

LEGEND:

Bold Red =Proposed Language

~~Strike Through =Deleted Language/Citations~~

~~Red Strike Through (Section 4.2.10 D)~~

CHAPTER 4. RESOURCE DISTRICTS

4.1 GENERAL PROVISIONS

4.1.1 Resource Districts Distinguished

This Chapter sets forth regulations for land use and development within the County's three (3) resource districts: Exclusive Farm Use (EFU), Forest Resource (FR), and Aggregate Removal (AR). The EFU and FR districts are fundamentally different from all other districts established in the County. While the County's authority under Oregon law to regulate development in the other districts is broad, the County's authority to regulate development in the EFU and FR districts is strictly governed by state law. For this reason, the uses permitted in the resource districts, standards for such uses, and the choice of administrative procedure for approving such uses, are set forth in this Chapter. Chapter 6 (Use Regulations) sets out standards for the uses permitted in the non-resource districts listed in Chapter 5 (Zoning Districts). The provisions of Chapter 6 do not apply to uses in a resource district unless:

- A) Numerical references in the "See Also" columns of Tables 4.2-1, 4.3-1, or 4.4-1 specifically provide that a Chapter 6 provision is **may be** applicable; or
- B) A specific Chapter 6 section states that it is applicable to "all zoning districts" or to "resource zoning districts" (e.g., Sections 6.4 and 6.5).

4.1.2 Compliance With Overlay and Dimensional Standards Required

In the resource districts, no building or structure shall be erected, converted, enlarged, reconstructed, replaced, or altered, nor shall any, building, or structure be used or changed, except in accordance with the provisions of this Chapter **and Chapters 7, 8 and 9, and Chapter 7 if where** applicable. All **significant out** buildings **located within the Wildfire Hazard area** are subject to the fire safety requirements of Chapter 8.

4.1.3 Permit Expiration Dates [OAR 660-033-0140; ORS 215.417]

A decision approving any dwelling, other than those listed below, or a Type 2, 3, or 4 use on Exclusive Farm or Forest Resource land outside an urban growth boundary (except for a land division) will become void two (2) years from the date of the final decision if development is not initiated, as provided in Section 13.3. An extension of up to 12 months may be granted pursuant to the provisions of Section 2.6.8, provided that the extension request is filed prior to the expiration of the applicable approval period.

Approval of the following dwelling types will become void four (4) years from the date of the final decision if development is not initiated, as provided in Section 13.3, notwithstanding any shorter time period specified in the County approval. [Butori v. Clatsop County, LUBA No. 2003-064] For the following dwelling types, an extension of up

to two (2) years may be granted pursuant to the provisions of Section 2.6.8, provided that the extension request is filed prior to the expiration of the applicable approval period:

- A) Alteration, restoration or replacement of a lawfully established dwelling under Section 4.2.6(B) or 4.3.6(A).
- B) Nonfarm dwelling under Section 4.2.6(H).
- C) Ownership of record dwelling under Section 4.2.6(F) or 4.3.6(D).
- D) Forest template dwelling under Section 4.3.6(B).
- E) Large tract forest dwelling under Section 4.3.6(C).
- F) Caretaker residence for public parks and fish hatcheries in the Forest Resource District.

For the purposes of this section “date of the final decision” shall mean the date the final County decision approving the permit is signed or, if the final County decision is appealed, the date the final appellate body affirms the County decision or the appeal is dismissed.

4.2 EXCLUSIVE FARM USE (EFU) DISTRICT

4.2.1 Purpose

The purpose of the (EFU) District is to conserve agricultural land. This Section implements the Oregon Agricultural Land Use Policy, ORS 215-243, Statewide Planning Goal 3 (Agricultural Lands), and OAR 660-033.

4.2.2 Table of Permitted Uses 2

~~Modified from OAR 660-033-0120:~~ This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 2, 3 or 4 review, unless otherwise specified on Table 4.2-1. Accessory uses and structures are allowed in all zoning districts (Section 6.4). All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this Ordinance. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130, as well as additional limitations and requirements in this Ordinance (“See Also” column). The abbreviations used within the schedule shall have the following meanings:

- A) Type 1 uses are permitted by-right, requiring only non-discretionary staff review to demonstrate compliance with the standards of this Ordinance. A Zoning Information Sheet may be issued to document findings or to track progress toward compliance. Type 1 permits are limited to situations that do not require interpretation or the exercise of policy or legal judgment.
- B) Type 2 uses are subject to administrative review. These decisions are discretionary and therefore require a notice of decision and opportunity for hearing.

- C) Type 3 uses: The purpose of the Type 3 Land Use Permit is to allow the development of uses that may be suitable only in specific locations or if the site is regulated in a particular manner. Uses that require a Type 3 Permit may be allowed subject to findings of compliance with applicable approval criteria and development standards, and submission of a site development plan (Section 3.2-4) when physical development is proposed as part of the permit. Type 3 decisions require a **notice of acceptance**, notice of decision, and opportunity for hearing (**Table 2.7-1**).¹
- D) Type 4 uses require review by the Planning Commission and the Board of Commissioners, as applicable to ensure the proper integration of uses that may be suitable only in specific locations. Approval of a Type 4 Permit to allow a specific use requires review and approval of a site development plan pursuant to Section 3.2-4 when physical development is proposed, as part of the Type 4 permit review. **Type 4 decisions require a pre-application conference, a notice of acceptance, notice of decision, and a hearing (Table 2.7-1).**
- E) Prohibited Uses: An “X” in the Table indicates that the use is not permitted. However, where noted by an “*” existing facilities wholly within an EFU District may be maintained, enhanced or expanded on the same tract, subject to a Type 3 review.
- F) Numerical References: The numbers contained in the “See Also” column are references to additional standards and requirements in the LDO that **may** apply to the use type listed. Uses are also subject to applicable standards of Chapters 7, 8, and 9. Numerical references for specific uses shown on the table, refer to the corresponding section of OAR 660-033- 0130, or specific Oregon Revised Statutes.

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT					
1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review					
X = Prohibited HVFL = High-Value Farmland					
#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
FARM AND FOREST USES					
1	Farm use	1	1	ORS 215.203 (definition); OAR 660-033-0120	3.13.2, 3.13.3
2	Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract.	1	1	ORS 215.401; OAR 660-033-0130(29) (a), (b).	

¹ Ordinance 2004-12, effective 2-6.2005

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
2 3	Buildings, other than dwellings, customarily provided in conjunction with farm use	1	1	ORS 215.283(1)(f)(e); OAR 660-033-0120	3.13.2
3 4	Propagation or harvesting of a forest product.	1	1	ORS 215.283(1)(e)(b); OAR 660-033-0120	
4 5	Temporary facility for primary processing of forest products	2	2	ORS 215.283(2)(j); OAR 660-033-0120 & 0130 (5), (6)	4.2.3 and 4.2.4(B)
5 6	Facility for processing farm crops, poultry or biofuel production	2	2	ORS 215.283(1)(u)(r), ORS 315.141; OAR 660-033- 0120 & 0130(28)	4.2.4(A), 3.13.3
NATURAL RESOURCE USES					
6 7	Creation, restoration, or enhancement of wetlands	1	1	ORS 215.283(1)(p) ; ORS 215.283(1)(m) ; OAR 660-033-0120	
7 8	The propagation, cultivation, maintenance, & and harvesting of aquatic or insect species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.	2	2	ORS 215.283(2)(p); OAR 660-033-0120 & 033-0130 (5) & (27)	4.2.3 4.2.5(A)
RESIDENTIAL USES					
8 9	Dwelling customarily provided in conjunction with farm use	2	2	ORS 215.283(1)(f)(e); OAR 660-033-0120, 0130(1), (30) & 0135	4.2.6(A) & (C), 3.13.2(F)
9 10	Farm dwelling for relative	2	2	ORS 215.283(1)(e)(d); OAR 660-033-0120 & 0130(9), (30)	4.2.6(A) & (D), 3.13.2(F)
10 11	Accessory farm dwellings, including farmworker housing	2	2	ORS 215.277-278 and ORS 215.283(1)(f)(e); OAR 660-033-0120 & 0130(24), (30)	4.2.6(A) & (E), 3.13.2(F)
11 12	Ownership of record dwelling	2	2	ORS 215.705(1), (2), & (5)-(7); OAR 660-033-0120 & 0130(3), (30)	4.2.6(A) & (F)
12 13	Temporary medical hardship dwelling	2	2	ORS 215.283(2)(l)(l);—OAR 660-033-0120 & 0130(5), (10) & (30)	4.2.3; 4.2.6(A) & (G), 6.5.3(G)

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
13 14	Nonfarm dwelling	2	2	ORS 215.236(2) & (3); 215.263(4); 215.284(2) & -(3); OAR 660-033-0120 & 0130(4)(c)-(d) & (30)	4.2.6(A) & (H), 3.13.2(F)
14 15	Residential home/facility in existing dwellings	2	2	ORS 197.660(definition), 197.665(3), 215.283(2)(o); OAR 660-033-0120 & 0130(5), (30)	4.2.3; 4.2.6(A) & (J)
15 16	Room and board arrangements for a maximum of five unrelated persons in an existing residence	2	2	ORS 215.283(2)(u); OAR 660-033-0120 & 0130(5), (30)	4.2.3 4.2.6(A)
16 17	Alteration, restoration, or replacement of a lawfully established dwelling	1/2	1/2	ORS 215.283(1)(s)(p); OAR 660-033-0120 & 0130(8), (30)	4.2.6(A) & (B)
17 18	Historic dwelling replacement	2	2	ORS 215.283(1)(e)(I); 358.480; OAR 660-033-0120 & 0130(12), (30)	4.2.6(A) & (I)
18	Registered child care facility/certified group child care home	2	2	ORS 657A.440	4.2.6(K)
COMMERCIAL USES					
19	Commercial activities in conjunction with farm use including processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(K)(L) or ORS 215.213(1)(x) and ORS 215.283(1)(u)(r), but excluding activities in conjunction with a marijuana crop.	3	3	ORS 215.283(2)(a); OAR 660-033-0120 & 0130(5)	4.2.3, 4.2.7(A) 6.4.4(E), 3.13.2(F)
20	Breeding, kenneling, & training greyhounds for racing	X*	1	ORS 215.283(1)(j); OAR 660-033-0120 & 0130(18)	11.2

TABLE 4.2-1: USE TABLE FOR EXCLUSIVE FARM USE (EFU) DISTRICT

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
20 21	Dog kennels Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under ORS 215.283 (1)(x)	X*2	2	ORS 215.283(2)(n); OAR 660-033-0120 & 0130(5) & (18)	4.2.3, 11.2
21	Dog training classes or testing trials	1	1	ORS 215.283(1)(x); OAR 660-033-0120 & 0130(39)	4.2.7(K)
22	Home occupation/home business	2	2	ORS 215.283(2)(i), 215.448; OAR 660-033-0120 & 0130(5) & (14)	4.2.3; 4.2.7(E); 6.4.4 (C) & (D)
23	Destination resort, large	X*	4 PDP ^{2,4} 2 FDP ³	ORS 197.435-.467; 215.283(2)(t); OAR 660-033-0120 & 0130(5) & (18)	4.2.3, 6.3.8, 11.2, 11.3
24	Destination resort, small	X*	4 PDP ^{2,4} 2 FDP ³	ORS 197.435-.445(6)(a); 215.283(2)(t); OAR 660-033-0120 & 0130(5)	4.2.3, 6.3.8, 11.2, 11.3
25	Cider business	1	1	ORS 215.283(1)(y); ORS 215.451; OAR 660-033-0120	4.2.7(F)
25 26	Winery	1	1	ORS 215.283(1)(e n), & ORS 215.452; ORS 215.453; OAR 660-033-0120	4.2.7(F)&(G)
26 27	Restaurant or Events in conjunction with a Winery where the restaurant and/or the events are open to the public greater than 25 days in a calendar year	3	3	ORS 215.453 215.283(1)(e), & .452; OAR 660-033-0120 & 0130(5)	4.2.3, 4.2.7(G)
28	Agri-tourism (one per calendar year)	2	2	ORS 215.283(4)(a) & (6); 215.239; OAR 660-033-0120 & 0130 (5)	4.2.3; 4.2.7(H)(1)
29	Agri-tourism (single event license)	1	1	ORS 215.283(4) (b) & (6) 215.239; OAR 660-033-0120	4.2.7(H)(2)

2 Preliminary Development Plan

3 Final Development Plan

4 Refer to Comprehensive Plan Map titled "Lands Eligible for siting of a Destination Resorts Map"

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
30 30	Agri-tourism (six events per calendar year, two year renewal)	2	2	ORS 215.283(4) (c) & (6); 215.239; OAR 660-033-0120 & 0130 (5)	4.2.3; 4.2.7(H)(3)
31 31	Agri-tourism (18 events per calendar year, four year renewal)	3	3	ORS 215.283(4)(d), (5) & (6); 215.239; OAR 660-033-0120 & (8) 0130 (5)	4.2.3; 4.2.7(H)(4)-(8)
27 32	Farm stand	1	1	ORS 215.283(1)(o); OAR 660-033-0120 & 0130(23)	4.2.7(D), 3.13.2(F)
28 33	Landscape business in conjunction with growing/marketing of nursery stock on the land that constitutes farm use	2	2	ORS 215.283(2)(z), ORS 671.520-674.520, ORS 671.318; OAR 660-033-0130(5)	4.2.3; 4.2.7(H)(I)
34 34	Parking of no more than seven log trucks	2	2	ORS 215.311(3); OAR 660-033-0120	4.2.7(J)
MINERAL, AGGREGATE, OIL, AND GAS USES					
29 35	Exploration & production of geothermal, oil & gas	2	2	ORS 215.283(1)(g)(f), 520.005 (definition), 522.005 (definition) & OAR 660-033-0120	4.2.8(A)
30 36	Exploration for minerals	1	1	ORS 215.283(1)(h)(g), 517.750 (definition); & OAR 660-033- 0120	4.2.8(B)
31 37	Operations for mining & processing geothermal, oil & gas resources not otherwise permitted under this Ordinance	3	3	ORS 215.283(2)(b)(A); 520.005 (definition); 522.005 (definition); OAR 660-033-0120 & 0130(5)	4.2.3 4.4.8
32 38	Mining, crushing, or stockpiling aggregate & other mineral & subsurface resources	3	3	ORS 215.283(2)(b)(B), & .298 & .301 OAR 660-033-0120 & 0130(5), OAR 660-023-0180	4.2.3 4.2.8(C) 4.4.8
33 39	Processing aggregate into asphalt or Portland cement	3	3	ORS 215.283(2)(b)(C) & .301; 517.750 (definition); OAR 660-033-0120 & 0130(5), (15)	4.2.3 4.2.8(D) 4.4.8

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
34 40	Processing other mineral and subsurface resources	3	3	ORS 215.283(2)(b)(D); OAR 660-033-0120 & 0130(5)	4.2.3, 4.4.8
TRANSPORTATION USES					
35 41	Personal use airports for airplanes & helicopter pads	3	3	ORS 215.283(2)(h); OAR 660-033-0120 & 0130(5), (7) See also ORS 836.610-630	4.2.3 4.2.9(A)
36 42	Climbing & passing lanes within the right-of-way existing as of July 1, 1987	1	1	ORS 215.283(1)(k)(g)(h); OAR 660-033-0120	
37 43	Construction of additional passing & travel lanes requiring acquisition of rights-of-way, not resulting in creation of new parcels	2	2	ORS 215.283(2)(q); OAR 660-033-0120 & 0130(5)	4.2.3
38 44	Reconstruction or modification of public roads and highways, including placement of utility facilities over-head and in the subsurface of public roads and high-ways along the public right-of-way, not including addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result	1	1	ORS 215.283(1)(h)(i); OAR 660-033-0120	
39 45	Reconstruction or modification of public roads or highways involving removal or displacement of buildings, but not resulting in creation of new parcels	2	2	ORS 215.283(2)(r); OAR 660-033-0120 & 0130(5)	4.2.3
40 46	Temporary public road & highway detours that will be abandoned & restored to original condition or use at such time as no longer needed	1	1	ORS 215.283(1)(m)(j); OAR 660-033-0120	

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
41 47	Minor betterment of existing public roads & highway related facilities (e.g., maintenance yards, weigh-stations & rest areas) within a right-of-way existing as of July 1, 1987, & contiguous publicly- owned property to support operation & maintenance of public roads & highways	1	1	ORS 215.283(1)(n)(k); OAR 660-033-0120	
42 48	Public road and highway-related facilities improvement (e.g., maintenance yards, weigh stations, & rest areas) where additional property or right- of-way is required, not resulting in creation of new parcels	2	2	ORS 215.283(2)(s); OAR 660- 033-0120 & 0130(5)	4.2.3
43 49	Roads, highways, & other transportation facilities and improvements not otherwise allowed in the EFU District	2 or 4	2 or 4	ORS 215.283(3); OAR 660-012-0065 (Type 2 uses listed, Type 4 uses not listed); OAR 660-012-0070; OAR 660-033-0120 & 0130(13)	4.2.3; 4.2.9(B)
44	Parking no more than seven log trucks	2	2	ORS 215.311(3)	4.2.3
UTILITY/SOLID WASTE DISPOSAL FACILITIES					
45 50	Utility facilities necessary for public service, including wetland waste treatment systems, not including commercial facilities for generating electrical power for public use by sale, or transmission towers over 200 feet high	2	2	ORS 215.275 and .283(1)(n)(c); OAR 660-033-0120 & 0130(16)	4.2.10(C)(E) 6.3.6(A)

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
46 51	Telecommunications towers - co-location of antennae on an existing tower	1	1		6.3.6(A)
47 52	Transmission towers over 200 feet high.	2	2	ORS 215.283(2)(m); OAR 660-033-0120 & 0130(5)	4.2.3 6.3.6(A)
48	Solid waste disposal site ordered established by the EQC	3	2 or 3	ORS 459.049, 215.283(1)(i);	4.2.10, 11.2, 11.3
49 53	Solid waste disposal site for which DEQ permit is required	X*	4	ORS 215.283(2)(k), 459.245; OAR 660-033-0120 & 0130(5) & (18)	4.2.3; 4.2.10(G) 6.3.6(C)(2), 11.2
50 54	Modification of a waste related use	2	2		6.3.6(D)
51 55	Fire service facilities providing rural fire protection	2	2	ORS 215.283(1)(w)(s), ORS 197.015(10); OAR 660-033-0120	3.2
52 56	Irrigation canals, delivery lines, and accessory structures and facilities associated with a district	2	2	ORS 215.283(1)(w)(t), 540.505 (definition), ORS 197.015(10); OAR 660-033-0120	3.2
53 57	Utility facility service lines	1	1	ORS 215.283(1)(x)(u); OAR 660-033-0120 & 0130(32)	4.2.10(F)
54 58	Commercial utility facilities for generating power for public use by sale	2	2	ORS 215.283(2)(g); OAR 660-033-0120 & 0130(5), (17) & (22)	4.2.3 4.2.10(B)
59	Wind power generating facilities as commercial utility facilities for the purpose of generating power for public use by sale	3	3	OAR 660-033-0120 & 0130(5) & (37)	4.2.3 4.2.10(C)

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
60	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	3X	3	ORS 214.447; OAR 660-033-0120 & 0130(5) & (38)	4.2.3 4.2.10(D)
55 61	Composting facilities on farms, or for which a permit has been granted by the DEQ	X*	4	ORS 215.283(2)(k) , 459.245; OAR 340-096-0020, 0024 ; 660-033-0120 & 0130(5), (18), (29); OAR 340-093-0050	4.2.3 4.2.10(A) 6.3.6(C)(2) 11.2
PARKS/PUBLIC/QUASI-PUBLIC USES					
56 62	Public/ private schools, including essential buildings	3 X*	2	ORS 215.283(1)(a)(2)(aa); ORS 215.135 OAR 660-033-0120 & 0130(2), (5), (18)	4.2.3, 4.2.11(I) 11.2, 11.3
57 63	Churches & cemeteries in conjunction with churches	3 X*	2	ORS 215.283(1)(b)(a) & .441; OAR 660-033-0120 & 0130(2), (18)	4.2.11(B), 11.2, 11.3
58 64	Private parks, playgrounds, and hunting and fishing preserves	X*	3	ORS 215.283(2)(c); OAR 660- 033-0120 & 0130(2), (5), (18)	4.2.3 11.2, 11.3
59 65	Campgrounds	X*	3	ORS 215.283(2)(c); OAR 660-033-0120 & 0130(2), (5), (18), (19)	4.2.3; 4.2.11(A), 11.2, 11.3
60 66	Public parks and playgrounds	2	2	ORS 195.120, 215.283(2)(d); OAR 660-033-0120 & 0130(2), (5) & (31); 660-034-0035 & 0040	3.7.4; 4.2.3 4.2.11(H)
61 67	Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community	2	2	ORS 215.283(2)(e); OAR 660-033-0120 & 0130(2), (5) & (36)	4.2.3 4.2.11(K)
62 68	Golf courses	X*	3	ORS 215.283(2)(f); OAR 660-033-0120 & 0130(2), (5), (18), (20)	4.2.3, 4.2.11(C) 11.2, 11.3

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
63 69	Living history museum	2	2	ORS 215.283(2)(x); OAR 660-033-0120 & 0130(2), (5), (21)	4.2.3 4.2.11(E)
64 70	On-site filming & accessory activities for 45 days or less	1	1	ORS 215.306(3)(a) & (4); OAR 660-033-0120	4.2.11(F)
65 71	On-site filming & accessory activities for more than 45 days	2	2	ORS 215.306(3)(b) & (4); OAR 660-033-0120 & 0130(5)	4.2.3 4.2.11(G)
66 72	Takeoff & landing site for model aircraft	1	1	ORS 215.283(1)(t)(q); OAR 660-033-0120 & 0130(26)	4.2.11(J)
67 73	Expansion of existing county fairgrounds & directly related activities	2	2	ORS 215.283(2)(w), 565.210; OAR 660-033-0120 & 0130(5);	4.2.3
68 74	Operations for extraction and bottling of water	2	2	ORS 215.283(2)(v); OAR 660-033-0120 & 0130(5)	4.2.3
69 75	Land application of biosolids transported by vehicle to a tract	1	1	ORS 215.246, .247, .249, .251, & .283(1)(y)(v); OAR 660-033-0120 & 0130(11)	4.2.11(D)
70 76	Land application of reclaimed water, and agricultural or industrial process water, or the onsite treatment of septage prior to the land application of biosolids	2	2	ORS 215.246, .249, .251, & .283(1)(y)(v); OAR 660-033-0120 & 0130(11)	4.2.11(D)
71 77	Firearms training facility; Law enforcement facility	X*	X*	ORS 197.770; OAR 215.283(1)(z)(w); OAR 660-033-0120 & 0130(2)	6.3.7(A), 4.2.11(L), 11.2
OUTDOOR GATHERING USES					
72 78	Outdoor gathering less than 3,000 persons not to continue more than 120 hours in any 3-month period.	1	1	ORS 197.015(10)(d); 433.735; OAR 660-033-0120 & 0130(33)	6.5.3(J)

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#	USE	HVFL	ALL OTHER	STATE LAW REFERENCE	SEE ALSO
73 79	Outdoor gathering more than 3,000 persons to continue more than 120 hours in any 3-month period.	4	4	ORS 433.735(1) & .763; OAR 660-033-0120 & 0130(34)	6.5.3(J)

4.2.3 General Review Criteria for Type 2-4 Permits, where indicated per Table 4.2-1

The use may be approved only where the use:

- 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.

The applicant may demonstrate that these criteria will be satisfied through the imposition of conditions. Any conditions so imposed must be clear and objective. [ORS 215.296; OAR 660-033-0030-~~0130~~**0130**(5)]

4.2.4 Farm and Forest Use Regulations

- A) Facility for Processing Farm Crops, **poultry or biofuel production** [~~ORS 215.283(1)(u)(r); ORS 315.141; OAR 660-033-0130(28)~~]

- 1) The farm on which the processing facility is located must provide at least one-quarter (¼) of the farm crops processed at the facility.
- 2) ~~The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage, or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.~~

A county may allow a facility for the processing of farm products as a permitted use under 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; or**
- b) Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area.**

- 2) The facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses, **as described in ORS 215.203(2)**, in the area.
- 3) The use is intended to be portable or temporary in nature and may be approved for a one (1)-year period which is renewable.

4.2.5 Natural Resource Use Regulations

The propagation, cultivation, maintenance, and harvesting of aquatic or insect species is a Type 2 use in the EFU zone. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The County shall provide notice of all applications under this Section to the State Department of Agriculture. Notice shall be mailed in accordance with Section 2.7.3 but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

4.2.6 Residential Use Regulations

- A) New Dwellings
 - 1) The County shall notify the County Assessor that a dwelling is being approved. ~~{ORS 215.705(1); OAR 660-033-0130(3)(h)}~~
 - 2) As a condition of approval for all residential uses, the landowner shall be required to 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, ~~and requiring owner control of dogs.~~ [ORS 215.293; OAR 660-033-0130(30)]
- B) Alteration, Restoration, or Replacement of a Lawfully Established Dwelling ~~{ORS 215.283(1)(c)(p); OAR 660-033-0120 and 0130(8) and (30)}~~
 - 1) **A lawfully established dwelling may be altered, restored, or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:**
 - ~~1~~**a)** The lawfully established dwelling to be altered, restored **or replaced has**, or **formerly had** ~~replaced shall have:~~
 - a i)** Intact, exterior walls and roof structure;
 - b ii)** Indoor plumbing including a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - c iii)** Interior wiring for interior lights; ~~and,~~
 - d iv)** A heating system; **and**

- ii) **If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and**
 - iii) **If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.**
- 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.**
- 3) If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, the applicant, as a condition of approval, shall execute and record in the deed records of the County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel zoned EFU (see also Section 5.1.4(C)(5)). The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the County. The release shall be signed by the County or its designee and state that the provisions of this Section regarding replacement dwellings have changed to allow the siting of another dwelling.
- ~~4) A Type 1 deferred replacement permit may be issued for the dwelling being replaced when the established dwelling is removed or demolished within three months of the deferred replacement permit being issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling 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. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~
- ~~5) An accessory farm dwelling authorized pursuant to Section 4.2.6(E)(1)(c), may only be replaced by a manufactured dwelling.~~
- 4) **A replacement dwelling under ORS 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. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.**

- a) The siting standards of paragraph (b) of this subsection apply when a dwelling qualifies for replacement because the dwelling:
 - i) Formerly had the features described in paragraph 4.2.6(B)(1)(a);
 - ii) Was removed from the tax roll as described in paragraph 4.2.6(B)(1)(b); or
 - iii) Had a permit that expired as described under paragraph 4.2.6(B)(5).
 - b) The replacement dwelling must be sited on the same lot or parcel:
 - i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
- 5) A replacement dwelling permit that is issued under use 17:
- a) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
 - i) Formerly had the features described in paragraph 4.2.6(B)(1)(a); or
 - ii) Was removed from the tax roll as described in paragraph 4.2.6(B)(1)(b);
 - b) Is not subject to the time to act limits of ORS 215.417; and
 - c) If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
 - i) Removes, demolishes, or converts to an allowable nonresidential use the dwelling to be replaced; and
 - ii) Causes 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) Dwelling Customarily Provided in Conjunction With Farm Use ~~{ORS 215.283(1)(f) e}; OAR 660-033-0120; 0130(1), and (30); and 8-0135}~~
- 1) Large Tract Standards ~~{OAR 660-033-0135(1)}~~: On land not identified as high-value farmland a dwelling shall be considered customarily provided in conjunction with farm use if:
 - a) The parcel on which the dwelling will be located is at least 160 acres;
 - b) The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale; and
 - d) Except for seasonal farm worker housing **approved prior to 2001**, ~~as allowed under the 1999 edition of ORS 215.283(1)(p)~~, there is no other dwelling on the subject tract.
 - 2) Farm Capability Standards ~~{OAR 660-033-0135(2)}~~:
 - a) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - i) **The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;**
 - ii) **The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection (i);**
 - iii) **The subject tract is currently employed for a farm use, at a level capable of producing the annual gross sales required in Subsection (i);**
 - iv) **The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;**
 - v) **Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;**

- vi) **The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and**
- vii) **If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection (iii).**
- viii) **In determining the gross sales capability required by Subsection (iii):**
 - (a) **The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;**
 - (b) **Only actual or potential sales from land owned, not leased or rented, shall be counted; and**
 - (c) **Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.**
- b) **In order to identify the commercial farm or ranch tracts to be used in Subsection 4.2.6(C)(2)(a)(i), the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the County pursuant to OAR 660-033-0135(2)(c).**
 - ~~a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one (1) mile from the perimeter of the subject tract;~~
 - ~~b) The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this Section;~~

- e) ~~The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this Section, or, if no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of a farm use at a level capable of producing the required annual gross sales;~~
 - d) ~~The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;~~
 - e) ~~Except for seasonal farmworker housing as allowed under the 1999 edition of ORS 215.283(1)(p), there is no other dwelling on the subject tract;~~
 - f) ~~The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and~~
- 3 Farm Income Standards [~~OAR 660-033-0135~~ **(3) for non-high value, (4) for high value, and (5) for non-contiguous lots** (5), (7), (8) and (9)]: A dwelling may be considered customarily provided in conjunction with farm use if:
- a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, at a level that produced in the last two (2) years or three (3) of the last five (5) years one of the following:
 - i) On land not identified as high-value farmland, at least ~~\$32,500~~ **40,000** in gross annual income; or
 - ii) On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products
 - b) ~~Except for seasonal farm worker housing as allowed under the 1999 edition of ORS 215.283(1)(p)~~ **approved prior to 2001**, there is no other dwelling on lands zoned EFU owned by the farm or ranch operator, or on the farm or ranch operation; and
 - c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this Section.

- d) In determining the gross income required by subsection (a), the cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation. Only gross income from land owned, not leased or rented, shall be counted. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - e) Lots or parcels zoned EFU in Jackson County or a contiguous county may be used to meet the gross income required by subsection (a). If one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation has been used to comply with the gross farm income requirement, within 12 days of receiving a tentative approval the applicant shall provide evidence that irrevocable deed restrictions have been recorded with the county clerk of the county where the property subject to the deed declarations, conditions and restriction is located. The deed declarations, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary medical hardship dwellings or replacement dwellings on the lots or parcels that make up the farm or ranch operation or to use any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling. The deed declarations, conditions and restrictions are irrevocable unless a statement of release is signed by the Director.
 - f) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.**
- 4) Relocated Farm Operations [~~OAR 660-033-0135(12-9)~~]: A dwelling may be considered customarily provided in conjunction with farm use if:
- a) Within the previous two (2) years, the applicant owned and operated a **different** farm or ranch operation that earned in each of the last five (5) years or four (4) of the last seven (7) years one of the following, whichever is applicable:
 - i) On land not identified as high-value farmland, at least ~~\$32,500~~ **40,000** in gross annual income; or
 - ii) On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products;

- b) The subject lot or parcel on which the dwelling will be located is currently employed for the farm use, as defined in ORS 215.203, at a level that produced in the last two (2) years or three (3) of the last five (5) years one of the following, whichever is applicable:
 - i) On land not identified as high-value farmland, at least ~~\$32,500~~ **40,000** in gross annual income; or
 - ii) On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products;
 - c) The subject lot or parcel on which the dwelling will be sited is at least 80 acres in size;
 - d) Except for seasonal farm worker housing ~~as allowed under the 1999 edition of ORS 215.283(1)(p)~~ **approved prior to 2001**, there is no other dwelling on the subject tract;
 - e) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this Section;
 - f) In determining the gross income required by subsections (a) and (b) of this Section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted.
 - g) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.**
- 5) Commercial Dairy Farm Standards ~~{OAR 660-033-0135(10-7)}~~: A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:
- a) The subject tract will be employed as a commercial dairy. A “commercial dairy farm” is a dairy operation that owns a sufficient number of producing dairy animals capable of earning one of the following, whichever is applicable, from the sale of fluid milk:
 - i) On land identified as high-value farmland, at least \$80,000 in gross annual income; or

- ii) On land not identified as high-value farmland, at least ~~\$32,500~~**40,000** in gross annual income.
 - b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
 - c) Except for seasonal farm worker housing as allowed under the ~~1999 edition of ORS 215.283(1)(p)~~ **approved prior to 2001**, there is no other dwelling on the subject tract;
 - d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking, or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;
 - e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm;
 - f) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230 and a Producer License for the sale of dairy products under ORS 621.072.
- D) Farm Dwelling for Relatives ~~{ORS 215.283(1)(e-d); OAR 660-033-0120 and 0130(9), and (30)}~~
- 1) A dwelling on real property used for farm use may be approved if:
 - a) **The 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;**
 - ab) The dwelling will be located on the same lot or parcel as the dwelling of the farm operator;
 - bc) **For the purpose of this section, “relative” means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse.** ~~The dwelling will be occupied by a relative of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild, grandparent, step grandparent, sibling, step sibling, niece, nephew or first cousin of either;~~

- ~~e~~d) The farm operator does or will require the assistance of the relative in the management of the existing commercial farming operation; and
 - ~~d~~e) 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.
- 2) Notwithstanding ORS 92.010 to 92.190 **192** or the minimum lot size under Section 4.2.12(A), if the owner of a dwelling described in this subsection 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. For the purposes of this Section, "foreclosure" means only those foreclosures that do not meet the definition of partition under ORS 92.010(7)(a).
- E) Accessory Farm Dwellings ~~{ORS 215.277-278 and ORS 215.283(1)(f-e); OAR 660-033-0120, 0130(24), (30)}~~

A second or subsequent farm dwelling may be allowed if each accessory farm dwelling meets all of the following:

- 1) The accessory farm dwelling will be located:
 - a) On the same lot or parcel as the primary farm dwelling; or,
 - b) On the same tract as the primary farm dwelling if 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; or,
 - c) 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 home with a deed restriction. The deed restriction shall be filed with the County Clerk and require that the manufactured dwelling be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain on the land when the land is conveyed to another party if the dwelling is re-approved as a primary farm dwelling under Section 4.2.6(A) and (C); or,

- d) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code, or to similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. If approved, a condition of approval will require that all accessory farm dwellings approved under this subsection be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - e) 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 80 acres in size and the lot or parcel complies with the gross farm income requirements of Section 4.2.6(C)(3).
- 2) An accessory farm dwelling approved under this subsection shall 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;
 - 3) There is no other dwelling on 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 that could reasonably be used as an accessory farm dwelling;
 - 4) 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, and produced in the last two (2) years or three (3) of the last five (5) years at least \$32,500 in gross annual income. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

- 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, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two (2) years or three (3) of the last five (5) years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
- c) It is located on a commercial dairy farm as defined in Section 4.2.6(C)(5); 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; and
 - ii) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to .230 and a Producer License for the sale of dairy products under ORS 621.072.
- 5) No land division may be approved for an accessory farm dwelling, unless an application is made and approved converting the accessory farm dwelling to a primary farm dwelling under Section 4.2.6(A) and (C), and both parcels satisfy the 80-acre minimum lot size of Section 4.2.12.
- 6) An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a nonfarm dwelling.
- 7) For the purposes of this Section, “accessory farm dwelling” includes all types of residential structures allowed by the applicable state building code.
- 8) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.**
- 9) Accessory farm worker housing occupancy shall be limited to the farm workers and their immediate family. Farmworker housing shall not be occupied by a relative of the owner or operator of the farmworker housing. “Relative” means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.**
- F) Ownership of Record Dwelling [~~ORS 215.705(1), (2), (5) (7); OAR 660-033-0120 and 0130(3) & (30)~~]
 - 1) A dwelling may be approved 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 (2) below:
 - 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, as defined in Chapter 13, except as provided in subsection (4) below;
 - f) When the lot or parcel on which the dwelling will be sited lies within a designated deer and elk habitat area, the siting of the dwelling shall be consistent with Section 7.1.1(C); and
 - g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
- 2) For purposes of this subsection, "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.
 - 3) When the County approves an application for a single-family dwelling under this Section, the application may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
 - 4) **The lot or parcel is protected as high-value farmland as defined in Chapter 13.** Notwithstanding the requirements of subsection (1)(e), a single-family dwelling may be sited on high-value farmland if it meets the

other requirements of this subsection and the Hearings Officer determines that:

- a) 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 demonstrate that a lot or 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, road, 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;
 - b) The dwelling will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - c) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Section 4.2.6 (H)(2). All applications for ownership of record dwellings on HVFL will be referred directly to the Hearings Officer under Section 2.7.4(C).
- 5) The County shall provide notice of all applications for ownership of record dwellings on high value farm land to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.
- 6) Notwithstanding the requirements of Section 4.2.6(F)(1)(e), a single-family dwelling may be sited on high-value farmland if:**
- a) It meets the other requirements of subsections (1);**
 - b) The tract on which the dwelling will be sited is:**
 - i) Identified in OAR 660-033-0020(8)(b) 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 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.
- G) Temporary Medical Hardship Dwelling [~~ORS 215.283(2)(L)(1); OAR 660-033-0120 & 0130(3-10), (30)~~]
- 1) One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed 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 subject to the requirements of Section 6.5.3(G); and

- 2) The temporary dwelling will be used to care for the resident, or a relative of the resident, defined as a parent, stepparent, stepgrandparent, stepbrother, stepsister, niece, nephew, first cousin, child, grandparent, grandchild, brother, or sister of the existing residents, for the term of a hardship suffered by the resident or the relative. For purposes of this Section, "hardship" means a medical hardship or a hardship for the care of an aged or infirm person or persons.

H) Nonfarm Dwelling [~~ORS 215.284(4)(A)(C), (3); OAR 660-033-0120 and 0130(4)(c)-(d) & (30)~~]

A single-family dwelling, not provided in conjunction with farm use, may be approved if the following standards are met:

- 1) 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;
- 2) 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 area, the cumulative impact of possible new nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered. **If the application involves the creation of a new parcel for the nonfarm dwelling, the County shall consider whether the creation of the parcel will lead to the creation of other nonfarm parcels.** To address this standard, the applicant shall:
 - a) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 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 non-resource uses shall not be included in the study area;

- b) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings which meet the criteria of **4.2.6(B)(1)** ~~4.3.6(A)(1) (farm, non-farm, hardship, etc.)~~, and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved, 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 non-farm dwellings under ORS 215.263(4) **and ORS 215.263(3)** ~~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 non-farm dwelling under this subparagraph; and
- c) Determine whether approval of the proposed non-farm/lot-of-record dwellings, together with existing non-farm 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 non-farm 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.
- 3) The dwelling foundation will be situated upon a lot or parcel, or portion of 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 tract. **A new parcel or portion of existing parcel shall:**
- a) A **new** lot or parcel or portion of ~~the~~ **an existing** lot or parcel may 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 (ORS 215.283);

- b) A **new parcel or portion of an existing** lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, it is not “generally unsuitable.” A **new parcel or portion of an existing** lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a **new parcel or portion of an existing** lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use;
 - c) If the **lot or** 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 part of forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 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.
- 4) The dwelling will be situated on:
 - a) A lot or parcel legally created before January 1, 1993; or
 - b) A lot or parcel legally created on or after January 1, 1993, as allowed under Section 4.2.12(B) or (C). If a new parcel will be created, consideration shall be given as to whether approval of the parcel will lead to the creation of other nonfarm parcels, to the detriment of agriculture in the area. To address this standard, the provisions of subsection (1) above shall be used.
 - 5) The lot or parcel on which the dwelling will be located, does not contain a dwelling.
 - 6) If a new lot will be created, pursuant to subsection (4)(b) above, and Section 4.2.12(B) or (C), the parent lot or parcel does not contain an ownership of record dwelling approved under Section 4.2.6(F) or a forest dwelling approved under Section 4.3.6.

- 7) Final approval shall not be granted and septic or building permits shall not be issued for proposed dwellings which are reviewed under this Section on a lot or parcel which is, or has been, receiving special assessment until the applicant has furnished the County with evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308A.050 to 308A.128, or for other special assessment under ORS 308A.315, 321,257 to 321.381, 321.730, or 321.815, and that any additional taxes that have been imposed as a result of the disqualification have been paid. Final approval under this Section will not change the date the County's decision becomes final or the permit expiration period under Section 4.1.3. [ORS 215.236(2) and (3)]
- l) Historic Dwelling Replacement ~~{ORS 215.283(1)(e); and 358.480; OAR 660-033-0120 & 0130(12) and (30)}~~
 - 1) The existing dwelling shall be listed on the National Register of Historic Places.
 - 2) The location of the replacement dwelling shall be consistent with the sensitive fish and wildlife habitat requirements of Section 7.1.1(C), and the fire safety requirements in Section 8.7
- J) Residential Home ~~{ORS 197.660(definition); 197.665(3); and 215.283(2)(e); OAR 660-033-0120 & 0130(5) & (30)}~~
 - 1) The existing dwelling shall have been lawfully established.
 - 2) For purposes of this Section, "residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the Department of Land Conservation and Development, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.
- ~~K) Registered Child Care Facility/Certified Group Child Care Home [ORS 657A.440]~~
 - ~~1) A registered child care facility or certified group child care home may be allowed if it meets the following standards:~~
 - ~~a) The use will take place in an existing dwelling.~~

~~b) Child care will be offered in the home of the provider to fewer than 13 children, including children of the provider, regardless of full-time or part-time status.~~

~~2) A land division to create a parcel with an existing dwelling to be used as a registered child care facility or certified group child care home may be approved pursuant to Section 4.2.12(M).~~

4.2.7 Commercial Use Regulations

A) Commercial Activities in Conjunction With Farm Use [~~See Section 6.4.4(E); ORS 215.283(2)(a); OAR 660-033-0120; and 0130(5); City of Sandy v. Clackamas County, LUBA No. 94-104; Craven v. Jackson County, SC S35826]~~

A commercial activity is considered in conjunction with a farm use when any of the following criteria are met:

- 1) The commercial activity is either exclusively or primarily a customer or supplier of farm products;
- 2) The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or
- 3) The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part.

B) See Chapter 6, Section 6.3.8 ~~& ORS 215.283(2)(t)~~, Destination Resorts

C) See Chapter 6, Section 6.3.8 ~~& ORS 215.283(2)(t)~~, Destination Resorts

D) Farm Stand [~~ORS 215.283(1)(e); OAR 660-033-0120; and 0130(23);~~ **Greenfield v. Multnomah County 259 Or App 687 (2013)**] In an area zoned for exclusive farm use, a farm stand may be approved as a Type 1 use when:

- 1) 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 incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.

- a) 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 crops and livestock” includes jams, syrups, apple cider, animal product and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
 - b) As used in this section, “local agricultural area” includes Oregon and Siskiyou County, California.
- 2) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings, or public entertainment.
 - 3) The proposed development is in compliance with all other applicable provisions of this ordinance.
 - 4) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.**
- E) Home Occupation and Home Business ~~{ORS 215.283(2)(i); 215.448; ORS 215.452(13); ORS 214.451(3)(f); OAR 660-033-0120; and 0130(5) & (14)}~~
- Home occupations and home businesses shall comply with the following standards, in addition to any applicable standards in Section 6.4.4(C) and (D). In case of conflict between this Section and any other Chapter of this Ordinance, this Section prevails.
- 1) The home occupation shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.
 - 2) The home occupation shall be operated by a resident or employee of a resident of the property on which the business is located.
 - 3) The home occupation shall employ on the site no more than five (5) full-time or part-time persons.
 - 4) The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
 - 5) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery or cider business and is operated in association with the winery or cider business:**

- a) **The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and**
- b) **The meals may be served at the bed and breakfast facility or at the winery or cider business.**

F) Winery **or Cider Business** [~~ORS 215.451; ORS 215.452; 215.283(1)(n) & (1)(y); OAR 660-033-0120~~]

In areas zoned for exclusive farm use a winery may be approved as a Type 1 use subject to the following:

- 1) ~~The “winery” is a facility that produces wine with a maximum annual production of:~~
 - a) ~~Less than 50,000 gallons and:~~
 - i) ~~Owns an on-site vineyard of at least 15 acres;~~
 - ii) ~~Owns a contiguous vineyard of at least 15 acres;~~
 - iii) ~~Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or~~
 - iv) ~~Obtains grapes from any combination of paragraphs (i), (ii), or (iii) above; or~~
 - b) ~~At least 50,000 gallons and:~~
 - i) ~~Owns an on-site vineyard of at least 40 acres;~~
 - ii) ~~Owns a contiguous vineyard of at least 40 acres;~~
 - iii) ~~Has a long-term contract for the purchase of all the grapes from at least 40 acres of a vineyard contiguous to the winery; or~~
 - iv) ~~Obtains grapes from any combination of paragraphs (i), (ii), or (iii) above.~~
- 2) ~~Prior to the issuance of a Type 1 permit to establish a winery, the applicant must show that a qualifying vineyard described in subsection (1) above has been planted or that the contract has been executed, as applicable.~~
- 3) ~~A winery approved in accordance with this Section may:~~
 - a) ~~Market and sell wine produced in conjunction with the winery, including the following activities:~~

- ~~i) Wine tours;~~
 - ~~ii) Wine tastings in a tasting room or other location at the winery;~~
 - ~~iii) Wine clubs; and~~
 - ~~iv) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.~~
- ~~b) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010;~~
- ~~c) Provide services, including private events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:~~
- ~~i) Are directly related to the sale or promotion of wine produced in conjunction with the winery;~~
 - ~~ii) Are incidental to the retail sale of wine on-site; and~~
 - ~~iii) Are limited to 25 days or fewer in a calendar year.~~
- ~~As used in this section "private events" includes, but is not limited to, facility rentals and celebratory gatherings.~~
- ~~4) Gross income received from incidental sales, services and activities as described in subsection (3) (b) & (c) is limited as follows:~~
- ~~a) The gross income of the winery from the sale of incidental items pursuant to subsection (3)(b) of this section and services provided pursuant to subsection (3)(c) of this section may not exceed 25 percent of the gross income from the on site retail sale of wine produced in conjunction with the winery.~~
 - ~~b) Effective January 1, 2013 and at the request of the Director, the winery shall submit a written statement, prepared by a certified public accountant that certifies compliance with paragraph (a) of this subsection for the previous tax year.~~
- ~~The conditions of approval supporting the winery shall include language limiting the winery to the sales, services and activities outlined in subsections (3) and (4).~~

- ~~5) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.~~
- ~~6) When reviewing an application for a Type 1 winery permit, the County will adopt findings addressing the applicable standards included in subsection (1) (a) or (b) above and paragraphs (4)(a) and (b) below. Standards imposed on the siting of a winery shall be limited to the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:
 - ~~a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places and;~~
 - ~~b) Provision of direct road access and internal circulation.~~~~
- ~~7) A winery proposed under this section shall comply with:
 - ~~a) Criteria regarding floodplains, geologic hazards, solar access and airport safety;~~
 - ~~b) Regulations for public health and safety; and~~
 - ~~c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.~~~~
- ~~8) The County may issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events only if the County issued permits to the winery operating under this section in similar circumstances before August 2, 2011.~~
- ~~9) A use or structure that is lawfully established at a winery located in an exclusive farm use zone and existed on or before August 2, 2011, including events and activities that exceed the income limit imposed by ORS 215.452, may be continued, altered, restored or replaced pursuant to ORS 215.130.
 - ~~a) Subsection (9) of this section does not affect the lawful continuation, alteration, restoration or replacement of the winery sited on the same tract.~~~~
- 1) A winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine or cider with a maximum annual production of:
 - a) Less than 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the owner:****

- i) Owns an on-site vineyard or orchard of at least 15 acres;
 - ii) Owns a contiguous vineyard or orchard of at least 15 acres;
 - iii) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 15 acres of a vineyard contiguous to the winery or from an orchard contiguous to the cider business; or
 - iv) Obtains grapes for winery or apples or pears for a cider business from any combination of Subsection (i), (ii), or (iii); or
- (b) At least 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the owner:
- i) Owns an on-site vineyard for a winery or orchard for a cider business of at least 40 acres;
 - ii) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 40 acres;
 - iii) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 40 acres of a vineyard contiguous to the winery or from an orchard contiguous to the cider business;
 - iv) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards for a winery or orchards for a cider business in Oregon that are located within 15 miles of the winery or cider business site; or
 - v) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection (i), (ii), (iii) or (iv).
- 2) In addition to producing and distributing wine or cider, a small winery or cider business established under this Section may:
- a) Market and sell wine produced in conjunction with the winery or cider produced in conjunction with the cider business.

- b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, including:**

 - i) Wine or cider tastings in a tasting room or other location on the premises occupied by the winery for wine tastings or cider business for cider tastings;**
 - ii) Wine or cider club activities;**
 - iii) Winemaker or cidemaker luncheons and dinners;**
 - iv) Winery and vineyard or cider business and orchard tours;**
 - v) Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine-industry or cider industry members;**
 - vi) Winery or cider business staff activities;**
 - vii) Open house promotions of wine produced in conjunction with the winery or cider produced in conjunction with the cider business; and**
 - viii) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery or cider produced in conjunction with the cider business.**
- c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of wine for a winery or cider for a cider business, including food and beverages:**

 - i) Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or**
 - ii) Served in conjunction with an activity authorized by Subsection 4.2.7(F)(2)(b), (d), or (e).**
- d) Carry out agri-tourism or other commercial events on the tract occupied by the winery or cider business subject to Subsections 4.2.7(F)(5).**

- e) **Host charitable activities for which the winery or cider business does not charge a facility rental fee.**
 - f) **Site a home occupation on the same tract, and in association with, the winery or cider business as provided by 4.2.7(E).**
- 3) **A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection 4.2.7(F)(2)(c). Food and beverage services authorized under Subsection 4.2.7(F)(2)(c) may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.**
- 4) **The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection 4.2.7(F)(2)(c) through (e) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery or cider produced in conjunction with the cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the County, the winery or cider business shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this Subsection for the previous tax year.**
- 5) **A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery or the cider business subject to:**
- a) **If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by Subsections 4.2.7(H)(1) through (4).**
 - b) **Agri-tourism and other commercial events or activities are subject to the requirements of Subsection 4.2.7(H)(7).**
- 6) **A winery or cider business operating under this Section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery or cider business is established.**
- 7) **Prior to the issuance of a permit to establish a winery or cider business under Subsection 4.2.7(F)(1), the applicant shall show that vineyards described in Subsection 4.2.7(F)(1) have been planted or that the contract has been executed, as applicable.**

- 8) **For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands, the winery or cider business shall:**
 - a) **Establish a setback of at least 100 feet from all property lines for the winery or cider business and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and**
 - b) **Provision of direct road access and internal circulation.**
- 9) **As used in this Section:**
 - a) **“Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery or cider produced in conjunction with a cider business is a secondary purpose of the event.**
 - b) **“Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears and includes, but is not limited to, flavored cider, sparkling cider, and carbonated cider.**
 - c) **“Cider business” means a facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions or warehousing of cider.**
 - d) **“On-site retail sale” for wineries includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone. For cider businesses, “On-site retail sale” includes the retail sale of cider in person at a cider business, through a cider club, or over the internet or telephone.**
- G) Winery Producing At Least 150,000 Gallons {ORS 215.452~~453~~; 215.283(1)(n); OAR 660-033-0120}
 - 1) ~~In an area zoned for exclusive farm use a winery may be approved as a Type 1 use subject to the following:~~
 - a) ~~The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;~~
 - b) ~~The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (a) of this subsection; and~~

- ~~c) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this section.~~
- ~~2) Prior to the issuance of permits to establish a winery under this section, the applicant must show that vineyards described in subsection (1) of this section have been planted.~~
- ~~3) A winery approved in accordance with this section may:
 - ~~a) Market and sell wine produced in conjunction with the winery, including the following activities:
 - ~~i) Wine tours;~~
 - ~~ii) Wine tastings in a tasting room or other location at the winery;~~
 - ~~iii) Wine clubs; and~~
 - ~~iv) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.~~~~
 - ~~b) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts; and~~
 - ~~c) Provide services, including private events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
 - ~~i) Are directly related to the sale or promotion of wine produced in conjunction with the winery;~~
 - ~~ii) Are incidental to the retail sale of wine on-site; and~~
 - ~~iii) Are limited to 25 days or fewer in a calendar year.~~~~~~
- ~~4) Gross income received from incidental sales, services and activities as described in subsection (3) (b) & (c) is limited as follows:
 - ~~a) The gross income of the winery from the sale of incidental items in accordance with subsection (3)(b) of this section and services provided pursuant to subsection (3)(c) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.~~~~

~~b) — Effective January 1, 2013 and at the request of the Director, the winery shall submit a written statement, prepared by a certified public accountant that certifies compliance with paragraph (a) of this subsection for the previous tax year.~~

~~The conditions of approval supporting the winery shall include language limiting the winery to the sales, services and activities outlined in subsections (3) and (4).~~

~~5) — A winery approved in accordance with this section:~~

~~a) — Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.~~

~~b) — May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.~~

~~6) — A conditional use permit shall be obtained from the County in the event the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for private events occurring more than 25 days in a calendar year. In addition to any other requirements, the County may approve a land use permit under this subsection if the County finds that the activity;~~

~~a) — Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;~~

~~b) — Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use;~~

~~c) — Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery;~~

~~d) — Does not materially alter the stability of the land use pattern in the area; and.~~

~~e) — If the County issues a permit under this subsection for private events, the County shall review the permit at least once every five years and, if appropriate, may renew the permit.~~

~~As used in this section “private events” includes, but is not limited to, facility rentals and celebratory gatherings.~~

~~7) — A person may not have a substantial ownership interest in more than one winery operating a restaurant under this section.~~

~~8) — The County shall require a winery operating under this section to provide for:~~

~~a) — Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and~~

- ~~b) Direct road access and internal circulation.~~
- ~~9) A winery proposed under this section shall comply with:
 - ~~a) Criteria regarding floodplains, geologic hazards, solar access and airport safety;~~
 - ~~b) Regulations for public health and safety; and~~
 - ~~c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.~~~~
- ~~10) The County may authorize a winery described in subsection (1) of this section to sell or deliver items or provide services not described in subsection (3) (b) & (c) or (4) of this section under the criteria for a commercial activity in conjunction with farm use under ORS 215.283(2)(a).~~
- ~~11) The County may issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events only if the County issued permits to the winery operating under this section in similar circumstances on or before August 2, 2011.~~
- ~~12) A use or structure that is lawfully established at a winery located in an exclusive farm use zone and existed on or before August 2, 2011, including events and activities that exceed the income limit imposed by ORS 215.452, may be continued, altered, restored or replaced pursuant to ORS 215.130.
 - ~~a) Subsection (12) of this section does not affect the lawful continuation, alteration, restoration or replacement of the winery sited on the same tract.~~~~

1) A large winery may be established if:

- a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;**
- b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in Subsection (a); and**
- c) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this Subsection.**

2) In addition to producing and distributing wine, a large winery may:

- a) **Market and sell wine produced in conjunction with the winery;**
- b) **Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:**
 - i) **Wine tastings in a tasting room or other location on the premises occupied by the winery;**
 - ii) **Wine club activities;**
 - iii) **Winemaker luncheons and dinners;**
 - iv) **Winery and vineyard tours;**
 - v) **Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;**
 - vi) **Winery staff activities;**
 - vii) **Open house promotions of wine produced in conjunction with the winery; and**
 - viii) **Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;**
- c) **Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:**
 - i) **Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or**
 - ii) **Served in conjunction with an activity authorized by Subsection 4.2.7(G)(2)(b)(ii), (iv), or (v);**
- d) **Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:**
 - i) **Are directly related to the sale or promotion of wine produced in conjunction with the winery;**
 - ii) **Are incidental to the retail sale of wine on-site; and**
 - iii) **Are limited to 25 days or fewer in a calendar year; and**

- 8) Prior to the issuance of a permit to establish a large winery, the applicant shall show that vineyards described in Subsection (G)(1) have been planted.
- 9) A large winery shall provide for:
 - a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
 - b) Direct road access and internal circulation.
- 10) A large winery may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.
- 11) As used in this Section:
 - 1) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery or cider produced in conjunction with a cider business is a secondary purpose of the event.
 - 4) "On-site retail sale" for wineries includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

H) Agri-tourism

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

- 1) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:
 - a) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
 - b) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;
 - c) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

- d) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
- e) The agri-tourism or other commercial event or activity complies with the standards described in Section 4.2.3;
- f) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
- g) The agri-tourism or other commercial event or activity complies with conditions established herein:
 - i) **Planned Hours of Operation:** The agri-tourism or other commercial event is restricted to the hours of 7:00 a.m. to 10:00 p.m. The event may not include artificial amplification of music or voices prior to 7:00 a.m. or after 10:00 p.m;
 - ii) **Access, Ingress, Egress, and Parking:** Adequate off-street parking shall be provided and demonstrated on a parking plan. No parking shall be permitted within the public right-of-way. All parking for the agr-tourism or other commercial event or activity shall be provided on the tract on which the activity is established. Off-street parking shall meet the minimum requirements of Section 9.4.11 (C)(1), (E) and (F). Ingress, egress and general parking will be clearly marked (e. g. traffic cones, etc);

The parcel, lot or tract must have direct access from a public road or is accessed by an easement or private road. All underlying property owners benefiting from said easement or private road shall be notified of the application. Development Services shall provide the notification in writing to said property owners;

Driveways extending from public roads shall have a road approach, which may require review and approval by the transportation facility in whose jurisdiction it lies;

- iii) **A Traffic Management Plan:** The applicant shall provide a traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads. Adequate traffic control must be provided. Roadways, driveways and parking surfaces shall be treated as to prevent dust. Combustible ground cover materials are prohibited;
 - iv) **Sanitation and Solid Waste:** Sanitation facilities shall include adequate restroom facilities, hand washing stations, and trash receptacles;
 - v) **Health and Safety:** All structures and facilities are subject to applicable fire, health and life safety requirements, and shall comply with all requirements of Building Official, Fire Official and any other applicable Federal, State and local laws. Compliance with the requirements of the Building Official shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code. Applicant shall provide evidence of approval by the local fire district;
 - vi) **Compliance with All Provisions of Law:** The agri-tourism event is not prohibited by, and complies with, applicable provisions of the Comprehensive Plan, this Ordinance, and other applicable provisions of law;
 - vii) **Authorization to Allow Inspection of Event Premises:** The applicant shall provide in writing a consent to allow law enforcement, public health, fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit; and
 - vii) **“Duration”** shall only include the length of time of the event and shall not include the period of time for preparation or break-down of the event.
- 2) In the alternative to Subsections (1) and (3), the County may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-

event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

- a) Must be incidental and subordinate to existing farm use on the tract;
 - b) May not begin before 6 a.m. or end after 10 p.m.;
 - c) May not involve more than 100 attendees or 50 vehicles;
 - d) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
 - e) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
 - f) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location;
 - g) Must comply with applicable health and fire and life safety requirements;
 - h) Access, Ingress, Egress, and Parking: Adequate off-street parking shall be provided and demonstrated on a parking plan. No parking shall be permitted within the public right-of-way. All parking for the agr-tourism or other commercial event or activity shall be provided on the tract on which the activity is established. Off-street parking shall meet the minimum requirements of Section 9.4.11 (C)(1), (E) and (F). Ingress, egress and general parking will be clearly marked (e. g. traffic cones, etc);
 - i) Sanitation and Solid Waste: Sanitation facilities shall include adequate restroom facilities, hand washing stations, and trash receptacles
 - j) Authorization to Allow inspection of the Event Premises: The applicant shall provide in writing a consent to allow law enforcement, public health, fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit.
- 3) In the alternative to Subsections (1) and (2), the County may authorize up to six agri-tourism or other commercial events or activities on a tract

in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

- a) Must be incidental and subordinate to existing farm use on the tract;
 - b) May not, individually, exceed a duration of 72 consecutive hours;
 - c) May not require that a new permanent structure be built, used, or occupied in connection with the agri-tourism or other commercial events or activities;
 - d) Must comply with the standards described in Section 4.2.3;
 - e) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area;
 - f) Must comply Section 4.2.7 (H) (1)(g); and
 - g) A permit authorized by this Subsection shall be valid for two calendar years. When considering an application for renewal, the County shall ensure compliance with the provisions of Subsection (3)(a-f), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
- 4) In addition to Subsections (1), (2), and (3), the County may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections (1), (2), and (3) if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
- a) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
 - b) Comply with the requirements of 4.2.7(H)(3)(c) through (f);
 - c) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and
 - d) Do not exceed 18 events or activities in a calendar year.

- e) A holder of a permit authorized by the County under Subsection (4) must request review of the permit at four-year intervals. Upon receipt of a request for review, the County shall:
 - i) Provide public notice and an opportunity for public comment as part of the review process; and
 - ii) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit, and the standards established by the permit.
- 5) The County may authorize the use of temporary structures established in connection with agri-tourism or other commercial events or activities authorized under subsection (4) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized by subsection (4) of this section, including, but not limited to, grading, filling or paving.
- 6) The county may issue the limited use permits authorized by subsection (3) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (3) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
- 7) The authorizations provided by subsection (4) of this Section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.
- 8) Conditions of Approval. Agri-tourism and other commercial events permitted under Subsections 4.2.7(H)(3) and (4) are subject to the following standards and criteria:
 - a) A permit application for an agri-tourism or other commercial event or activity shall include the following:

- i) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries or cider businesses, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract;
 - ii) The types and locations of all existing and proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;
 - iii) Authorization to allow inspection of the event premises. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the Exclusive Farm Use Zone and any other applicable laws or ordinances.
- b) Approval Criteria.
- i) No more than two agri-tourism or commercial events or activities may occur in one month.
 - ii) Notification of agri-tourism and other commercial events or activities.
 - (a) The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by January 1 of the subject calendar year or within 30 days of new or renewed permits to County's Development Services Department and a list of all property owners within 500 feet of the subject property.

- (b) The schedule for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the Department at least 30 days prior to any change in the approved schedule.
- (c) If notice pursuant to (a) is not provided, the property owner shall provide notice by to the same list above at least 30 days prior to each agri-tourism and other commercial event or activity.
- (d) The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be accessible and who shall remain on site at all times, including the person(s) contact information.

H I) Landscaping Business ~~{ORS 215.283(2)(z); ORS 671.520; ORS 671.318}~~

A landscaping 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 may be approved through a Type 2 permit.

J) ~~Parking no more than seven log trucks {ORS 215.311(3)}~~

~~Notwithstanding any other provision of law except for health and safety provisions, parking no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local government determines that log truck parking on a lot or parcel will:~~

- ~~a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or~~
- ~~b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.~~

K) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

- 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.

4.2.8 Mineral, Aggregate, Oil and Gas Use Regulations

- A) Exploration for and Production of Geothermal Resources, Oil and Gas ~~{ORS 520.005 and 522.005 (definitions); 215.283(1)(g-f); 215.298; OAR 660-033-0120}~~
See definitions in Chapter 13.
- 1) The use may include the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to the wellhead.
 - 2) Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732(~~±~~ **2**)(a) or (b).
- B) Exploration for Minerals ~~{ORS 517.750 (definition); 215.283(1)(h-g); OAR 660-033-0120}~~ Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732(~~±~~ **2**)(a) or (b).
See definitions in Chapter 13.
- C) Mining, Crushing, or Stockpiling of Aggregate and Other Mineral and Subsurface Resources ~~{ORS 215.283(2)(b)(B); 215.298(3) definition; OAR 660-033-0120 and 0130(5)}~~:
- 1) County approval is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area more than one (1) acre.
 - 2) A permit for mining may be approved only for resources found to be significant pursuant to Statewide Planning Goal 5. [Beaver State Sand and Gravel, Inc. v. Douglas Co.; LUBA No. 2002-065; A119715]
- D) Processing of Aggregate Into Asphalt or Portland Cement ~~{ORS 215.283(2)(b)(C); 215.301; 517.750 (definition); OAR 660-033-0120 and 0130(5) & (15)}~~
The use is not allowed Facilities that batch and blend mineral aggregate into asphalt cement may not be authorized within two (2) miles of a planted vineyard. Planted vineyard means one (1) or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

4.2.9 Transportation Use Regulations

- A) Personal Use Airports ~~{ORS 215.283(2)(h); 836.610-630; OAR 660-033-0120 and 0130(5) & (7)}~~
- A personal use airport is 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. Exemption to the activities permitted under this definition may be granted through waiver action by the Oregon Dept.

of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975 shall continue to be permitted subject to any applicable rules of the Oregon Dept. of Aviation.

- B) Roads, Highways, and Other Transportation Facilities and Improvements.
- 1) Accessory transportation improvements for a use allowed or conditionally allowed, as listed in OAR 660-012-0065(3)(a), may be allowed, subject to the same procedures, standards and requirements applicable to the use to which they are accessory.
 - 2) Roads, highways, and other transportation facilities and improvements that are listed in OAR 660-012-0065(3)(c) through (o) may be allowed as Type 2 uses. Uses listed in OAR 660-012-0065(3)(d) to (g) and (o) are also subject to the requirements of OAR 660-012-0065(5).
 - 3) Roads, highways, and other transportation facilities and improvements not listed in OAR 660-012-0065 may be established subject to Type 4 review, adoption of an exception to Goal 3 (Agricultural Lands) and to any other applicable goal with which the facility or improvement does not comply, and compliance with OAR 660-012-0070.

4.2.10 Utility/Solid Waste Use Regulations

- A) Composting Facilities for Which a Permit Has Been Granted ~~{ORS 215.283(2)(k); 459.245; OAR 340-093-0050; OAR 340-096-0020, 0024-0060; 660-033-0120; and 0130(2)(c), (5), (18), & (29)}~~

Composting facilities on land not defined as high value farmland shall be limited to the composting operations and facilities defined by the Environmental Quality Commission under OAR 340-096-0024(1), (2), or (3). 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.

- ~~B) Solid Waste Disposal Site Ordered Established by the EQC (ORS 459.049, 215.283(1)(i)) Use requires evidence of EQC order, and that the operation includes equipment, facilities or buildings necessary for the operation.~~

- ~~C) B) Commercial Utility Facilities to Generate Power for Public Use by Sale {ORS 215.283(2)(g); OAR 660-033-0120 and 0130(5), (17) & (22)}~~

- 1) Permanent features of a power generation facility shall not preclude more than:

- 2) For wind power generation facility proposals on high-value farmland soils, as 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 Subsection 4.2.10(C)(2)(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 Subsection 4.2.10(C)(2)(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 4.2.10(C)(2) 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 4.2.10(C)(3) are satisfied.
- 3) For wind power generation facility proposals on 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.
- 4) For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection 4.2.10(C)(3)(d) are satisfied.
 - 5) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections

4.2.10(C)(3) and (4), the approval criteria of Subsection 4.2.10(C)(3) shall apply to the entire project.

D) **Photovoltaic Solar Power Generation Facility** ~~[ORS 214.447; OAR 660-033-0120 & 0130(5) & (38)]~~. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

- 1) **“Arable land”** means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
- 2) **“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.
- 3) ~~“Dual use development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.~~
- 4) **“Nonarable land”** means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
- 5) **“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.
- 6) **“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.

~~7) 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 (8) (h) are satisfied; or~~

~~b) The facility is part of a dual-use development, and thereby subject to the review and approval of a dual use development plan. The provisions of this subsection are repealed on January 1, 2022.~~

~~i. The photovoltaic solar power generation facility component of the dual use development shall not exceed 20 acres. The 20-acre limitation shall not include accessory farm uses and accessory farm use structures that may be located in another area of the farm, which is outside the dual use area;~~

~~ii. The photovoltaic solar power generation facility is contingent upon the continued farm use located within the dual use development area;~~

~~iii. At the request of the local government with land use jurisdiction, the permit holder shall provide evidence of the continued farm use as defined by ORS 215.203.~~

~~iv. Discontinuance of the farm use within the dual use development plan area requires discontinuance and removal of any portion of the photovoltaic solar power generation facility in excess of 12 acres unless, the provisions of paragraph (8) (h) are satisfied.~~

~~8) 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, or 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) (B) without taking 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 groundwater 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~~

9) 7) 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);~~

~~The photovoltaic solar power generation facility is not located on those high-value farmland soils listed in OAR 660-033-0020. 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 project is not located on 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) 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;**
- d) 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;**
- e) 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;**
- f) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;**
- 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 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 OAR 660-033-0130 (38) (h) (A), (B), (C), and (D) are satisfied.~~

10.8)

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~~
The project is not located on those high-value farmland soils listed in OAR 660-033-0020 (8) (7) (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; and
- iii) The project must meet the criteria (7)(c)-(e).
- ~~e)~~ ~~No more than 12 acres of the project will be sited on high value farmland soils described at ORS 195.300(10);~~
- ~~d c)~~ No more than 20 acres of the project will be sited on arable soils.
- ~~e)~~ ~~The requirements of OAR 660-033-0130 (38) (h) (D) are satisfied;~~
- ~~f d)~~ 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 e)~~ If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and 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

species of concern 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 species of concern 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.

~~11 9)~~ **An exception to the acreage and soil thresholds listed in this subsections (7), and (8), (9), and (10) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.**

~~12 10)~~ **The project owner shall 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).**

~~13 11)~~ **Nothing in this Section shall prevent the 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.**

~~D)E)~~ **Utility Facilities Necessary for Public Service {ORS 215.275; 215.283(1)(d); OAR 660-033-0120; and 0130(16)}**

1) A utility facility is necessary for public service if the facility must be sited in the EFU zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in the EFU zone due to one (1) or more of the following factors:

- a) Technical and engineering feasibility;
- b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one (1) 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;
- c) Lack of available urban and non-resource lands;
- d) Availability of existing rights-of-way;

- e) Public health and safety; and
 - f) Other requirements of state and federal agencies.
- 2) Costs associated with any of the factors listed in subsection (1) above 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.
- 3) 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 subsection 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.
- 4) The County 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 agricultural lands.
- 5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers construction 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 OAR 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.**
- ~~5)6)~~ In addition to the provisions of subsections (1) to (4) above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in the EFU zone shall be subject to the provisions of OAR 660-011-0060.
- ~~6)7)~~ The provisions of this Section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- ~~E)F)~~ Utility Facility Service Lines [ORS 215.283(1)(~~xu~~); OAR 660-033-0120; and 0130(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:

- 1) A public right-of-way;
 - 2) Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
 - 3) The property to be served by the utility.
- F)G) Solid Waste Disposal Site Which Requires a Permit [ORS 215.283(2)(k); 459.245; OAR 660-033-0120; and 0130(5) & (18)] This provision includes equipment, facilities or buildings necessary for operation.
- 1) A permit for the proposed site and operation has been granted by the Department of Environmental Quality under ORS 459.245.
 - 2) The equipment and facilities shall be necessary to the operation of the solid waste disposal site.

4.2.11 Parks/Public/Quasi-Public Use Regulations

- A) Campgrounds [~~ORS 215.283(2)(c); OAR 660-033-0120; and 0130(5), (18) & (19)~~]
- Approval of a campground is subject to the following standards:
- 1) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.
 - 2) **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.**
 - 3) **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.**
 - 4) **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.**

- 5) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is 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. 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 (6)-month period.
 - 6) The campground shall provide opportunities for outdoor recreation that are compatible with the natural setting of the area. Outdoor recreation activities include fishing, swimming, boating, hiking, bicycling, horseback riding, and other similar activities. Outdoor recreation, as used in this Chapter, does not include off-road vehicle or other motorized recreation use. A campground shall be designed and integrated into the rural agriculture 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. Campgrounds authorized in this zoning district shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
 - 7) 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 (5) below.
 - 8) No more than one-third (1/3) 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.
 - 9) Plans for water supply and sewage disposal shall be approved by the State Health Division and the Department of Environmental Quality. Evidence shall be provided that the campground will be eligible for a certificate of sanitation as required by the Oregon Department of Environmental Quality.
- B) Churches and Cemeteries ~~{ORS 215.283(1)(b)(a) & 215.441; OAR 660-033-0120; and 0130(2) & (18)}~~
- ~~Churches or cemeteries in conjunction with churches, consistent with ORS 215.441, shall not be approved within three (3) miles of an urban growth boundary unless an exception to applicable statewide planning goals is approved. However, existing facilities wholly within the EFU District may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.~~
- 1) 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.

- 2) 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.**
- 3) 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.**

C) Golf Course [~~ORS 215.283(2)(f); OAR 660-033-0120; and 0130(5), (18) & (20)~~]

Golf courses permitted in the EFU District are nine (9) or 18 hole regulation golf courses, or a combination nine (9) and 18 hole regulation golf course, that comply with all of the following standards:

- 1) A regulation 18-hole golf course is generally characterized by a site of approximately 120 to 150 acres of land, with a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
- 2) A regulation nine (9) -hole golf course is generally characterized by a site of approximately 65 to 90 acres of land, with a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
- 3) Non-regulation golf courses are not allowed in the EFU zoning District. A non-regulation golf course is a golf course or golf course-like development that does not meet the definition of golf course in paragraphs (1) and (2) above, including but not limited to executive golf courses, Par three (3) golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges;
- 4) Accessory uses provided as a part of a golf course are limited to those uses consistent with all of the following:

- 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 and 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. 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; housing-;
 - b) Accessory uses shall be limited in size and orientation to the site to serve the needs of persons and their guests who patronize the golf course to play golf. An accessory use that provides commercial service (e.g., food and beverage service, 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 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.**
- 5) The golf course owner shall provide buffering from adjacent farm and forest land as needed. This buffering may include trees, netting, fencing, or other devices found to be adequate and necessary by the County;
 - 6) On high value farm land, an existing golf course may be maintained, enhanced, or expanded on the same tract, consistent with the requirements of this Section, and subject to Section 4.2.3, but shall not be expanded to exceed 36 total holes.
 - 7) **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.

- 8) 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.**
- 9) 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.**

D) Land Application of Biosolids [~~ORS 215.246, 215.247, 215.249, 215.251, 215.283(1)(z)(v); OAR 660-033-0130(11)~~]

- 1) The land application of reclaimed water (OAR 340-055-0010(8) definition), agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone under OAR 660-033, may be allowed 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. The uses allowed under this Section require a determination by DEQ that the application rates and site management practices for the land application ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

The transportation of biosolids by vehicle to a tract and the subsequent land application of the biosolids on that tract is permitted as a Type 1 use, and is not a land use decision. An application for the transportation and land application of reclaimed water, agricultural or industrial process water, or for the land application of biosolids not transported to the application site by vehicle shall be processed as a Type 2 use.

- 2) The uses allowed under this Section include:
 - a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application.
 - b) The establishment and use of facilities, including buildings, equipment, aerated and non-aerated water impoundments, pumps and other irrigation equipment that are accessory to and reasonably necessary for the land application to occur on the subject tract;

- c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:
 - i) A public right-of-way; or
 - ii) Other land if the landowner provides written consent and the owner of the facility complies with Section 4.2.10(C)(3); and
 - d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.
- 3) Uses not allowed under this Section include:
- a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or
 - b) The establishment and use of utility facility service lines allowed under Section 4.2.10(D)(F).
- ~~4) If the application is considered at a public hearing, prior to the County making a final decision the applicant shall explain in writing how alternatives identified in public comments were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.~~
- 54)** The use of a tract on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred may not be changed to allow a different use unless:
- a) The tract is within an acknowledged urban growth boundary;
 - b) The tract is rezoned to a zone other than EFU;

- c) The different use of the tract is a farm use as defined in ORS 215.203; or
- d) The different use of the tract is a use allowed under ORS 215.283(1)(~~c~~), (~~e~~), (~~f~~), (~~k~~) to (~~o~~), (~~q~~) to (~~s~~), (~~u~~), (~~w~~) or (~~x~~) **(b), (d), (e), (h) to (l), (n) to (p), (r), (t) or (u)** or 215.283(2)(a), (j), (l), (p) to (s) **or.**
- e) The different use of the tract is a use allowed under ORS 215.283(4).**

- E) Living History Museum ~~{ORS 215.283(2)(x); OAR 660-033-0120; and 0130(5) & (21)}~~

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 the EFU 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.

- 1) 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.**
- 2) 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.**
- 3) 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.**

- F) On-Site Filming and Accessory Activities for 45 Days or Less ~~{ORS 215.306(3)(a) and (4); OAR 660-033-0120}~~

- 1) The use includes:

- a) Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming;
 - b) Production of advertisements, documentaries, feature film, television services, and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.
- 2) The use does not include:
- a) Facilities for marketing, editing, and other such activities that are allowed only as a home occupation; or
 - b) Construction of new structures that requires a building permit.
- 3) The use is permitted, provided these activities:
- a) Will involve no more than 45 days on any site within a one (1)-year period; and,
 - b) Will not involve erection of sets that would remain in place for longer than any 45-day period.
- G) On-Site Filming and Accessory Activities for More Than 45 Days ~~{ORS 215.306(3)(b) & (4); OAR 660-033-0120; and 0130(5)}~~
- 1) Approval under this Section is required when on-site filming and accessory activities will involve: (1) activities for more than 45 days on any site within a one(1)-year period; or (2) erection of sets that will remain in place longer than 45 days.
- 2) The use includes:
- a) Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming;
 - b) Production of advertisements, documentaries, feature film, television services, and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.
- 3) The use does not include:
- a) Facilities for marketing, editing, and other such activities that are allowed only as a home occupation; or
 - b) Construction of new structures that requires a building permit.

- 4) When approved under this Section, these activities may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers, or similar temporary facilities. Such temporary facilities may be used as temporary housing for security personnel.
- H) Public Local Parks [~~ORS 195.120; 215.283(2)(d); OAR 660-033-0120; and 0130(5)~~]
- 1) For purposes of this Section, “public local park” means a park owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local community.
 - 2) Lawful uses in existence in public local parks on July 15, 1998, may continue as otherwise provided by this Ordinance.
 - 3) If a public local park is within a Jackson County Public Park (JCPP) Overlay, or is otherwise subject to a public park master plan adopted pursuant to Section 3.7.4, those uses approved in the master plan or subsequent amendments to it are permitted as Type 1 uses.
 - 4) If a public local park is not subject to a public park master plan adopted pursuant to Section 3.7.4, the uses in such park shall be limited to those otherwise allowed in the EFU zone, unless an exception to Statewide Planning Goal 3, and any other goal which would prohibit the use, is adopted pursuant to ORS 197.732 and OAR Chapter 660, Division 4. Uses are subject to the review procedures and additional regulations listed in Table 4.2-1.
 - 5) 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.**
 - 6) 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.**
 - 7) 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.**
- I) Public or Private Schools [~~ORS 215.283(1)(a)(2)(aa); ORS 215.135; OAR 660-033-0120; 0130(2) & (18); Warburton v. Harney County, LUBA No. 2000-096]~~]

- 1) Public or private schools includes all buildings essential to school operation.
 - 2) **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.**
 - 3) **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.**
 - 4) **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.**
- 2) ~~Public or private schools and school facilities shall not be approved within three (3) miles of an urban growth boundary unless an exception to applicable statewide planning goals is approved. Existing facilities wholly within the EFU District may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.~~
 - 3) For the purposes of this Section, "public and private schools" mean schools providing elementary and secondary education only, and does not include adult career education, colleges or universities
- J) Takeoff and Landing Sites for Model Aircraft ~~{ORS 215.283(1)(t)(a); OAR 660-033-0120; and 0130(26)}~~
- Buildings and facilities shall be no 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. 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 controlled by radio, lines, or design by a person on the ground.
- K) Community Centers ~~{ORS 215.283(2)(e); OAR 660-033-0130 (36)}~~
- A existing community center in an EFU zone 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, provided the facility that was in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

- 1) **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.**
- 2) **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.**
- 3) **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.**

~~L) Law Enforcement Facility [ORS 215.283(1)(z)]~~

~~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 is a permitted use.~~

4.2.12 Land Divisions ~~[ORS 215.263; OAR 660-033-0100]~~

Procedures and approval criteria for land divisions in the resource districts are set out in Section 3.3 and 10.3. Unless this Section specifically provides otherwise, and except as provided in Section 6.3.8 with regard to destination resorts, the minimum size of a new parcel shall be 80 acres.

Compliance with the minimum parcel size does not mean that a dwelling in conjunction with a farm use may be approved by right on that parcel. New parcels less than the 80-acre minimum lot size may be approved subject to the requirements of Section 3.3 and the following:

- A) A new parcel may be created for nonfarm uses listed in ORS 215.283(2), other than a dwelling, upon a finding that the parcel for the nonfarm use is not larger than the minimum size necessary for the use, ~~and the lot is large enough to provide for a minimum setback of 200 feet from the residual farm land.~~ [See ORS 215.263(3)]
- B) ~~Up to two (2) new parcels may be created~~ **The County may approve a land division for up to two (2) new parcels smaller than the minimum size established under ORS 215.780,** each to contain a nonfarm dwelling, if:
- 1) The nonfarm dwellings have been approved under Section 4.2.6(H);
 - 2) The parcels for the nonfarm dwellings will be divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - 3) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the 80-acre minimum lot size;
 - 4) The remainder of the original lot or parcel that does not contain the nonfarm dwellings will comply with the 80-acre minimum lot size; and
 - 5) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land. [ORS 215.263(4)(a)]
- C) A parcel may be partitioned into two (2) lots, each to contain one (1) nonfarm dwelling if:
- 1) The nonfarm dwellings have been approved under Section 4.2.6(H);
 - 2) The parcels for the nonfarm dwellings will be divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - 3) The parcels for the nonfarm dwellings will be divided from a lot or parcel that is equal to or smaller than the 80-acre minimum parcel size, but equal to or larger than 40 acres;
 - 4) The parcels for the nonfarm dwellings are:
 - a) Not capable of producing 50 cubic feet or more per acre per year of wood fiber; and
 - b) Composed of at least 90 percent Class VI through VIII soils.
 - 5) The parcels for the nonfarm dwellings do not have established water rights for irrigation; and

- 6) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land. [ORS 215.263(4)(b)~~(D)~~(i)]
- D) A new parcel which contains an existing dwelling to be used as a residential home under Section 4.2.6(J) may be created only if the existing dwelling has been approved as a nonfarm dwelling under Section 4.2.6(H). [ORS 215.263(9)(a)]
- E) A new parcel which contains an existing dwelling may be created if the existing dwelling has been listed in a County inventory as historic property and is listed on the National Register of Historic Places. [ORS 215.263(9)(b)]
- F) A land division for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one (1) of the resulting parcels may be approved, providing:
 - 1) Any parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel; and
 - 2) Any parcel created by the land division that does not contain a dwelling:
 - a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - b) May not be considered in approving an application for siting any other dwelling;
 - c) May not be considered in approving a redesignation or rezoning of forest lands except for a redesignation or rezoning to allow a public park, open space, or other natural resource use; and
 - d) May not be smaller than 25 acres unless the purpose of the land division is:
 - i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - ii) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization that has cumulative ownership of at least 2,000 acres of open space or park property. [ORS 215.263(10)]
 - 3) As a condition of approval, the landowner is required to 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. [ORS 215.265]

- G) A land division creating a parcel below the minimum parcel size may be approved if:
- 1) The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
 - 2) The church has been approved under Section 4.2.11(B);
 - 3) The newly created lot or parcel for the church is not larger than five (5) acres; and
 - 4) The remaining lot or parcel, not including the church, meets the 80-acre minimum lot or parcel size either by itself or after it is consolidated with another lot or parcel. [ORS 215.263(11)]
- H) A division of land to create a parcel for a nonfarm use under subsections (A) through (G) of this Section may not be approved unless any additional tax imposed for the change in use has been paid. [ORS 215.263(12)]
- I) ~~A land division may not be approved for the purpose of creating a new parcel for a farm assistance dwelling for relatives approved under Section 4.2.6(D) or a temporary hardship dwelling approved under Section 4.2.6(G), or if it would have the effect of separating a farm crop processing facility approved under Section 4.2.4(A) from the farm operation that provides at least one quarter (¼) of the farm crops processed at the facility. [ORS 215.263(8)]~~ **The County governing body or its designate may not approve a land division or property line adjustment of a lot or parcel that separates a temporary hardship dwelling, relative farm help dwelling, home occupation, or processing facility from the parcel on which the primary residential or other primary use exists. [ORS 215.263(8)]**
- J) A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water or biosolids as described under Section 4.2.11(D). [ORS 215.249]
- K) This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established. [ORS 215.263(6)]
- L) This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property. [ORS 215.263 (7)]

~~M) A new parcel which contains an existing dwelling to be used as a registered child care facility or certified group child care home under Section 4.2.6(k) may be created only if the existing dwelling has been approved as a nonfarm dwelling under Section 4.2.6(H). [ORS 657A.440(3)(c); ORS 215.263(9)(a)]~~

M) A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:

- 1) If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.**
- 2) If the parcel does not contain a dwelling, it:**
 - a) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;**
 - b) May not be considered in approving or denying an application for any other dwelling; and**
 - c) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource [ORS 215.785].**

4.3 FOREST RESOURCE (FR) DISTRICTS

4.3.1 Purpose

The purpose of the Forest Resource (FR) zoning Districts is to conserve forest lands. This Section implements Statewide Planning Goal 4 (Forest Lands) and OAR 660.006.

4.3.2 Application

Various zoning districts are applied to areas that are identified as forest land by the Jackson County Comprehensive Plan. These lands are designated in the Comprehensive Plan and on the comprehensive plan map(s) as Forest Open Space (FOS). The adopted Zoning map(s) divide the FOS designated lands into three (3) zoning districts; Forest Resource (FR), Woodland Resource (WR), and Open Space Reserve (OSR).

4.3.3 Table of Permitted Uses

Table 4.3-1 sets forth the uses allowed subject to Type 1, 2, 3, or 4 approval procedures in the forest districts. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type 2, 3 or 4 review, unless otherwise specified on Table 4.3-1.

- A) Type 1: A "1" in the Table indicates that a use is allowed by-right, provided it complies with ~~any~~ **all applicable standards of this ordinance** listed in the "See Also" column.

- B) Type 2: A “2” in the Table indicates that a use is subject to administrative review and approval, in accordance with the Type 2 review procedures of Section 3.1.3.
- C) Type 3: A “3” in the Table indicates that a use may be conditionally allowed, subject to review and approval in accordance with the Type 3 review procedures and approval criteria of Section 3.1.4.
- D) Type 4: A “4” in the Table indicates that the use is subject to review and approval by the Planning Commission and Board of County Commissioners, as applicable, in accordance with the Type 4 review procedures of Section 3.1.5.
- E) Numerical References
The numbers contained in the “See Also” column are references to additional standards and requirements that **may** apply to the use type listed. Uses are also subject to applicable standards of Chapters 7, 8 and 9.
- F) Accessory Uses and Structures: Accessory uses and structures are allowed in all zoning districts (Section 6.4).

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1	2 = Type 2 Review	3 = Type 3 Review	4 = Type 4 Review	
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
FARM AND FOREST USES				
1	Farm use	1	ORS 215.203 (definition); OAR 660-006-0025(3)(b)	4.3.13.2
2	Forest operations or practices including (not limited to), reforestation of forest land, road construction & maintenance, harvesting of forest tree species, application of chemicals, & disposal of slash	1	ORS Chapter 527; OAR 660-006-0025(2)(a)	
3	Temporary on site auxiliary structures for a forest operation	1	ORS Chapter 527; OAR 660-006-0025(2)(b)	4.3.5(D)
4	Physical alterations to land auxiliary to forest practices	1	ORS Chapter 527; OAR 660-006-0025(2)(c)	4.3.5(B)
5	Temporary portable facility for primary processing of forest products	2	OAR 660-06-0025(3)(d)	4.3.5(C)
6	Permanent facility for primary processing of forest products	2	OAR 660-006-0025(4)(a) and (5)	4.3.4; 4.3.12, 4.3.5(D)(E) Ch 13 definition

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review				
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
7	Permanent logging equipment repair and storage	2	OAR 660-006-0025(4)(b) and (5)	4.3.4; 4.3.12,
8	Log scaling and weigh stations	2	OAR 660-006-0025(4)(c) & (5)	4.3.4; 4.3.12,
9	Forest management research experimentation facilities as defined, or where accessory to forest operations	2	ORS 526.215 (definition); OAR 660-006-0025(4)(x) & (5)	4.3.4; 4.3.5(A) 4.3.12
10	Temporary forest labor camps	1	OAR 660-006-0025(3)(l)	Ch 13 definition
NATURAL RESOURCE USES				
11	Uses to conserve soil, air & water quality, & to provide for wildlife & fish resources	1	OAR 660-006-0025(3)(a)	
12	Uninhabitable structures accessory to fish and wildlife enhancement	1	OAR 660-006-0025(3)(k)	
RESIDENTIAL USES				
13	Large tract forest dwelling	2	ORS 215.740; OAR 660-006-0027(1)(e)(B)(2)(b), (c); & (4)(6) 660-006-0029; 660-006-0035	4.3.6(C); 4.3.12
14	Forest template dwelling	2	ORS 215.750(1), (3)-(6); OAR 660-006-0027(1)(f), (h) - (i)(3), (5), (6), and (2)-(5); 660-006-0029; 660-006-0035	4.3.6(B); 4.3.12
15	Ownership of record dwelling	2	ORS 215.705(1), (5)-(7); ORS 215.720(1)(a), and (2), and (3); OAR 660-006-0027(1); 660-006-0029; 660-006-0035	4.3.6(D); 4.3.12
16	Alteration, restoration or replacement of a lawfully established dwelling	1 or 2	ORS 215.755(1); OAR 660-006-0025(3)(p) 0025(3)(o)	4.3.6(A); 4.3.12
17	Registered child care facility/certified group child care home	1	ORS 657A.440	4.3.6(F)

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review				
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
18 17	Temporary medical hardship dwelling	2	ORS 215.755(2); OAR 660-006-0025(4)(t) & (5)	4.3.4; 4.3.6(E); 4.3.12; 6.5.3(G)
19 18	Caretaker residence for public parks and fish hatcheries	2	ORS 215.755(3); OAR 660-006-0025(3)(j)	4.3.12
COMMERCIAL USES				
20 19	Large Destination Resort	4 PDP 2 FDP	ORS 197.435 - .467; OAR 660-006-0025(3)(n)	6.3.8
21 20	Reserved			
22 21	Home occupation/Home business	2	OAR 660-006-0025(4)(s) & (5); ORS 215.448 (definition)	4.3.4; 4.3.7(A) 6.4.4(C) & (D)
MINERAL, AGGREGATE, OIL, AND GAS USES				
23 22	Exploration for mineral and aggregate resources as defined in ORS 517	1	ORS 517.750; OAR 660-006-0025(3)(e)	
24 23	Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the permanent placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to the well head.	1, 2 if includes production	ORS 520.005, 522.005; OAR 660-006-0025(3)(m)	4.4.8
25 24	Mining & processing of oil & gas not otherwise permitted under this Section (e.g., compressors, separators & storage serving multiple wells); & mining & processing of aggregate & mineral resources	3	ORS 517.750 (definition), 520.005 (definition) 522.005; OAR 660-006-0025(4)(g) and (5); OAR 660-023-0180	4.3.4; 4.4.8 6.3.4(A)
26 25	Temporary asphalt and concrete batch plants, accessory to specific public road or highway projects	2	OAR 660-006-0025(4)(r) and (5)	4.3.4; 4.4.8 6.3.4(A)
TRANSPORTATION USES				

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1	2 = Type 2 Review	3 = Type 3 Review	4 = Type 4 Review	
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
27 26	Expansion of existing airports	2	OAR 660-006-0025(4)(u) and (5)	4.3.4;
28 27	Widening of roads within existing rights-of-way and public road & highway projects listed in ORS 215.283(1)(k)-(n) (h-k)	1	ORS 215.283(1)-(k)-(n) (h-k)(definition); OAR 660-006-0025(3)(h)	4.3.8(A)
29 28	Public road and highway projects listed in ORS 215.283(2)(q)-(s) and (3)	2 or 4	ORS 215.283(2)(p)-(r) (q)-(s) and (3); OAR 660-006-0025(4)(v), (5) & 012-0065 & 0070	4.3.4; 4.3.8(B)
30 29	Aids to navigation and aviation	2	OAR 660-006-0025(4)(k) and (5)	4.3.4
UTILITY/SOLID WASTE DISPOSAL FACILITIES				
31 30	Local distribution lines (e.g., electric, telephone, natural gas) & accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups	1	OAR 660-006-0025(3)(c)	
32 31	New electric transmission lines with rights-of-way widths of up to 100 feet. New distribution lines (e.g., gas, oil, geothermal) with rights-of-way 50 feet or less in width	3	OAR 660-006-0025(4)(q) and (5); ORS 772.210	4.3.4
33 32	Television, microwave & radio communication facilities and transmission (telecommunications) towers	2	OAR 660-006-0025(4)(h) and (5)	4.3.4; 4.3.12 6.3.6(A)
34 33	Telecommunications tower: co-location of antennae	1		4.3.12 ; 6.3.6(A)
35 34	Community Commercial utility Utility facilities for generating power	2	OAR 660-006-0025(4)(j) and (5)	4.3.4; 4.3.9(A); 4.3.12 ; 6.3.6(B)
36 35	Towers and fire stations for forest fire protection	1	OAR 660-006-0025(3)(g)	4.3.12

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review				
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
37 36	Fire stations for rural fire protection	2	OAR 660-006-0025(4)(i) and (5)	4.3.4; 4.3.12
38 37	Water intake facilities, canals & distribution lines for farm irrigation & ponds	1	OAR 660-006-0025(3)(i)	
39 38	Water intake facilities, related treatment facilities, pumping stations, & distribution lines for nonfarm use	2	OAR 660-006-0025(4)(l) and (5)	4.3.4
40 39	Reservoirs and water impoundments	2	OAR 660-006-0025(4)(m) and (5)	4.3.4
41	Solid waste disposal site ordered established by the Oregon EQC (ORS 459.049), with equipment, facilities or buildings necessary for its operation	1	ORS 459.049; OAR 660-006-0025(3)(e)	6.3.6(C)(2)
42 40	Solid waste disposal site for which a permit is required from the Oregon DEQ (ORS 459.245), with equipment, facilities or buildings necessary for its operation	4	OAR 660-006-0025(4)(d) and (5)	4.3.4; 6.3.6(C)(2)
43 41	Modification of waste related use	2		6.3.5 6 (D)
PARKS/PUBLIC/QUASI-PUBLIC USES				
44 42	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable	2 2/-or-3	OAR 660-006-0025(4)(f), (5); 034-0035 & 0040	4.3.4; 4.3.10(D); 4.3.12
45 43	Private parks	2	OAR 660-006-0025(4)(e) and (5)	4.3.4
46 44	Campgrounds	3	OAR 660-006-0025(4)(e) and (5)	4.3.4; 4.3.10(A)
47 45	Private hunting and fishing operations without any lodging accommodations	1	OAR 660-006-0025(3)(f)	
48 46	Private accommodations for fishing occupied on a temporary basis	2	OAR 660-006-0025(4)(w) and (5); 660-006-0029 & 660-006-0035	4.3.4, 4.3.12 4.3.10(B);

TABLE 4.3-1: USE TABLE FOR FOREST DISTRICTS				
1 = Type 1	2 = Type 2 Review	3 = Type 3 Review	4 = Type 4 Review	
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
49 47	Private seasonal accommodations for fee hunting operations	2	OAR 660-006-0025(4)(p) and (5); 660-006-0029 & 660-006-0035	4.3.4; 4.3.12 4.3.10(C)
50 48	Youth camp	2	OAR 660-006-0031	4.3.4(A); 4.3.10(E)
51 49	Firearms training facility	2	OAR 660-006-0025(4)(n) and (5)	4.3.4; 4.3.12
52 50	Cemeteries	2	OAR 660-006-0025(4)(o) and (5)	4.3.4
OUTDOOR GATHERING USES				
53 51	Outdoor gathering less than 3,000 persons not to continue more than 120 hours in any 3-month period.	1	ORS 197.015(10)(d); ORS 433.735; OAR 660-006-0025(3)(q)(p)	6.5.3(J)
54 52	Outdoor gathering more than 3,000 persons to continue more than 120 hours in any 3-month period.	4	OAR 660-006-0025(4)(y) & (5) ORS 433.735(1) and .763	4.3.4; 6.5.3(J)

4.3.4 General Review Criteria for Type 2-4 Permits, where indicated per Table 4.3-1

The use shall be approved only when the following findings can be made:

- A) The 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. Further, it must be demonstrated that the use will comply with the fire safety requirements in Section 8.7.

A written statement must be recorded in the public records with the deed or written contract, or its equivalent must be obtained from the land owner, which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules. [OAR 660-006- 0025(5)]

4.3.5 Farm and Forest Use Regulations

- A) Forest Management Research and Experimentation Facilities [~~ORS 526.215 (definition); OAR 660-006-0025(4)(x) & (5)~~]

This use includes research and experimentation instituted and carried on by the State Board of Higher Education to aid in the economic development of the State of Oregon, to develop the maximum yield from the forest lands of Oregon, to obtain the fullest utilization of the forest resource, and to study air and water pollution as it relates to the forest products industries.

- B) Physical Alterations to Land Auxiliary to Forest Practices ~~{ORS Chapter 527; OAR 660-006-0025(2)(c)}~~

For purposes of this Section, “auxiliary” means a use or alteration of land that provides help or is directly associated with the conduct of a particular forest site. Alterations include, but are not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities. [OAR 660-006-0025(2)(d)]

- C) Temporary **Portable** Facility for Primary Processing of Forest Products ~~{OAR 660-006-0025(3)(d)}~~

The primary processing of a forest product, for purposes of this Ordinance, means the use of a portable chipper, stud mill, or other similar methods of initial treatment of a forest product in order to enable its shipment to market. This use is subject to the following standards:

- 1) The processing facility shall be located on, or on a parcel contiguous to, the parcel on which the forest products are grown.
- 2) The facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses in the area.
- 3) The use is intended to be portable or temporary in nature and may be approved for a one (1)-year period which is renewable.

- D) Temporary **On Site** Auxiliary Forest Use Structures ~~{ORS Chapter 527; OAR 660-006-0025(2)(b)}~~

For purposes of this Section, “auxiliary” means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest site. An auxiliary structure shall be located on site, be temporary in nature, and shall not be designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use shall be removed when a particular forest practice has concluded. [OAR 660-006-0025(2)(d)]

- E) Permanent facility for the primary processing of forest products that is:**

- 1) Located in a building or buildings that do not exceed 10,000 square feet in total floor area;; or**
- 2) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards;; or**

- 3) **Located in a combination of indoor and outdoor areas described in Subsections (1) and (2); and**
- 4) **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.**

4.3.6 Residential Use Regulations

- A) Alteration, Restoration or Replacement of a Lawfully Established Dwelling ~~{ORS 215.755(1); OAR 660-006-0025(3)(p)(e)}~~
- 1) The lawfully established dwelling to be altered, restored, or replaced shall have:
 - a) Intact, exterior walls and roof structure;
 - b) Indoor plumbing including 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.
 - 2) If the dwelling is being replaced, the original dwelling must be removed, demolished or converted to an allowable nonresidential use within three (3) months of the completion of the replacement dwelling.
 - 3) The dwelling being replaced shall not have been established as a temporary medical hardship dwelling. However, at such time as the permit for the temporary medical hardship dwelling expires, the temporary dwelling may replace the permanent dwelling provided the permanent dwelling is removed, demolished or converted to an allowable use pursuant to the regulations stated above.
 - 4) If the location of the replacement dwelling will be more than 100 feet from the dwelling to be replaced, the replacement dwelling will be subject to the standards in Section 4.3.12 under a Type 2 review.
- B) Forest Template Dwelling ~~{ORS 215.750(1) and (3)-(6); OAR 660-006-0027(1)(f), (h)-(i), and (2)-(3), (5) & (6); 660-006-0029; 660-006-0035}~~
- Dwellings, as referenced in this section, must meet the standards listed in Section 4.3.6(A)(1). A forest template dwelling may be allowed if it complies with all of the following requirements. Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under this Section.
- 1) The tract on which the dwelling will be sited does not include a dwelling (as defined in Section 4.3.6(A)(1));

- 2) The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
 - a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber and all or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and at least three (3) dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels;
 - b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber and all or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and at least three (3) dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels; or,
 - c) Capable of producing more than 85 cubic feet per acre per year of wood fiber and all or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160- acre square centered on the center of the subject tract; and at least three (3) dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
- 3) If the tract on which the dwelling will be sited abuts a road that existed on January 1, 1993, the measurement required by subsection (2) above may be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the subject tract and that is to the maximum extent possible, aligned with the road;
- 4) If the tract on which the dwelling will be sited is 60 acres or larger and abuts a road or perennial stream, the measurement required by subsection (2) above shall be made by using a rectangle in accordance with subsection (3) above. However, one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the tract, and:
 - a) Be located within the 160-acre rectangle; or
 - b) Be within one-quarter ($\frac{1}{4}$) mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- 5) If a road crosses the tract on which the dwelling will be sited, at least one (1) of the three (3) required dwellings shall be on the same side of the road as the proposed dwelling;

- 6) The proposed dwelling is not prohibited by, and complies with, applicable provisions of the Comprehensive Plan, this Ordinance, and other applicable provisions of law. Where the Comprehensive Plan or this Ordinance require a dwelling be located in a 160-acre square or rectangle, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the square or rectangle; and
- 7) No dwellings will be allowed on other lots or parcels that make up the tract. Irrevocable deed restrictions precluding all future rights to construct a dwelling on the lots or parcels that make up the tract or to use the tract to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under the goals for agricultural lands or forest lands shall be recorded with the deed for each lot and parcel.

C) Large Tract Forest Dwelling [~~ORS 215.740; OAR 660-006-0027(1)(e)(B) & (4)-(6)(2)(b) & (c); 660-006-0029; 660-006-0035~~]

A large tract forest dwelling may be allowed, if it complies with the following:

- 1) The dwelling will be sited on a tract:
 - a) Of at least 160 contiguous acres; or
 - b) That is part of at least 200 noncontiguous acres comprised of two (2) or more tracts in one ownership that are located in Jackson County or adjacent counties and are zoned for forest use.

A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

- 2) The tract on which the dwelling will be sited does not currently include a dwelling;
- 3) The proposed dwelling is not prohibited by, and complies with, applicable provisions of the Comprehensive Plan, this Ordinance, and other applicable provisions of law; and
- 4) No dwellings will be allowed on other lots or parcels that make up the tract. Irrevocable deed restrictions precluding all future rights to construct a dwelling on the lots or parcels that make up the tract or to use the tract to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under the goals for agricultural lands or forest lands shall be recorded with the deed for each lot and parcel.

D) Ownership of Record Dwelling [~~ORS 215.705(1), (5) (7); 215.720 (1)(a) and (2), and (3); OAR 660-006-0027 (1)(a) — (d), (4) & (5) 660-006-0029; 660-006-0035~~]

A dwelling may be approved if:

- 1) 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 (2) below:
 - a) Since prior to January 1, 1985; or
 - b) 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;
- 2) For purposes of this subsection, “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 combination of these family members;
- 3) The tract on which the dwelling will be sited does not include a dwelling;
- 4) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling currently exists on another lot or parcel that was part of that tract;
- 5) The tract on which the dwelling will be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species;
- 6) The tract on which the dwelling will be sited is located within 1,500 feet of a maintained public road that is either paved or surfaced with rock that provides or will provide access to the subject tract. The road shall not be a U.S. Bureau of Land Management (BLM) or U.S. Forest Service (USFS) road, except as provided in OAR 660-006-0027;
- 7) When the lot or parcel on which the dwelling will be sited lies within a designated deer and elk habitat area, the siting of the dwelling shall be consistent with Section 7.1.1(C);
- 8) The proposed dwelling is not prohibited by, and complies with, applicable provisions of the Comprehensive Plan, this Ordinance, and other applicable provisions of law;
- 9) When the lot or parcel where the dwelling is to be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel. Consolidation prior to the issuance of a building permit shall be a condition of approval.
- 10) No dwellings will be allowed on the remaining portion of the tract that is consolidated into a single lot or parcel. Irrevocable deed restrictions, precluding all future rights to construct a dwelling on the consolidated

remainder lot or parcel or to use the remainder lot or parcel to total acreage for future siting of dwellings for present and any future owners, unless the tract is no longer subject to protection under the goals for agricultural lands or forest land, shall be recorded with the deed for each lot and parcel; and

- 11) If a dwelling is approved pursuant to the requirements of this Section, the application may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
- E) Temporary Medical Hardship Dwelling ~~{ORS 215.755(2); OAR 660-006-0025(4)(t) & (5)}~~
- 1) One (1) manufactured dwelling or recreational vehicle, or the temporary use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of hardship suffered by the existing resident or a relative of the resident subject to the requirements of Section 6.5.3(G); and
 - 2) The temporary dwelling will be used to care for the resident, or a relative of the resident, defined as a parent, child, grandparent, stepparent, stepgrandparent, stepbrother, stepsister, niece, nephew, first cousin, grandchild, brother, or sister of the existing residents, for the term of a hardship suffered by the resident or the relative. For purposes of this Section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
- ~~F) Registered Child Care Facility/Certified Group Child Care Home {ORS 657A.440}~~
- ~~1) A registered child care facility or certified group child care home may be allowed if it meets the following standards:~~
 - ~~a) The use will take place in an existing dwelling.~~
 - ~~b) Child care will be offered in the home of the provider to fewer than 13 children, including children of the provider, regardless of full time or part time status.~~

4.3.7 Commercial Use Regulations

- A) Home Occupation and Home Business ~~{ORS 215.448 (definition); OAR 660-006-0025(4)(s) & (5); 033-0120 & 0130(14)}~~

Home occupations and home businesses shall comply with the following standards, in addition to any applicable standards in Section 6.4.4(C) and (D). In case of conflict between this Section and any other Chapter of this ordinance, this Section shall prevail:

- 1) The home occupation shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.
- 2) The home occupation shall be operated by a resident or employee of a resident of the property on which the business is located.
- 3) The home occupation shall employ on the site no more than five (5) full-time or part-time persons.
- 4) The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

4.3.8 Transportation Use Regulations

- A) Widening Roads Within Existing Rights-of-Way and Public Road & Highway Projects Listed in ORS 215.283(1)(k)-(n) [~~ORS 215.283(1)(k)-(n)~~ (h-k) (definition); OAR 660-006-0025(3)(h)]

Widening of roads within existing rights-of-way must be in conformance with the Transportation Element of the Jackson County Comprehensive Plan. The public road and highway projects listed in ORS 215.283(1)(k)-(n) (h-k) are:

- 1) Climbing and passing lanes within the right-of-way existing as of July 1, 1987;
- 2) Reconstruction or modification of public roads and highways including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result;
- 3) Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed; and
- 4) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property used to support the operation and maintenance of public roads and highways.

- B) Public Road and Highway Projects [~~See ORS 215.283(2)(p)-(r)(q)-(s) and (3); OAR 660-012-0065; OAR 660-006-0025(4)(v) and (5)~~]:

- 1) This use includes the following, which may be allowed subject to Type 2 review:
 - a) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels;

- b) 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;
 - c) Improvement of public roads 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; and
 - d) Other transportation improvements listed in OAR 660-012-0065(3). Uses listed in OAR 660-012-0065(3)(d) to (g) and **(o) are also subject to the requirements of OAR 660-012-0065(5).**
- 2) Roads, highways, and other transportation facilities and improvements not listed in Section 4.3.8(A) or (B)(1) or OAR 660-012-0065 may be established subject to Type 4 review, adoption of an exception to Goal 4 (Forest Lands) and to any other applicable goal with which the facility or improvement does not comply, and compliance with OAR 660-012-0070.

4.3.9 Utility/Solid Waste Use Regulations

- A) **Commercial utility** Utility Facilities for Power Generation [~~OAR 660-006-0025(4)(j) and (5)~~]

A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.

4.3.10 Parks/Public/Quasi-Public Use Regulations

- A) Campgrounds [~~OAR 660-006-0025(4)(e) and (5)~~]

- 1) Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.
- 2) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is 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.
- 3) A campground shall be 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.

- 4) Campsites may be occupied by a tent, travel trailer, or recreational vehicle. Separate sewer, water, or electric service hook-ups shall not be provided to individual camp sites.
 - 5) Campgrounds authorized by this Section shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 - 6) 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 (6)-month period.
- B) Private Temporary Fishing Accommodations ~~{OAR 660-006-0025(4)(w) & (5)}~~:
- 1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2) Only minor incidental and accessory retail sales are permitted;
 - 3) Accommodations shall be occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - 4) Accommodations must be located within one-quarter (¼) mile of fish bearing Class 1 waters.
- C) Private Fee Hunting Accommodations ~~{OAR 660-006-0025(4)(p), (5); 660-006-0029 & 660-006-0035}~~:
- 1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2) Only minor incidental and accessory retail sales are permitted; and
 - 3) Accommodations may only be occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- D) Public Parks ~~{OAR 660-006-0025(4)(f) and (5); OAR 660-034-0035; and 660-034-0040}~~
- 1) Lawful uses in existence in public local parks on July 15, 1998, may continue as otherwise provided by this Ordinance.
 - 2) If a public local park is within a Jackson County Public Park (JCPP) Overlay, or is otherwise subject to a public park master plan adopted pursuant to Section 3.7.4, those uses approved in the master plan or subsequent amendments to it are permitted as Type 1 uses.
 - 3) If a public local park is not subject to a park master plan adopted pursuant to Section 3.7.4, the uses in shall be limited to those otherwise allowed

in the FR zone, unless an exception to Statewide Planning Goal 4, and any other goal which would prohibit the use, is adopted pursuant to ORS 197.732 and OAR Chapter 660, Division 4. Uses are subject to the review procedure and additional regulations listed in Table 4.3-1.

E) Youth Camps [~~OAR 660-006-0031~~]

- 1) **The purpose of this section is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.**
- 2) **Changes to or expansions of youth camps established prior to the effective date of this section shall be subject to the provisions of ORS 215.130.**
- 3) **A "youth camp" is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.**
- 4) **An application for a proposed youth camp shall comply with the following:**
 - a) **The number of overnight camp participants that may be accommodated shall be determined by the governing body, or its designate, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by subsection (4)(b), a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.**
 - b) **The governing body, or its designate may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under subsection (4)(a).**
 - c) **Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.**
 - d) **The provisions of OAR 660-006-0025(5)(a).**
 - e) **A campground as described in ORS 215.283(2)(c), 215.213(2)(e) and OAR 660-006-0025(4)(e) shall not be established in conjunction with a youth camp.**

- f) A youth camp shall not be allowed in conjunction with an existing golf course.
 - g) A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
- 5) The youth camp shall be located on a lawful parcel that is:
- a) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 40-acres.
 - b) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
 - i) The proposed setback will prevent conflicts with commercial resource management practices;
 - ii) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
 - iii) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
 - c) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.
 - d) Predominantly forestland if within a mixed agricultural/forest zone as provided for under OAR 660-006-0050.

- 6) A youth camp may provide for the following facilities:**
- a) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horse back riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.**
 - b) Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to 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 except that they shall not be provided in the same building as sleeping quarters.**
 - d) Up to three camp activity buildings, not including primary cooking and eating facilities.**
 - e) Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.**
 - f) Covered areas that are not fully enclosed.**
 - g) Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.**
 - h) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).**

- i) A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.
- 7) A proposed youth camp shall comply with the following fire safety requirements:
 - a) The fire siting standards in OAR 660-006-0035;
 - b) A fire safety protection plan shall be developed 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.
 - c) Except as determined under subsection (7)(d), a youth camp's on-site fire suppression capability shall at least include:
 - i) A 1000-gallon mobile water supply that can access all areas of the camp;
 - ii) A 30 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.
 - d) 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 Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
 - e) The provisions of subsection (7)(d) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.

- 8) **The governing body, or its designate, 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, or operator of the youth camp if different from the owner, and the land owner's or operator'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.**
- 9) **Nothing in this rule relieves governing bodies 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. Goal 5) that exist on forest lands.**
- 10) **The provisions of this rule shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3) commencing October 12, 2000. The 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 rule, or to ensure compliance with any standards or criteria.**

~~A youth camp is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility. Youth camps shall comply with the following:~~

- ~~1) — The youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff. However, the number of overnight participants may exceed 350 for up to eight (8) nights during the calendar year if approved by the County.~~
- ~~2) — Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10% of the total camper nights offered by the youth camp.~~
- ~~3) — A private park or campground shall not be established in conjunction with a youth camp.~~
- ~~4) — A youth camp shall not be allowed in conjunction with an existing golf course.~~
- ~~5) — A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.~~
- ~~6) — The youth camp shall be located on a lawfully created parcel that is:
 - ~~a) — At least 40 acres;~~~~

- ~~b) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as the number of overnight participants and type and number of proposed facilities;~~
- ~~c) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f); and~~
- ~~d) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the County determines that a proposed lesser setback will:
 - ~~i) Prevent conflicts with commercial resource management practices;~~
 - ~~ii) Prevent a significant increase in safety hazards associated with vehicular traffic; and~~
 - ~~iii) Provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.~~~~
- ~~7) A youth camp may include the recreational, cooking, eating, bathing, laundry, sleeping, administrative and other facilities listed in OAR 660-006-0031(6). A caretaker's residence may be established in conjunction with a youth camp if no other dwelling exists on the property.~~
- ~~8) A fire safety protection plan that includes the following shall be developed for the youth camp:
 - ~~a) Fire prevention measures;~~
 - ~~b) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire; and~~
 - ~~c) On-site pre-suppression and suppression measures. At a minimum, the on-site fire suppression capability shall include:~~~~

- ~~i) A 1,000-gallon mobile water supply that can access all areas of the camp;~~
 - ~~ii) A 30-gallon per minute water pump and an adequate amount of hose and nozzles;~~
 - ~~iii) A sufficient number of fire fighting hand tools; and~~
 - ~~iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.~~
- ~~d) An equivalent level of fire suppression facilities may be approved if the camp is within an area protected by the Oregon Department of Forestry (ODF). The equivalent capability shall be based on the ODF Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel.~~
- ~~e) The on-site fire suppression measures in (c) may be waived if the youth camp is within a fire district that provides structural fire protection and the fire district indicates in writing that on-site fire suppression at the camp is not needed.~~

4.3.11 Land Divisions

Unless this Section specifically provides otherwise, and except as provided in Section 6.3.8 with regard to destination resorts, the minimum size of a new parcel shall be 80 acres or one-eighth Section. New parcels less than the 80-acre minimum lot size may be approved subject to the requirements of Section 3.3 and the following:

- A) A new parcel may be created for uses listed in Table 4.3-1 and numbered 6 through 8, ~~19, 20, 23, 24, 29, 32, 34, 36, 38, 39, 40, 42, 43, 44, 49, & 50~~ ~~20, 21, 24, 25, 30, 33, 34, 35, 37, 38, 40 through 45, 50 and 51~~ [(OAR 660-006-0025; (3); (m & n-e) and (4) (a-o))], provided that such uses have been approved pursuant to the required approval process. The parcel that is created shall be the minimum size necessary for the use. ~~{OAR 660-006-0026(2)(a)}~~
- B) A new parcel may be created for an existing dwelling subject to the following requirements: ~~{ORS 215.780(2)(b) and OAR 660-006-0026(2)(b)}~~
 - 1) The new parcel shall not be larger than five (5) acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;
 - 2) The dwelling existed prior to June 1, 1995;
 - 3) The remaining parcel, or portion of the parcel zoned for resource use, not containing the dwelling:

- a) Meets the 80-acre minimum lot or parcel size, or is consolidated with another parcel and together the parcels meet the minimum lot size, or remains unchanged as to the amount of land zoned for resource use; and
 - b) Is not entitled to a dwelling unless subsequently authorized by law or goal.
- 4) The applicant for a division under this Section shall provide evidence that a restrictive deed declaration has been recorded as to the remaining parcel with the Jackson County Clerk, which prohibits dwellings, unless authorized by law or goal. The restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the Director indicating that the Comprehensive Plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to Statewide Planning Goals pertaining to agricultural land or forest land; and
- 5) The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner=s successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- C) A new parcel may be created to facilitate a forest practice as defined in ORS 527.620. Approval shall be based on findings which demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the 80-acre minimum lot or parcel size in order to conduct the forest practice. Parcels created pursuant to this subsection: ~~{ORS 215.780(2)(d) and OAR 660-006-0026(2)(c)}~~
- 1) Shall not be eligible for siting of a new dwelling;
 - 2) Shall not serve as justification for the siting of a future dwelling on other lots or parcels;
 - 3) Shall not, as a result of the land division, be used to justify redesignation or rezoning of resource lands;
 - 4) Shall not result in a parcel of less than 35 acres, unless:
 - a) The purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or,
 - b) The purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
 - 5) If associated with the creation of a parcel where a dwelling is involved, the division shall not result in a parcel less than the 80- acre minimum lot

or parcel size or the minimum size required for large tract forest dwellings approved under Section 4.3.6(C); and

- 6) The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- D) When there is more than one (1) dwelling on a parcel, a new parcel may be created for each dwelling if the following requirements are met: ~~{ORS 215.780(2)(e) and OAR 660-006-0026(2)(d)}~~
- 1) At least two (2) dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 - 2) Each dwelling complies with the standards for a replacement dwelling pursuant to Section 4.3.6(A);
 - 3) Except for one (1) lot or parcel, each lot or parcel created will be between two (2) and five (5) acres in size;
 - 4) At least one (1) dwelling will be located on each lot or parcel;
 - 5) None of the dwellings on the lot or parcel were approved under a land use regulation that required removal of the dwelling or that prohibited subsequent division of the lot or parcel;
 - 6) The applicant shall provide evidence that a restrictive deed declaration has been recorded with the County Clerk prohibiting the landowner and the land owner's successors in interest from further dividing the lot or parcel. The restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the Director indicating that the Comprehensive Plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to Statewide Planning Goal 4 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in Statewide Planning Goal 4; and
 - 7) The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

4.3.12 Siting Standards For Dwellings and Structures ~~[OAR 660-006-0029; 660-006-0035; and 660-006-0040; and ORS 215.730]~~

The following siting standards shall apply to all new dwellings and structures, except accessory structures within 100 feet of the principal dwelling, replacement dwellings that will be within 100 feet of the existing dwelling, and destination resorts approved under

Section 6.3.8. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands.

- A) Dwellings and structures shall be sited on the parcel so that:
 - 1) They have the least impact on nearby or adjoining forest or agricultural lands;
 - 2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - 3) The amount of forest lands used to site access roads, service corridors, dwellings and structures is minimized; and,
 - 4) The risks associated with wildfire are minimized.
- B) Conditions of approval satisfying this Section may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the parcel least suited for growing trees.
- C) A dwelling shall not be sited on a slope of greater than 40 percent.
- D) Dwellings and structures shall meet the fire safety requirements and guidelines outlined in Chapter 8 **in addition to the standards below [OAR 660-006-0035]**.
 - 1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.**

- 2) **Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.**
 - 3) **The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.**
 - 4) **The dwelling shall have a fire retardant roof.**
 - 5) **The dwelling shall not be sited on a slope of greater than 40 percent.**
 - 6) **If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.**
- E) ~~The applicant must provide evidence of an adequate domestic water supply. If the domestic water supply is not provided by an existing municipal or quasi-municipal water purveyor, and the water appropriation or distribution system is located on or crosses property that is not owned by the applicant, the applicant must provide evidence of legal authorization to occupy properties of affected owners. For the purposes of this subsection, evidence of an adequate domestic water supply may include:~~ **The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:**
- 1) ~~A new water right or transfer of an existing water right granted by the Oregon Water Resources Department (OWRD) sufficient for the use described in the application, or if the OWRD application process is not complete, evidence that the applicant has filed any required application with OWRD and that it is feasible for the applicant to secure the required water right or transfer, in which case the County approval shall be conditioned to require successful completion of the water right or transfer process;~~ **Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;**
 - 2) ~~Evidence that the proposed water use is from a well and meets the definition of exempt groundwater uses under ORS 537.545, in which case the applicant shall submit a copy of the Water Well Report that describes the construction of the well; and/or~~ **A water use permit used by the**

**Water Resources Department for the use described in the application;
or**

- 3) ~~Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's right to appropriate water.~~ **Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.**
- F) As a condition of approval, if the road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- G) If the lot or parcel is more than 10 acres, a condition of approval for a dwelling will require the following:
 - 1) The owner of the tract shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules. The Planning Division shall notify the County Assessor of the above condition at the time the dwelling is approved.
 - 2) The property owner shall submit a Stocking Survey Report to the County Assessor. The Assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a Stocking Survey Report or where the survey report indicates that minimum stocking requirements have not been met.
 - 3) Upon notification by the Assessor, the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, they will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor shall then remove the forest land designation pursuant to ORS 321.359 ~~and impose the additional tax pursuant to ORS 321.372.~~
- H) As a condition of approval for a dwelling, the following declaration shall be recorded in the manner and format provided by the County:

"Declarant and declarant's heirs, legal representatives, assigns, and lessees, hereby acknowledge and agree to accept by the placement of this deed declaration, or the acceptance and recording of this instrument, that the property herein described is situated on or near farm and or forest land, and as such may be subject to common, customary, and accepted agricultural and forest practices, which ordinarily and necessarily may produce noise, dust, smoke, and other types of visual, odor, and noise pollution. This deed declaration binds the land owner and the land owner'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. Jackson County shall be a party to this declaration which cannot be removed or modified without written consent of the County."

4.4 AGGREGATE REMOVAL (AR) DISTRICT

4.4.1 Purpose

The purpose of the Aggregate Removal (AR) District is to allow for the protection and utilization of aggregate and other mineral resources, and to ensure the reclamation of mined land.

4.4.2 Application

This zoning district will be applied to parcels, or portions of parcels, that have been determined by the Board of Commissioners to contain significant deposits of aggregate or other mineral resources through the Statewide Goal 5 planning process.

4.4.3 Table of Permitted Uses

Table 4.4-1 sets forth the uses allowed subject to Type 1, 2, 3, or Type 4 approval procedures in the AR District. This Table applies to all new uses, expansions of existing uses, and changes of use except as otherwise specified in subsection (F), below.

- A) Type 1: A "1" in the Table indicates that a use is allowed by-right, provided it complies with any standards listed in the "See Also" column.
- B) Type 2: A "2" in the Table indicates that a use is subject to administrative review and approval, in accordance with the Type 2 review procedures of Section 3.1.3.
- C) Type 3: A "3" in the Table indicates that a use may be conditionally allowed, subject to review and approval in accordance with the Type 3 review procedures and approval criteria of Section 3.1.4.
- D) Type 4: A "4" in the Table indicates that a use is subject to review and approval by the Planning Commission and Board of Commissioners, as applicable, in accordance with the Type 4 review procedures of Section 3.1.5.
- E) Numerical References

The numbers contained in the “See Also” column are references to additional standards and requirements that apply to the use type listed. Uses are also subject to applicable standards of Chapters 7, 8 and 9.

F) Expansion/Right to Continue Operations

- 1) Expansion: An expanded use means the commencement of methods or processing measures such as crushing or blasting not previously performed on the premises, or expanded or new operations within the floodplain and/or floodway. Any expanded use of property for aggregate removal, mining or quarry operations or the processing of materials shall be considered a new use, subject to all of the provisions of the Ordinance in effect at the time of expansion, and shall be reviewed under the procedures listed in Table 4.4-1.
- 2) Interruption or Discontinuance: Any use of a property for aggregate removal, mining, or quarry operations, or the processing of materials there from, may be continued and shall not be deemed to be interrupted or discontinued provided:
 - a) The owner or operator was issued and continuously renewed a DOGAMI operating permit, or received and maintained a DOGAMI exemption from mining regulations; and
 - b) The mining use was not inactive for a period of 12 consecutive years or more.
 - c) For purposes of this subsection, “inactive” means no aggregate materials were excavated, removed, crushed, stockpiled, or sold by the owner or operator of the operation. [ORS 215.130(7)(b)]

G) Accessory Uses and structures

Accessory uses and structures are allowed in all zoning districts (Section 6.4).

TABLE 4.4-1: USE TABLE FOR AGGREGATE REMOVAL DISTRICT					
1 = Type 1		2 = Type 2 Review		3 = Type 3 Review	4 = Type 4 Review
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO	
FARM AND FOREST USES					
1	Agriculture (farm use)	1			
2	Managing, growing, harvesting timber and forest products	1			
RESIDENTIAL USES					
3	Single family dwelling, permanent	2		4.4.6(A)	

TABLE 4.4-1: USE TABLE FOR AGGREGATE REMOVAL DISTRICT				
1 = Type 1 2 = Type 2 Review 3 = Type 3 Review 4 = Type 4 Review				
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO
4	Temporary single family dwelling, caretaker or site operator	1		4.4.6(B)
COMMERCIAL USES				
5	Auction services, temporary	1		4.4.7(A)
6	Destination Resort, large	4 PDP 2 FDP	ORS 197.435- .467	4.4.4; 4.4.5, 6.3.8
7	Destination Resort, small	4 PDP 2 FDP	ORS 197.435- .467	4.4.4; 4.4.5, 6.3.8
MINERAL, AGGREGATE, OIL, AND GAS USES				
8	Mining, processing & stockpiling aggregate, mineral & other subsurface resources	1		4.4.8(A)
9	Processing of aggregate from a new or expansion site at an existing processing site or at an AR zoned site with an approved site plan (PAPA approved)	1		4.4.8(A)
10	Equipment or structures accessory to mining operations	1		
11	Manufacture, fabrication & sale of concrete & aggregate products in conjunction with aggregate operations	1		
12	Processing and stockpiling of aggregate or mineral resources from offsite where processing and stockpiling of materials from on-site has been lawfully established.	1		4.4.8(A) 13.3(6)(H)
13	Processing and stockpiling of aggregate or mineral resources where no operating permit or preexisting use has been lawfully established.	2		4.4.5; 4.4.8(A) 13.3(6)(H)
14	Sedimentation ponds in conjunction with mining operations	1		
15	Storage or repair of heavy equipment in conjunction with a mining operation	1		
16	Emergency extraction	1		4.4.8(B)
TRANSPORTATION USES				
17	Transportation improvements (all types)	1		6.3.5
UTILITY/SOLID WASTE DISPOSAL FACILITIES				

TABLE 4.4-1: USE TABLE FOR AGGREGATE REMOVAL DISTRICT					
1 = Type 1		2 = Type 2 Review		3 = Type 3 Review	4 = Type 4 Review
#	USE	TYPE	STATE LAW REFERENCE	SEE ALSO	
18	Freestanding transmission towers	2		6.3.6	
19	Cell tower: stealth or co-location	1		6.3.6	
20	Utility facilities	2		4.4.4; 4.4.5, 6.3.6	
21	Sanitary landfill	4		4.4.4; 4.4.5, 6.3.6	
22	Solid waste transfer station	3		4.4.4; 4.4.5, 6.3.6	
PARKS/PUBLIC/QUASI-PUBLIC USES					
23	Bike paths	2		6.3.5	
24	Park or playground	2		4.4.4; 4.4.5	
25	Public works buildings and facilities	2		4.4.4; 4.4.5, 6.3.7	
26	Firearm Training Facility/Shooting Range	2		6.3.7(A)	

4.4.4 Restricted Uses

Destination resorts, parks, playgrounds, minor utility facilities, public works buildings and facilities, sanitary landfills and solid waste transfer stations are only allowed in conjunction with reclamation of the site, or upon a finding of no conflict with the existing or potential use of the property for aggregate or other mineral resource extraction.

4.4.5 General Review Criteria for Type 2-4 Permits⁵

- 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.

The applicant may demonstrate that the standards set forth in this subsection will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective. ~~{ORS 215.296; OAR 660-033-0030(5)}~~

⁵ These criteria do not apply to any lands deemed to be a significant aggregate resource sites and zoned Aggregate Removal; consistent with the Comprehensive Plan and OAR 660-023-0180.

4.4.6 Residential Use Regulations

A) Permanent Single-Family Dwelling

No more than one (1) permanent residence may be permitted. Approval is subject to findings that the request complies with one of the following:

- 1) Goals 3 or 4 do not apply, or
- 2) The dwelling meets the criteria for a dwelling in a farm or forest zone. In most cases, determination of which criteria apply shall be based on the former zoning of the property or the adjacent resource zoning district which abuts the largest percentage of the perimeter of the property on which the dwelling is proposed.

B) Temporary Dwelling

No more than one (1) temporary manufactured dwelling that will be occupied by the caretaker or operator of an aggregate operation may be allowed. The residence must be removed when the aggregate operation is discontinued, unless the dwelling is approved as a permanent residence pursuant to the requirements of Section 4.4.6 (A), above.

4.4.7 Commercial Use Regulations

A) Temporary Estate Sales/Auctions

Temporary estate sales or auctions to dispose of equipment used in a mining or processing operation are allowed for a maximum of three (3) days in any calendar year.

4.4.8 Mineral, Aggregate, Oil and Gas Use Regulations

A) Aggregate Mining and Processing

Prior to commencement of new or expanded operations for mining, crushing, stockpiling or processing of aggregate or other mineral resources, evidence shall be submitted showing that the operation will comply with the following operating standards, in addition to any requirements and conditions that were placed on the site at the time it was designated AR, or that were otherwise required through the Goal 5 process, or approved through a mining permit issued by the County. In AR zones, if the Board Ordinance designating the site AR required a higher level of review than shown in Table 4.4-1, the review and noticing requirements of the Board Ordinance will be used.

- 1) All necessary County and state permits have been obtained, and a current Department of Geology and Mineral Industries (DOGAMI) operating permit has been issued. Equipment testing necessary to obtain permits is allowed.

- 2) All facets of the operation will be conducted in a manner that complies with applicable DEQ air quality, water quality and noise standards, and in conformance with the requirements of the DOGAMI permit for the site.
- 3) A site reclamation plan, approved by DOGAMI, has been submitted for inclusion in the Planning Division's records. Such plan must return the land to natural condition, or return it to a state compatible with land uses allowed in the zoning district or otherwise identified through the Goal 5 review process.
- 4) A written statement from the County Road Department and/or ODOT has been submitted verifying that the public roads that will be used by haul trucks have adequate capacity and are, or will be, improved to a standard that will accommodate the maximum potential level of use created by the operation. The property owner or operator is responsible for making all necessary road improvements, or must pay a fair share for such improvements if agreed to by the County Road Department or ODOT.
- 5) On-site roads and private roads from the operating area to a public road have been designed and constructed to accommodate the vehicles and equipment that will use them, and meet the following standards:
 - a) All access roads within 100 feet of a paved public road are paved, unless the operator demonstrates that other methods of dust control will be implemented.
 - b) All unpaved roads that will provide access to the site or that are within the operating area will be maintained in a dust-free condition at all points within 250 feet of a dwelling or other identified conflicting use.
- 6) If the operation will include blasting, the operator has developed a procedure to ensure that a notice will be mailed or delivered to the owners and occupants of all residences within one-half (½) mile of the site at least three (3) working days before the blast. The notice must provide information concerning the date and time that blasting will occur, and must designate a responsible contact person for inquiries or complaints. Failure to notify neighbors and the County before blasting is a violation of this Ordinance for which a citation may be issued. Notice will be deemed sufficient if the operator can show that the notices were mailed or delivered, even if one (1) or more of the households within the notice area did not receive the notice.
- 7) The operation is insured for a minimum of \$500,000 against liability and tort arising from surface mining, processing, or incidental activities conducted by virtue of any law, ordinance, or condition. Insurance shall be kept in full force and effect during the period of such activities.

Evidence of a prepaid policy of such insurance which is in effect for a period of one (1) year shall be deposited with the County prior to commencing any operations. The owner or operator shall annually provide the County with evidence that the policy has been renewed.

- 8) The operation will observe the following minimum setbacks except where the operation is lawfully preexisting and encroachment within the prescribed setbacks has already occurred:
 - a) No extraction or removal of aggregate/minerals will occur within 25 feet of the right-of-way of public roads or easements of private roads.
 - b) Processing equipment, batch plants, and manufacturing and fabricating plants will not be operated within 50 feet of another property or a public road right-of-way, or within 200 feet of a residence or residential zoning district, unless written consent of the property owner(s) has been obtained.
- 9) If the aggregate removal and surface mining operation will take place within the Floodplain Overlay the requirements of Section 7.1.2 have been met.
- 10) Mining and processing activities, including excavated areas, stockpiles, equipment and internal roads, will be screened from the view of dwellings, scenic resources protected under ASC 90-9, and any other conflicting use identified through the Goal 5 process or Type 3 review. Screening may be natural or may consist of earthen berms or vegetation which is added to the site. If vegetation is added, it shall consist of alternating rows of conifer trees planted six (6) feet on center and a height of six (6) feet at the commencement of the operation. An exemption to the screening requirements may be granted when the operator demonstrates any of the following:
 - a) Supplied screening cannot obscure the operation due to local topography.
 - b) There is insufficient overburden to create berms, and planted vegetation will not survive due to soil, water, or climatic conditions.
 - c) The operation is temporary and will be removed, or the site will be reclaimed within 18 months of commencement.

- d) The owner of the property containing the use from which the operation must be screened, has signed and recorded a restrictive deed declaration acknowledging and accepting that the operation will be visible and that the operator will not be required to provide screening.
- 11) Existing trees and other natural vegetation adjacent to any public park, residential zoning district, or parcel on which a dwelling is situated will be preserved for a minimum width of 25 feet along the boundary of the property on which the operation is located.
- 12) Operations will observe the following hours of operation:
- a) Mining, processing, and hauling from the site are restricted to the hours of 6 a.m. to 7 p.m. Monday through Saturday. The hours of operation do not apply to hauling for public works projects.
 - b) Neither mining, processing, nor hauling from the site will take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
 - c) An exemption to the hours of operation may be requested. Notice of the proposed change in operating hours must be provided to all property owners within 1,000 feet radius of the aggregate removal or surface mining operation, to residences within one-half (½) mile of the site, and to owners of property adjacent to private site access roads. If no request for a public hearing is made within 12 calendar days of mailing said notice, the operating hours can be changed as requested by the operator. If a request is made for a public hearing, adjustment of standard operating hours shall be determined by the Hearings Officer, subject to findings that the proposal is consistent with the best interests of public health, safety, and welfare and that the operation will not conflict with other land uses.

B) Emergency Extraction

The County may permit the immediate initiation of a temporary aggregate operation if necessary to prevent potentially serious damage to property or threat to human life. The operation may be initiated only when affected state agencies have issued necessary permits and have attested to the urgency of the situation. If necessary, the County may adjust the operating standards as contained in Section 4.4.8(A) above. An aggregate operation approved under this Section shall cease once the threat to human life and property is no longer serious or imminent.

4.4.9 Land Divisions

The creation of a new parcel may be approved subject to Section 3.3 and the adoption of findings demonstrating compliance with the following standards:

- A) A division of land in the AR District shall be shown to be appropriate for and necessary to the safe and efficient extraction of material, or to be appropriate for reclamation of the site based on a specific proposed use.
- B) Except as provided in Section 6.3.8 with regard to destination resorts, the minimum size of a new parcel shall be 80 acres unless an exception has been taken to Goals 3 and/or 4.