**Section 301 - Exclusive Farm Use Zones (EFU A-1, EFU A-2 and RL)**

# 301.1 Purpose

**This Section sets forth regulations for land use and development within the County’s three exclusive farm use zones: Exclusive Farm Use A-1 (EFU A-1), Exclusive Farm Use A-2 (EFU A-2) and Range Land (RL).**

## **A. The EFU A-1 zone has been established to preserve areas containing predominantly irrigated agricultural soils for existing and future farm uses related to the production of agricultural crops or products.**

## **B. The EFU A-2 Zone has been established to recognize and preserve areas of agricultural land which are less productive than lands in the EFU A-1 zone due to soil class and lack of irrigation water.**

## **C. The RL zone has been established to recognize and preserve areas containing predominantly non-irrigated agricultural soils which are being used, or have the capability of being used, for livestock grazing.**

## **D. All three agricultural zones recognize the right to farm for all land owners within the zone, and provide regulations that are reasonable and prudent in order to protect the performance of typical farm use practices, growing various farm crops, conducting animal husbandry, and producing horticultural or other farm related products for the purpose of obtaining a profitable income for the property owner.**

# 301.2 Permitted Uses

The following uses are permitted outright in the EFU A-1, EFU A-2 and RL zones:

## A. Farm use, as defined in Section 105 and ORS 215.203, **except Marijuana production, Marijuana processing, and Marijuana research which are subject to Administrative Review.**

## B. Agricultural buildings customarily provided in conjunction with farm use.

## C. Farm Stand, except for any marijuana retailing or promotion of marijuana use or business, provided:

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

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

### 3. 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; “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; “local agricultural area” includes Oregon.

### *4. Farm Stand Development Standards*

#### *a. Adequate off-street parking will be provided pursuant to provisions of the Section 423.*

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

#### *c. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.*

#### *d. No farm stand building or parking is permitted within the right-of-way.*

#### *e. Approval is required from the County Public Road Department regarding adequate egress and access. All egress and access points shall be clearly marked.*

#### *f. Vision clearance areas in conformance with Section 403 – Clear Vision Areas.*

#### *g. 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.*

#### *h. Signs are permitted consistent with Section 406 – Sign Regulations*

### *5. Permit approval is subject to compliance with the Section 409 – Sewage Disposal or Department of Agriculture requirements and with the development standards of this zone.*

## **D. The transportation of biosolids by vehicle to a tract on which the biosolids will be applied to the land, under a license, permit or approval issued by the DEQ under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055 or in compliance with rules adopted under ORS 468.095.**

## E. Propagation or harvesting of a forest product.

## F. Creation, restoration or enhancement of wetlands.

## H. 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.

## I. Operations for the exploration for minerals as defined by ORS 517.750. **Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).**

## J. Fire service facilities for rural fire protection.

## K. 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.

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

### 1. A public right-of-way;

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

### 3. The property to be served by the utility.

## M. On-site filming and accessory activities for 45 days or less as provided in ORS 215.306. **The use is permitted, provided activities will involve no more than 45 days on any site within a one year period and will not involve erection of sets that would remain in place for longer than any 45-day period.**

### **1. The use includes:**

#### **a. Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for onsite filming;**

#### **b. Production of advertisements, documentaries, feature film, television services, and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.**

### **2. The use does not include:**

#### **a. Facilities for marketing, editing, and other such activities that are allowed only as a home occupation; or**

#### **b. Construction of new structures that requires a building permit.**

## N. A site for the takeoff and landing of model aircraft**, including such buildings or facilities as are reasonably necessary.** Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility existed prior to establishment of the takeoff and landing site. The site shall not include an aggregate surface or hard surface area unless the surface existed prior to establishment of the takeoff and landing site. 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, balloon, **or drone** that is used or intended to be used for flight and controlled by radio, lines, or design by a person on the ground.

## **O. Personal exempt wind energy facilities.**

## P. Climbing and passing lanes within the right-of-way existing as of July 1, 1987

## Q. 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 building would occur, or no new land parcels result.

## R. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

## S. 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.

## T. 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 and subject to Section 422.6.

## U. Dog training classes or testing trials. Dog training classes or testing trials must be conducted outdoors, or in farm buildings that existed on January 1, 2013. Dog training classes or testing trials are limited as follows:

### 1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be hold on-site does not exceed six per day; and

### 2. 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.

# 301.3 Uses Permitted Subject to Administrative Review

**The following uses may be approved by the Planning Director under the Administrative Review procedures in Section 903.4, subject to findings of compliance with the listed standards and criteria and any other applicable requirements of this ordinance:**

## *A. A facility for the primary processing of forest products.*The primary processing of a forest product means the use of a portable chipper, stud mill, or other similar methods of initial treatment of a forest product in order to enable its shipment to market.Approval is subject to compliance with Section 301.5 and the following:

### **1. The timber being processed shall be grown on the parcel where the processing facility is located or on contiguous land.**

### 2. The facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 105.

### 3. The facility must be intended to be only portable or temporary in nature.

### 4. The facility may be approved for a one-year period, which is renewable.

## B. Parking no more than seven log trucks, subject to compliance with Section 301.5.

## *C. Commercial activity in conjunction with farm use, except those activities related to marijuana, including the processing of farm crops into biofuel not otherwise permitted as a farm use as defined in Section 105 or as a facility for processing farm crops or the production of biofuel under Section 301.2(S).*Approval is subject to compliance with Section 301.5.A commercial activity is considered in conjunction with a farm use when any of the following criteria are met:

### *1. The commercial activity is either exclusively or primarily a customer or supplier of farm uses;*

### *2. The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or*

### *3. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. 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.*

## D. Winery subject to ORS215.452 and 215.453.

## E. 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, for agricultural, horticultural or silvicultural production, or for irrigation, The use is subject to the issuance of a license, permit or other approval by the DEQ 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. Onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities 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.

## F.*Operations for the extraction and bottling of water* **from a natural water source on the parcel where the operation will occur.** Approval is subject to compliance with Section 301.5.

## G. Home occupation, subject to compliance with Sections 301.5, 410 and the following:

### 1. The home occupation shall be operated by a resident or employee of a resident of the property on which the business is located.

### 2. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

### 3. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established pursuant to Section 301.3(D) and is operated in association with the winery:

#### i. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

#### ii. The meals may be served at the bed and breakfast facility or at the winery.

### 4. All off-street parking must be provided on the subject parcel where the home occupation is operated.

#### i. Employees must use an approved off-street parking area.

#### ii. Customers visiting the home occupation must use an approved off-street parking area. No more than 5 vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

### 5. One sign, consistent with Section 406 – Sign Regulations.

### 6. Prohibited Home Occupations

#### i. Retail sale of a product on the premises.

#### ii. Auto or vehicle oriented activities (repair, painting, detailing, wrecking, transportation services, or similar activities).

## *H. Commercial dog boarding kennel or training classes or testing trials that cannot be established under Subsection 301.2(V).*New dog kennels are not permitted on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Approval is subject to compliance with Section 301.5 **and findings that the kennel will have a minimal adverse impact on abutting properties and the surrounding area.**

## **I.** *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 the following:*

### 1. New schools are not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.

### 2. Public or private schools and school facilities with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall not be approved 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. Any enclosed structures or group structures within a tract must be separated by at least one-half mile. For the purposes of this subsection, “tract” means a tract that is in existence as of June 17, 2010. 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.

### **3. For the purposes of this Section, “public and private schools” means schools providing elementary and secondary education only, and does not include adult career education, colleges or universities.**

### 4. Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:

#### (i) The Conditional Use Review Criteria in Section 301.5 are met; and

#### (ii) The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.

## J. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, subject to the following:

### 1. The use is not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.

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

## K.*Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.*Approval is subject to compliance with Section 301.5 and the following:

### 1. A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

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

## L. Firearms training facility in existence on September 9, 1995. **The facility may continue operating until such time as the facility is no longer used as a firearms training facility. A “firearms training facility” is an indoor or outdoor facility that provides training courses and issues certifications required:**

### **1. For law enforcement personnel;**

### **2. By the State Department of Fish and Wildlife; or**

### **3. By nationally recognized programs that promote shooting matches, target shooting and safety.**

## *M. Living history museum***.** Approval is subject to compliance with Section 301.5 and the following:

### 1. 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 are 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 Board of Commissioners and organized under ORS Chapter 65.

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

### 3. “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.

## N. On-site filming and accessory activities for more than 45 days. Approval is subject to compliance with Section 301.5 and the following:

### 1. ORS 215.306

## *O. A landscaping 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.* Approval is subject to compliance with Section 301.5.

## P.*A residential home or facility as defined in ORS 197.660 may be allowed in an existing lawfully established dwelling***,** subject to compliance with Section 301.5**.** A condition of approval shall require that the landowner 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.

## Q. Utility facilities necessary for public service, including associated transmission lines as defined in Section 105 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. **Approval of a wireless communication tower is also subject to the requirements of Section 427.** Approval is subject to the following:

### 1. A utility facility is necessary for public service if the facility must be sited in the EFU A-1, EFU A-2 or RL zone in order to provide the service.

#### a. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in the EFU A-1, EFU A-2 or RL zone due to one or more of the following factors:

##### i. Technical and engineering feasibility;

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

##### iii. Lack of available urban and non-resource lands;

##### iv. Availability of existing rights-of-way;

##### v. Public health and safety; and

##### vi. Other requirements of state and federal agencies.

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

#### c. The owner of a utility facility approved under this Section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this 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.

#### d. The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding agricultural lands.

#### e. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section 301.5. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

#### f. In addition to the provisions of subsections (a) to (d) above, the establishment or extension of a sewer system as defined by OAR 660-011- 0060(1)(f) shall be subject to the provisions of OAR 660-011-0060.

#### e. The provisions of this Section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

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

#### a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

##### i. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

##### ii. The associated transmission line is co-located with an existing transmission line;

##### iii. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

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

#### b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections (c) and (d), two or more of the following criteria:

##### i. Technical and engineering feasibility;

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

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

##### iv. Public health and safety; or

##### v. Other requirements of state or federal agencies.

#### c. As pertains to Subsection (b), 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.

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

## **R. Small Wind Energy Systems subject to compliance with section 431 of this Ordinance.**

## S.Facility for processing farm crops, biofuel, or poultry, **including marijuana production.** The farm on which the 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.

## **T. Marijuana production**

## **U. Marijuana processing**

## **V. Marijuana research**

## W. An extended outdoor mass gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period, subject to the provisions of Section 422.6

# 301.4 Conditional Uses

**The following uses may be approved in the EFU A-1, EFU A-2 and RL zones unless specifically stated otherwise. Applications will be reviewed at a public hearing before the Planning Commission in accordance with the procedures in Section 903.5. In order to be approved, the use must comply with the criteria in Section 301.5, Section 602, any standards and criteria listed under the specific use and any other applicable requirements of this ordinance.**

## *A. Propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species.* Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The County shall provide notice of all applications under this Section to the State Department of Agriculture at least 20 calendar days prior to any administrative decision on the application.

## *B. Public parks and playgrounds.* **The use is not allowed on any portion of a parcel that is high-value farmland unless an exception to applicable statewide planning goals is approved, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract.**

### 1. A public park may be established consistent with the provisions of ORS 195.120, and may include only the uses specified under OAR 660-034-0035 or 660-034-0040.

### 2. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34. Any enclosed structures or group of enclosed structures described in this section within a tract must be separated by at least one-half mile. For purposes of this section, “tract” means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

## *C. Private parks, playgrounds and hunting and fishing preserves.*The use is not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Approval of a private park, playground, or hunting and fishing preserves is subject to the following:

### 1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34. Any enclosed structures or group of enclosed structures described in this section within a tract must be separated by at least one-half mile. For purposes of this section, “tract” means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

## *D. Private Campground.*Private campgrounds are not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Approval of a campground is subject to the following:

### 1. 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.

### 2. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

### **3. The campground shall provide opportunities for outdoor recreation that are compatible with the natural setting of the area. Outdoor recreation activities include fishing, swimming, boating, hiking, bicycling, horseback riding, and other similar activities. Outdoor recreation, as used in this Section, does not include off-road vehicle or other motorized recreation use.**

### 4. A campground shall be designed and integrated into the rural agriculture and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized in this zone shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

### 5. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (6) below. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.

### 6. 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.

### 7. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34. Any enclosed structures or group of enclosed structures described in this section within a tract must be separated by at least one-half mile. For purposes of this section, “tract” means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

## *E. Golf course.*New golf courses are not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Expansion of an existing golf course shall comply with all of the requirements of this section**, but shall not be expanded to contain more than 36 total holes.**

“Golf course” means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A golf course for the purposes of this section means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

### 1. A regulation 18-hole golf course is generally characterized by a site of approximately 120 to 150 acres of land, with a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.

### 2. A regulation 9-hole golf course is generally characterized by a site of approximately 65 to 90 acres of land, with a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.

### 3. Non-regulation golf courses are not allowed. “Non-regulation golf course” means a golf course or golf course-like development that does not meet the definition of golf course in sections (1) and (2) above, including but not limited to executive golf courses, Par three (3) golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges.

### 4. Accessory uses provided as a part of a golf course shall be limited to those uses consistent with all of the following:

#### a. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods and services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms, lockers and showers; food and beverage service; pro shop; a practice or beginners’ course as part of an 18-hole or larger golf course; 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 play golf. An accessory use that provides commercial service (e.g., food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

#### 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.

## *F. Guest ranch.*“Guest ranch” means a facility for overnight guest lodging units, including passive recreational activities and food services as set forth in this section, that are incidental and accessory to an existing livestock operation that qualifies as a farm use under ORS 215.203.“Guest lodging unit” means guest rooms in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence. **An application for a guest ranch must be submitted before January 2, 2010 when Chapter 728, Oregon Laws 1997 is repealed, unless that law is extended. Approval of a guest ranch is subject to the following:**

### **1. The guest ranch shall be in conjunction with an existing and continuing livestock operation, using accepted livestock practices.** “Livestock” means cattle, sheep, horses and bison.

### 2. The guest ranch must be located on a lawfully established unit of land that:

#### a. Is at least 160 acres;

#### b. Contains the dwelling of the individual conducting the livestock operation; and

#### c. Is not high-value farmland.

### 3. The guest lodging units cumulatively shall include not less than 4 nor more than 10 overnight guest lodging units, and shall not exceed a total of 12,000 square feet of building floor area excluding the kitchen area, restrooms, storage and other shared indoor space. However, for each doubling of the initial 160 acres required under subsection (2), up to 5 additional overnight guest lodging units not exceeding a total of 6,000 square feet of building floor area may be added to the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of building floor area.

### 4. The guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation’s natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming.Intensively developed recreational facilities, such as golf courses, shall not be allowed.A campground as described in Section (D) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course under Section (E) or with an existing campground.

### 5. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.

### 6. A proposed division of land for a guest ranch, or to separate a guest ranch from the dwelling of the person conducting the livestock operation, shall not be approved.

### 7. A guest ranch may be established unless the proposed site of the guest ranch is within the boundaries of or surrounded by:

#### a. A federally designated wilderness area or a wilderness study area;

#### b. A federally designated wildlife refuge;

#### c. A federally designated area of critical environmental concern; or

#### d. An area established by an Act of Congress for the protection of scenic or ecological resources.

## *G. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.*“Personal use airport” means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Dept. of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975 shall continue to be permitted subject to any applicable rules of the Oregon Dept. of Aviation.

## *H. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power generation facilities or photovoltaic solar power generation facilities.*

### 1. A power generation facility shall not preclude more than 20 acres from farm use as a commercial agricultural enterprise on land other than high-value farmland or more than 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 660, Division 4.

### 2. A power generation facility 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 Section 301.5. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

## *I. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to the following:*

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

#### a. 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.

#### b. 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.

### 1. For high-value farmland soils described at ORS 195.300(10), the County must find that all of the following are satisfied:

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

##### i. Technical and engineering feasibility;

##### ii. Availability of existing rights of way; and

##### iii. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Section 301.4(I)(1)(b).

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

#### c. Costs associated with any of the factors listed in Section 301.4(I)(1)(a) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.

#### d. The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

#### e. The criteria of Section 301.4(I)(2) are satisfied.

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

#### a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and

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

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

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

### 3. For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of Section 301.4(I)(2) dare satisfied.

### 4. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Section 301.4(l)(2) and (3) the approval criteria of 301.4(l)(2) shall apply to the entire project.

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

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

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

### 3. “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

### 4. “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.

### 5. “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.

### 6. 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. The governing body or its designate must find that:

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

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

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

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

#### e. The project is not located on high-value farmland soils unless it can be demonstrated that:

##### i. Non high-value farmland soils are not available on the subject tract;

##### ii. Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or

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

#### f. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

##### i. If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

##### ii. When at least 48 acres of photovoltaic solar power generation 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. 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:

#### a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

##### i. Nonarable soils are not available on the subject tract;

##### ii. Siting the project on nonarable soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or

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

#### b. 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;

#### c. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

##### i. If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

##### ii. When at least 80 acres of photovoltaic solar power generation 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

#### d. The requirements of Subsections 301.4(J)(6)(a) through (d) are satisfied.

### 8. 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:

#### a. The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

##### i. Siting the project on nonarable soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or

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

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

#### c. 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;

#### d. The requirements of Subsection 301.4(J)(6)(d) are satisfied;

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

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

#### g. The provisions of Subsection 301.4(J)(8)(f) are repealed on January 1, 2022.

### 9. 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).

### 10. 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.

## *K. Transmission towers over 200 feet in height.* **Approval is subject to compliance with Section 427.**

## *L. 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 allowed by Section 301.2(H).* **Approval is subject to compliance with Section 411.**

## *M. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and subsurface resources.* **Aggregate sites that have been reviewed under the procedures in OAR 660-023-0180(3) and (5) are not subject to compliance with the criteria in Sections 301.5 and 602. Approval of all operations under this section are subject to compliance with Section 411 and the following:**

### 1. County approval is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area more than one acre.

### 2. A permit for mining may be approved only for a site included in the Comprehensive Plan Inventory of significant Mineral and Aggregate Resources.

### **3. No part of the operation may occur on any portion of the parcel that is high-value farmland.**

## *N. Operations conducted for processing of aggregate into asphalt or Portland cement.* **Approval is subject to compliance with Section 411 and the following:**

### 1. The use is not allowed within two miles of a planted vineyard. “Planted vineyard” means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

### **2. No part of the operation may occur on any portion of the parcel that is high-value farmland.**

## *O. Operations conducted for processing of other mineral and subsurface resources,* **subject to compliance with Section 411. No part of the operation may occur on any portion of the parcel that is high-value farmland.**

## *P. Composting facilities for which a permit has been granted by the DEQ under ORS 459.245 and OAR 304-093-0050 and 340-086-0020.*Composting facilities are not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. **Except for those composting facilities that are a farm use as defined in OAR 660-033-0020(7), composting facilities on land not defined as high value farmland shall be limited to the composting operations and facilities defined by the Environmental Quality Commission under OAR 340-096-0024(1), (2), or (3).** Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

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

#### *a. Meets the requirements of OAR 340-096-0150;*

#### *b. Identifies the distance of the proposed operation to the nearest residential zone;*

#### *c. Includes a complaint response protocol;*

#### *d. Is submitted to the DEQ with the required permit application; and*

#### *e. May be subject to annual review by the county to determine if any revisions are necessary.*

### *2. Compost operations subject to this Section include:*

#### *a. A new disposal site for composting that sells, or offers for sale, resulting product; or*

#### *b. An existing disposal site for composting that sells, or offers for sale, resulting product that:*

#### *c. Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or*

#### *d. Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.*

## *Q. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the DEQ together with equipment, facilities or building necessary for its operation.* The use is not allowed on high-value farmland, but existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. **The Planning Commission shall make a recommendation to the Board of Commissioners as to whether the conditional use permit should be approved. The Board of Commissioners shall make the final decision on whether to approve the permit after holding a public hearing in accordance with the procedures in Section 903.6.** *In addition, the use is subject to the following:*

### 1. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.

### 2. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.

### 3. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided.

### 4. The facility does not constitute an unnecessary fire hazard. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:

#### a. The area surrounding the facility is kept free from litter and debris.

#### b. Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.

#### c. If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within 30 feet of structures.

### 5. The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.

### 6. Access roads or easements for the facility shall be improved to the county’s Transportation System Plan standards and comply with grades recommended by the Public Works Director.

### 7. Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.

### 8. Hours of operation for the facility shall be limited to 8 am – 7 pm.

### 9. Comply with other conditions deemed necessary.

## *R. A destination resort* **on property identified as destination resort-eligible by the County Comprehensive Plan subject to the standards in section 430 of this ordinance.** Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.

## **S. Uses Not Permitted:**

### **1. Marijuana wholesale**

### **2. Marijuana retail**

### **3. Marijuana lab testing**

## *T. Agri-tourism and other commercial events or activities subject to ORS 215.283(4)*

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

## V. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.

# 301.5 Approval Criteria

**Uses listed in Section 301.4 and specified uses in Section 301.3 may be approved only where the use:**

## A. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

## B. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

## *C. The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:*

### *1. The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*

### *2. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;*

### *3. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;*

### *4. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and*

### *5. The use is or can be made compatible with existing uses and other allowable uses in the area.*

**The applicant may demonstrate that these criteria will be satisfied through the imposition of conditions. Any conditions so imposed must be clear and objective.**

# 301.6 Dwellings

**A dwelling may be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the listed standards and criteria and any other applicable requirements of this ordinance. The County Assessor will be notified when a dwelling is approved.** A condition of approval will require that the landowner 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.

**Marijuana production shall not be used to demonstrate compliance with the approval criteria for a dwelling, including “Large Tract”, “Income Test”, “Median Test”, “Relocated Farm Operation”, “Commercial Dairy”, “Accessory Farm Dwelling for a Relative, or “Accessory Farm” Dwellings.**

## A. “Large Tract” Farm Dwelling

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

### 1. The parcel on which the dwelling will be located is at least 160 acres if in the EFU A-1 or EFU A-2 zone or 320 acres if in the Range Land zone;

### 2. The subject tract is currently employed for farm use, as defined in Section 105;

### 3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

### 4. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on the subject tract.

## B. “Income Test” Farm Dwelling

A dwelling may be considered customarily provided in conjunction with farm use if:

### 1. The subject tract is currently employed for the farm use, as defined in Section 105, at a level that produced in the last two years or three of the last five years, or in an average of three of the last five years, one of the following:

#### a. On land not identified as high-value farmland,

##### i. At least $40,000 in gross annual income from the sale of farm products; or

##### ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon;

#### b. On land identified as high-value farmland, at least $80,000 in gross annual income from the sale of farm products.

### 2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1); and

### 3. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on lands zoned EFU owned by the farm or ranch operator, or on the farm or ranch operation.

### 4. In determining the gross income required by subsection (1), the cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation. Only gross income from land owned, not leased or rented, shall be counted. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

### 5. Noncontiguous lots or parcels zoned for farm use in Jefferson, Deschutes, Crook, Wheeler or Wasco Counties may be used to meet the gross income required by subsection (1).If one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation has been used to comply with the gross farm income requirement, **within 12 days of receiving a tentative approval the applicant** shall provide evidence that irrevocable deed restrictions have been recorded with the county clerk of the county where the property subject to the deed declarations, conditions and restriction is located. The deed declarations, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary medical hardship dwellings or replacement dwellings on the lots or parcels that make up the farm or ranch operation or to use any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling. The deed declarations, conditions and restrictions are irrevocable unless a statement of release is signed by the Planning Director.

## C. “Median Test” Farm Dwelling

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 which 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, as defined in Section 105, at a level capable of producing the annual gross sales required in subsection (1), or, if no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of a farm use at a level capable of producing the required annual gross sales;

### 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; and

### 6. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

### 7. 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.

## D. “Relocated Farm Operation” Dwelling

A dwelling may be considered customarily provided in conjunction with farm use if:

### 1. Within the previous two years, the applicant owned and operated a farm or ranch operation that earned in each of the last five years or four of the last seven years one of the following, whichever is applicable:

#### a. On land not identified as high-value farmland,

##### i. At least $40,000 in gross annual income from the sale of farm products; or

##### ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon;

#### b. On land identified as high-value farmland, at least $80,000 in gross annual income from the sale of farm products.

### 2. The subject lot or parcel on which the dwelling will be located is currently employed for farm use, as defined in Section 105, at a level that produced in the last two years or three of the last five years one of the following, whichever is applicable:

#### a. On land not identified as high-value farmland,

##### i. At least $40,000 in gross annual income from the sale of farm products; or

##### ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; or

#### b. On land identified as high-value farmland, at least $80,000 in gross annual income from the sale of farm products.

### 3. The subject lot or parcel on which the dwelling will be located is at least 80 acres in size if in the EFU A-1 or EFU A-2 zone or at least 160 acres if in the RL zone;

### 4. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on the subject tract; and

### 5. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1).

### 6. In determining the gross income required by subsections (1) and (2), the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted.

## E. “Commercial Dairy” Farm Dwelling

A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

### 1. The subject tract will be employed as a commercial dairy and capable of earning one of the following, whichever is applicable, from the sale of fluid milk:

#### a. On land not identified as high-value farmland,

##### i. At least $40,000 in gross annual income from the sale of farm products; or

##### ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon;

#### b. On land identified as high-value farmland, at least $80,000 in gross annual income from the sale of farm products.

### 2. The dwelling will be sited on the same lot or parcel as the buildings required by the commercial dairy;

### 3. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on the subject tract;

### 4. 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;

### 5. 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

### 6. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230 and a Producer License for the sale of dairy products under ORS 621.072.

### 7. 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 this Section.

## F. Accessory Farm Dwelling for a Relative

A dwelling on real property used for farm use may be approved if:

### 1. The dwelling will be located on the same lot or parcel as the dwelling of the farm operator;

### 2. The dwelling will be occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, step grandparent, sibling, step sibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse;

### 3. The farm operator does or will require the assistance of the relative in the management of the existing commercial farming operation; and

### 4. The farm operator will continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

### **Notwithstanding ORS 92.010 to 92.190 or the minimum lot size under Section 301.8, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect. For the purposes of this Section, “foreclosure” means only those foreclosures that are exempt from partition under ORS 92.010(7)(a).**

## G. Accessory Farm Dwellings

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

### 1. 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;

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

### 3. The primary farm dwelling to which the proposed dwelling would be accessory is located on a farm or ranch operation that is currently employed for farm use, as defined in Section 105, and that met one of the following:

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

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

##### ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with 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 farm or ranch operation produced at least $80,000 in gross annual income from the sale of farm products in 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 and:

##### i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

##### ii. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to .230 and a Producer License for the sale of dairy products under ORS 621.072.

### 4. The accessory farm dwelling will be located:

#### a. On the same lot or parcel as the primary farm dwelling; or,

#### b. On the same tract as the primary farm dwelling if the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or,

#### c. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured 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;

#### d. On a lot or parcel **on which the primary farm dwelling is not located,** when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code, or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. If approved under this subsection, a condition of approval will require that all accessory farm dwellings be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required. “Farmworker housing” shall have the meaning set forth in ORS 215.278 and not the meaning in ORS 315.162; or

#### e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in size in the EFU A-1 or EFU A-2 zone or 160 acres in the Range Land zone and the lot or parcel complies with the gross farm income requirements of Section 301.6(B).

### 5. No land division may be approved for an accessory farm dwelling unless an application is made and approved converting the accessory farm dwelling to a primary farm dwelling under Section 301.6(A), (B), (C), (D) or (E), and both parcels satisfy the 80-acre or 160-acre minimum lot size requirement of Section 301.8.

### 6. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a nonfarm dwelling under Section 301.6(I).

### 7. For the purposes of this Section, “accessory farm dwelling” includes all types of residential structures allowed by the applicable state building code.

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

### 9. 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.

## H. Lot of Record Dwelling

### 1. A lot of record dwelling may be approved on a pre-existing lot or parcel subject to the following:

#### 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:

##### i. Since prior to January 1, 1985; or

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

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

#### c. If 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 Comprehensive Plan, Zoning Ordinance 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 subsection (4) or (5) below;

#### f. When the lot or parcel on which the dwelling will be sited lies within a Wildlife Habitat Overlay Zone, the siting of the dwelling shall be consistent with the limitations on density upon which Section 321 is based;

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

#### **h. The lot or parcel on which the dwelling will be sited is at least ten (10) acres in size if in the RL zone, or at least two (2) acres in size in the EFU A-1 zone, except as provided in subsection (7) below.**

### 2. For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son- in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

### 3. When the County approves an application for a lot of record dwelling under this Section, the approval may be transferred by a person who has qualified under this Section to any other person after the decision is final.

### 4. Notwithstanding the requirements of Subsection 301.4(H)(1)(e), a single-family dwelling may be sited on high-value farmland if:

#### a. It meets the other requirements of Subsection 301.4(H)(1);

#### b. The lot or parcel is protected as high-value farmland as defined in Section 105;

#### c. The hearings officer determines that

##### i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

##### ii. The dwelling will comply with the provisions of 301.5; and

##### iii. The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Section 301.6(I)(3).

### 5. Notwithstanding the requirements of Section 301.4(H)(1)(e), a single-family dwelling may be sited on high-value farmland if:

#### a. It meets the other requirements of Subsection 301.4(H)(1);

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

##### i. Not high-value farmland defined in Section 105; and

##### ii. 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:

##### i. “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

##### ii. “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

### 6. The County shall provide notice of all applications for lot of record dwellings on high value farm land to the State Department of Agriculture at least 20 calendar days prior to the Planning Commission hearing.

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

### **8. For purposes of lot of record dwelling applications only, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:**

#### **a. Submits a statement of agreement from the Natural Resources Conservation Service that the soil class, soil rating or other soil designation should be adjusted based on new information; or**

#### **b. Submits a report from an ARCPACS certified soils scientist that the soil class, soil rating or other soil designation should be changed, and a statement from the State Department of Agriculture that the Director of Agriculture or the director’s designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.**

### **9. An application for a lot of record dwelling on a parcel less than ten (10) acres in size in the RL zone or less than two (2) acres in size in the EFU A-1 zone will be forwarded directly to the Board of Commissioners for a public hearing. The dwelling may be approved if it meets the other requirements of this section and the Board of Commissioners determines that the dwelling will not exceed the facilities and service capabilities of the area, including, but not limited to, road maintenance, law enforcement, school bus service and fire protection. If approved, a condition of approval may be imposed requiring the property owner to sign and record in the deed records for the County a document acknowledging that specified facilities and services will not be provided to the property by the County or other agency.**

## I. Nonfarm Dwelling

**A single-family dwelling, not provided in conjunction with farm use, may be approved in the EFU A-2 zone or RL zone if the following standards are met. Nonfarm dwellings are not permitted in the EFU A-1 zone.**

### 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

### 2. The dwelling and all amenities to serve the dwelling, **including but not limited to a driveway and septic system,** will be situated upon a lot or parcel, or portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract.

#### a. A lot or parcel, or portion of a lot or parcel, shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

#### b. A lot or parcel, or portion of a lot or parcel, is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel, or portion of a lot or parcel, can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, then the lot or parcel, or portion of the lot or parcel, is not “generally unsuitable.” A lot or parcel, or portion of a lot or parcel, is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel, or portion of a lot or parcel, is unsuitable for one farm use does not mean it is not suitable for another farm use; or

#### c. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented, or otherwise managed as part of forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 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 area, the cumulative impact of possible new nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered. If the application involves the creation of a new parcel for the nonfarm dwelling, 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 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 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

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

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

### **4. The dwelling will be situated on:**

#### **a. A lot or parcel lawfully created before January 1, 1993; or**

#### **b. A lot or parcel lawfully created on or after January 1, 1993, as allowed under Section 301.9(B) or (C);**

### 5. If a single-family dwelling is established on a lot or parcel as set forth in 301.6(H), no additional dwelling may later be sited under the provisions of this section; and

### **6. If in the RL zone, the lot or parcel on which the dwelling will be located is at least forty (40) acres in size.**

### **7. Final approval shall not be granted and septic or building permits shall not be issued on a lot or parcel which is, or has been, receiving special assessment until evidence has been submitted that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308A.050 to 308A.128, or for other special assessment under ORS 308A.315, 321,257 to 321.381, 321.730, or 321.815, and that any additional taxes that have been imposed as a result of the disqualification have been paid. Final approval under this section will not change the date the County’s decision becomes final or the permit expiration period under Section 301.7.**

## J. Replacement Dwelling

Alteration, restoration or replacement of a lawfully established dwelling may be approved subject to the following:

### 1. The lawfully established dwelling to be altered, restored, or replaced shall have:

#### a. Intact, exterior walls and roof structure;

#### b. Indoor plumbing including a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;

#### c. Interior wiring for interior lights;

#### d. A heating system; and

#### e. The dwelling was assessed as a dwelling for purposes of ad valorem tax years, or, if the dwelling has existed for less than five years, from the time.

### 2. Notwithstanding Section 301.6(J)(1)(e), 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:

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

#### b. 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.

### 3. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use:

#### a. Within one year of the completion of the replacement dwelling; or

#### b. 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

#### c. 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.

#### d. 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.

### 4. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records of the County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the County. The release shall be signed by the County and shall state that the provisions of this Section regarding replacement dwellings have changed to allow the siting of another dwelling.

### 5. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this Section shall comply with all applicable siting standards of this Ordinance. However, such standards shall not be applied in a manner that prohibits the siting of the dwelling.

#### a. The siting standards of Subsection 301.6(J)(5)(b) apply when a dwelling qualifies for replacement because the dwelling:

##### i. Formerly had the features described in Section 301.6(J)(1);

##### ii. Was removed from the tax roll as described in Subsection 301.6(J)(2); or

##### iii. Had a permit that expired as described under Subsection 301.6(J)(9)(c)

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

##### i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

##### ii. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

#### c. Replacement dwellings that currently have the features described in Subsection 301.6(J)(1) and that have been on the tax roll as described in Subsection 301.6(J)(2) may be sited on any part of the same lot or parcel.

### **6. The dwelling being replaced shall not have been established as a temporary medical hardship dwelling. However, at such time as the hardship ends, the temporary dwelling may replace the permanent dwelling, provided the permanent dwelling is removed, demolished or converted to an allowable nonresidential use as required by subsection (3).**

### **7. An accessory farm dwelling authorized pursuant to Section 301.6(G)(4)(c), may only be replaced by a manufactured dwelling.**

### **8. Approval of a replacement dwelling is valid for the time period specified in Section 301.7(A). However, an applicant may request a deferred replacement permit to allow construction of the replacement dwelling at any time. If a deferred replacement permit is approved, the existing dwelling shall be removed or demolished within three months after the deferred replacement permit is issued or the permit becomes void. A deferred replacement permit may not be transferred, by sale or otherwise, except to the spouse or a child of the applicant.**

### 9. A replacement dwelling permit that is issued under this section:

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

##### i. Formerly had the features described in Subsection 301.6(J)(1) or

##### ii. Was removed from the tax roll as described in Subsection 301.6(J)(2);

#### b. Is not subject to the time to act limits of ORS 215.417; and

#### c. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

##### i. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

##### ii. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

## K. Historic Dwelling Replacement

A replacement dwelling to be used in conjunction with farm use may be allowed provided the existing dwelling has been listed on the county inventory of historic property as defined in ORS 358.480 and is listed on the National Register of Historic Places.

## L. Temporary Medical Hardship Dwelling

One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident subject to the requirements of Section 422.3 and compliance with the approval criteria in Section 301.5. A temporary residence approved under this Section is not eligible for replacement under 301.6(J). Department of Environmental Quality review and removal requirements also apply.

## *M. Room and board arrangement for a maximum of five unrelated persons in existing residents. This use is subject to Section 301.5.*

# 301.7 Permit Expiration

## **A. Approval of a lot of record, nonfarm or replacement dwelling under Sections 301.6(H), (I) or (J) will be void four (4) years from the date of the final decision if the development has not been initiated. An extension of up to two (2) years may be granted pursuant to the provisions in subsection (C).**

## **B. All other land use decisions approving dwellings and other uses in the EFU A-1, EFU A-2 and RL zones will be void two (2) years from the date of the final decision if development has not been initiated, or if the use has not been established in cases where no new construction is proposed. An extension of up to 12 months may be granted pursuant to the provisions in subsection (C).**

## **C. The County may grant an extension of the approval periods specified in subsections (A) and (B) provided:**

### **1. The extension request is made in writing and is filed with the Community Development Department prior to the expiration of the original approval period;**

### **2. The written request states reasons that prevented the applicant from beginning or continuing development within the approval period; and**

### **3. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.**

### **Additional one year extensions may be authorized where applicable criteria for the decision have not changed. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4.**

# 301.8 Minimum Lot Size

The minimum size of a new parcel shall be 80 acres in the EFU A-1 and EFU A-2 zones, and 160 acres in the RL zone, except as allowed in Section 301.9. **If the parcel is in a Wildlife Overlay Zone, the minimum parcel size requirements of Section 321 supersede this section if they require a larger minimum lot size. Compliance with the minimum parcel size does not mean that a dwelling is permitted outright on the parcel.**

# 301.9 Land Divisions for Nonfarm Uses

**A partition to create new parcels less than the minimum lot size specified in Section 301.8 may be approved for the nonfarm uses listed in this section, subject to all land division requirements of Chapter 7. If the parcel is in a Wildlife Overlay Zone, the minimum parcel size requirements of Section 321 supersede this section:**

## **A. A new parcel may be created for any of the following nonfarm uses, provided the use has been approved by the County and the parcel created from the division is the minimum size necessary for the use:**

### 1. A facility for the primary processing of forest products, as described in Section 301.3(A).

### 2. Commercial activities that are in conjunction with farm use, as described in Section 301.3(C).

### 3. Operations for the extraction and bottling of water, as described in Section 301.3(F).

### 4. Commercial dog boarding kennel, as described in Section 301.3(H).

### 5. Community center, as described in Section 301.3(K).

### 6. Living history museum, as described in Section 301.3(M).

### 7. The propagation, cultivation, maintenance and harvesting of aquatic or insect species, as described in Section 301.4(A).

### 8. Parks and playgrounds, as described in Section 301.4(B).

### 9. Private parks, playgrounds and hunting and fishing preserves, as described in Section 301.4(C).

### 10. Private campground, as described in Section 301.4(D).

### 11. Golf course, as described in Section 301.4(E).

### 12. Personal use airport, as described in Section 301.4(G).

### 13. Commercial utility facility, as described in Section 301.4(H).

### 14. Transmission tower over 200 feet in height, as described in Section 501.4(K).

### 15. Operations conducted for mining and processing of geothermal resources, oil or gas, as described in Section 301.4(L).

### 16. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and subsurface resources, as described in Section 301.4(M).

### 17. Operations conducted for processing of aggregate into asphalt or Portland cement, as described in Section 301.4(N).

### 18. Operations conducted for processing other mineral and subsurface resources, as described in Section 301.4(O).

### 19. A site for the disposal of solid waste, as described in Section 301.4(Q).

### 20. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, as described in Section 301.4(I).

### 21. Photovoltaic Solar Power Generation Facility, as described in Section 301.4(J)

### 22. A destination resort on property identified as destination resort-eligible by the County Comprehensive Plan, as described in Section 301.4(R)

### 23. A landscaping business, as described in Section 301.3(O).

## B. Up to two new parcels may be created **in the EFU A-2 zone only (and not in the EFU A-1 or RL zones),** each to contain a dwelling not in conjunction with farm use, if:

### 1. The nonfarm dwellings have been approved under Section 301.6(I);

### 2. The parcels for the nonfarm dwellings will be divided from a lot or parcel that was lawfully created prior to July 1, 2001;

### 3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is more than 80 acres in size;

### 4. The remainder of the original lot or parcel that does not contain the nonfarm dwellings will be at least 80 acres in size; and

### **5. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.**

## C. A lot or parcel **in the EFU A-2 zone only (and not in the EFU A-1 or RL zones)** may be partitioned into two parcels, each to contain one nonfarm dwelling if:

### 1. The nonfarm dwellings have been approved under Section 301.6(I);

### 2. The parcels for the nonfarm dwellings will be divided from a lot or parcel that was lawfully created prior to July 1, 2001;

### 3. The parcels for the nonfarm dwellings will be divided from a lot or parcel that is between 40 and 80 acres in size;

### 4. The parcels for the nonfarm dwellings are:

#### a. Not capable of producing more than 20 cubic feet per acre per year of wood fiber; and

#### b. Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils that 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

### 5. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and

### **6. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.**

## D. A new parcel which contains an existing dwelling may be created:

### 1. As a residential home as described in ORS 197.660(2) only if the dwelling has been approved under 301.6(I); or

### 2. If the existing dwelling has been listed in a County inventory as historic property and is listed on the National Register of Historic Places

## E. A land division for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels may be approved, provided that:

### 1. Any parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel to purchase at least one of the resulting parcels; and

### 2. Any parcel created by the land division that does not contain a dwelling:

#### a. Is not eligible for siting a dwelling, except as may be authorized in a state park under ORS 195.120;

#### b. May not be considered in approving an application for siting any other dwelling;

#### c. May not be considered in approving a redesignation or rezoning of forest lands except for a redesignation or rezoning to allow a public park, open space, or other natural resource use; and

#### d. May not be smaller than 25 acres unless the purpose of the land division is:

##### i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

##### ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

### 3. As a condition of approval, the owner of any parcel not containing a dwelling shall sign and record in the county deed records an irrevocable deed restriction prohibiting the owner and the owner’s successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

## F. A division of land smaller than the minimum lot or parcel size in Section 301.8 may be approved provided:

### 1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

### 2. The church has been approved under Section 301.3(L);

### 3. The newly created lot or parcel is not larger than five acres; and

### 4. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Section 301.8 either by itself or after it is consolidated with another lot or parcel.

## G. Notwithstanding the minimum lot size in Section 301.8, a division for rural fire service as provided in Section 301.2(J) if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

## H. A land division to create a parcel for a nonfarm use under subsections (A) through (G) of this Section shall not be approved unless any additional tax imposed for the change in use has been paid.

## I. The following land divisions or a property line adjustment of a parcel that separate a use from a lot or parcel on which a primary residential use exists are prohibited:

### **1. Subdivisions.**

### 2. A division or property line adjustment for the purpose of creating a new parcel for an accessory farm help dwelling for relatives as described in Section 301.6(G).

### 3. A division or property line adjustment to create a new parcel for a temporary medical hardship dwelling as described in Section 301.6(L).

### 4. A division or property line adjustment that would have the effect of separating a farm crop processing facility from the farm operation that provides at least one-quarter of the farm crops processed at the facility, as described in Section 301.2(D).

### 5. A land division or property line adjustment for the land application of reclaimed water, agricultural or industrial process water or biosolids, as described in Section 301.3(E).

### **6. A division for a guest ranch, or to separate a guest ranch from the dwelling of the person conducting the livestock operation, as described in Section 301.4(F).**

### 7. A division or property line adjustment to create a new parcel for a home occupation as described in Section 301.3(G)

## J. This Section does not apply to the creation or sale of cemetery lots, if a cemetery was within the boundaries designated for a farm use zone at the time the zone was established, or to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

## K. 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.

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

### 1. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.

### 2. If the parcel does not contain a dwelling, it:

#### a. Is not elegible for siting a dwelling, except as may be authorized in ORS 195.120;

#### b. May not be considered in approving or denying an application for any other dwelling; and

#### c. May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.

#### d. The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner’s successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

# 301.10 Setback Requirements (minimum): Front – 30 feet, Side – 30 feet, Rear – 30 feet.