

## **SECTION 3.010. EXCLUSIVE FARM USE, EFU ZONE**

A. Purpose. The purpose of the Exclusive Farm Use Zone is to preserve, protect and maintain agricultural lands for farm use, consistent with historical, existing and future needs, including economic needs, which pertain to the production of agricultural products. The EFU Zone is also intended to allow other uses that are compatible with agricultural activities, such as forest use, fish and wildlife habitat, and to maintain, improve, and utilize the quality of air, water and land resources of the county. It is also the purpose of the EFU Zone to qualify farms for farm use valuation under the provisions of Oregon Revised Statute (ORS) Chapter 308.

The EFU Zone has been applied to lands designated as Agriculture in the Comprehensive Plan (except for lands Zoned Space Age Industrial). The provisions of the EFU Zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and Oregon Administrative Rule (OAR) Chapter 660 Division 33. The minimum parcel size and other standards established by this Zone are intended to promote commercial agricultural operation.

B. Uses Permitted Outright, not subject to review. In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit.

1. Farm use, as defined in ORS 215.203, is allowed outright without Zoning Permit review except dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures over 100 square feet (e.g. barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit.
2. Propagation or harvesting of a forest product.
3. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
4. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
5. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
6. 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 land parcels result.

7. Climbing and passing lanes within the right of way existing as of July 1, 1987.
8. Creation of, restoration of, or enhancement of wetlands.
9. Firearms training facility in existence on September 9, 1995.
10. Parking of up to seven log trucks.
11. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.
12. Utility facility service lines subject to Subsection F.9.
13. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

C. Uses Permitted Outright. In the EFU zone, the following uses and activities and their accessory buildings and uses are permitted subject to Zoning Permit approval in accordance with MCZO Section 5.010. Unless otherwise required by MCZO 5.020, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).:

1. Agricultural buildings customarily provided in conjunction with farm use.
2. Fire service facilities providing rural fire protection services.
3. An expedited single-event agritourism or commercial event permit as described in subsection L(1) or L(2) of this Article.
4. Operations for the exploration for minerals as defined by ORS 517.750.
5. Alteration, restoration, or replacement of a lawfully established dwelling subject to Subsection F.18 and Section K.
6. A site for the takeoff and landing of model aircraft subject to Subsection F.12.

D. Uses Subject to Administrative Review. In the EFU Zone, the following uses and activities and their accessory buildings and uses may be permitted outright through the Site Plan Review process provided in MCZO 5.020, and subject to the provisions of this Section if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Notice and an opportunity to file an appeal must be provided in the manner described in ORS 215.416. These

uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

1. An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735(2).
2. A facility for the processing of farm crops, biofuel or poultry subject to Subsection F.1.
3. Dog training classes or testing trials subject to Subsection F.4.
4. Farm stands subject to Subsection F.5.
5. A winery subject to ORS 215.452-.456
6. A cider business as provided in ORS 215.451
7. Agri-tourism and other commercial events or activities subject to Section L of this Article.
8. Land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids subject to Subsection F.8.
9. Utility facilities necessary for public service, including associated transmission lines as defined in Article 1 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection F.10.
10. Churches, and cemeteries in conjunction with churches, subject to Subsection F.17. This use is not permitted on high-value farmland except that existing churches on high-value farmland may be expanded subject to Subsection F.19.
11. Dwelling customarily provided in conjunction with farm use subject to Subsection F.18 and Section G.
12. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to Subsections F.3, and F.18.
13. Accessory farm dwellings for year-round and seasonal farm workers subject to Subsection F.18 and Section H.
14. One single-family lot of record dwelling on a lawfully created lot or parcel subject to Subsection F.18 and Section I.

15. Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection F.18 and Section J.

16. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places subject to Subsection F.18.

17. Residential home as defined in ORS 197.660, in existing dwellings, subject to Subsection F.18.

18. Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection F.18.

19. Confined animal feeding operation, as defined by the Oregon Department of Agriculture, subject to Subsection F.20.

20. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

21. 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.

22. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

23. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

24. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

25. Alteration, restoration, or replacement of a lawfully established dwelling that has been destroyed, demolished, or improperly removed subject to Subsection F.18 and Subsection K.

E. Conditional Uses. The following uses are permitted subject to county review, any specific standards for the use set forth in Section F, Article 6, the general standards for the zone, and any other applicable standards and review process in the ordinance:

1. A facility for the primary processing of forest products subject to Subsection F.2.

2. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.

3. Temporary hardship dwelling subject to Subsection F.18 and Article 7.

4. Home occupations as provided in Article 6.
5. Commercial dog boarding kennels, as provided in Article 6, or dog training classes or testing trials that cannot be established under Subsection D.3.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection D.2, but excluding activities in conjunction with a marijuana crop, and subject to F.6.
8. Guest ranches subject to temporary provisions relating to guest ranches in ORS 215 and OAR 660-033-0120.
9. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
10. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
11. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
12. Processing of other mineral resources and other subsurface resources.
13. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities subject to Subsection F.7.
14. Utility and transmission towers over 200 feet in height.
15. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities subject to Subsection M.1.
16. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection M.2.
17. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection M.3.
18. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be expanded subject to Subsection F.19 and Article 6.

19. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 subject to Subsection F.11. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be expanded subject to Subsection F.19.

20. Living history museum and subject to Subsections F.13 and F.17.

21. Public parks and playgrounds subject to Subsections F.14 and F.17.

22. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

23. Operations for the extraction and bottling of water.

24. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to Subsection F.17. This use is not permitted on high value farmland except that existing schools on high value farmland may be expanded subject to F.19.

25. Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to Subsections F.15 and F.17. This use is not permitted on high value farmland except that existing private parks on high value farmland may be expanded subject to Subsection F.19.

26. Golf courses subject to Subsections F.16 and F.17. This use is not permitted on high value farmland as defined in ORS 195.300 except that existing golf courses on high-value farmland may be expanded subject to Subsection F.19.

27. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.

#### F. Use Standards

1. A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses as defined in Section 1.030 of this Ordinance. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.

3. To qualify for a relative farm help dwelling:

a. A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

b. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.

4. 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.

5. A farm stand may be approved if:

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

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

c. As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation or grown on the farm operation and other farm operations in the local agricultural area.

d. As used in this Subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

e. As used in this Section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

f. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

g. Farm Stand Development Standards

(1) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this Ordinance.

(2) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

(3) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.

(4) No farm stand building or parking is permitted within the right-of-way.

(5) Approval is required from County Public Works regarding adequate egress and access. All egress and access points shall be clearly marked.

(6) Vision clearance areas at street intersections must be clear of obstruction, consistent with the requirements in Article 4 of this Ordinance.

(7) All outdoor light fixtures shall be directed downward and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.

(8) Signs are permitted where consistent with the requirements of Article 4 of this Ordinance.

h. Permit approval is subject to compliance with the established sanitation requirements, the Department of Agriculture requirements, and the development standards of this zone.

6. Commercial activities in conjunction with farm use may be approved when:

a. The commercial activity is either exclusively or primarily a customer or supplier of farm products;



b. 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

c. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. Retail sales of products or services to the general public that take place on a parcel or tract that is different from the parcel or tract on which agricultural product is processed, such as a tasting room with no on-site winery, are not commercial activities in conjunction with farm use.

7. A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

8. Agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone is 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 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to the treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

9. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

a. A public right of way;

b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

c. The property to be served by the utility.

10. A utility facility that is necessary for public service.

a. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service.

(1) 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 an exclusive farm use zone due to one 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 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 nonresource 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) 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 Subsection (a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the 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 farmlands.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Article 6. 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.

(6) In addition to the provisions of Subsection F.10.a(1) through (4), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.

(7) The provisions of Subsection a do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

b. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (1) or Subsection (2) of this Subsection.

(1) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

(b) The associated transmission line is co-located with an existing transmission line;

(c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.

(2) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections F.10.b(3) and (4), two or more of the following criteria:

(a) Technical and engineering feasibility;

(b) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

(d) Public health and safety; or

(e) Other requirements of state or federal agencies.

(3) As pertains to Subsection (2), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

(4) The county may consider costs associated with any of the factors listed in Subsection (2), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

11. Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. 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. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection F.19.

a. Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:

- (1) Meets the requirements of OAR 340-096-0150;
- (2) Identifies the distance of the proposed operation to the nearest residential zone;
- (3) Includes a complaint response protocol;
- (4) Is submitted to the DEQ with the required permit application; and
- (5) May be subject to annual review by the county to determine if any revisions are necessary.

b. Compost operations subject to Section F.11.a include:

- (1) A new disposal site for composting that sells, or offers for sale, resulting product; or
- (2) An existing disposal site for composting that sells, or offers for sale, resulting product that:
- (3) Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
- (4) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

12. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

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

14. Public parks may include:

a. All outdoor recreation uses allowed under ORS 215.213 or 215.283.

b. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

(1) Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

(2) Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

(3) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

(4) Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

(5) Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

(6) Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

(7) Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

(8) Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

c. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

(1) Meeting halls not exceeding 2000 square feet of floor area;

(2) Dining halls (not restaurants).

15. Private Campgrounds are subject to the following:

a. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. 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. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

b. 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 by Subsection c.

c. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

16. Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

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

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

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

17. Three-mile setback. For uses subject to Subsection 17:

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

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

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

18. Single-family dwelling deeds. The landowner shall 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.

19. Expansion standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection F.16 and Article 6.

20. Confined animal feeding operations. A confined animal feeding operation may exist within a farm use zone if:

a. A Land Use Compatibility Statement must be issued for the site.

b. A new large confined animal feeding operation, as defined by the Oregon Department of Agriculture, is to include a setback or buffer, composed of a natural or created vegetative barrier, berm or terrain, if the parcel of land on which the new large confined animal feeding operation would be located is adjacent to a parcel on which:

(1) A residential structure is lawfully sited; or

(2) A structure that was lawfully sited when constructed, but no longer conforms with or is allowed under new or changed land use requirements, is sited.

#### G. Dwellings Customarily Provided in Conjunction with Farm Use

1. Large Tract Standards. On land not identified as high-value farmland as defined in Article 1, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The parcel on which the dwelling will be located is at least

(1) 160 acres and not designated rangeland; or;

(2) 320 acres and designated rangeland

b. The subject tract is currently employed for farm use.

c. 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.



d. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.

2. Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

(1) At least \$40,000 in gross annual income from the sale of farm products; or

(2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

c. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection a; and

d. In determining the gross income required by Subsection a:

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(2) Only gross income from land owned, not leased or rented, shall be counted; and

(3) Gross farm income 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.

3. Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use 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 that grossed the income in Subsection a;

d. In determining the gross income required by Subsection a:

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(2) Only gross income from land owned, not leased or rented, shall be counted; and

(3) Gross farm income 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.

#### 4. Farm Capability Standards.

a. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(1) 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;

(2) 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 (1);

(3) The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection (1);

(4) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres;

(5) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

(6) 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

(7) 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 (3).

(8) In determining the gross sales capability required by Subsection (3):

(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 (1), 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).

#### 5. Additional Farm Income Standards.

a. For the purpose of Subsections 2 or 3, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

b. Prior to the final approval for a dwelling authorized by Subsections 2 and 3 that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the county clerk the covenants, conditions, and restrictions form provided by the county (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

(1) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

(2) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

c. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

#### 6. Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Subsections 2 or 3 above, subject to the following requirements:

a. The subject tract will be employed as a commercial dairy as defined in Subsection g;

- b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
- c. Except for seasonal farmworker housing 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; and
- f. The Oregon Department of Agriculture has approved the following:
  - (1) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (2) A Producer License for the sale of dairy products under ORS 621.072.
- g. As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections 2 or 3, whichever is applicable, from the sale of fluid milk.

7. Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:

- a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection 2 or 3, whichever is applicable;
- b. The subject lot or parcel on which the dwelling will be located is:
  - (1) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection 2 or 3, whichever is applicable; and
  - (2) At least the size of the applicable minimum lot size under Section N;
- c. Except for seasonal farmworker housing 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 produced the commodities that grossed the income in Subsection a; and
- e. In determining the gross income required by Subsection a and Subsection b:

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(2) Only gross income from land owned, not leased or rented, shall be counted.

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 a primary farm dwelling.

#### H. Accessory Farm Dwellings

1. Accessory farm dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

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

b. The accessory farm dwelling will be located:

(1) On the same lot or parcel as the primary farm dwelling;

(2) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

(3) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

(4) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

(5) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

2. In addition to the requirements in Subsection 1, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

(1) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

c. It is located on a commercial dairy farm as defined in Section 1.030; and

(1) 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;

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

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

3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in Subsection N.1.

4. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection D.15.

5. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

6. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.

7. No accessory farm dwelling unit may 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.

#### I. Lot of Record Dwellings

1. A lot of record dwelling may be approved on a pre-existing lot or parcel if:

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Subsection 5:

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

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

b. The tract on which the dwelling will be sited does not include a dwelling;

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

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

e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in Subsections 3 and 4; and

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

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

3. Notwithstanding the requirements of Subsection I.1.e, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of Subsections 1 and 2;

b. The lot or parcel is protected as high-value farmland as defined in Section 1.030;

c. The Planning Director determines that:

(1) 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.

(a) For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use.

(b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.

(c) 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;

(2) The dwelling will comply with the provisions of Article 6; and

(3) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Subsection J.1.

4. Notwithstanding the requirements of Subsection I.1.e, a single-family dwelling may be sited on high-value farmland if:



a. It meets the other requirements of Subsections 1 and 2;

b. The tract on which the dwelling will be sited is:

(1) Not high-value farmland defined in Section 1.030; and

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

c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

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

e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. 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:

(1) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(2) "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.

5. For purposes of Subsection 1, "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;

6. The county assessor shall be notified that the governing body intends to allow the dwelling.

7. An approved single-family dwelling under this Section 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.

8. The county shall provide notice of all applications for lot of record dwellings on high value farmland 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.

#### J. Dwellings Not in Conjunction with Farm Use

Non-farm dwelling. A non-farm dwelling is subject to the following requirements:

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. Non-farm dwelling suitability standards.

a. The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

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 parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then 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-VI 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; or

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 a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in (a) through (c) below. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in (a) through (c) below;

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 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsection I.1 and Section J, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4) ORS 215.263(5), and ORS 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this Subsection; and

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

4. If a single-family dwelling is established on a lot or parcel as set forth in Subsection D.15, no additional dwelling may later be sited under the provisions of this Section.

5. Conversion of an existing farm related dwelling to a non-farm dwelling. An existing farm related dwelling converted to a farmer retirement dwelling or a non-farm dwelling shall be subject to the following criteria:

- a. Meets the non-farm dwelling criteria in this section except Subsection J(2).
- b. The provisions of Subsection N are applicable if a non-farm parcel will be created for the non-farm dwelling.

#### K. Alteration, Restoration or Replacement of a Lawfully-established Dwelling

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:

a. The dwelling to be altered, restored or replaced has, or formerly had:

(1) Intact exterior walls and roof structure;

(2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) Interior wiring for interior lights;

(4) A heating system; and

(5) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

b. Notwithstanding Subsection K.1.a(5), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

(1) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

(2) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

2. For replacement of a lawfully established dwelling under Subsection C.5:

a. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

(1) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

(2) 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

(3) 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.

c. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

3. A 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. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

a. The siting standards of Subsection b apply when a dwelling qualifies for replacement because the dwelling:

- (1) Formerly had the features described in Subsection K.1.a;
- (2) Was removed from the tax roll as described in Subsection K.1.b; or
- (3) Had a permit that expired as described under Subsection K.4.c.

b. The replacement dwelling must be sited on the same lot or parcel:

- (1) 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
- (2) 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.

c. Replacement dwellings that currently have the features described in Subsection K.1.a and that have been on the tax roll as described in Subsection K.1.b may be sited on any part of the same lot or parcel.

4. A replacement dwelling permit that is issued under D.25:

a. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

- (1) Formerly had the features described in Subsection K.1.a; or
- (2) Was removed from the tax roll as described in Subsection K.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:

- (1) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
- (2) 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.

#### L. Agri-tourism and Other Commercial Events

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

1. A single agri-tourism or other commercial event or activity on a tract in a calendar year 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 Subsection 6.025(A);
- 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 for:

(1) Planned hours of operation do not extend before 7 a.m. or after 11 p.m.

(2) Adequate off-street parking will be provided pursuant to the requirements in Article 4 of this ordinance.

(3) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

(4) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.

(5) No parking is permitted within the right-of-way.

(6) Approval is required from County Public Works regarding adequate egress and access. All egress and access points shall be clearly marked.

(7) Vision clearance areas at street intersections must be clear of obstruction, consistent with the requirements in Article 4 of this Ordinance.

(8) Permit approval is subject to compliance with the established sanitation requirements, the Department of Agriculture requirements, and the development standards of this zone.

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 7 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; and
- g. Must comply with applicable health and fire and life safety requirements.

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 Subsection 6.025(A);



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; and

f. Must comply with conditions established for:

(1) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(2) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(3) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(4) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(5) Sanitation and solid waste

(6) Must comply with the requirements of L.8.

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, 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 to 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 to 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 L.3.c, d, e, and 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.
5. A holder of a permit authorized by a county under Subsection 4 must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
- a. Provide public notice and an opportunity for public comment as part of the review process; and
  - b. 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 Subsection 4.
6. Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.
7. The authorizations provided by Subsection 3 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 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:
    - (1) 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, 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.
    - (2) 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;
    - (3) 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.

(1) The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.

(2) No more than two agri-tourism or commercial events or activities may occur in one month.

(3) The maximum number of people shall not exceed 500 per calendar day.

(4) 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 April 1 of the subject calendar year or within 30 days of new or renewed permits to County Planning Department.

(b) The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the Department at least 10 days prior to any change in the date of approved dates.

(c) The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.

(5) Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 11:00 p.m.

(6) Overnight camping is prohibited.

(7) Noise Control. Agri-tourism activities shall comply with the Morrow County Code Enforcement Ordinance.

(8) Transportation Management

(a) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

(b) Driveways extending from paved roads shall have a paved apron, requiring review and approval by Morrow Public Works.

(c) The parcel, lot or tract must have direct access from a public road or is accessed by an access easement or private road, whereby all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.

(d) Adequate traffic control must be provided by the property owner and must include one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

(e) Adequate off-street parking will be provided pursuant to provisions of Article 4 of this Ordinance.

(9) Health and Safety Compliance

(a) Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.

(b) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of Building Official and any other applicable federal, state and local laws.

(c) Compliance with the requirements of the Building Official shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.

M. Commercial Facilities for Generating Power

1. Commercial Power Generating Facility.

a. Permanent features of a power generation facility shall not preclude more than:

(1) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or

(2) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(3) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

b. A power generation facility must submit a plan for dismantling of uncompleted construction and/or decommissioning and/or re-powering of the Power Generation Facility.

(1) Restoration of the site shall consist of the following:

(a) Dismantle all related aboveground equipment.

(b) Remove underground collection and communication cables, unless said equipment is at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard and do not interfere with agricultural use or other resource uses of the land.

(c) Gravel shall be removed.

(d) Private access road areas shall be restored by removing gravel and restoring the surface grade and soil, unless the landowner directs otherwise.

Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the land owner is submitted to Morrow County indicating said landowner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.

## 2. Wind Power Generation Facility.

a. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

(1) Temporary workforce housing described in Subsection L.2.a 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.

(2) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

b. 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:

(1) 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:

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

(c) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection (2);

(2) 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;

(3) Costs associated with any of the factors listed in Subsection (1) 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;

(4) The owner of a wind power generation facility approved under Subsection b 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

(5) The criteria of Subsection c are satisfied.

c. 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:

(1) 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;

(2) 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;

(3) 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

(4) 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.

d. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection M.2.c(4) are satisfied.

e. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections c and d, the approval criteria of Subsection c shall apply to the entire project.

3. Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

a. "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

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

c. "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

d. "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.

e. "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.

f. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4 or the requirements of paragraph (7) are met. The governing body or its designate must find that:



(1) 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;

(2) 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 and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(3) 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;

(4) 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;

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

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

(b) 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

(c) 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

(6) 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:

(a) 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.

(b) When at least 48 acres of photovoltaic solar power generation 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 energy 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 energy 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 will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(7) A photovoltaic solar generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(a) Is not located within the boundaries of an irrigation district;

(b) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(c) Is located within the service area of an electric utility described in ORS 469A.052(2);

(d) 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

(e) Does not qualify as high-value farmland under any other provision of law.

g. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

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

(a) Nonarable soils are not available on the subject tract;

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

(c) 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;

(2) 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;

(3) 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:

(a) 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.

(b) When at least 80 acres of photovoltaic solar power generation 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 energy 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 energy 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

(4) The requirements of Subsections M.3.f(1), (2), (3), and (4) are satisfied.

h. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

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

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

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

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

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

(4) The requirements of Subsection M.3.f(4) are satisfied, and;

(5) 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.

i. 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).

j. 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.

#### N. Land Divisions

1. Minimum Parcel Size. The minimum size for creation of a new parcel shall be 160 acres.

2. A division of land to accommodate certain uses permitted by Sections B, C, D and E, except a residential use, smaller than 160 acres, may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use as allowed in ORS 215.263.

3. A division of land to create up to two new parcels smaller than the minimum size established under Subsection 1, each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

- a. The nonfarm dwellings have been approved under Subsection J;
  - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
  - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection 1; and
  - d. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection 1.
4. A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:
- a. The nonfarm dwellings have been approved under Subsection J;
  - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
  - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection 1 but equal to or larger than 40 acres;
  - d. The parcels for the nonfarm dwellings are:
    - (1) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and
    - (2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and
  - e. The parcels for the nonfarm dwellings do not have established water rights for irrigation.
5. 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.
6. 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.

7. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in D.12, E.3, or E.4 from the lot or parcel on which the primary residential use exists.

8. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section D.2.

9. A division of land may be permitted to create a parcel with an existing dwelling to be used:

- a. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section H; and
- b. For historic property that meets the requirements of Section D.16.

10. Notwithstanding the minimum lot or parcel size described in Subsection 1,

a. A division of land may be approved provided:

(1) The land division is 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 of the resulting parcels; and

(2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

b. A parcel created pursuant to this Subsection that does not contain a dwelling:

(1) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(2) May not be considered in approving or denying an application for siting any other dwelling;

(3) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(4) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or 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.

11. A division of land smaller than the minimum lot or parcel size in Subsection 1 may be approved provided:

- a. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
- b. The church has been approved under Subsection D.10;
- c. The newly created lot or parcel is not larger than five acres; and
- d. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 1 either by itself or after it is consolidated with another lot or parcel.

12. Notwithstanding the minimum lot or parcel size described Subsection 1, a division for nonfarm uses other than nonfarm dwellings, may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

13. The governing body of a county may not approve a division of land for nonfarm use under Subsection 2, 3, 4, 9, 10, 11, or 12 unless any additional tax imposed for the change in use has been paid.

14. Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

15. 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:

- a. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.
- b. If the parcel does not contain a dwelling, it:
  - (1) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;
  - (2) May not be considered in approving or denying an application for any other dwelling; and
  - (3) 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 use.

O. Yards. In an EFU Zone, the minimum yard setback requirements shall be as follows:

- 1. The front yard setback from the property line shall be 20 feet for property fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the County.

2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet.

3. Rear yards shall be a minimum of 25 feet.

4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

P. Transportation Impacts

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all projects generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)