

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 33

AGRICULTURAL LAND

As amended by LCDC March 21, 2008

NOTE: No amendments to this division other than rules listed below

1 **660-033-0020**

2 **Definitions**

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

5
6 (1)(a) "Agricultural Land" as defined in Goal 3 includes:

7
8 (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as
9 predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

10
11 (B) Land in other soil classes that is suitable for farm use as defined in ORS
12 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions;
13 existing and future availability of water for farm irrigation purposes; existing land use patterns;
14 technological and energy inputs required; and accepted farming practices; and

15
16 (C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby
17 agricultural lands.

18
19 (b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with
20 lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands
21 even though this land may not be cropped or grazed;

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

24
25 (2)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

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

27 (B) Help maintain agricultural processors and established farm markets.

28
29 (b) When determining whether a farm is part of the commercial agricultural enterprise,
30 not only what is produced, but how much and how it is marketed shall be considered. These are
31 important factors because of the intent of Goal 3 to maintain the agricultural economy of the
32 state.

33
34 (3) "Contiguous" means connected in such a manner as to form a single block of land.

35
36 (4) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant
37 to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract
38 for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence.
39 Reconfigured means any change in the boundary of the lot, parcel or tract.

40

1 (5) "Eastern Oregon" means that portion of the state lying east of a line beginning at the
2 intersection of the northern boundary of the State of Oregon and the western boundary of Wasco
3 County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes
4 and Klamath to the southern boundary of the State of Oregon.

5
6 (6) "Exception Area" means an area no longer subject to the requirements of Goal 3 or 4
7 because the area is the subject of a site specific exception acknowledged pursuant to ORS
8 197.732 and OAR chapter 660, division 4.

9
10 (7)(a) "Farm Use" as that term is used in ORS ~~chapter~~ chapter 215 and this division means
11 "farm use" as defined in ORS 215.203.

12
13 (b) As used in the definition of "farm use" in ORS 215.203 and in this division:

14 (A) "Preparation" of products or by-products includes but is not limited to the cleaning,
15 treatment, sorting, ~~composting~~ or packaging of the products or by-products; and

16 (B) "Products or by-products raised on such land" means that those products or by-
17 products are raised on the farm operation where the preparation occurs or on other farm land
18 provided the preparation is occurring only on land being used for the primary purpose of
19 obtaining a profit in money from the farm use of the land.

20
21 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that
22 are:

23 (A) Irrigated and classified prime, unique, Class I or II; or

24 (B) Not irrigated and classified prime, unique, Class I or II.

25
26 (b) In addition to that land described in subsection (a) of this section, high-value
27 farmland, if outside the Willamette Valley, includes tracts growing specified perennials as
28 demonstrated by the most recent aerial photography of the Agricultural Stabilization and
29 Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993.
30 "Specified perennials" means perennials grown for market or research purposes including, but
31 not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including
32 seed crops, hay, pasture or alfalfa;

33
34 (c) In addition to that land described in subsection (a) of this section, high-value
35 farmland, if in the Willamette Valley, includes tracts composed predominantly of the following
36 soils in Class III or IV or composed predominantly of a combination of the soils described in
37 subsection (a) of this section and the following soils:

38 (A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell,
39 Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult,
40 Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama,
41 Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

42 (B) Subclassification IIIw, specifically, Concord, Conser, Cornelius, Variant, Dayton
43 (thick surface) and Sifton (occasionally flooded);

44 (C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius,
45 Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill;
46 and

1 (D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti
2 and Whiteson.

3
4 (d) In addition to that land described in subsection (a) of this section, high-value
5 farmland, if west of the summit of the Coast Range and used in conjunction with a dairy
6 operation on January 1, 1993, includes tracts composed predominantly of the following soils in
7 Class III or IV or composed predominantly of a combination of the soils described in subsection
8 (a) of this section and the following soils:

9 (A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and
10 Winema;

11 (B) Subclassification IIIw, specifically, Brennar and Chitwood;

12 (C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and
13 Winema; and

14 (D) Subclassification IVw, specifically, Coquille.

15
16 (e) In addition to that land described in subsection (a) of this section, high-value
17 farmland includes tracts located west of U.S. Highway 101 composed predominantly of the
18 following soils in Class III or IV or composed predominantly of a combination of the soils
19 described in subsection (a) of this section and the following soils:

20 (A) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay
21 Loam;

22 (B) Subclassification IIIe, specifically, Klooqueth Silty Clay Loam and Winchuck Silt
23 Loam; and

24 (C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

25
26 (f) For the purposes of approving a land use application under ORS 215.705, the soil
27 class, soil rating or other soil designation of a specific lot or parcel may be changed if:

28 (A) The property owner submits a statement of agreement from the Natural Resources
29 Conservation Service (NRCS) that the soil class, soil rating or other soil designation should be
30 adjusted based on new information; or

31 (B) Submits a report from a soils scientist whose credentials are acceptable to the State
32 Department of Agriculture that the soil class, soil rating or other soil designation should be
33 changed; and

34 (C) Submits a statement from the State Department of Agriculture that the Director of
35 Agriculture or the director's designee has reviewed the report described in paragraph (~~5~~8)(f)(B)
36 of this rule and finds the analysis in the report to be soundly and scientifically based.

37
38 (g) For the purposes of approving a land use application under ORS 215.705, soil classes,
39 soil ratings or other soil designations used in or made pursuant to this definition are those of the
40 NRCS in its most recent publication for that class, rating or designation before November 4,
41 1993 except for changes made pursuant to subsection (f) of this rule. Within six months of the
42 effective date of this rule, the department shall provide to all counties and other interested
43 persons a list of soils that qualify land as high-value farmland under this subsection.

44
45 (h) For the purposes of approving a land use application under OAR 660-033-0090, 660-
46 033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations

1 used in or made pursuant to this definition are those of the NRCS in its most recent publication
2 for that class, rating or designation.

3
4 (i) Lands designated as "marginal lands" according to the marginal lands provisions
5 adopted before January 1, 1993, and according to the criteria in ORS 215.247 (1991), are
6 excepted from this definition of "high-value farmlands";

7
8 (j) Any county that adopted marginal lands provisions before January 1, 1993, may
9 continue to designate lands as "marginal lands" according to those provisions and criteria in ORS
10 215.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to 215.750
11 to lands zoned for exclusive farm use.

12
13 (9) "Irrigated" means watered by an artificial or controlled means, such as sprinklers,
14 furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has
15 established rights to use water for irrigation, including such tracts that receive water for irrigation
16 from a water or irrigation district or other provider. For the purposes of this division, an area or
17 tract within a water or irrigation district that was once irrigated shall continue to be considered
18 "irrigated" even if the irrigation water was removed or transferred to another tract.

19
20 (10) "Tract" means one or more contiguous lots or parcels in the same ownership.

21
22 (11) "Western Oregon" means that portion of the state lying west of a line beginning at the
23 intersection of the northern boundary of the State of Oregon and the western boundary of Wasco
24 County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes
25 and Klamath to the southern boundary of the State of Oregon.

26
27 (12) "Willamette Valley" is Clackamas, Linn, Marion, Multnomah, Polk, Washington and
28 Yamhill Counties and that portion of Benton and Lane Counties lying east of the summit of the
29 Coast Range.

30
31 (13) "Lot" shall have the meaning set forth in ORS 92.010 and "parcel" shall have the
32 meaning set forth in ORS 215.010.

33
34 (14) "Manufactured dwelling" and "manufactured home" shall have the meaning set forth
35 in ORS 446.003(26).

36
37 [Publications: Publications referenced are available from the agency.]

38
39 Stat. Auth.: ORS [~~183,~~197.040[-&215]

40 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283
41 & 215.700 - 215.710

42 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94;
43 LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-
44 1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert.
45 ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04

1
2 **660-033-0030**

3 **Identifying Agricultural Land**

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

6
7 (2) When a jurisdiction determines the predominant soil capability classification of a lot
8 or parcel it need only look to the land within the lot or parcel being inventoried. However,
9 whether land is "suitable for farm use" requires an inquiry into factors beyond the mere
10 identification of scientific soil classifications. The factors are listed in the definition of
11 agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration
12 of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not
13 predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as
14 agricultural "lands in other classes which are necessary to permit farm practices to be undertaken
15 on adjacent or nearby lands." A determination that a lot or parcel is not agricultural land requires
16 findings supported by substantial evidence that addresses each of the factors set forth in OAR
17 660-033-0020(1).

18
19 (3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining
20 whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be
21 examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit
22 farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

23
24 (4) When inventoried land satisfies the definition requirements of both agricultural land
25 and forest land, an exception is not required to show why one resource designation is chosen
26 over another. The plan need only document the factors that were used to select an agricultural,
27 forest, agricultural/forest, or other appropriate designation.

28
29 ~~[(5) Notwithstanding the definition of "farm use" in ORS 215.203(2)(a), profitability or~~
30 ~~gross farm income shall not be considered in determining whether land is agricultural land or~~
31 ~~whether Goal 3, "Agricultural Land," is applicable.]~~

32
33 ~~[(6)]~~**(5)** More detailed data on soil capability than is contained in the U.S. Natural
34 Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define
35 agricultural land. However, the more detailed soils data shall be related to the U.S. Natural
36 Resources Conservation Service (NRCS) land capability classification system.

37
38 Stat. Auth.: ~~[ORS 183,]~~ORS 197.**040**~~[- & ORS 215]~~

39 Stats. Implemented: ORS 197.015, ORS 197.040, ORS 197.230, ORS 197.245, ORS
40 215.203, ORS 215.243 & ORS 215.700 - 215.710

41 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 5-2000, f. & cert. ef. 4-24-00
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1 **660-033-0120**

2 **Uses Authorized on Agricultural Lands**

3 The specific development and uses listed in the following table are permitted in the areas
4 that qualify for the designation pursuant to this division. All uses are subject to the general
5 provisions, special conditions, additional restrictions and exceptions set forth in this division.
6 The abbreviations used within the schedule shall have the following meanings:
7

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

14 (2) R -- Use may be approved, after required review. The use requires notice and the
15 opportunity for a hearing. Minimum standards for uses in the table that include a numerical
16 reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and
17 requirements to meet local concerns as authorized by law.
18

19 (3) * -- Use not permitted.
20

21 (4) # -- Numerical references for specific uses shown on the chart refer to the
22 corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use
23 on the chart, this rule does not establish criteria for the use.
24

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

27 Stat. Auth.: ORS [~~183,~~]197.040, 197.245[~~- & 215~~]

28 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283,
29 215.700 - 215.710 & 215.780

30 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94;
31 LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC
32 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. &
33 cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-
34 04; LCDD 2-2006, f. & cert. ef. 2-15-06
35
36

37 **660-033-0130**

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

39 The following standards apply to uses listed in OAR 660-033-0120 where the
40 corresponding section number is shown on the chart for a specific use under consideration.
41 Where no numerical reference is indicated on the chart, this division does not specify any
42 minimum review or approval criteria. Counties may include procedures and conditions in
43 addition to those listed in the chart as authorized by law:
44

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

1
2 (2) The use shall not be approved within three miles of an urban growth boundary unless
3 an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division [00]4.
4 Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on
5 the same tract, subject to other requirements of law.
6

7 (3)(a) A dwelling may be approved if:

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

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

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

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

15 (C) The lot or parcel on which the dwelling will be sited was part of a tract on November
16 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

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

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

21 (F) When the lot or parcel on which the dwelling will be sited lies within an area
22 designated in an acknowledged comprehensive plan as habitat of big game, the siting of the
23 dwelling is consistent with the limitations on density upon which the acknowledged
24 comprehensive plan and land use regulations intended to protect the habitat are based.
25

26 (b) When the lot or parcel on which the dwelling will be sited is part of a tract, the
27 remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is
28 allowed;
29

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

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

33 (B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-
34 0020(8)(a); and

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

36 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in
37 conjunction with other land, due to extraordinary circumstances inherent in the land or its
38 physical setting that do not apply generally to other land in the vicinity. For the purposes of this
39 section, this criterion asks whether the subject lot or parcel can be physically put to farm use
40 without undue hardship or difficulty because of extraordinary circumstances inherent in the land
41 or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate
42 that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary
43 circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines,
44 rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by
45 themselves or in combination separate the subject lot or parcel from adjacent agricultural land
46 and prevent it from being practicably managed for farm use by itself or together with adjacent or

1 nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural
2 barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

3 (ii) The dwelling will comply with the provisions of ORS 215.296(1);

4 (iii) The dwelling will not materially alter the stability of the overall land use pattern in
5 the area by applying the standards set forth in paragraph (4)(a)(D) of this rule.

6 (D) A local government shall provide notice of all applications for dwellings allowed
7 under subsection (3)(c) of this rule to the State Department of Agriculture. Notice shall be
8 provided in accordance with the governing body's land use regulations but shall be mailed at
9 least 20 calendar days prior to the public hearing before the hearings officer under paragraph
10 (3)(c)(C) of this rule.

11
12 (d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family
13 dwelling may be sited on high-value farmland if:

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

15 (B) The tract on which the dwelling will be sited is:

16 (i) Identified in OAR 660-033-0020(8)(c) or (d); and

17 (ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

18 (iii) Twenty-one acres or less in size; and

19 (C)(i) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller
20 than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

21 (ii) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by
22 tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993,
23 within 1/4 mile of the center of the subject tract. Up to two of the four dwellings may lie within
24 an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

25 (D) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts
26 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4
27 mile of the center of the subject tract and on the same side of the public road that provides access
28 to the subject tract. The governing body of a county must interpret the center of the subject tract
29 as the geographic center of the flaglot if the applicant makes a written request for that
30 interpretation and that interpretation does not cause the center to be located outside the flaglot.
31 Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject
32 tract abuts an urban growth boundary:

33 (i) "flaglot" means a tract containing a narrow strip or panhandle of land providing
34 access from the public road to the rest of the tract.

35 (ii) "Geographic center of the flaglot" means the point of intersection of two
36 perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at
37 a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent
38 side of the flaglot.

39
40 (e) If land is in a zone that allows both farm and forest uses is acknowledged to be in
41 compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS
42 [~~Chapter~~ **chapter** 215, a county may apply the standards for siting a dwelling under either
43 section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract
44 on January 1, 1993;

1 (f) A county may, by application of criteria adopted by ordinance, deny approval of a
2 dwelling allowed under section (3) of this rule in any area where the county determines that
3 approval of the dwelling would:

4 (A) Exceed the facilities and service capabilities of the area;

5 (B) Materially alter the stability of the overall land use pattern of the area; or

6 (C) Create conditions or circumstances that the county determines would be contrary to
7 the purposes or intent of its acknowledged comprehensive plan or land use regulations.

8
9 (g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband,
10 son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-
11 in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or
12 grandchild of the owner or a business entity owned by any one or a combination of these family
13 members;

14
15 (h) The county assessor shall be notified that the governing body intends to allow the
16 dwelling.

17 (i) When a local government approves an application for a single-family dwelling under
18 section (3) of this rule, the application may be transferred by a person who has qualified under
19 section (3) of this rule to any other person after the effective date of the land use decision.

20
21 (4) Requires approval of the governing body or its designate in any farmland area zoned
22 for exclusive farm use:

23
24 (a) In the Willamette Valley, the use may be approved if:

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

28 (B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class
29 IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II
30 soils;

31 (C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

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

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

45 (ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated
46 crops, pasture or grazing lands), the number, location and type of existing dwellings (farm,

1 nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the
2 potential number of nonfarm/lot-of-record dwellings that could be approved under subsections
3 (3)(a), (3)(d) and section (4) of this rule, including identification of predominant soil
4 classifications, the parcels created prior to January 1, 1993 and the parcels larger than the
5 minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS
6 215.263(4). The findings shall describe the existing land use pattern of the study area including
7 the distribution and arrangement of existing uses and the land use pattern that could result from
8 approval of the possible nonfarm dwellings under this subparagraph;

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

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

18
19 (b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(11) of
20 this rule, the use may be approved if:

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

24 (B) The dwelling will not materially alter the stability of the overall land use pattern of
25 the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land
26 use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on
27 other lots or parcels in the area similarly situated and whether creation of the parcel will lead to
28 creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the
29 standards set forth in paragraph (4)(a)(D) of this rule; and

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

32
33 (c) In counties located outside the Willamette Valley require findings that:

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

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

43 (ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply
44 because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or
45 parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch,
46 then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel

1 or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed
2 predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class
3 I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use
4 does not mean it is not suitable for another farm use; or

5 (iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally
6 unsuitable land for the production of merchantable tree species recognized by the Forest
7 Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding,
8 vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is
9 not "generally unsuitable" simply because it is too small to be managed for forest production
10 profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or
11 otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or
12 parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed
13 predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in
14 Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of
15 wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible
16 and not seriously interfere with forest uses on surrounding land it must not force a significant
17 change in forest practices or significantly increase the cost of those practices on the surrounding
18 land;

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

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

29
30 (d) If a single-family dwelling is established on a lot or parcel as set forth in section (3)
31 of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions
32 of section (4) of this rule;

33
34 (e) Counties that have adopted marginal lands provisions before January 1, 1993, shall
35 apply the standards in ORS 215.213(3) -- (8) for nonfarm dwellings on lands zoned exclusive
36 farm use that are not designated marginal or high-value farmland.

37
38 (5) Approval requires review by the governing body or its designate under ORS 215.296.
39 Uses may be approved only where such uses:

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

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

44
45 (6) Such facility shall not seriously interfere with accepted farming practices and shall be
46 compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a

1 one-year period which is renewable and is intended to be only portable or temporary in nature.
2 The primary processing of a forest product, as used in this section, means the use of a portable
3 chipper or stud mill or other similar methods of initial treatment of a forest product in order to
4 enable its shipment to market. Forest products as used in this section means timber grown upon a
5 tract where the primary processing facility is located.
6

7 (7) A personal use airport as used in this section means an airstrip restricted, except for
8 aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited
9 guests, and by commercial aviation activities in connection with agricultural operations. No
10 aircraft may be based on a personal use airport other than those owned or controlled by the
11 owner of the airstrip. Exceptions to the activities permitted under this definition may be granted
12 through waiver action by the Oregon Department of Aviation in specific instances. A personal
13 use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to
14 any applicable rules of the Oregon Department of Aviation.
15

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

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

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

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

21 (D) Has a heating system.

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

23 (i) Removed, demolished, or converted to an allowable use within three months of the
24 completion of the replacement dwelling. A replacement dwelling may be sited on any part of the
25 same lot or parcel. A dwelling established under this section shall comply with all applicable
26 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
27 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not
28 zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record
29 in the deed records for the county where the property is located a deed restriction prohibiting the
30 siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be
31 irrevocable unless a statement of release is placed in the deed records for the county. The release
32 shall be signed by the county or its designee and state that the provisions of this section
33 regarding replacement dwellings have changed to allow the siting of another dwelling. The
34 county planning director or the director's designee shall maintain a record of the lots and parcels
35 that do not qualify for the siting of a new dwelling under the provisions of this section, including
36 a copy of the deed restrictions and release statements filed under this section; and

37 (ii) For which the applicant has requested a deferred replacement permit, is removed or
38 demolished within three months after the deferred replacement permit is issued. A deferred
39 replacement permit allows construction of the replacement dwelling at any time. If, however, the
40 established dwelling is not removed or demolished within three months after the deferred
41 replacement permit is issued, the permit becomes void. The replacement dwelling must comply
42 with applicable building codes, plumbing codes, sanitation codes and other requirements relating
43 to health and safety or to siting at the time of construction. A deferred replacement permit may
44 not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the
45 applicant.
46

1 (c) An accessory farm dwelling authorized pursuant to OAR 660-033-
2 0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

3
4 (9)(a) To qualify, a dwelling shall be occupied by persons whose assistance in the
5 management and farm use of the existing commercial farming operation is required by the farm
6 operator. The farm operator shall continue to play the predominant role in the management and
7 farm use of the farm. A farm operator is a person who operates a farm, doing the work and
8 making the day-to-day decisions about such things as planting, harvesting, feeding and
9 marketing.

10
11 (b) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel requirements
12 under ORS 215.780, if the owner of a dwelling described in OAR 660-033-0130(9) obtains
13 construction financing or other financing secured by the dwelling and the secured party
14 forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in
15 ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new
16 parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

17
18 (c) For the purpose of OAR 660-033-0130(9)(b), "foreclosure" means only those
19 foreclosures that are exempt from partition under ORS 92.010(7)(a).

20
21 (10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of
22 an existing building allowed under this provision is a temporary use for the term of the hardship
23 suffered by the existing resident or relative as defined in ORS ~~Chapter~~ Chapter 215. The manufactured
24 dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if
25 that disposal system is adequate to accommodate the additional dwelling. If the manufactured
26 home will use a public sanitary sewer system, such condition will not be required. Governing
27 bodies shall review the permit authorizing such manufactured homes every two years. Within
28 three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall
29 be removed or demolished or, in the case of an existing building, the building shall be removed,
30 demolished or returned to an allowed nonresidential use. A temporary residence approved under
31 this section is not eligible for replacement under ORS 215.213(1)(u) or 215.283(1)(t). Oregon
32 Department of Environmental Quality review and removal requirements also apply. As used in
33 this section "hardship" means a medical hardship or hardship for the care of an aged or infirm
34 person or persons.

35
36 (11) Subject to the issuance of a license, permit or other approval by the Department of
37 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in
38 compliance with rules adopted under ORS 468B.095, and with the requirements of ORS
39 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural
40 process or industrial process water or biosolids for agricultural, horticultural or silvicultural
41 production, or for irrigation in connection with a use allowed in an exclusive farm use zones
42 under this division.

43
44 (12) In order to meet the requirements specified in the statute, a historic dwelling shall be
45 listed on the National Register of Historic Places.

1 (13) Such uses may be established, subject to the adoption of the governing body or its
2 designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with
3 which the facility or improvement does not comply. In addition, transportation uses and
4 improvements may be authorized under conditions and standards as set forth in OAR 660-012-
5 0035 and 660-012-0065.

6
7 (14) Home occupations and the parking of vehicles may be authorized. Home occupations
8 shall be operated substantially in the dwelling or other buildings normally associated with uses
9 permitted in the zone in which the property is located. A home occupation shall be operated by a
10 resident or employee of a resident of the property on which the business is located, and shall
11 employ on the site no more than five full-time or part-time persons.

12
13 (15) New uses that batch and blend mineral and aggregate into asphalt cement may not be
14 authorized within two miles of a planted vineyard. Planted vineyard means one or more
15 vineyards totaling 40 acres or more that are planted as of the date the application for batching
16 and blending is filed.

17
18 (16)(a) A utility facility is necessary for public service if the facility must be sited in an
19 exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is
20 necessary, an applicant must show that reasonable alternatives have been considered and that the
21 facility must be sited in an exclusive farm use zone due to one or more of the following factors:

22 (A) Technical and engineering feasibility;

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

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

28 (D) Availability of existing rights of way;

29 (E) Public health and safety; and

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

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

36
37 (c) The owner of a utility facility approved under this section shall be responsible for
38 restoring, as nearly as possible, to its former condition any agricultural land and associated
39 improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or
40 reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility
41 facility from requiring a bond or other security from a contractor or otherwise imposing on a
42 contractor the responsibility for restoration.

43
44 (d) The governing body of the county or its designee shall impose clear and objective
45 conditions on an application for utility facility siting to mitigate and minimize the impacts of the
46 proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a

1 significant change in accepted farm practices or a significant increase in the cost of farm
2 practices on surrounding farmlands.

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

7
8 (f) The provisions of subsections 16(a) to (d) of this rule do not apply to interstate
9 natural gas pipelines and associated facilities authorized by and subject to regulation by the
10 Federal Energy Regulatory Commission.

11 (17) A power generation facility shall not preclude more than 12 acres from use as a
12 commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660,
13 division [00]4.

14
15 (18) Existing facilities wholly within a farm use zone may be maintained, enhanced or
16 expanded on the same tract, subject to other requirements of law. An existing golf course may be
17 expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be
18 expanded to contain more than 36 total holes.

19
20 (19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds
21 shall not be allowed within three miles of an urban growth boundary unless an exception is
22 approved pursuant to ORS 197.732 and OAR chapter 660, division [00]4. A campground is an
23 area devoted to overnight temporary use for vacation, recreational or emergency purposes, but
24 not for residential purposes and is established on a site or is contiguous to lands with a park or
25 other outdoor natural amenity that is accessible for recreational use by the occupants of the
26 campground. A campground shall be designed and integrated into the rural agricultural and
27 forest environment in a manner that protects the natural amenities of the site and provides buffers
28 of existing native trees and vegetation or other natural features between campsites. Campgrounds
29 authorized by this rule shall not include intensively developed recreational uses such as
30 swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same
31 campground by a camper or camper's vehicle shall not exceed a total of 30 days during any
32 consecutive 6 month period.

33
34 (b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle.
35 Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites
36 except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this
37 rule.

38
39 (c) Subject to the approval of the county governing body or its designee, a private
40 campground may provide yurts for overnight camping. No more than one-third or a maximum of
41 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground
42 or on a wood floor with no permanent foundation. Upon request of a county governing body, the
43 Land Conservation and Development Commission may provide by rule for an increase in the
44 number of yurts allowed on all or a portion of the campgrounds in a county if the Commission
45 determines that the increase will comply with the standards described in ORS 215.296(1). As

1 used in section (19) of this rule, "yurt" means a round, domed shelter of cloth or canvas on a
2 collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
3

4 (20) "Golf Course" means an area of land with highly maintained natural turf laid out for
5 the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green,
6 and often one or more natural or artificial hazards. A "golf course" for purposes of ORS
7 215.213(2)(f), 215.283(2)(f) and this division means a 9 or 18 hole regulation golf course or a
8 combination 9 and 18 hole regulation golf course consistent with the following:
9

10 (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to
11 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
12

13 (b) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90
14 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
15

16 (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation
17 golf course" means a golf course or golf course-like development that does not meet the
18 definition of golf course in this rule, including but not limited to executive golf courses, Par 3
19 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
20

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

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

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

37 (C) Accessory uses may include one or more food and beverage service facilities in
38 addition to food and beverage service facilities located in a clubhouse. Food and beverage
39 service facilities must be part of and incidental to the operation of the golf course and must be
40 limited in size and orientation on the site to serve only the needs of persons who patronize the
41 golf course and their guests. Accessory food and beverage service facilities shall not be designed
42 for or include structures for banquets, public gatherings or public entertainment.
43

44 (21) "Living History Museum" means a facility designed to depict and interpret everyday
45 life and culture of some specific historic period using authentic buildings, tools, equipment and
46 people to simulate past activities and events. As used in this rule, a living history museum shall

1 be related to resource based activities and shall be owned and operated by a governmental
2 agency or a local historical society. A living history museum may include limited commercial
3 activities and facilities that are directly related to the use and enjoyment of the museum and
4 located within authentic buildings of the depicted historic period or the museum administration
5 building, if areas other than an exclusive farm use zone cannot accommodate the museum and
6 related activities or if the museum administration buildings and parking lot are located within
7 one quarter mile of an urban growth boundary. "Local historical society" means the local
8 historical society, recognized as such by the county governing body and organized under ORS
9 [~~Chapter~~ chapter 65.

10
11 (22) A power generation facility shall not preclude more than 20 acres from use as a
12 commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and
13 OAR chapter 660, division [00]4.

14
15 (23) A farm stand may be approved if:

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

23
24 (b) The farm stand does not include structures designed for occupancy as a residence or for
25 activities other than the sale of farm crops and livestock and does not include structures for
26 banquets, public gatherings or public entertainment.

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

34
35 (d) As used in this section, "local agricultural area" includes Oregon or an adjacent
36 county in Washington, Idaho, Nevada or California that borders the Oregon county in which the
37 farm stand is located.

38
39 (24) Accessory farm dwellings as defined by subsection (24)(e) of this section may be
40 considered customarily provided in conjunction with farm use if:

41
42 (a) Each accessory farm dwelling meets all the following requirements:

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

- 1 (B) The accessory farm dwelling will be located:
- 2 (i) On the same lot or parcel as the primary farm dwelling; or
- 3 (ii) On the same tract as the primary farm dwelling when the lot or parcel on which the
- 4 accessory farm dwelling will be sited is consolidated into a single parcel with all other
- 5 contiguous lots and parcels in the tract; or
- 6 (iii) On a lot or parcel on which the primary farm dwelling is not located, when the
- 7 accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The
- 8 deed restriction shall be filed with the county clerk and require the manufactured dwelling to be
- 9 removed when the lot or parcel is conveyed to another party. The manufactured dwelling may
- 10 remain if it is reapproved under these rules; or
- 11 (iv) On a lot or parcel on which the primary farm dwelling is not located, when the
- 12 accessory farm dwelling is limited to only attached multi- unit residential structures allowed by
- 13 the applicable state building code or similar types of farm labor housing as existing farm labor
- 14 housing on the farm or ranch operation registered with the Department of Consumer and
- 15 Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A
- 16 county shall require all accessory farm dwellings approved under this subparagraph to be
- 17 removed, demolished or converted to a nonresidential use when farm worker housing is no
- 18 longer required; or
- 19 (v) On a lot or parcel on which the primary farm dwelling is not located, when the
- 20 accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum
- 21 lot size under ORS 215.780 and the lot or parcel complies with the gross farm income
- 22 requirements in OAR 660-033-0135(5) or (7), whichever is applicable; and

23 (C) There is no other dwelling on the lands designated for exclusive farm use owned by

24 the farm operator that is vacant or currently occupied by persons not working on the subject farm

25 or ranch and that could reasonably be used as an accessory farm dwelling.

26

27 (b) In addition to the requirements in subsection (a) of this section, the primary farm

28 dwelling to which the proposed dwelling would be accessory, meets one of the following:

29 (A) On land not identified as high-value farmland, the primary farm dwelling is located

30 on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203,

31 and produced in the last two years or three of the last five years the lower of the following:

32 (i) At least \$40,000 in gross annual income from the sale of farm products. In

33 determining the gross income, the cost of purchased livestock shall be deducted from the total

34 gross income attributed to the tract.

35 (ii) Gross annual income of at least the midpoint of the median income range of gross

36 annual sales for farms in the county with the gross annual sales of \$10,000 or more according to

37 the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased

38 livestock shall be deducted from the total gross income attributed to the tract; or

39 (B) On land identified as high-value farmland, the primary farm dwelling is located on a

40 farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and

41 produced at least \$80,000 in gross annual income from the sale of farm products in the last two

42 years or three of the last five years. In determining the gross income, the cost of purchased

43 livestock shall be deducted from the total gross income attributed to the tract; or

44 (C) On land not identified as high-value farmland in counties that have adopted marginal

45 lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm

1 dwelling is located on a farm or ranch operation that meets the standards and requirements of
2 ORS 215.213(2)(a) or (b) or OAR 660-033-0130(24)(b)(A); or

3 (D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

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

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

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

10
11 (c) The governing body of a county shall not approve any proposed division of a lot or
12 parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that
13 an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be
14 created consistent with the minimum parcel size requirements in OAR 660-033-0100;

15
16 (d) An accessory farm dwelling approved pursuant to this section cannot later be used to
17 satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to
18 section (4) of this rule.

19
20 (e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all
21 types of residential structures allowed by the applicable state building code."

22
23 (25) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
24 Edition) before January 1, 1993, an armed forces reserve center, if the center is within one-half
25 mile of a community college. An "armed forces reserve center" includes an armory or National
26 Guard support facility.

27
28 (26) Buildings and facilities shall not be more than 500 square feet in floor area or placed
29 on a permanent foundation unless the building or facility preexisted the use approved under this
30 section. The site shall not include an aggregate surface or hard surface area unless the surface
31 preexisted the use approved under this section. As used in this section, "model aircraft" means a
32 small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended
33 to be used for flight and controlled by radio, lines or design by a person on the ground.

34
35 (27) Insect species shall not include any species under quarantine by the State Department
36 of Agriculture or the United States Department of Agriculture. The county shall provide notice
37 of all applications under this section to the State Department of Agriculture. Notice shall be
38 provided in accordance with the county's land use regulations but shall be mailed at least 20
39 calendar days prior to any administrative decision or initial public hearing on the application.

40
41 (28) The farm on which the processing facility is located must provide at least one-quarter
42 of the farm crops processed at the facility. The building established for the processing facility
43 shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
44 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
45 activities within another building supporting farm use. A processing facility shall comply with all
46 applicable siting standards but the standards shall not be applied in a manner that prohibits the

1 siting of the processing facility. A county shall not approve any division of a lot or parcel that
2 separates a processing facility from the farm operation on which it is located.

3
4 **(29)(a) Composting operations and facilities allowed on high-value farmland are**
5 **limited to those that are exempt from a permit from the Department of Environmental**
6 **Quality (DEQ) under OAR 340-093-0050, only require approval of an Agricultural**
7 **Compost Management Plan by the Oregon Department of Agriculture, or require a permit**
8 **from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the**
9 **subject farm or used to manage and dispose of by-products generated on the subject farm.**
10 **Excess compost may be sold to neighboring farm operations in the local area and shall be**
11 **limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities**
12 **used in conjunction with the composting operation shall only be those required for the**
13 **operation of the subject facility.**

14
15 **(b)** ~~[Except for those composting facilities that are a "farm-use" as defined in OAR 660-~~
16 ~~033-0020(7), e]~~ **Composting operations and** facilities allowed on land not defined as high-value
17 farmland ~~[under this section]~~ shall be limited to the composting operations and facilities **allowed**
18 **by subsection (29)(a) of this rule or that require a permit from** ~~[defined by]~~ the **Department**
19 **of Environmental Quality** ~~[Commission]~~ under OAR 340-**093**-0050 ~~[96-0024(1), (2) or (3)]~~.
20 Buildings and facilities used in conjunction with the composting operation shall only be those
21 required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at
22 least one unit (7.5 cubic yards) in size that are transported in one vehicle.

23
24 (30) The County governing body or its designate shall require as a condition of approval
25 of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or
26 forest zone, that the landowner for the dwelling sign and record in the deed records for the
27 county a document binding the landowner, and the landowner's successors in interest, prohibiting
28 them from pursuing a claim for relief or cause of action alleging injury from farming or forest
29 practices for which no action or claim is allowed under ORS 30.936 or 30.937.

30
31 (31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-
32 0040, whichever is applicable.

33
34 (32) Utility facility service lines are utility lines and accessory facilities or structures that
35 end at the point where the utility service is received by the customer and that are located on one
36 or more of the following:

37
38 (a) A public right of way;

39
40 (b) Land immediately adjacent to a public right of way, provided the written consent of
41 all adjacent property owners has been obtained; or

42
43 (c) The property to be served by the utility.

44
45 (33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer
46 than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month

1 period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this
2 Division.

3
4 (34) Any gathering subject to review by a county planning commission under the
5 provisions of ORS 433.763. These gatherings and any part of which is held in open spaces are
6 those of more than 3,000 persons which continue or can reasonably be expected to continue for
7 more than 120 hours within any three-month period.

8
9 (35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-
10 033-0130(5), for the purpose of verifying the existence, continuity and nature of the business
11 described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to
12 the county and submit evidence including, but not limited to, sworn affidavits or other
13 documentary evidence that the business qualifies; and

14
15 (b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or
16 215.283(2)(y) may be altered, restored or replaced pursuant to ORS 215.130(5), (6) and (9).

17
18 (36) For counties subject to ORS 215.283 and not 215.213, a community center authorized
19 under this section may provide services to veterans, including but not limited to emergency and
20 transitional shelter, preparation and service of meals, vocational and educational counseling and
21 referral to local, state or federal agencies providing medical, mental health, disability income
22 replacement and substance abuse services, only in a facility that is in existence on January 1,
23 2006. The services may not include direct delivery of medical, mental health, disability income
24 replacement or substance abuse services.

25
26 [Publications: Publications referenced are available from the agency.]

27
28 Stat. Auth.: ORS [~~183, 195 &~~]197.**040**

29 Stats. Implemented: ORS 197.040 & 215.213

30 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94;
31 LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LCDC 5-1996,
32 f. & cert. ef. 12-23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert.
33 ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00;
34 LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-
35 2006, f. & cert. ef. 2-15-06