

EXCLUSIVE FARM USE ZONE (EFU-RCP)**RURAL COMPREHENSIVE PLAN**

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16.212 Exclusive Farm Use Zone (EFU-RCP)**(1) Purpose**

The purpose of the Exclusive Farm Use (EFU) Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the EFU zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The EFU zone has been applied to lands designated as Agriculture in the Rural Comprehensive Plan. The provisions of the EFU zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

(2) Definitions

For the purpose of LC 16.212, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

- (a) Agri-tourism. "Agri-tourism" means a common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals..
- (b) Associated Transmission Lines. "Associated transmission lines" means transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- (c) Farm Operation. "Farm Operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use as defined in ORS 215.203.
- (d) Farm Operator. "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.

- (e) Golf course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of LC 16.212 means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (i) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
 - (ii) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
 - (iii) 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 this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
- (f) High Value Farmland. "High value farmland" means land in a tract composed predominantly of soils that are:
- (i) Irrigated and classified prime, unique, Class I or II; or
 - (ii) Not irrigated and classified prime, unique, Class I or II.
 - (iii) In addition to that land described in (2)(f)(i) and (2)(f)(ii) above, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa;
 - (iv) That portion of Lane County lying east of the summit of the Coast Range including tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in (2)(f)(i) and (2)(f)(ii) and the following soils:

- (aa) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hultt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;
 - (bb) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);
 - (cc) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and
 - (dd) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.
- (v) In addition to that land described in (2)(f)(i) and (2)(f)(ii) above, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in (2)(f)(i) and (2)(f)(ii) above and the following soils:
- (aa) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
 - (bb) Subclassification IIIw, specifically, Brenner and Chitwood;
 - (cc) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
 - (dd) Subclassification IVw, specifically, Coquille.
- (vi) In addition to that land described in (2)(f)(i) and (2)(f)(ii) above, high value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in (2)(f)(i) and (2)(f)(ii) above and the following soils:
- (aa) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay Loam;
 - (bb) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

- (cc) Subclassification IVw, specifically, Huffling Silty Clay Loam.
- (vii) Lands designated and zoned by Lane County as Marginal Lands according to the criteria in ORS 215.247 (1991) are excepted from this definition of “high value farmland.”
- (g) Net Metering Power Facility. “Net metering power facility” means a facility for the production of energy that:
 - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and 215.213(1)(u) in the Exclusive Farm Use zone;
 - (ii) Is intended to offset part of the customer-generator’s requirements for energy;
 - (iii) Will operate in parallel with a utility’s existing transmission and distribution facilities;
 - (iv) Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations; and
 - (v) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (h) Non-Commercial/Stand Alone Power Generating Facility. “Non-commercial/stand-alone power generating facility” means a facility for the production of energy that:
 - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and ORS 215.213(1)(u) in the Exclusive Farm Use zone;
 - (ii) Is intended to provide all of the generator’s requirements for energy for the tract or the specific lawful accessory use that it is connected to;

- (iii) Operates as a standalone power generator not connected to a utility grid; and
- (iv) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (i) Relative. A child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew, or first cousin of the farm operator or the farm operator's spouse.

(3) Use Table

Table of Permitted Uses

Table 16.212-1 sets forth the uses allowed subject to Type I, II, or III approval procedures in the farm districts. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require review using Type I, II, or, III procedures, unless otherwise specified on Table 16.212-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this Chapter.

As used in Table 16.212-1:

- (a) Uses:
 - (i) "A" means the use is outright allowed or permitted subject to standards.
 - (ii) "C" means the use is a Conditional Use, subject to Section (5)
 - (iii) "X" means use is not allowed.
 - (iv) "HV" means when a property is predominately composed of High Value Soils, as defined in LC 16.212(2)(f).
 - (v) "Non-HV" means when a property is predominately composed of Non-High Value Soils, as defined in LC 16.212(2)(f).
- (b) Procedures:
 - (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
 - (ii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code and LC 14.030(1)(a).

- (iii) Type II uses may be allowed provided a land use application is submitted and approved through the Type II procedure set forth in LC Chapter 14.
 - (iv) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
 - (v) "AL" means Assembly License, subject to LC 3.995.
 - (vi) "X" means no new use is allowed.
- (c) The "Subject To" column identifies any specific provisions of LC 16.212 to which the use is subject. All uses and development are subject to the development standard provisions of LC 16.212(15).
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4). "...discretionary approval of a proposed development of land..." An owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

Table 16.212-1: Use Table for EFU Zones						
I = Type I II = Type II III = Type III						
P = Permitted Outright AL = Assembly License X = Prohibited						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
1.	Farm, Forest, and Natural Resource Uses					
1.1.	Farm use	A	P	A	P	
1.2.	Propagation or harvesting of a forest product	A	P	A	P	
1.3.	Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract	A	P	A	P	
1.4.	Nonresidential buildings customarily provided in conjunction with farm use	A	P	A	P	
1.5.	Creation of, restoration of, or enhancement of wetlands	A	P	A	P	

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Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
1.6.	A facility for the processing of farm crops or the production of biofuel as defined in LC 16.090 or a farm used for an establishment for the slaughter, processing or selling of less than 1,000 poultry or poultry products as defined in ORS 603.038 within a calendar year	A	I	A	I	(4)(a)
1.7.	A facility for the primary processing of forest products	A	II	A	II	(4)(b), (5)
1.8.	The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species	C	II	C	II	(4)(c), (5)
1.9.	Marijuana production	A	I	A	I	LC 16.420
1.10.	Marijuana wholesale distribution	A	I	A	I	LC 16.420
1.11.	Marijuana research	A	I	A	I	LC 16.420
1.12.	Marijuana processing	A	II	A	II	(4)(a), LC 16.420
2.	Residential Uses					
2.1.	Primary farm dwelling	A	II	A	II	(4)(y), (7)
2.2.	Woodlot operation dwelling	X	X	C	II	(4)(y), (7)(g), (7)(h), (5)
2.3.	Relative farm help dwelling	A	II	A	II	(4)(y), (8)(b)

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2.4.	Accessory farm dwelling for year-round and seasonal farm workers	A	II	A	II	(4)(y), (8)(a)
2.5.	Non-farm dwelling on High Value Farmland	A	II	X	X	(4)(y), (9)
2.6.	Non-farm dwelling on Non-high Value Farmland	X	X	A	II	(4)(y), (10)
2.7.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	A	I or II	(4)(y), (4)(bb), (6)(a)-(d)
2.8.	Replacement dwelling for historic property	A	II	A	II	(4)(y), (6)(e)
2.9.	Temporary hardship dwelling	C	II	C	II	(4)(y), (5), (8)(c)
2.10.	Residential home as defined in ORS 197.660, in existing dwellings	C	II	C	II	(4)(y), (5)
2.11.	Room and board arrangements for a maximum of five unrelated persons in existing residences	C	II	C	II	(4)(z), (5)
3.	Commercial Uses					
3.1.	Dog training classes or testing trials	A	I	A	I	(4)(d)
3.2.	Farm stand	A	I	A	I	(4)(e)
3.3.	Small Winery or Cider Business	A	I or II	A	I or II	(11)(a)
3.4.	Large Winery	A or C	I or II	A or C	I or II	(11)(b)
3.5.	Agri-tourism and other commercial events or activities that are related to and supportive of agriculture	A	II	A	II	(12)
3.6.	Parking of up to seven log trucks	C	II	C	II	(5)

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3.7.	Home occupations	C	II	C	II	(4)(f), (5)
3.8.	Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Use 3.1	C	II	C	II	(5)
3.9.	A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use	C	II	C	II	(5)
3.10.	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.7, but excluding activities in conjunction with a marijuana crop	C	II	C	II	(4)(aa), (5)
4.	Mineral, Aggregate, Oil and Gas Uses					
4.1.	Operations for the exploration for and production of geothermal resources in accordance with 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 well head	A	P	A	P	
4.2.	Operations for the exploration for minerals as defined by ORS 517.750	A	P	A	P	
4.3.	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 not otherwise permitted	C	II	C	II	(5)

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Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
4.4.	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources	C	II	C	II	(4)(h), (5)
4.5.	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement	C	II	C	II	(4)(g), (5)
4.6.	Processing of other mineral resources and other subsurface resources	C	II	C	II	(5)
5.	Transportation Uses					
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	A	P	
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	A	P	
5.3.	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed	A	P	A	P	
5.4.	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	A	P	A	P	

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Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.6.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.7.	Changes in the frequency of transit, rail and airport services	A	P	A	P	
5.8.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.9.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.10.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.11.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	C	II	(5)
5.12.	Park and ride lots	C	II	C	II	(5)

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5.13.	Railroad mainlines and branch lines	C	II	C	II	(5)
5.14.	Pipelines	C	II	C	II	(5)
5.15.	Navigation channels	C	II	C	II	(5)
5.16.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	C	II	(4)(i), (5)
5.17.	Replacement of an intersection with an interchange	C	II	C	II	(4)(i), (5)
5.18.	Continuous median turn lanes	C	II	C	II	(4)(i), (5)
5.19.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	C	II	(4)(i), (5)
5.20.	Transportation facilities, services, and improvements other than those listed in LC 16.211 that serve local travel needs	C	II	C	II	(4)(i), (5)
5.21.	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities	C	II	C	II	(4)(j). (5)
6.	Utility/Solid Waste Disposal Facilities					
6.1.	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	A	P	A	P	

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6.2.	Land application of reclaimed water, agricultural or industrial process water or bio solids, or the onsite treatment of septage prior to land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with use allowed by LC 16.212	A	II	A	II	(4)(k)
6.3.	Utility facility service lines	A	I	A	I	(4)(l)
6.4.	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height	A	II	A	II	(4)(m)
6.5.	Transmission towers over 200 feet in height	C	II	C	II	(5)
6.6.	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities	C	II	C	II	(13)(a), (5)
6.7.	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(b), (5)
6.8.	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(c), (5)
6.9.	A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland	X*	X*	C	II	(5); or *(4)(z)

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Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
6.10.	Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060	X*	X*	C	II	(4)(n), (5); or *(4)(n)(ii), (4)(z)
6.11.	Change out to an existing telecommunication tower	P	I	P	I	(16)
6.12.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	P	I	P	I	FCC 14-153
6.13.	Collocation to an existing telecommunication tower	A	II	A	II	(16)
6.14.	New telecommunication tower or replacement tower not over 200 feet in height	C	III	C	III	(4)(m)(i), (5), (16)
7.	Parks/Public/Quasi-public Uses					
7.1.	Firearms training facility in existence on September 9, 1995	A	II	A	II	(4)(o), (4)(x)
7.2.	Fire service facilities providing rural fire protection services	A	P	A	P	
7.3.	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306	A	P	A	P	
7.4.	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary	A	I	A	I	(4)(p)
7.5.	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306	C	II	C	II	(5)

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7.6.	Living history museum	C	II	C	II	(4)(q), (4)(x), (5)
7.7.	Armed Forces Reserve Center	A	II	A	II	(4)(r), (4)(x)
7.8.	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community	C	II	C	II	(4)(x), (5)
7.9.	Public parks, public playgrounds, and public campgrounds	C	II	C	II	(4)(s), (4)(x), (5)
7.10.	Operations for the extraction and bottling of water	C	II	C	II	(5)
7.11.	Churches and cemeteries in conjunction with ORS 215.441	X*	X*	A	II	(4)(x); or *(4)(x), (4)(z)
7.12.	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school	X*	X*	C	II	(4)(t), (4)(x), (5); or *(4)(x), (4)(z) or *(4)(t), (4)(x), (5)
7.13.	Private parks, private playgrounds, and private campgrounds	X*	X*	C	II	(4)(u), (4)(x), (5); or *(4)(x), (4)(z)

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Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
7.14.	Private Hunting and Fishing Preserves	X*	X*	C	II	(4)(u), (4)(x), (5); or *(4)(x), (4)(z)
7.15.	Golf courses not on high-value farmland as defined in LC 16.212(2)(d) and ORS 195.300	X*	X*	C	II	(4)(v), (4)(x), (5);or *(4)(x), (4)(z)
8.	Outdoor Gatherings					
8.1.	An outdoor gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	A	III	ORS 433.735-760
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	C	III (LCPC)	(4)(w)
9.	Accessory Uses					
9.1.	Uses and structures accessory to existing uses and development permitted by LC 16.212	A	P or II	A	P or II	(4)(bb)

(4) Use Standards

- (a) A farm processing facility or an establishment for the slaughter, processing, or selling of less than 1,000 poultry or poultry products within a calendar year must comply with all of the following requirements:
 - (i) The farm on which the farm processing facility is located must provide at least one-quarter of the farm crops processed at the facility. This provision does not apply to a poultry establishment.
 - (ii) If a building is established or used for the farm processing facility or poultry 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.
 - (iii) A farm processing facility or poultry 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.
 - (iv) A division of a lot or parcel or a property line adjustment that separates a farm processing facility or poultry establishment from the farm operation on which it is located is prohibited.
- (b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in LC 16.090. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.
- (c) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The Director shall provide notice of all applications under this section to the Oregon Department of Agriculture. Referral notice pursuant to LC Chapter 14 must be provided at least 20 calendar days prior to a decision or initial public hearing on the application.
- (d) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

- (i) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
 - (ii) 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.
- (e) A farm stand may be approved if:
- (i) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
 - (ii) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
 - (iii) 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.
 - (iv) As used in this Section, "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.
 - (v) As used in this Section, "local agricultural area" includes Oregon.
 - (vi) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
 - (vii) Farm Stand Development Standards
 - (aa) Adequate off-street parking will be provided pursuant to provisions of LC 16.250.
 - (bb) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

- (cc) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
- (dd) No farm stand building or parking is permitted within the right-of-way.
- (ee) Approval is required from the Road Authority regarding adequate egress and access. All egress and access points shall be clearly marked.
- (ff) Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within "vision clearance areas" at street intersections.
 - (A) Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection.
 - (B) Height is measured from the top of the curb or, where no curb exists, from the established street center line grade.
 - (C) Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade.
- (gg) 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.
- (hh) Signs are permitted consistent with LC 16.212(15)(b)(iii).
- (viii) Permit approval is subject to compliance with Lane County Environmental Health or Department of Agriculture requirements and with the development standards of this zone.
- (f) A home occupation must:
 - (i) Be operated by a resident or employee of a resident of the property on which the business is located;
 - (ii) Employ on the site no more than five full-time or part-time persons at any given time;

- (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;
 - (iv) Not unreasonably interfere with other uses permitted in LC 16.212;
 - (v) Comply with sanitation and building requirements prior to start of Home Occupation; and
 - (vi) Not to be used as a justification for a zone change.
- (g) New facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (h) Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:
- (i) A land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.
 - (ii) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the County's adopted inventory in the Rural Comprehensive Plan.
- (i) Transportation facilities and uses shall comply with the following:
- (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
 - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
 - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

- (j) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- (k) Land application of reclaimed water, agricultural process or industrial process water or bio solids, or the onsite treatment of septage prior to the land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this paragraph, onsite treatment of septage prior to the land application of bio solids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of bio solids is authorized under the license, permit or other approval.
- (l) 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:
 - (i) A public right of way;
 - (ii) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - (iii) The property to be served by the utility.
- (m) A utility facility that is necessary for public service.
 - (i) A utility facility is necessary for public service if the facility must be sited in the Exclusive Farm Use zone in order to provide the service.
 - (aa) 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 Exclusive Farm Use zone due to one or more of the following factors:
 - (A) Technical and engineering feasibility;

- (B) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned Exclusive Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (C) Lack of available urban and nonresource lands;
 - (D) Availability of existing rights of way;
 - (E) Public health and safety; and
 - (F) Other requirements of state and federal agencies.
- (bb) Costs associated with any of the factors listed in Subsection (aa) of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
- (cc) The owner of a utility facility approved under Section (4)(n)(i) 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.
- (dd) The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

- (ee) 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 Table 16.212-1 uses 7.13 or 7.14, or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section (5) Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request, subject to a Type II review process, shall have no effect on the original approval.
- (ff) In addition to the provisions of Subsection (4)(m)(i)(aa) through (dd), 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.
- (gg) Notwithstanding Subsection (4)(m)(i)(aa) through (dd) above, a utility facility that is a telecommunication facility as defined by LC 16.264(2) shall comply with LC 16.264.
- (hh) The provisions of Subsection (4)(m)(i)(aa) through (dd) do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- (ii) In addition to the requirements in LC 16.212(4)(m)(i)(aa) through (gg) above, a utility facility that is a transmission line, as defined by ORS 215.276(1)(c), to be located on high value farmland shall comply with the requirements of (4)(m)(iii) below.
- (ii) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Section (4)(m)(ii)(aa) or Section (4)(m)(ii)(bb).
 - (aa) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
 - (A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - (B) The associated transmission line is co-located with an existing transmission line;

- (C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - (D) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.
- (bb) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections (4)(m)(ii)(cc) and (dd), two or more of the following criteria:
- (A) Technical and engineering feasibility;
 - (B) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
 - (D) Public health and safety; or
 - (E) Other requirements of state or federal agencies.
- (cc) As pertains to Section (4)(m)(ii)(bb), the applicant shall demonstrate how the proposal 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.
- (dd) The County may consider costs associated with any of the factors listed in Section (4)(m)(ii)(bb), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

- (ee) In addition to the requirements in LC 16.212(4)(m)(i)(aa) or (bb) above, a utility facility that is an associated transmission line, as defined by ORS 215.274, to be located on high value farmland shall comply with the requirements of section (4)(m)(iii) below.
- (iii) The utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult.
- (n) Composting operations and facilities:
 - (i) Composting operations and facilities allowed on land not defined as high-value farmland must meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050, 340-096-0060, and ORS 215.401. Buildings and facilities used in conjunction with the composting operation must only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection (4)(z).
 - (aa) 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.

- (bb) Compost operations subject to Section (4)(n)(i)(aa) 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.
- (ii) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
- (o) A firearms training facility in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
 - (i) For the purpose of this Section (o), a firearms training facility is an indoor or outdoor facility that provides training courses and issues certifications required:
 - (aa) For law enforcement personnel;
 - (bb) By State department of Fish and Wildlife; or
 - (cc) By nationally recognized programs that promote shooting matches, target shooting and safety;

- (p) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- (q) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A "living history museum" is defined as 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.
- (r) Armed forces reserve center that complies with these requirements:
- (i) The center is within one-half mile of a community college; and
 - (ii) An "armed forces reserve center" includes an armory or National Guard support facility.
- (s) Public parks include:
- (i) Only uses specified under OAR 660-034-0035 or OAR 660-034-0040, whichever is applicable; and
 - (ii) May be established consistently with ORS 195.120
- (t) Schools are subject to the following:

- (i) Schools as formerly allowed pursuant to ORS 215.213 that were established on or before January 1, 2009 may be expanded if 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.
 - (ii) Are used primarily for residents of the rural area in which the school is located.
- (u) Private Campgrounds are subject to the following:
- (i) 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.
 - (ii) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
 - (iii) Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 - (iv) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
 - (v) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by Subsection (vi).
 - (vi) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
- (v) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

- (i) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
 - (ii) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
 - (iii) 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.
 - (iv) An existing golf course may be expanded consistent with the requirements of Section (5), but shall not be expanded to contain more than 36 total holes.
- (w) Any outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
- (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
 - (ii) The proposed gathering is compatible with existing land uses;
 - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and
 - (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.

- (x) Three-mile setback. For uses subject to this Subsection:
 - (i) 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.
 - (ii) Any enclosed structures or group of enclosed structures described in Subsection (i) 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.
 - (iii) 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 Chapter.
- (y) Single-family dwelling deeds. The landowner shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (z) Expansion standards. Existing facilities wholly within the Exclusive Farm Use Zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.
- (aa) Commercial activities in conjunction with farm use may be approved when the commercial activity:
 - (i) Is either exclusively or primarily a customer or supplier of farm uses.
 - (ii) Is limited to providing products and services essential to the practice of agriculture directly to surrounding agricultural businesses that are sufficiently important to justify the resulting loss of agricultural land.
 - (iii) Enhances the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates.

- (bb) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.212(15)(a). For the purpose of LC 16.212(4)(bb), the “same site” is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

(5) Conditional Use Review Criteria

An applicant for a Conditional Use permitted in Table 16.212-1 of this Chapter must demonstrate compliance with the following criteria.

- (a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) Alteration, Restoration or Replacement of a Lawfully-Established Dwelling

- (a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the approval authority finds to its satisfaction, based on substantial evidence that:
 - (i) The dwelling to be altered, restored or replaced has, or formerly had:
 - (aa) Intact exterior walls and roof structure;
 - (bb) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (cc) Interior wiring for interior lights; and
 - (dd) A heating system.
 - (ii) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for:
 - (aa) The previous five property tax years; or
 - (bb) If the dwelling was constructed within the last five years, the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
 - (cc) Notwithstanding (ii)(aa) and (bb) above, 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 approval 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.
- (b) For replacement of a lawfully established dwelling under this section:
- (i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - (aa) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - (bb) 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
 - (cc) 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.
 - (ii) The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished, or converted.
 - (iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.213 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - (i) The siting standards of Subsection (6)(c)(ii) apply when a dwelling qualifies for replacement because the dwelling:
 - (aa) Formerly had the features described in Subsection (6)(a)(i); or
 - (bb) Was removed from the tax roll as described in Subsection(6)(a)(iii).
 - (ii) The replacement dwelling must be sited on the same lot or parcel:
 - (aa) 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
 - (bb) 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.
 - (iii) Replacement dwellings that currently have the features described in Subsection (6)(a)(i) and that have been on the tax roll as described in Subsection (6)(a)(ii)(cc) may be sited on any part of the same lot or parcel.
- (d) A replacement dwelling permit that is issued under Use 2.7:
 - (i) Is a land use decision and subject to review using Type II procedure according to LC Chapter 14 where the dwelling to be replaced:
 - (aa) Formerly had the features described in Subsection (6)(a)(i); or
 - (bb) Was removed from the tax roll as described in Subsection (6)(a)(ii)(cc);
 - (ii) Is not subject to the time to act limits of LC 14.090 and does not expire; and
- (e) A replacement dwelling for a historic dwelling permit reviewed under Use 2.8 is subject to the following requirements:
 - (i) The replacement dwelling must be in conjunction with a farm use.

- (ii) The existing dwelling is listed on the county and national inventory as historic property as defined in ORS 358.480.

(7) Dwellings Customarily Provided in Conjunction with Farm Use

- (a) Large Tract Standards. On land not identified as high-value farmland as defined in LC 16.212(2), a dwelling may be considered customarily provided in conjunction with farm use if:
 - (i) The parcel on which the dwelling will be located is at least 160 acres.
 - (ii) The subject tract is currently employed for farm use.
 - (iii) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - (iv) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
- (b) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (i) The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned \$32,500 in gross annual income (the midpoint of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) from the sale of farms products and:
 - (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
 - (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(b)(i); and
 - (iv) In determining the gross income required by Section (7)(b)(i):
 - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

- (bb) Only gross income from land owned, not leased or rented, shall be counted; and
 - (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - (v) The lot or parcel is not smaller than the minimum lot size of the zone.
 - (c) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (i) The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
 - (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and
 - (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(c)(i);
 - (iv) In determining the gross income required by Section (7)(c)(i):
 - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - (bb) Only gross income from land owned, not leased or rented, shall be counted; and
 - (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - (v) The lot or parcel is not smaller than the minimum lot size of the zone.
 - (d) Additional Farm Income Standards.
 - (i) For the purpose of Sections (7)(b) or (7)(c), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

- (ii) Prior to the final approval for a dwelling authorized by Sections (7)(b) and (7)(c) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the County clerk the covenants, conditions, and restrictions form provided by the County (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - (aa) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - (bb) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (iii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the County or counties where the property subject to the covenants, conditions and restrictions is located.
- (e) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Sections (7)(b) or (7)(c) above, subject to the following requirements:
 - (i) The subject tract will be employed as a commercial dairy as defined in Subsection (vii);
 - (ii) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
 - (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
 - (iv) 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;
 - (v) 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
 - (vi) The Oregon Department of Agriculture has approved the following:

- (aa) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - (bb) A Producer License for the sale of dairy products under ORS 621.072.
 - (vii) As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections (7)(b) or (7)(c), whichever is applicable, from the sale of fluid milk.
- (f) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
- (i) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection (7)(b) or (7)(c), whichever is applicable;
 - (ii) The subject lot or parcel on which the dwelling will be located is:
 - (aa) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection (7)(b) or (7)(c), whichever is applicable; and
 - (bb) The lot or parcel is not smaller than the minimum lot size of the zone.
 - (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
 - (iv) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (7)(f)(i); and
 - (v) In determining the gross income required by Subsection (7)(f)(i) and Subsection (7)(f)(ii):
 - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - (bb) Only gross income from land owned, not leased or rented, shall be counted.

- (g) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling under Section (7).
- (h) Woodlot Operation Dwelling
 - (i) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot is allowed subject to compliance with the following requirements:
 - (aa) If the farm operation or woodlot:
 - (A) Consists of 20 or more acres; and
 - (B) Is not smaller than the average farm or woodlot in Lane County producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot;
 - (bb) The dwelling is located on land not identified as high-value farmland.
 - (ii) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under (i) above is allowed subject to compliance with the following requirements:
 - (aa) If the farm operation or woodlot:
 - (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or
 - (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income;
 - (bb) The dwelling is located on land not identified as high-value farmland.

(8) Accessory Dwellings

- (a) Accessory farm dwelling for year-round and seasonal farm workers.

- (i) Accessory dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:
 - (aa) 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;
 - (bb) The accessory farm dwelling will be located:
 - (A) On the same lot or parcel as the primary farm dwelling;
 - (B) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
 - (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 any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The County shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278, meaning housing limited to occupancy by farmworkers and their immediate families and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing; 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 the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in Lane Code 16.212(7)(b) or (c), whichever is applicable; and
- (cc) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- (ii) In addition to the requirements in Subsection (i), the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
 - (aa) 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 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:
 - (A) 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
 - (B) 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.
 - (bb) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

- (cc) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or woodlot that meets the standards of LC 16.212(7)(h); or
- (dd) It is located on a commercial dairy farm as defined in Section (7)(e)(vii); and
 - (A) 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;
 - (B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - (C) A Producer License for the sale of dairy products under ORS 621.072.
- (iii) No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this Chapter, a parcel may be created consistent with the minimum parcel size requirements in Subsection (14)(a).
- (iv) An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to uses 2.5 or 2.6 in Table 16.212-1 of this Chapter.
- (v) For purposes of this Subsection, "accessory dwelling" includes all types of residential structures allowed by the applicable state building code.
- (vi) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria of an accessory farm dwelling.
- (b) To qualify for a relative farm help dwelling:
 - (i) A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

- (ii) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
- (c) A temporary hardship dwelling is subject to the following:
 - (i) One manufactured dwelling, or one 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 the hardship suffered by the existing resident or relative, subject to the following:
 - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the hardship dwelling will use a public sanitary sewer system, such condition will not be required;
 - (bb) Approval of a temporary hardship dwelling is valid until December 31st of the year following the year the original permit approval. The county shall review the permit authorizing such hardship dwelling every two years; and
 - (cc) Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle must be removed or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowed nonresidential use.
 - (ii) A temporary residence approved under this Section is not eligible for replacement under Section (6). Department of Environmental Quality review and removal requirements also apply.
 - (iii) As used in this Section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.

(9) Dwellings Not in Conjunction with Farm Use on High Value Farmland

Non-farm dwelling. A non-farm dwelling on High Value Farmland is subject to the following requirements:

- (a) For land located on the east side of the summit of the Coastal Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
 - (i) 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;

- (ii) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;
- (iii) The dwelling will be sited on a lot or parcel created before January 1, 1993. See the definition of "Date of Creation and Existence" in LC 16.090;
- (iv) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, the following requirements shall be met:
 - (aa) 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 urban or non-resource uses shall not be included in the study area;
 - (bb) 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 dwellings that could be approved under Use 2.5 or 2.6 in Table 16.212-1 of this Chapter, including the 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 Sections (14)(e). 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 dwellings ;

- (cc) Determine whether the approval of the proposed non-farm 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 operations due to diminished opportunities to expand, purchase of 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;
 - (v) The dwelling complies with such other conditions as the approval authority considers necessary; and
 - (vi) Land use approval of a permit described in Section (9)(a) shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval may be made and approved pursuant to LC 14.700(2).
- (b) For land located west of the summit of the Coast Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
 - (i) 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;
 - (ii) The following are satisfied:
 - (aa) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, in the case of an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel 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

- (bb) A lot or parcel shall not be considered "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
- (cc) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;
- (iii) The dwelling will not alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, consideration shall be given to the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards in subsections (9)(a)(iv)(aa) through (cc);
- (iv) The dwelling complies with such other conditions as the approval authority considers necessary; and
- (v) Land use approval of a permit described in (9)(b) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval may be made and approved pursuant to LC 14.700(2).

(10) Dwellings Not in Conjunction with Farm Use on Non-High Value Farmland.

Non-farm dwelling. A non-farm dwelling on Non-high Value Farmland is subject to the following requirements:

- (a) A dwelling not provided in conjunction with farm use may be established on a lot or parcel, subject to compliance with the following requirements:
 - (i) 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;
 - (ii) The soils of the lot or parcel are predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture, Soil Conservation Service on October 15, 1983; and
 - (iii) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel will not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.
- (b) The dwelling shall comply with such other conditions as the approval authority considers necessary. A dwelling not provided in conjunction with a farm use, on a lot or parcel that is not larger than three acres is subject to the following requirements:
 - (i) 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;
 - (ii) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by Lane Code relating specifically to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable;
 - (iii) The lot or parcel was created between January 1, 1948, and July 1, 1983. See the definition of "Date of Creation and Existence" in LC 16.090. For the purpose of this Section, only one lot or parcel exists if:
 - (aa) The lot or parcel is contiguous to one or more lots or parcels described in this Section.

- (A) "Contiguous" means "lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road."
- (bb) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common; and
- (iv) Notice of application shall occur in compliance with LC Chapter 14.
- (c) Land use approval of a permit described in Section (10)(a) or (10)(b) shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in this Section may be made and approved pursuant to LC 14.700(2).
- (d) No final approval of a nonfarm use under this section will be given unless any additional taxes imposed upon the change in use have been paid.
- (e) The dwelling must comply with other conditions considered necessary by the approval authority.

(11) Wineries and Cider Businesses

- (a) Small Wineries and Cider Businesses. Small wineries and cider business and their accessory uses are subject to the Type I procedure unless otherwise specified in this section. Small winery and cider businesses are separate uses to which distinct criteria and permitted uses apply and must not be used interchangeably.
 - (i) A small winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine or cider, respectively, on-site with a maximum annual production of:
 - (aa) Less than 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery or cider business:
 - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres;
 - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 15 acres;

- (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 15 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business; or
 - (D) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection (A), (B), or (C); or
 - (bb) At least 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery:
 - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 40 acres;
 - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 40 acres;
 - (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 40 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business;
 - (D) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards for a winery or orchards for a cider business in Oregon that are located within 15 miles of the winery or cider business site; or
 - (E) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection (A), (B), (C) or (D).
- (ii) In addition to producing and distributing wine by a winery or cider by a cider business, a small winery or cider business established under this Section may:
 - (aa) Market and sell wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
 - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, including:

- (A) Wine or cider tastings in a tasting room or other location on the premises occupied by the winery for wine tastings or cider business for cider tastings;
 - (B) Wine for winery or cider for cider business club activities;
 - (C) Winemaker for winery or cidemaker for cider business luncheons and dinners;
 - (D) Winery and vineyard tours or cider business and orchard tours;
 - (E) Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine or cider industry members;
 - (F) Winery or cider business staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery or cider produced in conjunction with the cider business; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of wine for a winery or cider for a cider business, including food and beverages:
- (A) Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by Subsection (11)(a)(ii)(bb) or (a)(ii)(dd), or (a)(v).
- (dd) Host charitable activities for which the winery or cider business does not charge a facility rental fee.

- (iii) A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection (11)(a)(ii)(cc). Food and beverage services authorized under Subsection (11)(a)(ii)(cc) may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (iv) The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection (11)(a)(ii)(cc) to (dd) and (11)(a)(v) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery or cider produced in conjunction with the cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the County, the winery or cider business shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this Subsection for the previous tax year.
- (v) A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery, pursuant to Subsection (aa) or (bb) below:
 - (aa) The events on days one (1) through six (6) of the 18-day limit per calendar year must be authorized by the approval authority through the issuance of a renewable multi-year Winery or Cider Business License that:
 - (A) Is reviewed through a Type I procedure to determine necessary conditions pursuant to Section (11)(a)(vi) below;
 - (B) Has a term of five years;
 - (C) If the County issues a license under this subsection, the County must review the license at least once every five years and, if appropriate, renew the license; and
 - (D) Complies with requirements of Section (11)(a)(vi) below.
 - (E) This license is not a land use decision as defined in ORS 197.015 or permit pursuant to ORS 215.402, and is not subject to review by the Land Use Board of Appeals.

- (bb) Events on days seven (7) through 18 of the 18-day limit per calendar year must be authorized by the County through the issuance of a renewable multi-year permit that:
 - (A) Is subject to a Type II procedure and must be reviewed to determine necessary conditions pursuant to Section (11)(a)(vi);
 - (B) Has a term of five years;
 - (C) If the Director issues a permit under this subsection, the Director must review the permit at least once every five years and, if appropriate, may renew the permit; and
 - (D) Complies with requirements of Section (11)(a)(vi) below.
- (vi) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery or cider business are subordinate to the production and sale of wine at a winery or cider at a cider business and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions on a permit related to:
 - (aa) The number of event attendees;
 - (bb) The hours of event operation;
 - (cc) Access and parking;
 - (dd) Traffic management;
 - (ee) Noise management; and
 - (ff) Sanitation and solid waste;
- (vii) A winery or cider business operating under this Section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established or cider business is situated.
- (viii) Prior to the issuance of a permit to establish a winery or cider business under Section (11)(a), the applicant shall show that vineyards for a winery or orchard for a cider business described in Section (11)(a) have been planted or that the contract has been executed, as applicable.
- (ix) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands, the winery or cider business must:

- (aa) Establish a setback of at least 100 feet from all property lines for the winery or cider business and all public gathering places, unless the Director grants a variance allowing a setback of less than 100 feet; and
 - (bb) Provide direct road access and internal circulation for the winery or cider business and other on-site public gathering places
- (b) Large Wineries. Large wineries and their accessory uses are subject to the Type I procedure unless otherwise specified in this section.
 - (i) A large winery may be established if:
 - (aa) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
 - (bb) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in Subsection (11)(b)(i)(aa); and
 - (cc) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this Subsection.
 - (ii) In addition to producing and distributing wine, a winery described in Subsection (11)(b)(i) may:
 - (aa) Market and sell wine produced in conjunction with the winery;
 - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (B) Wine club activities;
 - (C) Winemaker luncheons and dinners;
 - (D) Winery and vineyard tours;
 - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

- (F) Winery staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
- (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by Subsection (11)(b)(ii)(bb), (dd), or (ee);
- (dd) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
- (A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - (B) Are incidental to the retail sale of wine on-site; and
 - (C) Are limited to 25 days or fewer in a calendar year; and
- (ee) Host charitable activities for which the winery does not charge a facility rental fee.
- (iii) Income requirements:
- (aa) The gross income of the winery from the sale of incidental items pursuant to Subsection (11)(b)(ii)(cc) and services provided pursuant to Subsection (11)(b)(ii)(dd) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

- (bb) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant that certifies compliance with Subsection (aa) for the previous tax year.
- (iv) A winery operating under Subsection (11)(b):
 - (aa) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
 - (bb) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.
- (v) A winery shall be required to obtain a Type II permit when:
 - (aa) The winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection (11)(b)(ii)(dd) occurring on more than 25 days in a calendar year.
 - (bb) In addition to any other requirements, a local government may approve a permit application under this Subsection if the approval authority finds that the authorized activity:
 - (A) Complies with the standards described in Sections (5)(a) and (5)(b);
 - (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
 - (C) Does not materially alter the stability of the land use pattern in the area.
 - (cc) If the local government issues a permit under this Section for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- (vi) A winery operating under Section (11)(b) may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events only if the winery received a permit in similar circumstances before August 2, 2011.
- (vii) A person may not have a substantial ownership interest in more than one winery operating a restaurant authorized in Section (11)(b).

- (viii) Prior to the issuance of a permit to establish a winery under Section (11)(b), the applicant shall show that vineyards described in Section (11)(b)(i) have been planted.
- (ix) A winery operating under Subsection (b) shall provide for:
 - (aa) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
 - (bb) Direct road access and internal circulation.
- (c) As used in Section (11):
 - (i) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
 - (ii) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

(12) Agri-tourism and Other Commercial Events

- (a) Six or Fewer Events. Up to six agri-tourism or other commercial events or activities on a tract in a calendar year may be approved. The approval is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The six or fewer agri-tourism or other commercial events or activities must meet local standards and:
 - (i) Be incidental and subordinate to existing farm use on the tract;
 - (ii) Not, individually, exceed a duration of 72 consecutive hours; and
 - (iii) Comply with Section (12)(c) below.
- (b) Seven to 18 Events. Agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with (12)(a) above may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The seven to 18 agri-tourism or other commercial events or activities must comply with local standards and:
 - (i) Be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

- (ii) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
 - (iii) Not exceed 18 events or activities in a calendar year; and
 - (iv) Comply with Section (12)(c) below.
- (c) All agri-tourism or other commercial events or activities described in (12)(a) and (12)(b) above must:
- (i) Not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
 - (ii) Comply with Section (5)(a) and (b) Conditional Use Criteria;
 - (iii) May not, in combination with other agri-tourism or other commercial events or activities, materially alter the stability of the land use pattern in the area; and
 - (iv) Must comply with conditions established for:
 - (aa) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
 - (bb) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
 - (cc) The location of access and egress and parking facilities to be used in conjunction with the agri-tourism or other commercial events or activities;
 - (dd) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
 - (ee) Sanitation and solid waste.

- (v) The approval authority may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under (12)(a) or (12)(b). However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The County may not approve an alteration to the land in connection with the agri-tourism or other commercial event or activity authorized under (12)(a) or (12)(b), including, but not limited to, grading, filling or paving.
 - (vi) Agri-tourism or other commercial events or activities authorized under this section shall not be allowed at a winery which conducts agri-tourism or other commercial events or activities authorized under Sections (11)(a)(v)-(vi) or (11)(b)(v) or (11)(b)(ii)(dd).
 - (vii) Event or activities authorized under this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015(10)(a), do not include agri-tourism or other commercial events and activities.
- (d) Expiration of Agri-Tourism Approvals
- (i) Approvals issued pursuant to (12)(a) shall be valid for two years from the date of the approval, and may be renewed for an additional two years subject to:
 - (aa) An application for renewal; and
 - (bb) Demonstration of compliance with the provisions of Section (12)(a) and conditions that apply to the limited use permit or to the agri-tourism or other commercial events or activities authorized by the permit.
 - (ii) Approvals issued pursuant to (12)(b) shall be valid for four years from the date of the approval. If continued, the permit holder must submit an application for renewal at four year intervals. Upon receipt of a request for renewal, the Director must:
 - (aa) Issue public notice and an opportunity for public comment as part of the review process according to LC Chapter 14; and
 - (bb) Limit review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Section (12)(b).

(13) Commercial Facilities for Generating Power

- (a) Commercial Power Generating Facility.
- (i) Permanent features of a power generation facility shall not preclude more than:
 - (aa) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
 - (bb) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
 - (ii) 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 Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
 - (iii) Permitting. A commercial power generating facility is not subject to the requirements for a special use permit and the associated review procedure where the facility is compliant with ORS 469.504(b).
- (b) Wind Power Generation Facility.
- (i) For purposes of this Chapter, 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.
 - (aa) Temporary workforce housing described in Section (13)(a)(ii) must be removed or converted to Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete.

- (bb) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
- (ii) For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the County must find that all of the following are satisfied:
 - (aa) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 - (A) Technical and engineering feasibility;
 - (B) Availability of existing rights of way; and
 - (C) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection (bb);
 - (bb) 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;
 - (cc) Costs associated with any of the factors listed in Subsection (aa) 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;

- (dd) The owner of a wind power generation facility approved under Subsection (ii) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
- (ee) The criteria of Subsection (iii) are satisfied.
- (iii) For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
 - (aa) 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;
 - (bb) 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;

- (cc) 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
 - (dd) 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.
 - (iv) For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection (13)(b)(iii)(dd) are satisfied.
 - (v) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections (13)(b)(iii) and (iv), the approval criteria of Subsection (13)(b)(iii) shall apply to the entire project.
 - (c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:
 - (i) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
 - (ii) “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 the land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
 - (iii) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

- (iv) “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.
- (v) “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 1,320 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.
- (vi) 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:

- (aa) 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;
- (bb) 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;
- (cc) 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;
- (dd) 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;
- (ee) The project is not located on high-value farmland soils unless it can be demonstrated that:
 - (A) Non high-value farmland soils are not available on the subject tract;

- (B) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
- (ff) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
- (A) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
 - (B) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the Director 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.
- (vii) 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 Director must find that:
- (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
 - (A) Nonarable soils are not available on the subject tract;

- (B) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
- (bb) 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;
- (cc) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
- (A) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
 - (B) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
- (dd) The requirements of Subsections (13)(c)(vi)(aa), (bb), (cc), and (dd) are satisfied.

- (viii) 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 Director must find that:
- (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
 - (A) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (B) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
 - (bb) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
 - (cc) 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;
 - (dd) The requirements of Subsection (13)(c)(vi)(dd) are satisfied;
 - (ee) 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 Chapters 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

- (ff) If a proposed photovoltaic solar power generation facility is located on lands where, after the site specific consultation with an Oregon Department of Fish and Wildlife biologist, if it determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or habitat 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 to wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the County is responsible for determining appropriate mitigation, if any, required for the facility.
- (gg) The provisions of Subsection (13)(c)(viii)(ff) are repealed on January 1, 2022.
- (ix) The project owner shall sign and record at Lane County Deeds & Records 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).
- (x) 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.

(14) Land Divisions

- (a) Land within the Exclusive Farm Use District shall be designated as E-25, E-30, E-40 or E-60, consistently with Agricultural Lands Policy #10 of the Lane County Rural Comprehensive Plan. The creation of a lot or parcel shall comply with the requirements in LC Chapter 13 for the submittal and approval of tentative plans and plats and with Section (14).
- (b) The minimum area shall be:
 - (i) E-25: 25 acres
 - (ii) E-30: 30 acres
 - (iii) E-40: 40 acres
 - (iv) E-60: 60 acres
- (c) A division of land may be allowed down to 20 acres for horticultural specialties, berries and grapes. A farm management plan including the factors identified below shall address and establish the suitability of the land for the intended use:
 - (i) Land preparation.
 - (ii) Ripping and plowing.
 - (iii) Fencing.
 - (iv) Surveying.
 - (v) Crop cultivation.
 - (vi) Irrigation.
 - (vii) Herbicide; fungicide and/or fertilizer application.
 - (viii) Machinery.
 - (ix) Accessory farm buildings.
 - (x) Breeding and livestock raising concerns.
 - (xi) Labor.
 - (xii) Projected expenses associated with the above.
 - (xiii) Date by which the farm management plan would be substantially implemented.

- (d) A division of land to accommodate a Conditional Use as permitted by in Table 16.212-1 of this Chapter, except a residential use, smaller than the minimum parcel size provided in Subsection (a) may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (e) For the area of Lane County lying west of the summit of the Coast Range, a division of land to create up to two new parcels smaller than the minimum parcel size required by (14)(b) above, each to contain a dwelling not provided in conjunction with farm use may be approved if these requirements are met:
 - (i) The property owner shall submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of up to two dwellings not in conjunction with farm use;
 - (ii) The non-farm dwellings shall comply with the requirements in (9) or (10)(a) above;
 - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
 - (iv) The remainder of the original lot or parcel that does not contain the dwellings complies with the minimum parcel size established in (14)(b) above;
 - (v) The parcels for the non-farm dwellings are divided from a lot or parcel that complies with the minimum size established in (14)(b) above;
 - (vi) The parcels for the non-farm dwellings are 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, location and size of the tract. A lot or parcel may not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land;
 - (vii) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and
 - (viii) The dwelling complies with such other conditions as the approval authority considers necessary.

- (f) For the area of Lane County lying west of the summit of the Coast Range, a division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
- (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with farm use;
 - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
 - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size required by (14)(b) above but equal to or larger than 40 acres;
 - (iv) The parcels for the non-farm dwellings are:
 - (aa) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and
 - (bb) Composed of at least 90 percent Class VI through VIII soils;
 - (v) The parcels for the non-farm dwellings do not have established water rights for irrigation;
 - (vi) The parcels for the non-farm 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;
 - (vii) The non-farm dwellings shall comply with LC 16.212(9);
 - (viii) The non-farm dwellings shall comply with LC 16.212(5)(a) and (b);
 - (ix) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and
 - (x) The dwelling complies with other conditions considered necessary by the approval authority;

- (g) For the area of Lane County lying east of the summit of the Coast Range, a division of land to divide a lot or parcel for a dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
- (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with the farm use;
 - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that:
 - (aa) Is equal to or larger than the minimum size required by (14)(a) above;
 - (bb) Is not stocked to the requirements under ORS 527.610 through 527.770;
 - (cc) Is composed of at least 95 percent Class VI through VIII soils;
 - (dd) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
 - (ee) The new lot or parcel will not be smaller than 20 acres;
 - (iii) The dwelling to be sited on the new lot or parcel complies with the requirements for dwellings not in conjunction with farm use in Sections (9) and (10); and
 - (iv) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236.
- (h) This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- (i) This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- (j) This Section does not allow a division or property line adjustment of a lot or parcel that separates uses 2.3, 2.9, or 3.7 in Table 16.212-1 of this Chapter.

- (k) This Section does not allow a division of a lot or parcel that separates a processing facility from the farm operation specified as use 1.6 in Table 16.212-1 of this Chapter.
- (l) A division of land may be permitted to create a parcel with an existing dwelling to be used:
 - (i) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section (9) or (10)(a); and
 - (ii) For historic property that meets the requirements of use 2.8 in Table 16.212-1 of this Chapter.
- (m) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b),
 - (i) A division of land may be approved provided:
 - (aa) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (bb) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - (cc) 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.
 - (ii) A parcel created pursuant to this Subsection that does not contain a dwelling:
 - (aa) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (bb) May not be considered in approving or denying an application for siting any other dwelling;
 - (cc) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

- (dd) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (n) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b), a division of land may be allowed for the purpose of establishing a church, including cemeteries in conjunction with a church provided:
 - (i) The church has been approved as use 7.11 of Table 16.212-1;
 - (ii) The newly created lot or parcel is not larger than five acres;
 - (iii) The new parcel for the church shall meet the minimum size in (14)(a) either by itself or after it is consolidated with another lot or parcel.
- (o) Notwithstanding the minimum lot or parcel size described Subsection (14)(a), a division for a fire service facility provided in use 7.2 of Table 16.212-1, if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (p) A division of a lot or parcel by partition when a portion of the parcel has been included within an urban growth boundary (UGB) and subject to the following:
 - (i) The portion of the parcel within the UGB has been redesignated for urban uses under the applicable acknowledged comprehensive plan; and
 - (ii) The portion of the parcel that remains outside the UGB is smaller than the minimum parcel size pursuant to (14)(b) above; and
 - (iii) The parcel must be divided along the UGB boundary line; and
 - (iv) If the parcel outside of the UGB contains a dwelling, the parcel must be large enough to support continued residential use.
 - (v) If the parcel outside of the UGB does not contain a dwelling, the parcel:
 - (aa) Is not eligible for siting a dwelling, except as authorized in conjunction with a state or local public park;
 - (bb) May not be considered in approving or denying an application for any other dwelling; and

- (cc) May not be considered in approving a redesignation or re-zoning of forestlands, except to allow a public park, open space or, other natural resource use.
- (vi) A landowner allowed a land division under (14)(p) shall sign and record in the Lane County deed records 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 30.397.
- (q) Divisions under (14)(b) and (14)(c) shall require that a statement be placed on the face of the plat disclosing that a dwelling is not guaranteed unless the requirements of (6), (7) or (8) above for a dwelling are met.
- (r) The governing body may not approve a division of land for nonfarm use under Subsection (d), (e), (f), (g), (l), (m), (n), or (o) unless any additional tax imposed for the change in use has been paid.
- (s) 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.
- (t) The Director or its designate may not approve a land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to subsection (14)(g).
- (u) A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water, or bio solids as provided Section 6.2 of Table 16.212-1.

(15) Development Standards

All uses or activities allowed by LC 16.212 must comply with the requirements in Section (15)(b). Uses or activities allowed by LC 16.212, except farm use, must comply with the requirements in LC 16.212(15)(a) and (b).

- (a) For approval of a use or activity allowed by LC 16.212 that requires a Type II or Type III review, the Approval Authority must balance the setback requirements of LC 16.212(15)(b) with the applicable approval standards of LC 16.212(3) and (6) through (14) in order to minimize adverse impacts upon nearby farm and forest uses or to assure optimal siting of proposed dwellings to minimize adverse impacts on nearby farm and forest lands.

- (i) Dwellings and development accessory to residential uses to be sited upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as “Major” must be sited as follows:
 - (aa) Near dwellings on other tracts.
 - (bb) With minimal intrusion into forest areas undeveloped by non-forest uses.
 - (cc) Where possible, when considering LC 16.212(15)(a)(i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.
- (ii) Dwellings and development accessory to residential uses to be sited upon all of tracts must be sited as follows:
 - (aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.
 - (bb) On the least valuable farm or forest areas of the tract or located near dwellings on other tracts.
- (b) All uses, activities, and structures allowed by LC 16.212 must comply with:
 - (i) Property Line Setbacks. No structure other than a fence or sign shall be located closer than:
 - (aa) 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and
 - (bb) 10 feet from all other property lines except as provided below.
 - (ii) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a Riparian Modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
 - (iii) Signs.

- (aa) Signs cannot extend over a public right-of-way or project beyond the property line.
- (bb) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement.
- (cc) Signs are limited to 200 square feet in area.

(16) Telecommunication Facilities.

Telecommunication facilities are allowed subject to compliance with the requirements of Section (15), LC 16.264, and with applicable requirements elsewhere in LC Chapter 16. *(Revised by Ordinance: 20-06, Effective: 6.16.20)*

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PAGES 16-208 THROUGH 16-213
ARE RESERVED FOR FUTURE EXPANSION