, incidental and subordinate to the primary residential use of a dwelling on the property.
(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
(16)(a) A utility facility established under ORS 215.213(1)(c) or 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:
(A) Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
(i) Technical and engineering feasibility;
(ii) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
(iii) Lack of available urban and nonresource lands;
(iv) Availability of existing rights of way;
(v) Public health and safety; and
(vi) Other requirements of state and federal agencies.
(B) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
(C) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
(D) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
(E) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on

the original approval.
(F) In addition to the provisions of paragraphs (A) to (D) of this subsection, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
(G) The provisions of paragraphs (A) to (D) of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
(b) An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its designee that the associated transmission line meets either the requirements of paragraph (A) of this subsection or the requirements of paragraph (B) of this subsection.
(A) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
(i) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
(ii) The associated transmission line is co-located with an existing transmission line;
(iii) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
(iv) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
(B) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of this subsection, two or more of the following criteria:
(i) Technical and engineering feasibility;
(ii) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
(iii) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
(iv) Public health and safety; or
(v) Other requirements of state or federal agencies.
(C) As pertains to paragraph (B), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
(D) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (B) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
(17) Permanent features of a power generation facility shall not use, occupy, or cover more than 12 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to section (5) and shall have no effect on the original approval.
(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.
(b) Notwithstanding ORS 215.130, 215.213, 215.283, or any local zoning ordinance or regulation, a public or private school, including all buildings essential to the operation of a school, formerly allowed pursuant to ORS 215.213(1)(a) or

215.283(1)(a), as in effect before January 1, 2010, may be expanded provided:
(A) The expansion complies with ORS 215.296;
(B) The school was established on or before January 1, 2009;
(C) The expansion occurs on a tax lot:
(i) On which the school was established; or
(ii) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and
(D) The school is a public or private school for kindergarten through grade 12.
(c) Subject to the requirements of sections (5) and (20) of this rule, a golf course may be established on land determined to be high-value farmland as defined in ORS 195.300(10)(c) if the land:
(A) Is not otherwise high-value farmland as defined in ORS 195.300(10);
(B) Is surrounded on all sides by an approved golf course; and
(C) Is west of U.S. Highway 101.
(19)(a) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
(b) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Campgrounds approved under this provision must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(d) of this rule.
(c) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor’s Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because adequate amounts of permanent housing is not reasonably available. A county must process applications filed pursuant to this section in the manner identified at ORS 215.416(11).
(A) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer hook-ups shall not be provided to individual camp sites.
(B) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.
(C) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in subsection (c) shall be included in the application materials and, upon meeting the county’s satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this paragraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal or conversion activities to be completed.
(d) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for

overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
(e) For applications submitted under subsection (c) of this section, the criteria of section (5) can be found to be satisfied when:
(A) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.
(B) The subject property is not irrigated.
(C) The subject property is not high-value farmland.
(D) The number of proposed campsites does not exceed 12; or
(E) The number of proposed campsites does not exceed 36: and
(F) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both.
(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
(b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:
(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.
(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As

used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
(22) Permanent features of a power generation facility shall not use, occupy or cover more than 20 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to section (5) and shall have no effect on the original approval.
(23) A farm stand may be approved if:
(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed farm crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.
(e) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
(f) At the request of a local government with land use jurisdiction over the farm stand, the farm stand operator of a farm stand approved under this section shall submit to the local government evidence of compliance with the annual sales requirement of subsection (a). Such evidence shall consist of an IRS tax return transcript and any other information the local jurisdiction may require to document ongoing compliance with this section or any other condition of approval required by the county.
(24) Accessory farm dwellings as defined by subsection (e) of this section may be considered customarily provided in conjunction with farm use if:
(a) Each accessory farm dwelling meets all the following requirements:
(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
(B) The accessory farm dwelling will be located:
(i) On the same lot or parcel as the primary farm dwelling;
(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and

require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules;
(iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. “Farmworker housing” shall have the meaning set forth in ORS 215.278 and not the meaning in ORS 315.163; or
(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and
(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
(i) At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of ORS 215.213(2)(a) or (b) or paragraph (A) of this subsection; or
(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and
(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
(iii) A Producer License for the sale of dairy products under ORS 621.072.
(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in 660-033-0100.
(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.
(e) For the purposes of this section, "accessory farm dwelling" includes all types of residential structures allowed by the

applicable state building code.
(f) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.
(g) Accessory farm dwellings destroyed by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 may be replaced. The temporary use of modular structures, manufactured housing, fabric structures, tents and similar accommodations is allowed until replacement under this subsection occurs.
(h) The applicant shall submit to the local government an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements in paragraph (b)(A) or (B), whichever is applicable.
(25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within one-half mile of a community college. An "armed forces reserve center" includes an armory or National Guard support facility.
(26) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
(27) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the Oregon Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
(28)(a) A facility for the processing of farm products is a permitted use under ORS 215.213(1)(u) and ORS 215.283 (1)(r) on land zoned for exclusive farm use, only if the facility:
(A) Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. A county may not apply siting standards in a manner that prohibits the siting of a facility for the processing of farm products; or
(B) Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area. However, a local government shall apply applicable standards and criteria pertaining to floodplains, geologic hazards, beach and dune hazards, airport safety, tsunami hazards and fire siting standards.
(b) A county may not approve any division of a lot or parcel that separates a facility for the processing of farm products from the farm operation on which it is located.
(c) As used in this section, the following definitions apply:
(A) "Facility for the processing of farm products" means a facility for:
(i) Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
(ii) Slaughtering, processing or selling poultry or poultry products, rabbits or rabbit products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).
(B) "Processing area" means the floor area of a building dedicated to farm product processing. "Processing area" does not include the floor area designated for preparation, storage or other farm use.
(29)(a) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be

those required for the operation of the subject facility.
(b) Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
(30) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283, or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
(a) A public right of way;
(b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
(c) The property to be served by the utility.
(33) An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770. A county may not require an outdoor mass gathering permit under ORS 433.750 for agri-tourism and other commercial events or activities permitted under ORS 215.213(11), 215.283(4), 215.449, 215.451, and215.452.
(34) An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735 is subject to review under the provisions of ORS 433.763.
(35)(a) As part of the conditional use approval process under ORS 215.296 and section (5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and
(b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or 215.283(2)(y) may be altered, restored or replaced pursuant to 215.130(5), (6) and (9).
(36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under section (19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power

generation facility. A minor amendment request shall be subject to section (5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:
(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:
(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
(i) Technical and engineering feasibility;
(ii) Availability of existing rights of way; and
(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);
(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
(C) Costs associated with any of the factors listed in paragraph (A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
(D) The owner of a wind power generation facility approved under subsection (a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
(E) The criteria of subsection (b) are satisfied.
(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
(A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of paragraph (b)(D) are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in subsections (b) and (c) the approval criteria of subsection (b) shall apply to the entire project.
(38) A proposal to site a photovoltaic solar power generation facility except for a photovoltaic solar power generation facility in eastern Oregon subject to the provisions of paragraphs (44)(a)(B) and (C) shall be subject to the following definitions and provisions:
(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
(c) "Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.
(d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
(e) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
(f) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:
(A) The provisions of paragraph (h)(H) are satisfied; or
(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.
(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).
(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic

solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;
(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
(i) Non high-value farmland soils are not available on the subject tract;
(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
(H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:
(i) Is not located within the boundaries of an irrigation district;
(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;
(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);
(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

(v) Does not qualify as high-value farmland under any other provision of law; or
(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:
(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
(i) Nonarable soils are not available on the subject tract;
(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
(E) The requirements of paragraphs (h)(A), (B), (C) and (D) are satisfied.
(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:
(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
(i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
(D) No more than 20 acres of the project will be sited on arable soils;
(E) The requirements of paragraph (h)(D) are satisfied;
(F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s)

present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and
(G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.
(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
(m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.
(n) If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections (g), (i) and (j) of this section.
(39) Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2019, when:
(a) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
(b) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
(40) A youth camp may be established on agricultural land under the requirements of this section. The purpose of this section is to allow for the establishment of youth camps that are generally self-contained and located on a lawfully established unit of land of suitable size and location to limit potential impacts on nearby land and to ensure compatibility with surrounding farm uses.
(a) Definitions: In addition to the definitions provided for this division in OAR 660-033-0020 and ORS 92.010, for purposes of this section the following definitions apply:
(A) "Low impact recreational facilities" means facilities that have a limited amount of permanent disturbance on the landscape and are likely to create no, or only minimal impacts on adjacent private lands. Low impact recreational facilities include, but are not limited to, open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas, swimming pools and zip lines. Low impact recreational facilities are designed and developed in a manner consistent with the lawfully established unit of land's natural environment.
(B) "Youth camp" means a facility that is either owned or leased, and is operated by a state or local government or a nonprofit corporation as defined under ORS 65.001 and is established for the purpose of providing an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include a juvenile detention center or juvenile detention facility or similar use.

(C) “Youth camp participants” means persons directly involved with providing or receiving youth camp services, including but not limited to, campers, group leaders, volunteers or youth camp staff.
(b) Location: A youth camp may be located only on a lawfully established unit of land suitable to ensure an outdoor experience in a private setting without dependence on the characteristics of adjacent and nearby public and private land. In determining the suitability of a lawfully established unit of land for a youth camp the county shall consider its size, topography, geographic features and other characteristics, the proposed number of overnight participants and the type and number of proposed facilities. A youth camp may be located only on a lawfully established unit of land that is:
(A) At least 1,000 acres;
(B) In eastern Oregon;
(C) Composed predominantly of class VI, VII or VIII soils;
(D) Not within an irrigation district;
(E) Not within three miles of an urban growth boundary;
(F) Not in conjunction with an existing golf course;
(G) Suitable for the provision of protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands and uses. Such buffers shall consist of natural vegetation, topographic or other natural features and shall be implemented through the requirement of setbacks from adjacent public and private lands, public roads, roads serving other ownerships and riparian areas. Setbacks from riparian areas shall be consistent with OAR 660-023-0090. Setbacks from adjacent public and private lands, public roads and roads serving other ownerships shall be 250 feet unless the county establishes on a case-by-case basis a different setback distance sufficient to:
(i) Prevent significant conflicts with commercial resource management practices;
(ii) Prevent a significant increase in safety hazards associated with vehicular traffic on public roads and roads serving other ownerships; and
(iii) Minimize conflicts with resource uses on nearby resource lands;
(H) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section; and
(I) Suitable to allow for youth camp development that will not interfere with the exercise of legally established water rights on nearby properties.
(c) Overnight Youth Camp Participants: The maximum number of overnight youth camp participants is 350 participants unless the county finds that a lower number of youth camp participants is necessary to avoid conflicts with surrounding uses based on consideration of the size, topography, geographic features and other characteristics of the lawfully established unit of land proposed for the youth camp. Notwithstanding the preceding sentence, a county may approve a youth camp for more than 350 overnight youth camp participants consistent with this subsection if resource lands not otherwise needed for the youth camp that are located in the same county or adjacent counties that are in addition to, or part of, the lawfully established unit of land approved for the youth camp are permanently protected by restrictive covenant as provided in subsection (d) and subject to the following provisions:
(A) For each 160 acres of agricultural lands predominantly composed of class I-V soils that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;
(B) For each 160 acres of wildlife habitat that is either included on an acknowledged inventory in the local comprehensive plan or identified with the assistance and support of Oregon Department of Fish and Wildlife, regardless of soil types and resource land designation that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;
(C) For each 160 acres of agricultural lands predominantly composed of class VI-VIII soils that are permanently protected from development, an additional 25 overnight youth camp participants may be allowed; or
(D) A youth camp may have 351 to 600 overnight youth camp participants when:
(i) The tract on which the youth camp will be located includes at least 1,920 acres; and
(ii) At least 920 acres is permanently protected from development. The county may require a larger area to be protected from development when it finds a larger area necessary to avoid conflicts with surrounding uses.

(E) Under no circumstances shall more than 600 overnight youth camp participants be allowed.
(d) The county shall require, as a condition of approval of an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section requiring other lands to be permanently protected from development, that the land owner of the other lands to be protected sign and record in the deed records for the county or counties where such other lands are located a document that protects the lands as provided herein, which for purposes of this section shall be referred to as a restrictive covenant.
(A) A restrictive covenant shall be sufficient if it is in a form substantially the same as the form attached hereto as Exhibit B.
(B) The county condition of approval shall require that the land owner record a restrictive covenant under this subsection:
(i) Within 90 days of the final land use decision if there is no appeal, or
(ii) Within 90 days after an appellate judgment affirming the final land use decision on appeal.
(C) The restrictive covenant is irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the land subject to the restrictive covenant is located.
(D) Enforcement of the restrictive covenant may be undertaken by the department or by the county or counties where the land subject to the restrictive covenant is located.
(E) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the restrictive covenant required by this subsection.
(F) The county planning director shall maintain a copy of the restrictive covenant filed in the county deed records pursuant to this section and a map or other record depicting the tracts, or portions of tracts, subject to the restrictive covenant filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
(e) In addition, the county may allow:
(A) Up to eight nights during the calendar year during which the number of overnight youth camp participants may exceed the total number of overnight youth camp participants allowed under subsection (c) of this section.
(B) Overnight stays at a youth camp for participants of adult programs that are intended primarily for individuals over 21 years of age, not including staff, for up to 30 days in any one calendar year.
(f) Facilities: A youth camp may provide only the facilities described in paragraphs (A) through (I) of this subsection:
(A) Low impact recreational facilities. Intensive developed facilities such as water parks and golf courses are not allowed;
(B) Cooking and eating facilities, provided they are within a building that accommodates youth camp activities but not in a building that includes sleeping quarters. Food services shall be limited to those provided in conjunction with the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants;
(C) Bathing and laundry facilities;
(D) Up to three camp activity buildings, not including a building for primary cooking and eating facilities.
(E) Sleeping quarters, including cabins, tents or other structures, for youth camp participants only, consistent with subsection (c) of this section. Sleeping quarters intended as overnight accommodations for persons not participating in activities allowed under this section or as individual rentals are not allowed. Sleeping quarters may include restroom facilities and, except for the caretaker's dwelling, may provide only one shower for every five beds. Sleeping quarters may not include kitchen facilities.
(F) Covered areas that are not fully enclosed for uses allowed in this section;
(G) Administrative, maintenance and storage buildings including permanent structures for administrative services, first aid, equipment and supply storage, and a gift shop available to youth camp participants but not open to the general public;
(H) An infirmary, which may provide sleeping quarters for medical care providers (e.g., a doctor, registered nurse, or emergency medical technician);

(I) A caretaker's residence, provided no other dwelling is on the lawfully established unit of land on which the youth camp is located.
(g) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule may not be established in conjunction with a youth camp.
(h) Conditions of Approval: In approving a youth camp application, a county must include conditions of approval as necessary to achieve the requirements of this section.
(A) With the exception of trails, paths and ordinary farm and ranch practices not requiring land use approval, youth camp facilities shall be clustered on a single development envelope of no greater than 40 acres.
(B) A youth camp shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and 358.905 to 358.961, as follows:
(i) If a particular area of the lawfully established unit of land proposed for the youth camp is proposed to be excavated, and if that area contains or is reasonably believed to contain resources protected by ORS 97.740 to 97.750 and 358.905 to 358.961, the application shall include evidence that there has been coordination among the appropriate Native American Tribe, the State Historic Preservation Office (SHPO) and a qualified archaeologist, as described in ORS 390.235(6)(b).
(ii) The applicant shall obtain a permit required by ORS 390.235 before any excavation of an identified archeological site begins.
(iii) The applicant shall monitor construction during the ground disturbance phase(s) of development if such monitoring is recommended by SHPO or the appropriate Native American Tribe.
(C) A fire safety protection plan shall be adopted for each youth camp that includes the following:
(i) Fire prevention measures;
(ii) On site pre-suppression and suppression measures; and
(iii) The establishment and maintenance of fire-safe area(s) in which camp participants can gather in the event of a fire.
(D) A youth camp’s on-site fire suppression capability shall at least include:
(i) A 1000 gallon mobile water supply that can reasonably serve all areas of the camp;
(ii) A 60 gallon-per-minute water pump and an adequate amount of hose and nozzles;
(iii) A sufficient number of firefighting hand tools; and
(iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
(v) An equivalent level of fire suppression facilities may be determined by the governing body or its designate. The equivalent capability shall be based on the response time of the effective wildfire suppression agencies.
(E) The county shall require, as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, the operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting:
(i) A claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;
(ii) Future land divisions resulting in a lawfully established unit of land containing the youth camp that is smaller in size than required by the county for the original youth camp approval; and
(iii) Development on the lawfully established unit of land that is not related to the youth camp and would require a land use decision as defined at ORS 197.015(10) unless the county’s original approval of the camp is rescinded and the youth camp development is either removed or can remain, consistent with a county land use decision that is part of such rescission.
(F) Nothing in this rule relieves a county from complying with other requirements contained in the comprehensive plan or implementing land use regulations, such as the requirements addressing other resource values (e.g. resources identified in compliance with statewide planning Goal 5) that exist on agricultural lands.
(i) If a youth camp is proposed to be developed on lands that contain a Goal 5 resource protected under the county's

comprehensive plan, and the plan does not address conflicts between youth camp development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts consistent with OAR chapter 660, divisions 16 and 23. If there is no program to protect the listed Goal 5 resource(s) included in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures in compliance with OAR chapter 660, division 23; and

(ii) If a proposed youth camp is located on lands where, after site specific consultation with a district state biologist, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs), the applicant shall conduct a site-specific assessment of the land in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the youth camp facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the youth camp facility.

(iii) The commission shall consider the repeal of the provisions of subparagraph (ii) on or before January 1, 2022.

(i) Extension of Sewer to a Youth Camp. A Goal 11 exception to authorize the extension of a sewer system to serve a youth camp shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this section. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 11 shall not apply. Exceptions adopted pursuant to this section shall be deemed to fulfill the requirements for goal exceptions under ORS 197.732(1)(c) and Goal 2.

(A) A Goal 11 exception shall determine the general location for the proposed sewer extension and shall require that necessary infrastructure be no larger than necessary to accommodate the proposed youth camp.

(B) To address Goal 2, Part II(c)(1), the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Goal 2, Part II(c)(1) shall be found to be satisfied if the proposed sewer extension will serve a youth camp proposed for up to 600 youth camp participants.

(C) To address Goal 2, Part II(c)(2), the exception shall demonstrate that areas which do not require a new exception cannot reasonably accommodate the proposed sewer extension. Goal 2, Part II(c)(2) shall be found to be satisfied if the sewer system to be extended was in existence as of January 1, 1990 and is located outside of an urban growth boundary on lands for which an exception to Goal 3 has been taken.

(D) To address Goal 2, Part II(c)(3), the exception shall demonstrate that the long term environmental, economic, social, and energy consequences resulting from the proposed extension of sewer with measures to reduce the effect of adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the lawfully established unit of land proposed for the youth camp. Goal 2, Part II(c)(3) shall be found to be satisfied if the proposed sewer extension will serve a youth camp located on a tract of at least 1,000 acres.

(E) To address Goal 2, Part II(c)(4), the exception shall demonstrate that the proposed sewer extension is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Goal 2, Part II(c)(4) shall be found to be satisfied if the proposed sewer extension for a youth camp is conditioned to comply with section (5) of this rule.

(F) An exception taken pursuant to this section does not authorize extension of sewer beyond what is justified in the exception.

(j) Applicability: The provisions of this section shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this section, or that are necessary to ensure compliance with any standards or criteria in this section.
(41) Equine and equine-affiliated therapeutic counseling activities shall be conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract. All individuals conducting therapeutic or counseling activities must act within the proper scope of any licenses required by the state.
(42)(a) A determination under ORS 215.213(11) or 215.283(4) that an event or activity is 'incidental and subordinate' requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses, that bear on whether the existing farm use remains the predominant use of the tract.
(b) A determination under ORS 215.213(11)(d)(A) or 215.283(4)(d)(A) that an event or activity is 'necessary to support' either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.
(43) As used in ORS 215.213(2)(e) or 215.283(2)(c), a 'private park' means an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus.
(44)(a) A county may review a proposed photovoltaic solar power generation facility on agricultural land in eastern Oregon under one of the following three alternatives:
(A) A county may review a proposed photovoltaic solar power generation facility on agricultural land under section (38).
(B) If a county has not adopted a program under OAR 660-023-0195, the county may review a proposed photovoltaic solar power generation facility on agricultural land located in eastern Oregon under the provisions of subsections (b) through (n) of this section; or
(C) If a county has adopted a program under the provisions of OAR 660-023-0195, a county may review a proposed photovoltaic solar power generation facility on agricultural land located in eastern Oregon.
(b) A proposal to site a photovoltaic solar power generation facility under paragraph (a)(B) is subject to the following definitions and provisions:
(A) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
(B) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
(C) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.
(D) "High-value farmland means land described in ORS 195.300(10).
(E) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
(F) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
(G) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded

private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(c)(A) If an applicant files an application for a proposed photovoltaic solar power generation facility pursuant to OAR 660-033-0130(45)(a)(B), a county must process the application unless a county has either:

(i) Approved a program for significant solar photovoltaic resource areas under the provisions of OAR 660-023-0195; or

(ii) Taken action through the county elected body, either prior to, or after the effective date of this rule, that declines to consider photovoltaic solar power generation facilities under paragraph (a)(B).

(B) A county may choose to consider photovoltaic solar power generation facilities under paragraphs (a)(A) or (C).

(d) A county may approve a photovoltaic solar power generation facility under paragraph (a)(B) as follows:

(A) On high-value farmland that qualifies for an exemption pursuant to the provisions of subparagraph (D)(vii) and that is not otherwise limited by the provisions of subparagraph (D)(vi), the facility may not use, occupy, or cover more than 160 acres not including lands devoted to temporary workforce housing.

(B) On arable land, the photovoltaic solar power generation facility may not use, occupy, or cover more than 1,280 acres not including lands devoted to temporary workforce housing.

(C) On non-arable land, the photovoltaic solar power generation facility may not use, occupy, or cover more than 1,920 acres not including lands devoted to temporary workforce housing.

(D) Notwithstanding paragraphs (A) through (C), a county may not approve a photovoltaic solar power generation facility under paragraph (a)(B) on land that is:

(i) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6)(a) and (b). The county may refine the exact location of Significant Sage-Grouse Habitat during consideration of a specific photovoltaic solar power generation facility but must consult with the Oregon Department of Fish and Wildlife (ODFW).

(ii) Priority Wildlife Connectivity Areas (PWCA's) as designated by ODFW that do not qualify under OAR 660-023-0195(4) (j)(D).

(iii) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The county may refine the exact location of high use and very high use wildlife mitigation corridors during consideration of a specific photovoltaic solar power generation facility but must consult with ODFW.

(iv) Wildlife habitat characterized by ODFW as Category 1 based on field data provided by the applicant and developed in consultation with ODFW. The county may refine the exact location and characterization of Category 1 wildlife habitat during consideration of a specific photovoltaic solar power generation facility but must must consult with ODFW.

(v) On lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.

(vi) Soils that are irrigated or not irrigated and NRCS classified as prime, unique, Class I or Class II, unless such soils make up no more than five percent of a proposed photovoltaic solar site and are present in an irregular configuration or configurations that prevent them from being independently managed for farm use.

(vii) High-Value Farmland as defined at ORS 195.300(10)(c) through (f) except otherwise described in paragraphs (vi) and (viii).

(viii) Agricultural lands protected under Goal 3 with an appurtenant water right on January 1, 2024. This subparagraph does not apply if the ability to use the appurtenant water right to irrigate subject property becomes prohibited due to a situation that is beyond the control of the water right holder including but not limited to: critical groundwater

designations or other state regulatory action, reduced federal contract allocations, and other similar regulatory circumstances. If retained, the appurtenant water right has been transferred to another portion of the subject property, tract or another property and maintained for agricultural purposes. Where this paragraph does not apply then no agricultural mitigation is required.
(ix) High-Value Farmland as defined at ORS 195.300(10)(c) through (f) except otherwise described in subparagraphs (vi) and (vii).
(x) Sites where the construction and operation of the photovoltaic solar power generation facility will result in significant adverse impacts to historic, cultural or archaeological Resources that cannot be mitigated pursuant to OAR 660-023-0195(6).
(xi) The Metolius Area of Critical State Concern identified as Area 1 and Area 2 in the management plan adopted by the Land Conservation and Development Commission, as referenced in ORS 197.416.
(e) Approval of a proposed photovoltaic solar power generation facility under paragraph (a)(B) is subject to the following requirements:
(A) The proposed photovoltaic solar power generation facility is located in an area with the following characteristics:
(i) Topography with a slope that is predominantly 15 percent or less;
(ii) An estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater; and
(iii) Predominantly within 10 miles of a transmission line with a rating of 69 KV or above.
(B) For a proposed photovoltaic solar power generation facility on high-value farmland or arable land, a study area consisting of lands zoned for exclusive farm use located within two miles measured from the exterior boundary of the subject property shall be established and:
(i) If fewer than 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits wholly or partially within the study area, no further action is necessary.
(ii) When at least 320 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities wholly of partially within the study area, the county must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
(C) The proposed photovoltaic solar power generation facility shall take measures to mitigate agricultural impacts as provided in OAR 660-023-0195(5)(b)(B) and (C).
(D) The proposed photovoltaic solar power generation facility shall take measures to provide community benefits as provided in OAR 660-023-0195(7)(b).
(E) The proposed photovoltaic solar power generation facility shall mitigate potential impacts to fish and wildlife habitat pursuant to the requirements of ORS 215.446(3)(a).
(F) The proposed photovoltaic solar power generation facility shall mitigate potential impacts to historic, cultural, and archeological resources pursuant to OAR 660-023-0195(6).
(G) (i) The application will demonstrate that considerations for the amount, type, and location of temporary workforce housing have been made. This provision may be satisfied by the submittal and county approval of a workforce housing plan prepared by an individual with qualifications determined to be acceptable by the county demonstrating that such temporary housing is reasonably likely to occur. The plan need not obligate the applicant to financially secure the temporary housing. The approved workforce housing plan shall be attached to the decision as a condition of approval.
(ii) On-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility must be removed or converted to an allowed use under section (19) or other statute or rule when project construction is complete.
(iii) The county may consider temporary workforce housing facilities not included in the initial approval through a minor

amendment request filed after a decision to approve a photovoltaic solar power generation facility. A minor amendment request shall be subject to section (5) and shall have no effect on the original approval of the project.
(H) The requirements of paragraphs (38)(h)(A) through (D) have been satisfied for proposed photovoltaic solar power generation facilities on high-value farmland and arable land, and the requirements of paragraph (h)(D) have been satisfied for proposed photovoltaic solar power generation facilities on nonarable land.
(I) A county may condition approval of a proposed photovoltaic solar power generation facility to address other issues, including but not limited to assuring that the design and operation of the facility will promote the prevention and mitigate the risk of wildfire.
(J) For a photovoltaic solar power generation facility located on arable or nonarable lands, the project is not located on arable soils unless it can be demonstrated that:
(i) Siting the facility on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
(K) For a photovoltaic solar power generation facility located on nonarable lands no more than 1,280 acres of the facility will be located on arable soils.
(L) A county that receives an application for a permit under this section shall, upon receipt of the application, provide notice as required by ORS 215.446(6) and (7).
(f) Notwithstanding any other rule in this division, a county may determine that ORS 215.296 and section (5) for a proposed photovoltaic solar power generation facility are met when it finds that the applicable provisions of subsections (b) through (e) are satisfied.
(g) A county shall satisfy the requirements of OAR 660-023-0195(9)(a) through (c).
(h) The county has identified and attached as conditions of approval all mitigation required pursuant to this rule.
(i) Any applicable local provisions have been satisfied.
(j) A permit approved for a photovoltaic solar power generation facility shall be valid until commencement of construction or for six years, whichever is less. A county may grant up to two extensions for a period of up to 24 months each when an applicant submits a written request for an extension of the development approval period prior to the expiration of the approval period.
(k) A county may grant a permit described in subsection (j) a third and final extension for a period of up to 24 months if:
(A) An applicant submits a written request for an extension of the development approval period prior to the expiration of the second extension granted under subsection (j);
(B) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
(C) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
(l) In addition to other sources, a local government may rely on data from online mapping tools, such as that data included in the Oregon Renewable Energy Siting Assessment (ORESA), to inform determinations made under this section.
(m) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
(n) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.040, ORS 215.213, ORS 215.275, ORS 215.282, ORS 215.283, ORS 215.301, ORS 215.448, ORS 215.459, ORS 215.705, ORS 215.449

AMEND: 660-033-0145

RULE TITLE: Agriculture/Forest Zones

NOTICE FILED DATE: 10/31/2024

RULE SUMMARY: The amended rule provides clarity on how counties will apply standards for siting photovoltaic solar power generation facilities in agricultural and forest zones.

RULE TEXT:
(1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-0050;
(2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-006-0055; and
(3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-0057.; and
(4) A county in eastern Oregon shall apply either OAR chapter 660, division 6 or 33 standards for siting a photovoltaic solar power generation facility in an agriculture/forest zone based on the predominant use of the tract on January 1, 2024.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 197.040, ORS 197.230, ORS 197.245

STATUTES/OTHER IMPLEMENTED: ORS 197.040, ORS 197.213, ORS 197.215, ORS 197.230, ORS 197.245, ORS 197.283, ORS 197.700, ORS 197.705, ORS 197.720, ORS 197.740, ORS 197.750, ORS 197.780