

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: February 2, 2021 **Approx. Start Time:** 3:00 **Approx. Length:** ½ hour

Presentation Title: Implementation of Temporary Oregon Administrative Rules in Response to 2020 Wildfires

Department: Transportation and Development, Planning and Zoning Division

Presenters: Jennifer Hughes, Planning Director; and Nate Boderman, Assistant County Counsel

Other Invitees: Dan Johnson, DTD Director; Cheryl Bell, DTD Assistant Director, Stephen Madkour, County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

We are requesting a decision on whether to implement the temporary Oregon Administrative Rules (OAR) in unincorporated Clackamas County and, if so, what decision process to use for authorizing the allowed land uses.

EXECUTIVE SUMMARY:

In response to the substantial loss of homes in Oregon due to last year's devastating wildfires, the Oregon Land Conservation and Development Commission (LCDC) adopted temporary administrative rules to provide additional temporary housing options in rural areas for wildfire victims and to reduce the regulatory burden for replacement of lost dwellings. These rules are in effect until May 8, 2021; however, there are discussions at the state level about permanent rulemaking or new legislation to replace the temporary rules. In light of the short effective period for the temporary rules and the likelihood that any permanent regulations will differ in some ways, amendment of the county's zoning code, which is a relatively lengthy process, is not appropriate at this time. Instead, the Board may decide to implement the temporary rules directly.

LCDC structured the rules such that:

- Some are optional for local jurisdictions and are expressly allowed to be implemented without amendment of local codes
- Some are optional and silent on whether a local code amendment is required for implementation

Attached is a table that identifies the key changes and which of the two categories applies to each. Also attached is a copy of the full sections of the relevant Oregon Administrative Rules with the changes shown struck or underlined.

The state rules do not specify a review process for the newly allowed uses. Generally, however, if we are applying discretionary, rather than clear and objective, land use regulations, we must provide notice and an opportunity for appeal. Under the zoning code, the county does that most often through a “Type II” review process. The other option is a “Type III” process where a public hearing is held in all cases (not just for appeals). Staff finds that with the exception of the debris staging areas and the replacement of dwellings in forest zones, the uses covered by the temporary rules have discretionary approval criteria.

For context, the Planning and Zoning Division has received inquiries and permit applications related to replacement of dwellings lost to the fire and our code already allows occupancy of a recreational vehicle while the permanent dwelling is under construction; however, we have not seen any significant wildfire-related demand for the other types of temporary housing identified in the attached table. The process for replacement of a lawfully established dwelling in a forest zone is more complicated than replacement of dwellings in other zones due to the specifics of the previously applicable state law. The temporary administrative rules reduce the complexity of this replacement process.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

Based on anticipated demand, staff believes the permitting of the allowed uses can be accommodated with current staffing.

What is the cost? The cost is dependent on the number of permit applications received, which cannot be predicted with certainty. Based on the number and zoning of dwellings lost to wildfires in the county, the number of customer inquiries received by staff, and the short duration of the temporary administrative rules, staff estimates no more than 10 to 12 applications. Most of the applications are likely to be for replacement dwellings, which staff is recommending be approved “over the counter” in conjunction with the filing of a building permit. The best available data indicates that Planning and Zoning recoups approximately half of the processing cost through building permit application fees. Thus, the General Fund cost would be approximately \$150 per permit for an estimated total of \$1,500.

There have been some limited customer inquiries about establishing temporary housing in the form of campgrounds or similar. Staff is recommending those be reviewed through a “Type II” application process. Assuming two applications are filed, no appeals result, and an estimated 50% cost recovery is achieved through the \$960 Type II application fee, the General Fund cost is estimated at \$2,000.

It is important to note, there is no additional General Fund required. The General Fund costs will be in the form of allocation of existing staff time authorized through the current budget, meaning that staff time will be spent on processing these permits rather than on another Planning and Zoning task.

What is the funding source? A combination of application fees and general fund

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?

This aligns with the department's strategic goal that customers will experience coordinated resources and efficient service response in the event of an emergency or disaster by providing temporary housing for people who lost their permanent housing to wildfire.

- How does this item align with the County's Performance Clackamas goals?

This is consistent with the County's strategic priority to Ensure Safe, Healthy and Secure Communities by providing temporary housing for people who lost their permanent housing to wildfire.

LEGAL/POLICY REQUIREMENTS: There is some uncertainty surrounding implementation of those rules that are not expressly authorized for direct application by local governments without a local code amendment. However, Oregon Department of Land Conservation and Development staff have advised that direct application is enabled for all of the changes. Staff is comfortable with proceeding if notice and an opportunity to appeal are provided for the uses with discretionary standards, and with the understanding that this is an interim measure to address a natural disaster.

PUBLIC/GOVERNMENTAL PARTICIPATION: N/A

OPTIONS:

1. Authorize implementation of all of the uses set forth in the temporary rules and listed in the attached table. Require "Type II" land use review for all except debris staging areas and replacement of lawfully established dwellings in a forest zone.
2. Authorize only some of the uses set forth in the temporary rules and listed in the attached table and/or require a different type of review for some of the identified uses.
3. Decline to authorize any of the uses enabled by the temporary rules.

RECOMMENDATION: Staff recommends Option 1, to authorize implementation of all of the uses set forth in the temporary rules and listed in the attached table. Require "Type II" land use review for all except debris staging areas and replacement of lawfully established dwellings in a forest zone.

ATTACHMENTS:

- Table, *Uses Authorized by Temporary Amendments to OAR Chapter 660*
- Temporary Amendments to OAR Chapter 660

SUBMITTED BY:

Division Director/Head Approval: *Jennifer Hughes*

Department Director/Head Approval *Dan Johnson*

County Administrator Approval _____

Uses Authorized by Temporary Amendments to OAR Chapter 660

Use	Where is the use allowed?	Mandatory or optional for county implementation?	Zoning code amendment required for implementation?
Temporary residential uses <ul style="list-style-type: none"> • a single manufactured dwelling • use of an existing building or buildings • one or two (depending on the zone) yurts • up to three or five (depending on the zone) recreational vehicles • up to three or five (depending on the zone) fabric structures, tents and similar accommodations 	Rural residential zones; unincorporated community residential zones	Optional	No
Temporary campgrounds	Rural residential zones; forest zones; Exclusive Farm Use zones	Optional	No in residential zones; unclear in forest and EFU zones
Staging sites for nonhazardous debris resulting from recovery efforts associated with damage caused by a wildfire	Rural residential zones; unincorporated community residential zones; forest zones	Optional	No in residential zones; unclear in forest zones
Replacement of a lawfully established dwelling destroyed by wildfire, within 60 months of destruction. Owner may live in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed.	Forest zones	Optional	Unclear
A recreational vehicle or the residential use of an existing building as a temporary “hardship” dwelling	Forest zones and Exclusive Farm Use zones	Optional	Unclear

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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

LCDD 15-2020
CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED
11/10/2020 1:34 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Emergency rulemaking in response to 2020 Oregon Wildfires

EFFECTIVE DATE: 11/10/2020 THROUGH 05/08/2021

AGENCY APPROVED DATE: 10/22/2020

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Filed By:
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NEED FOR THE RULE(S):

Oregon has suffered unprecedented catastrophic wildfires in the late Summer and Fall of 2020. Providing land use planning provisions adequate to respond to needs of Oregon's wildfire recovery efforts are within the public interest.

Failure to act promptly will result in serious prejudice to the public interest for the following specific reasons.

Although wildfire is a regular occurrence on the Oregon landscape, never before has so much fire damage been so concentrated in the state's built environment.

The result has been an unprecedented loss of homes and other public and private property. Significant portions of some communities, and in some cases entire communities, have burned to the ground.

Wildfire damage has left thousands of people without homes, including substantial numbers of low income and underprivileged individuals including Oregonians of color.

As the Fall of 2020 turns to the Winter of 2020-21, the weather will turn cold and more severe. Without shelter and interim housing available, Oregonians will be forced to consider leaving the affected areas, causing communities to further fragment and decline. Those choosing to stay are likely to face substandard and overcrowded housing conditions.

JUSTIFICATION OF TEMPORARY FILING:

These rules are needed to provide an immediate arrangement of land use provisions for the establishment of sheltering and interim housing opportunities for individual displaced by wildfires occurring during August, September, and October of 2020.

The rules are intended to meet the need by immediately offering multiple options for local governments to approve sheltering and interim housing accommodations across several rural land use categories.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Land Conservation and Development Commission has relied upon the following principal documents in considering the need for and preparing of the rules:

Governor's Executive Order 20-34 Governor's Executive Order 20-47
Governor's Executive Order 20-35 Governor's Executive Order 20-48
Governor's Executive Order 20-36 Governor's Executive Order 20-49
Governor's Executive Order 20-39 Governor's Executive Order 20-50
Governor's Executive Order 20-40 Governor's Executive Order 20-51
Governor's Executive Order 20-41 Governor's Executive Order 20-52
Governor's Executive Order 20-42 Governor's Executive Order 20-53
Governor's Executive Order 20-43 Governor's Executive Order 20-56
Governor's Executive Order 20-44 Governor's Executive Order 20-57
Governor's Executive Order 20-45

These principal documents are available for public inspection at
<https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

HOUSING IMPACT STATEMENT:

There is no anticipated impact to housing costs.

RULES:

660-004-0040, 660-006-0025, 660-011-0060, 660-012-0065, 660-014-0080, 660-022-0010, 660-022-0030, 660-033-0130

AMEND: 660-004-0040

RULE SUMMARY: Amends OAR 660-004-0040. Expands definitions to include "interim housing" and "sheltering." Identifies "temporary residences," "temporary campgrounds" and "temporary debris staging sites" as uses that counties may approve in rural residential areas.

CHANGES TO RULE:

660-004-0040

Application of Goal 14 to Rural Residential Areas ¶¶

(1) The purpose of this rule is to specify how Goal 14 "Urbanization" applies to rural lands in acknowledged exception areas planned for residential uses.¶¶

- (2) For purposes of this rule, the definitions in ORS 197.015, the Statewide Planning Goals and OAR 660-004-0005 shall apply. In addition, the following definitions shall apply:¶¶
- (a) "Accessory dwelling unit" means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.¶¶
- (b) "Habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.213(1)(q)(A)-(D) or ORS 215.283(1)(p)(A)-(D), whichever is applicable.¶¶
- (c) "Historic home" means a single-family dwelling constructed between 1850 and 1945.¶¶
- (d) "Interim housing" means the intermediate period of housing assistance that covers the gap between sheltering and the return of disaster survivors to permanent housing.¶¶
- (e) "Minimum lot size" means the minimum area for any new lot or parcel that is to be created in a rural residential area.¶¶
- (ef) "New single-family dwelling" means that the dwelling being constructed did not previously exist in residential or nonresidential form. New single-family dwelling does not include the acquisition, alteration, renovation or remodeling of an existing structure.¶¶
- (fg) "Rural residential areas" means lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Goal 3 "Agricultural Lands", Goal 4 "Forest Lands", or both has been taken.¶¶
- (gh) "Rural residential zone currently in effect" means a zone applied to a rural residential area that was in effect on October 4, 2000, and acknowledged to comply with the statewide planning goals.¶¶
- (hi) "Sheltering" means housing that provides short-term refuge and life-sustaining services for disaster survivors who have been displaced from their homes and are unable to meet their own immediate post-disaster housing needs and is accomplished through use of fabric structures, tents and similar accommodations.¶¶
- (j) "Single-family dwelling" means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.¶¶
- (3)(a) This rule applies to rural residential areas.¶¶
- (b) Sections (1) to (9) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family dwelling on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000.¶¶
- (c) This rule does not apply to types of land listed in (A) through (H) of this subsection:¶¶
- (A) Land inside an acknowledged urban growth boundary;¶¶
- (B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22;¶¶
- (C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, divisions 21 or 27;¶¶
- (D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;¶¶
- (E) Resource land, as defined in OAR 660-004-0005(2);¶¶
- (F) Nonresource land, as defined in OAR 660-004-0005(3);¶¶
- (G) Marginal land, as defined in former ORS 197.247 (1991 Edition); or¶¶
- (H) Land planned and zoned primarily for rural industrial, commercial, or public use.¶¶
- (4)(a) Sections 1, 3-9 and 13 of this rule took effect on October 4, 2000.¶¶
- (b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County), and before October 4, 2000. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.¶¶
- (5) The rural residential areas described in subsection (2)(fg) of this rule are "rural lands". Division and development of such lands are subject to Goal 14, which prohibits urban use of rural lands.¶¶

- (6)(a) A rural residential zone in effect on October 4, 2000 shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres, except as required by section (8) of this rule.¶
- (b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.¶
- (7) After October 4, 2000, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR chapter 660, division 14, and applicable requirements of this division.¶
- (8)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.¶
- (b) Each local government must specify a minimum lot size for each rural residential area.¶
- (c) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed the minimum lot size that is already in effect.¶
- (d) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.¶
- (e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new single-family dwellings in a rural residential area only if all conditions set forth in paragraphs (A) through (H) are met:¶
- (A) The number of new single-family dwellings to be clustered or developed as a PUD does not exceed 10;¶
- (B) The number of new lots or parcels to be created for new single-family dwellings does not exceed 10;¶
- (C) None of the new lots or parcels will be smaller than two acres;¶
- (D) The development is not to be served by a new community sewer system;¶
- (E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community;¶
- (F) The overall density of the development will not exceed one single-family dwelling for each unit of acreage specified in the local government's land use regulations on October 4, 2000 as the minimum lot size for the area;¶
- (G) Any group or cluster of two or more single-family dwellings will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there; and¶
- (H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.¶
- (f) Except as provided in subsection (e) of this section or section (10) of this rule, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.¶
- (g) In rural residential areas, the establishment of a new "mobile home park" or "manufactured dwelling park" as defined in ORS 446.003(23) and (30) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.¶
- (h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in

paragraphs (A) through (D) of this subsection exist:¶¶

(A) The parcel to be divided has two or more permanent habitable dwellings on it;¶¶

(B) The permanent habitable dwellings on the parcel to be divided were established there before October 4, 2000;¶¶

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and¶¶

(D) The partition would not create any vacant parcels on which a new dwelling could be established.¶¶

(i) For rural residential areas designated after October 4, 2000, the affected county shall either:¶¶

(A) Require that any new lot or parcel have an area of at least ten acres, or¶¶

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the applicable requirements for an exception to Goal 14 in OAR chapter 660, division 14. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."¶¶

(9)(a) Notwithstanding the provisions of section (8) of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (9)(b) and (9)(c).¶¶

(A) Ashland;¶¶

(B) Central Point;¶¶

(C) Medford;¶¶

(D) Newberg;¶¶

(E) Sandy.¶¶

(b) Any division of rural residential land in an urban reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan of a city or urban area listed in subsection (9)(a) that:¶¶

(A) Has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21; or¶¶

(B) Is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658.¶¶

(c) Notwithstanding the provisions of section (8) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in subsection (9)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, division 21, or is not part of an acknowledged regional growth plan as described in subsection (b), paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.¶¶

(d) Notwithstanding the provisions of section (8), if Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21 or division 27, any land division of rural residential land in that urban reserve shall be done in accordance with the applicable acknowledged comprehensive plan and zoning provisions adopted to implement the urban reserve.¶¶

(e) Notwithstanding the provisions of section (8), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if Metro has not designated an urban reserve that contains at least a twenty-year reserve of land acknowledged to comply with either OAR chapter 660, division 21 or division 27, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.¶¶

(f) Notwithstanding the provisions of section (8) and subsection (9)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in subsection (9)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at densities of at least 10 units per net developable acre. In no case shall the minimum parcel area requirement set for such lands be smaller than 10 acres.¶¶

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (F) of this subsection exist:¶

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;¶

(B) The permanent, habitable dwellings on the parcel to be divided were established there before October 4, 2000;¶

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;¶

(D) The partition would not create any vacant parcels on which new dwellings could be established;¶

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel; and¶

(F) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27, except as provided under OAR 660-027-0070.¶

(h) Notwithstanding the provisions of subsection (g) of this section, a county may allow the creation of lots or parcels as small as two acres without an exception to Goal 14 in an existing rural residential exception area as a designated receiving area for the transfer of Measure 49 development interests, as provided in OAR 660-029-0080 and 660-029-0090.¶

(10) Notwithstanding any local zoning or local regulation or ordinance pertaining to the siting of accessory dwelling units in rural residential areas, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct a new single-family dwelling on the lot or parcel, provided:¶

(a) The lot or parcel is not located in an area designated as an urban reserve;¶

(b) The lot or parcel is at least two acres in size;¶

(c) A historic home is sited on the lot or parcel;¶

(d) The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and¶

(e) The accessory dwelling unit complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.¶

(11) An owner that constructs a new single-family dwelling under section (10) of this rule may not:¶

(a) Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.¶

(b) Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.¶

(c) Rebuild the accessory dwelling unit if the structure is lost to fire.¶

(d) Construct an additional accessory dwelling unit on the same lot or parcel.¶

(12) For a new single-family dwelling approved under section (10) of this rule a county may:¶

(a) Require that a new single-family dwelling be served by the same water supply source as the accessory dwelling unit.¶

(b) Impose additional conditions of approval for construction of a new single-family dwelling or conversion of a historic home to an accessory dwelling unit.¶

(13) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.¶

(14) A county may approve the uses listed in subsections (a), (b), and (c) without amendments to the county plan or land use regulations when a natural hazard event has caused a need for sheltering and interim housing opportunities, as well, as debris removal activities, and has resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. Uses approved under this section shall be consistent with all applicable provisions of law including adopted comprehensive plan provisions and land use regulations to protect people and property from flood, geologic, and wildfire hazards. Uses approved under this section are to be removed or converted to an allowed use within 36 months from the date of the

Governor's emergency declaration. A county may grant two additional 12-month extensions upon a demonstration by the applicant that uses approved pursuant to subsections (a) and (b) remain necessary because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities, or for uses approved pursuant to subsection (c), that the use remains necessary because debris removal activities remain ongoing. ¶

(a) Temporary residential uses in conjunction with a dwelling that either existed or had received land use approval to be constructed on July 5, 2020 provided that such uses are located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible and are limited to:¶

(A) A single manufactured dwelling;¶

(B) Use of an existing building or buildings;¶

(C) A single yurt;¶

(D) Up to three recreational vehicles; or¶

(E) Up to three fabric structure, tents and similar accommodations.¶

(b) Temporary campgrounds provided that:¶

(A) A wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. ¶

(B) Commercial activities in temporary campgrounds shall be limited to small scale, low impact uses designed to provide basic food and grocery services for park occupants.¶

(C) Campsites in temporary campgrounds may be occupied by a tent, travel trailer, yurt, recreational vehicle or similar accommodations.¶

(D) Temporary campgrounds are located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.¶

(c) Staging site for nonhazardous debris resulting from recovery efforts associated with damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.

Statutory/Other Authority: ORS 197.040, ORS 195.141

Statutes/Other Implemented: ORS 197.175 & 197.732, 2007 Oregon Laws, Ch. 424, ORS 195.141, ORS 195.145, ORS 195.300-195.336, 197.175 & 197.732; 2007 OL, ch. 424

AMEND: 660-006-0025

RULE SUMMARY: Amends OAR 660-006-0025(3) to identify "temporary debris staging sites" and the replacement of homes that have been destroyed by wildfire as uses that counties may approve.

Amends OAR 660-006-0025(4) to better align existing campground provisions and temporary dwelling opportunities to emergency needs.

CHANGES TO RULE:

660-006-0025

Uses Authorized in Forest Zones ¶¶

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:¶¶

(a) Uses related to and in support of forest operations;¶¶

(b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;¶¶

(c) Locationally-dependent uses, such as communication towers, mineral and aggregate resources, etc;¶¶

(d) Dwellings authorized by ORS 215.705 to 215.757 (ORS 215.757); and¶¶

(e) Other dwellings under prescribed conditions.¶¶

(2) The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones:¶¶

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;¶¶

(b) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;¶¶

(c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and¶¶

(d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.¶¶

(3) The following uses may be allowed outright on forest lands:¶¶

(a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;¶¶

(b) Farm use as defined in ORS 215.203;¶¶

(c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;¶¶

(d) Temporary portable facility for the primary processing of forest products;¶¶

(e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;¶¶

(f) Private hunting and fishing operations without any lodging accommodations;¶¶

(g) Towers and fire stations for forest fire protection;¶¶

(h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);¶¶

- (i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;¶
- (j) Caretaker residences for public parks and public fish hatcheries;¶
- (k) Uninhabitable structures accessory to fish and wildlife enhancement;¶
- (l) Temporary forest labor camps;¶
- (m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;¶
- (n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;¶
- (o) Alteration, restoration or replacement of a lawfully established dwelling that:¶
 - (A) Has intact exterior walls and roof structures;¶
 - (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;¶
 - (C) Has interior wiring for interior lights;¶
 - (D) Has a heating system; and¶
 - (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;¶
- (p) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when the county finds to its satisfaction, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (o)(A) thru (E). For purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data. The property owner of record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed.¶
- (q) An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770;¶
- (~~r~~) Dump truck parking as provided in ORS 215.311; and¶
- (~~r~~s) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use.¶
- (t) Temporary staging site for nonhazardous debris resulting from recovery efforts associated with damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.¶
- (4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:¶
 - (a) Permanent facility for the primary processing of forest products that is:¶
 - (A) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and¶
 - (B) Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body;¶
 - (b) Permanent logging equipment repair and storage;¶
 - (c) Log scaling and weigh stations;¶
 - (d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;¶
 - (e)(A) Private parks and campgrounds. ~~€ A campgrounds in private parks shall only be those allowed by this subsection.~~ s an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations¶
 - (A) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban

growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. ~~A~~ Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is approved under this subsection must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be and 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. 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.¶

(i) 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. ~~Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.~~¶

(B) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities.¶

(Bi) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, ~~water or electric service~~ hook-ups shall not be provided to individual camp sites ~~except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this ru.~~¶

(ii) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.¶

(C) Subject to the approval of the county governing body or its designee, 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. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.¶

(D) For applications submitted under paragraph (B) of this rule, the county may find the criteria of section (5) to be satisfied when:¶

(i) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.¶

(ii) The number of proposed campsites does not exceed 12; or¶

(iii) The number of proposed campsites does not exceed 36; and¶

(iv) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.¶

(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;¶

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;¶

- (h) Television, microwave and radio communication facilities and transmission towers;¶
- (i) Fire stations for rural fire protection;¶
- (j) Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4;¶
- (k) Aids to navigation and aviation;¶
- (l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;¶
- (m) Reservoirs and water impoundments;¶
- (n) Firearms training facility as provided in ORS 197.770(2);¶
- (o) Cemeteries;¶
- (p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:¶
 - (A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;¶
 - (B) Only minor incidental and accessory retail sales are permitted;¶
 - (C) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and¶
 - (D) A governing body may impose other appropriate conditions.¶
- (q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;¶
- (r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;¶
- (s) Home occupations as defined in ORS 215.448;¶
- (t) ~~A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with~~ Temporary hardship residence in conjunction with an existing dwelling. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215. "Hardship" also includes situations where a natural hazard event has destroyed homes, caused residential evacuations, or both, an existing dwelling as a temporary use for the term of a hardship suffered resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).¶
 - (A) ~~For a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or a relative as defined in ORS 215.213 and 215.283. The~~ chapter 215 the temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building. A manufactured dwelling shall 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 manufactured dwelling home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under subsection (3)(o) of this rule. Department of Environmental Quality review and removal requirements also apply.¶
 - (B) ~~For hardships based on a natural hazard event described in this subsection, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designate shall require the removal of such mobile homes. Oregon temporary residences every two years. Within three months of the temporary residence no longer being necessary, the recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply to~~

~~such mobile homes. As used, ¶~~

~~(C) For applications submitted under paragraph (B) of this rule, the county may find this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons; at the criteria of section (5) are satisfied when: ¶~~

~~(i) The temporary residence is established within an existing building or, if a recreational vehicle, is located within 100 feet of the primary residence; or ¶~~

~~(ii) The temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both. ¶~~

~~(u) Expansion of existing airports; ¶~~

~~(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3); ¶~~

~~(w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following requirements: ¶~~

~~(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; ¶~~

~~(B) Only minor incidental and accessory retail sales are permitted; ¶~~

~~(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; ¶~~

~~(D) Accommodations must be located within 1/4 mile of fish-bearing Class I waters; and ¶~~

~~(E) A governing body may impose other appropriate conditions. ¶~~

~~(x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations; and ¶~~

~~(y) An outdoor mass gathering: ¶~~

~~(A) Of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735. In addition to the review standards in section (5) of this rule, the county must make findings required by ORS 433.763(l)(c). ¶~~

~~(B) As defined by ORS 433.735, for which a county decides that a land use permit is required. In addition to findings required by ORS 433.763(1), a county may, when determining review standards, include all, some, or none of the review standards in section (5) of this rule. ¶~~

~~(z) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, if: ¶~~

~~(A) Areas within an urban growth boundary cannot reasonably accommodate the structures; ¶~~

~~(B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction; ¶~~

~~(C) Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration; ¶~~

~~(D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served; ¶~~

~~(E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and ¶~~

~~(F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures. ¶~~

~~(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands: ¶~~

~~(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; ¶~~

~~(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or~~

significantly increase risks to fire suppression personnel; and¶¶

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.¶¶

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.¶¶

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

Statutory/Other Authority: ORS 197.230, ORS 197.245, ORS 197.040

Statutes/Other Implemented: ORS 197.040, ORS 197.230, ORS 197.245, ORS 215.700, ORS 215.705, ORS 215.720, ORS 215.740, ORS 215.750, ORS 215.780, 1993 OL Ch. 792

AMEND: 660-011-0060

RULE SUMMARY: Amends OAR 660-011-0060 to identify that sewer service may be provided to lands subject to a Goal 14 exception approved pursuant to OAR 660-014-0080.

CHANGES TO RULE:

660-011-0060

Sewer Service to Rural Lands ¶¶

(1) As used in this rule, unless the context requires otherwise:¶¶

(a) "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities;¶¶

(b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;¶¶

(c) "No practicable alternative to a sewer system" means a determination by the Department of Environmental Quality (DEQ) or the Oregon Health Division, pursuant to criteria in OAR chapter 340, division 71, and other applicable rules and laws, that an existing public health hazard cannot be adequately abated by the repair or maintenance of existing sewer systems or on-site systems or by the installation of new on-site systems as defined in OAR 340-071-0100;¶¶

(d) "Public health hazard" means a condition whereby it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage;¶¶

(e) "Sewage" means the water-carried human, animal, vegetable, or industrial waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present;¶¶

(f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:¶¶

(A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;¶¶

(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.¶¶

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:¶¶

(a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;¶¶

(b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;¶¶

(c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.¶¶

(3) Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:¶¶

(a) Such placement is necessary to:¶¶

(A) Serve lands inside the UGB more efficiently by traversing lands outside the boundary;¶¶

(B) Serve lands inside a nearby UGB or unincorporated community;¶¶

(C) Serve lands subject to a Goal 14 exception approved pursuant to OAR 660-014-0080;¶¶

(D) Connect to components of the sewer system lawfully located on rural lands, such as outfall or treatment facilities; or¶¶

(E) Transport leachate from a landfill on rural land to a sewer system inside a UGB;¶¶

(b) The local government:¶¶

(A) Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and¶¶

(B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.¶¶

(4) A local government may allow the establishment of a new sewer system, or the extension of an existing sewer system, to serve land outside urban growth boundaries and unincorporated community boundaries in order to mitigate a public health hazard, provided that the conditions in subsections (a) and (b) of this section are met, as follows:¶¶

(a) The DEQ or the Oregon Health Division initially:¶¶

(A) Determines that a public health hazard exists in the area;¶¶

(B) Determines that the health hazard is caused by sewage from development that existed in the area on July 28, 1998;¶¶

(C) Describes the physical location of the identified sources of the sewage contributing to the health hazard; and¶¶

(D) Determines that there is no practicable alternative to a sewer system in order to abate the public health hazard; and¶¶

(b) The local government, in response to the determination in subsection (a) of this section, and based on recommendations by DEQ and the Oregon Health Division where appropriate:¶¶

(A) Determines the type of sewer system and service to be provided, pursuant to section (5) of this rule;¶¶

(B) Determines the boundaries of the sewer system service area, pursuant to section (6) of this rule;¶¶

(C) Adopts land use regulations that ensure the sewer system is designed and constructed so that its capacity does not exceed the minimum necessary to serve the area within the boundaries described under paragraph (B) of this subsection, except for urban reserve areas as provided under OAR 660-021-0040(6);¶¶

(D) Adopts land use regulations to prohibit the sewer system from serving any uses other than those existing or allowed in the identified service area on the date the sewer system is approved;¶¶

(E) Adopts plan and zone amendments to ensure that only rural land uses are allowed on rural lands in the area to be served by the sewer system, consistent with Goal 14 and OAR 660-004-0018, unless a Goal 14 exception has been acknowledged;¶¶

(F) Ensures that land use regulations do not authorize a higher density of residential development than would be authorized without the presence of the sewer system; and¶¶

(G) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.¶¶

(5) Where the DEQ determines that there is no practicable alternative to a sewer system, the local government, based on recommendations from DEQ, shall determine the most practicable sewer system to abate the health hazard considering the following:¶¶

(a) The system must be sufficient to abate the public health hazard pursuant to DEQ requirements applicable to such systems; and¶¶

(b) New or expanded sewer systems serving only the health hazard area shall be generally preferred over the extension of a sewer system from an urban growth boundary. However, if the health hazard area is within the service area of a sanitary authority or district, the sewer system operated by the authority or district, if available and sufficient, shall be preferred over other sewer system options.¶¶

(6) The local government, based on recommendations from DEQ and, where appropriate, the Oregon Health Division, shall determine the area to be served by a sewer system necessary to abate a health hazard. The area shall include only the following:¶¶

(a) Lots and parcels that contain the identified sources of the sewage contributing to the health hazard;¶¶

(b) Lots and parcels that are surrounded by or abut the parcels described in subsection (a) of this section, provided

the local government demonstrates that, due to soils, insufficient lot size, or other conditions, there is a reasonably clear probability that onsite systems installed to serve uses on such lots or parcels will fail and further contribute to the health hazard.¶

(7) The local government or agency responsible for the determinations pursuant to sections (4) through (6) of this rule shall provide notice to all affected local governments and special districts regarding opportunities to participate in such determinations.¶

(8) A local government may allow a residential use to connect to an existing sewer line provided the conditions in subsections (a) through (h) of this section are met:¶

(a) The sewer service is to a residential use located on a parcel as defined by ORS 215.010(1), or a lot created by subdivision of land as defined in ORS 92.010;¶

(b) The parcel or lot is within a special district or sanitary authority sewer service boundary that existed on January 1, 2005, or the parcel is partially within such boundary and the sewer service provider is willing or obligated to provide service to the portion of the parcel or lot located outside that service boundary;¶

(c) The sewer service is to connect to a residential use located within a rural residential area, as described in OAR 660-004-0040, which existed on January 1, 2005;¶

(d) The nearest connection point from the residential parcel or lot to be served is within 300 feet of a sewer line that existed at that location on January 1, 2005;¶

(e) It is determined by the local government to be practical to connect the sewer service to the residential use considering geographic features or other natural or man-made constraints;¶

(f) The sewer service authorized by this section shall be available to only those parcels and lots specified in this section, unless service to other parcels or lots is authorized under sections (4) or (9) of this rule;¶

(g) The existing sewer line, from where the nearest connection point is determined under subsection (8)(d) of this rule, is not located within an urban growth boundary or unincorporated community boundary; and¶

(h) The connection of the sewer service shall not be relied upon to authorize a higher density of residential development than would be authorized without the presence of the sewer service, and shall not be used as a basis for an exception to Goal 14 as required by OAR 660-004-0040(6).¶

(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:¶

(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or¶

(b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.¶

[ED. NOTE: Goals referenced are available from the agency.]

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.712

AMEND: 660-012-0065

RULE SUMMARY: Amends OAR 660-012-0065 to identify that a road traversing rural lands needed to access lands in an urban growth boundary dedicated to emergency housing may be approved by a county under certain circumstances.

CHANGES TO RULE:

660-012-0065

Transportation Improvements on Rural Lands ¶

- (1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.¶
- (2) For the purposes of this rule, the following definitions apply:¶
- (a) "Access Roads" means low volume public roads that principally provide access to property or as specified in an acknowledged comprehensive plan;¶
 - (b) "Collectors" means public roads that provide access to property and that collect and distribute traffic between access roads and arterials or as specified in an acknowledged comprehensive plan;¶
 - (c) "Arterials" means state highways and other public roads that principally provide service to through traffic between cities and towns, state highways and major destinations or as specified in an acknowledged comprehensive plan;¶
 - (d) "Accessory Transportation Improvements" means transportation improvements that are incidental to a land use to provide safe and efficient access to the use;¶
 - (e) "Channelization" means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lanes;¶
 - (f) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan;¶
 - (g) "New Road" means a public road or road segment that is not a realignment of an existing road or road segment.¶
- (3) The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:¶
- (a) Accessory transportation improvements for a use that is allowed or conditionally allowed by ORS 215.213, 215.283 or OAR chapter 660, division 6 (Forest Lands);¶
 - (b) Transportation improvements that are allowed or conditionally allowed by ORS 215.213, 215.283 or OAR chapter 660, division 6 (Forest Lands);¶
 - (c) Channelization not otherwise allowed under subsections (a) or (b) of this section;¶
 - (d) Realignment of roads not otherwise allowed under subsection (a) or (b) of this section;¶
 - (e) Replacement of an intersection with an interchange;¶
 - (f) Continuous median turn lane;¶
 - (g) New access roads and collectors within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.¶
 - (h) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;¶
 - (i) Park and ride lots;¶
 - (j) Railroad mainlines and branchlines;¶

- (k) Pipelines;¶
 - (l) Navigation channels;¶
 - (m) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;¶
 - (n) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and¶
 - (o) Transportation facilities, services and improvements other than those listed in this rule that serve local travel needs. The travel capacity and performance standards of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.¶
 - (p) Temporary access road serving a site within an urban growth boundary that is to be utilized for emergency housing made necessary by the wildfire identified in the Governor's Executive Order 20-44. A temporary access road approved under this subsection shall be:¶
 - (A) Limited to two travel lanes with a maxim width of 11 feet each and a gravel shoulder width of no more than two-feet.¶
 - (B) Designed to minimize impacts on agricultural lands, and¶
 - (C) Removed when no longer necessary to access the emergency housing.¶
 - (4) Accessory transportation improvements required as a condition of development listed in subsection (3)(a) of this rule shall be subject to the same procedures, standards and requirements applicable to the use to which they are accessory.¶
 - (5) For transportation uses or improvements listed in subsections (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:¶
 - (a) 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;¶
 - (b) 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¶
 - (c) 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.¶
 - (6) Notwithstanding any other provision of this division, if a jurisdiction has not met the deadline for TSP adoption set forth in OAR 660-012-0055, or any extension thereof, a transportation improvement that is listed in section (5) of this rule and that will significantly reduce peak hour travel time as provided in OAR 660-012-0035(10) may be allowed in the urban fringe only if the jurisdiction applies either:¶
 - (a) The criteria applicable to a "reasons" exception provided in Goal 2 and OAR 660, division 4; or¶
 - (b) The evaluation and selection criteria set forth in OAR 660-012-0035.
- Statutory/Other Authority: ORS 183, ORS 197.040, ORS 197.245, ORS 215.213, ORS 215.283, ORS 215.296
 Statutes/Other Implemented: ORS 195.025, ORS 197.040, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717, ORS 197.232, ORS 215.213, ORS 215.283

ADOPT: 660-014-0080

RULE SUMMARY: Amends OAR chapter 660, division 14 to create new section OAR 660-014-0080, allowing a Goal 14 exception to provide disaster related housing outside of an urban growth boundary or unincorporated community boundary under certain circumstances.

CHANGES TO RULE:

660-014-0080

Establishment of Temporary Natural Disaster Related Housing on Undeveloped Rural Lands

(1) As used in this rule, "temporary natural disaster related housing" is limited to:

(a) Sheltering, which is housing that provides short-term refuge and life-sustaining services for disaster survivors who have been displaced from their homes and are unable to meet their own immediate post-disaster housing needs and is accomplished through use of fabric structures, tents and similar accommodations.

(b) Interim housing, which is the intermediate period of housing assistance that covers the gap between sheltering and the return of disaster survivors to permanent housing and is provided through temporary modular structures, temporary manufactured housing or similar temporary accommodations assigned to the victims of natural disaster.

(c) Sheltering and interim housing established pursuant to this rule may include parking facilities, walkways and access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities.

(2) As used in this rule, "undeveloped rural land" has the meaning provided in OAR 660-014-0040(1).

(3) A county may justify an exception to Goal 14 to allow establishment of temporary natural disaster related housing on undeveloped rural land. The reason justifying why the policies in Goals 3, 4, 11 and 14 should not apply is that lands and structures within the lands specified in the application have received damage from a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610.

(4) To approve an exception under section (3) a county must also show:

(a) That Goal 2, Part II (c)(1) is met because:

(A) The applicant is a public agency on behalf of the city, unincorporated community or rural residential exception area the temporary natural disaster related housing is primarily intended to assist. Any application made on behalf of a city must include a resolution of support adopted by that city's elected leadership.

(B) The city, unincorporated community or rural residential exception area specified in the public agency's application is within an area identified by an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.

(b) That Goal 2, Part II (c)(2) is met because the city, unincorporated community or rural residential exception area specified in the public agency's application has lost a significant amount of its housing inventory from a wildfire identified in an Executive Order issued by the Governor in accordance with ORS 476.510 thru 476.610 For purposes of this subsection, a significant loss of housing inventory means at least 15 percent in a city's urban growth boundary, at least 15 percent in an unincorporated community boundary or at least 60 percent in a rural residential exception area.

(c) That Goal 2, Part II (c)(3) is met because the proposed location is:

(A) Not included in a flood plain, flood way or other areas subject to natural hazards as inventoried in the county comprehensive plan or identified in applicable land use regulations.

(B) Not included in wildlife habitat inventoried in the county comprehensive plan.

(C) Within the urban reserve area of the city specified in the public agency's application, or, if no urban reserve area has been established, within one mile of the applicable urban growth boundary.

(D) Within two miles of the boundary of the unincorporated community specified in the public agency's application.

(E) Within two miles of the rural residential exception area specified in the public agency's application.

(F) If areas described in paragraphs (C), (D) or (E) of this subsection are not available because they are under

federal ownership or because damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with ORS 476.510 thru 476.610 makes them unsuitable for development the county may establish a different distance that is no further than necessary to accommodate the use.¶

(G) Within the same school district as the city, unincorporated community or rural residential exception area specified in the public agency's application unless a different distance is established under paragraph (F) of this subsection, which necessarily makes such a location impossible.¶

(d) That Goal 2, Part II (c)(4) is met because the county has coordinated with effected cities and imposes the following conditions:¶

(A) Temporary natural disaster related housing is allowed for 36 months from the date of the Governors emergency declaration. The county may grant two additional 12-month extensions upon a demonstration by the applicant that the temporary natural disaster related housing remains necessary because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities.¶

(B) The temporary natural disaster related housing will be removed when it is no longer necessary.¶

(C) The property owner will sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).¶

(5) A proposal that is found to satisfy the requirements of this rule for an exception to Goal 14 is also deemed to satisfy the requirements of OAR chapter 660, divisions 4 and 11 for exceptions to Goals 3, 4 and 11.¶

(6) The use of the property for temporary natural disaster related housing, including the presence of any infrastructure installed to support the temporary natural disaster related housing shall not be a basis to justify a new exception pursuant to OAR chapter 660, divisions 4 or 14.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.732

RULE SUMMARY: Amends OAR 660-022-0010, expanding definitions to include "interim housing" and "sheltering."

CHANGES TO RULE:

660-022-0010

Definitions ¶¶

For purposes of this division, the definitions contained in ORS 197.015 and the statewide planning goals (OAR chapter 660, division 15) apply. In addition, the following definitions apply:¶¶

(1) "Commercial Use" means the use of land primarily for the retail sale of products or services, including offices. It does not include factories, warehouses, freight terminals, or wholesale distribution centers.¶¶

(2) "Community Sewer System" means a sewage disposal system which has service connections to at least 15 permanent dwelling units, including manufactured homes, within the unincorporated community.¶¶

(3) "Community Water System" means a system that distributes potable water through pipes to at least 15 permanent dwelling units, including manufactured homes within the unincorporated community.¶¶

(4) "Industrial Use" means the use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.¶¶

(5) "Interim housing" means the intermediate period of housing assistance that covers the gap between sheltering and the return of disaster survivors to permanent housing and is provided through temporary modular structures, temporary manufactured housing or similar temporary accommodations assigned to the victims of natural disaster.¶¶

(6) "Permanent residential dwellings" includes manufactured homes, but does not include dwellings primarily intended for a caretaker of an industrial use, commercial use, recreational vehicle park or campground.¶¶

(67) "Resort Community" is an unincorporated community that was established primarily for and continues to be used primarily for recreation or resort purposes; and¶¶

(a) Includes residential and commercial uses; and¶¶

(b) Provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations.¶¶

(78) "Rural Community" is an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.¶¶

(89) "Rural Service Center" is an unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or to persons traveling through the area, but which also includes some permanent residential dwellings.¶¶

(910) "Sheltering" means housing that provides short-term refuge and life-sustaining services for disaster survivors who have been displaced from their homes and are unable to meet their own immediate post-disaster housing needs and is accomplished through use of fabric structures, tents and similar accommodations. ¶¶

(11) "Urban Unincorporated Community" is an unincorporated community which has the following characteristics:¶¶

(a) Include at least 150 permanent residential dwellings units;¶¶

(b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;¶¶

(c) Includes areas served by a community sewer system; and¶¶

(d) Includes areas served by a community water system.¶¶

(102) "Unincorporated Community" means a settlement with all of the following characteristics:¶¶

(a) It is made up primarily of lands subject to an exception to Statewide Planning Goal 3, Goal 4 or both;¶¶

(b) It was either identified in a county's acknowledged comprehensive plan as a "rural community," "service center," "rural center," "resort community," or similar term before this division was adopted (October 28, 1994), or it is listed in the Department of Land Conservation and Development's January 30, 1997, "Survey of Oregon's

Unincorporated Communities";¶¶

(c) It lies outside the urban growth boundary of any city;¶¶

(d) It is not incorporated as a city; and¶¶

(e) It met the definition of one of the four types of unincorporated communities in sections (~~6~~7) through (9) and (11) of this rule, and included the uses described in those definitions, prior to the adoption of this division (October 28, 1994).

Statutory/Other Authority: ORS 197.040, ORS 197.245

Statutes/Other Implemented: ORS 197.040

AMEND: 660-022-0030

RULE SUMMARY: Amends OAR 660-022-0030 to identify "temporary residences" and "transitional housing accommodations" as uses that counties may approve in unincorporated communities.

CHANGES TO RULE:

660-022-0030

Planning and Zoning of Unincorporated Communities ¶¶

- (1) For rural communities, resort communities and urban unincorporated communities, counties shall adopt individual plan and zone designations reflecting the projected use for each property (e.g., residential, commercial, industrial, public) for all land in each community. Changes in plan or zone designation shall follow the requirements to the applicable post-acknowledgment provisions of ORS 197.610 through 197.625.¶¶
- (2) County plans and land use regulations may authorize any residential use and density in unincorporated communities, subject to the requirements of this division.¶¶
- (3) County plans and land use regulations may authorize only the following new or expanded industrial uses in unincorporated communities:¶¶
- (a) Uses authorized under Goals 3 and 4;¶¶
- (b) Expansion of a use existing on the date of this rule;¶¶
- (c) Small-scale, low impact uses;¶¶
- (d) Uses that require proximity to rural resource, as defined in OAR 660-004-0022(3)(a);¶¶
- (e) New uses that will not exceed the capacity of water and sewer service available to the site on the effective date of this rule, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;¶¶
- (f) New uses more intensive than those allowed under subsection (a) through (e) of this section, provided an analysis set forth in the comprehensive plan demonstrates, and land use regulations ensure:¶¶
- (A) That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;¶¶
- (B) That such uses would not rely upon a work force employed by uses within urban growth boundaries; and¶¶
- (C) That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries.;¶¶
- (g) Industrial uses, including accessory uses subordinate to industrial development, as provided under either paragraph (A) or (B) of this subsection:¶¶
- (A) Industrial developments sited on an abandoned or diminished industrial mill site, as defined in ORS 197.719 that was engaged in the processing or manufacturing of wood products, provided the uses will be located only on the portion of the mill site that is zoned for industrial uses; or¶¶
- (B) Industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in an area planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.¶¶
- (4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:¶¶
- (a) Uses authorized under Goals 3 and 4;¶¶
- (b) Small-scale, low impact uses;¶¶
- (c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.¶¶
- (5) County plans and land use regulations may authorize hotels and motels in unincorporated communities only if served by a community sewer system and only as provided in subsections (a) through (c) of this section:¶¶
- (a) Any number of new motel and hotel units may be allowed in resort communities;¶¶
- (b) New motels and hotels up to 35 units may be allowed in an urban unincorporated community, rural service

center, or rural community if the unincorporated community is at least 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, regardless of its proximity to any other UGB;¶

(c) New motels and hotels up to 100 units may be allowed in any urban unincorporated community that is at least 10 miles from any urban growth boundary.¶

(6) County plans and land use regulations shall ensure that new or expanded uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.¶

(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).¶

(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:¶
(Aa) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and¶

(Bb) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.¶

(9) County plans and land use regulations for lands within unincorporated communities shall be consistent with acknowledged metropolitan regional goals and objectives, applicable regional functional plans and regional framework plan components of metropolitan service districts.¶

(10) For purposes of subsection (b) of section (4) of this rule, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4,000 square feet of floor space.¶

(11) For purposes of subsection (c) of section (3) of this rule, a small-scale, low impact industrial use is one which takes place in an urban unincorporated community in a building or buildings not exceeding 60,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 40,000 square feet of floor space.¶

(12) Notwithstanding sections (1) and (2), a county may approve the uses in subsections (a) and (b) without amendments to the county plan or land use regulations when a natural hazard event has caused a need for sheltering and interim housing opportunities and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. Uses approved under this section shall be consistent with all applicable provisions of law including adopted comprehensive plan provisions and land use regulations to protect people and property from flood, geologic, and wildfire hazards. ¶

(a) Temporary residential uses in conjunction with a dwelling that either existed or had received land use approval to be constructed on July 5, 2020. Such uses must be removed or converted to an allowed use within 36 months from the date of the Governor's emergency declaration. A county may grant two additional 12-month extensions upon demonstration by the applicant that the temporary residential use remains necessary because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities. Temporary residential uses approved under this subsection are limited to the following:¶

(A) A single manufactured dwelling;¶

(B) Use of an existing building or buildings;¶

(C) Up to two yurts;¶

(D) Up to five recreational vehicles; or¶

(E) Up to five fabric structures, tents or similar accommodations.¶

(b) Transitional housing accommodations as described at ORS 446.265(2) and (4) when homes and other private property on lands within the county or an adjacent county have received damage from a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610.

Statutory/Other Authority: ORS 197.040, ORS 197.245

Statutes/Other Implemented: ORS 197.040

AMEND: 660-033-0130

RULE SUMMARY: Amends OAR 660-033-0130 to better align existing campground provisions and temporary dwelling opportunities to emergency needs and to clarify that farmworker housing destroyed by wildfire may be replaced.

CHANGES TO RULE:

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses ¶

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.¶

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

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

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.¶

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

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Exceed the facilities and service capabilities of the area;¶
- (B) Materially alter the stability of the overall land use pattern of the area; or¶
- (C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.¶
- (g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;¶
- (h) The county assessor shall be notified that the governing body intends to allow the dwelling.¶
- (i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.¶
- (4) A single-family residential dwelling not provided in conjunction with farm use requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:¶
 - (a) In the Willamette Valley, the use may be approved if:¶
 - (A) 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;¶
 - (B) 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;¶
 - (C) The dwelling will be sited on a lot or parcel created before January 1, 1993;¶
 - (D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:¶
 - (i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;¶
 - (ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsection (3)(a) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4), ORS 215.263(5), and ORS 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and¶
 - (iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and¶
 - (E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.¶
- (b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(7), the use may be approved if:¶
 - (A) 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;¶

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

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

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

(A) 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;¶

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

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

(iii) 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, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;¶

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

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

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

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

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved

only where such uses:¶¶

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

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

(6) 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 ORS 215.203(2). 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.¶¶

(7) 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 allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.¶¶

(8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the county finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:¶¶

(A) Intact exterior walls and roof structure;¶¶

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

(C) Interior wiring for interior lights; and¶¶

(D) A heating system;¶¶

(b) In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions;¶¶

(A) If the dwelling was removed, destroyed or demolished;¶¶

(i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and¶¶

(ii) Any removal, destruction, or demolition occurred on or after January 1, 1973.¶¶

(B) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or¶¶

(C) A dwelling not described paragraph (A) or (B) of this subsection was assessed as a dwelling for the purposes of ad valorem taxation:¶¶

(i) For the previous five property tax years; or¶¶

(ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.¶¶

(c) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or 215.283(1)(p):¶¶

(A) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:¶¶

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

(ii) If the dwelling to be replaced is, in the discretion of the county, 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 county that is not less than 90 days after the replacement permit is issued; and¶¶

(iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.¶¶

(B) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.¶¶

(C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2019 Oregon Laws, chapter 440, section 1 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.¶

(D) The county planning director, or the director's designee, shall maintain a record of:¶

(i) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and¶

(ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection (c) of this section, including a copy of the deed restrictions filed under paragraph (C) of this subsection.¶

(d)(A) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.¶

(B) The replacement dwelling must be sited on the same lot or parcel:¶

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

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

(e) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):¶

(A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:¶

(i) Formerly had the features described in paragraph (a)(A) of this section; or¶

(ii) Is eligible for replacement under paragraph (b)(B) of this section; and¶

(B) Is not subject to the time to act limits of ORS 215.417.¶

(9)(a) To qualify for a relative farm help dwelling, 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. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.¶

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

(c) For the purpose of subsection (a), "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.¶

(d) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.¶

(e) For the purpose of subsection (d), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).¶

~~(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS chapter 215. The Temporary residence for the term of the hardship suffered by the existing resident or relative as defined in ORS chapter 215. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons. "Hardship" also includes a natural hazard event that has destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order~~

issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).

(a) For a medical hardship or hardship for the care of an aged or infirm person or persons the temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building. A manufactured dwelling shall 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 manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished, or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p) Department of Environmental Quality review and removal requirements also apply.

(b) For hardships based on a natural hazard event described in this section, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building. Governing bodies shall review the permit authorizing such temporary residences every two years. Within three months of the end of the hardship, the recreational vehicle shall be removed or demolished, or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(c) For applications submitted under subsection (b) of this section, the county may find that the criteria of section (5) are satisfied when:

(A) The temporary residence is established within an existing building or, if a recreational vehicle, is located within 100 feet of the primary residence; or

(B) The temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both.

(11) 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 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids 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 biosolids is authorized under the license, permit or other approval.

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

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

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

(15) New uses 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.¶

(16)(a) A utility facility established under ORS 215.213(1)(c) or 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:¶

(A) Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:¶

(i) Technical and engineering feasibility;¶

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

(iii) Lack of available urban and nonresource lands;¶

(iv) Availability of existing rights of way;¶

(v) Public health and safety; and¶

(vi) Other requirements of state and federal agencies.¶

(B) Costs associated with any of the factors listed in paragraph (A) 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.¶

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

(D) The governing body of the county or its designee 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.¶

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

(F) In addition to the provisions of paragraphs (A) to (D) of this subsection, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.¶

(G) The provisions of paragraphs (A) to (D) of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.¶

(b) An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its designee that the associated transmission line meets either the requirements of paragraph (A) of this subsection or the requirements of paragraph (B) of this subsection.¶

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

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

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

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

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

(B) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of this subsection, two or more of the following criteria:¶

(i) Technical and engineering feasibility;¶

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

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

(iv) Public health and safety; or¶

(v) Other requirements of state or federal agencies.¶

(C) As pertains to paragraph (B), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.¶

(D) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (B) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.¶

(17) Permanent features of a power generation facility shall not use, occupy, or cover more than 12 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval.¶

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

(b) Notwithstanding ORS 215.130, 215.213, 215.283, or any local zoning ordinance or regulation, a public or private school, including all buildings essential to the operation of a school, formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, may be expanded provided:¶

(A) The expansion complies with ORS 215.296;¶

(B) The school was established on or before January 1, 2009;¶

(c) Subject to the requirements of sections (5) and (20) of this rule, a golf course may be established on land determined to be high-value farmland as defined in ORS 195.300(10)(c) if the land:¶

(A) Is not otherwise high-value farmland as defined in ORS 195.300(10);¶

(B) Is surrounded on all sides by an approved golf course; and¶

(C) Is west of U.S. Highway 101.¶

(19)(a) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.¶

(b) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. ~~A~~ Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is approved under this provision must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the

occupants of the campground. ~~A campground shall be and~~ designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. ~~Campgrounds authorized by this rule shall not include intensively deve~~ 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. 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 recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~ Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-~~for~~ by subsection (19)(d) of this rule. ¶

(c) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Campgrounds approved under this section shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because ~~adequate amount~~ ~~h-period~~s of permanent housing is not reasonably available. ¶

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

(B) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible. ¶

(~~e~~d) Subject to the approval of the county governing body or its designee, 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. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance. ¶

(e) For applications submitted under subsection (c) of this section, the criteria of section (5) can be found to be satisfied when: ¶

(A) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. ¶

(B) The subject property is not irrigated. ¶

(C) The subject property is not high-value farmland. ¶

(D) The number of proposed campsites does not exceed 12; or ¶

(E) The number of proposed campsites does not exceed 36; and ¶

(F) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both. ¶

(20) "Golf Course" means 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 ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following: ¶

(a) 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; ¶

- (b) 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;¶
- (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;¶
- (d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:¶
- (A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;¶
- (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and¶
- (C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.¶
- (21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, 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.¶
- (22) Permanent features of a power generation facility shall not use, occupy or cover more than 20 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval.¶
- (23) A farm stand may be approved if:¶
- (a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and¶
- (b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.¶

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

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

(e) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.¶¶

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

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

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

(B) The accessory farm dwelling will be located:¶¶

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

(ii) 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;¶¶

(iii) 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 rules;¶¶

(iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph 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 ORS 215.278 and not the meaning in ORS 315.163; or¶¶

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

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

(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:¶¶

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

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

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

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

that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;¶

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of ORS 215.213(2)(a) or (b) or paragraph (A) of this subsection; or¶

(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and¶

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

(ii) 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¶

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

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

(d) 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 section (4) of this rule.¶

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

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

(g) Accessory farm dwellings destroyed by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 may be replaced. The temporary use of modular structures, manufactured housing, fabric structures, tents and similar accommodations is allowed until replacement under this subsection occurs.¶

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

(26) 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.¶

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

(28)(a) A facility for the processing of farm products is a permitted use under ORS 215.213 (1)(u) and ORS 215.283 (1)(r) on land zoned for exclusive farm use, only if the facility:¶

(A) Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. A county may not apply siting standards in a manner that prohibits the siting of a facility for the processing of farm

products; or¶

(B) Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area. However, a local government shall apply applicable standards and criteria pertaining to floodplains, geologic hazards, beach and dune hazards, airport safety, tsunami hazards and fire siting standards.¶

(b) A county may not approve any division of a lot or parcel that separates a facility for the processing of farm products from the farm operation on which it is located.¶

(c) As used in this section, the following definitions apply:¶

(A) "Facility for the processing of farm products" means a facility for:¶

(i) Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or¶

(ii) Slaughtering, processing or selling poultry or poultry products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).¶

(B) "Processing area" means the floor area of a building dedicated to farm product processing. "Processing area" does not include the floor area designated for preparation, storage or other farm use.¶

(29)(a) 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.¶

(b) Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.¶

(30) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling 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.¶

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

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

(a) A public right of way;¶

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

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

(33) An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770. A county may not require an outdoor mass gathering permit under ORS 433.750 for agri-tourism and other commercial events or activities permitted under ORS 215.213(11), 215.283(4), 215.451, 215.452, and ORS 215.449.¶

(34) An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735 is subject to review under the provisions of ORS 433.763.¶

(35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-0130(5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or

215.283(2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and¶

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

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

(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:¶

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:¶

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

(i) Technical and engineering feasibility;¶

(ii) Availability of existing rights of way; and¶

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);¶

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

(C) Costs associated with any of the factors listed in paragraph (A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;¶

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

(E) The criteria of subsection (b) are satisfied.¶

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

(A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary

construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;¶¶

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

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

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

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.¶¶

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of 660-033-0130(37)(b) shall apply to the entire project.¶¶

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:¶¶

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

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

(c) "Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.¶¶

(d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.¶¶

(e) "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.¶¶

(f) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility

does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.¶

(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:¶

(A) The provisions of paragraph (h)(H) are satisfied; or¶

(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.¶

(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).¶

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

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

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

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

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);¶

(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:¶

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

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or¶

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

(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:¶

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

(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study

area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.¶

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

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

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

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

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and¶

(v) Does not qualify as high-value farmland under any other provision of law; or¶

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:¶

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);¶

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:¶

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

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

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

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

(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:¶

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

(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and¶

(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.¶

(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:¶

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);¶

- (B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:¶
- (i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or¶
 - (ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;¶
- (C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);¶
- (D) No more than 20 acres of the project will be sited on arable soils;¶
- (E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;¶
- (F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and¶
- (G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife 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.¶
- (k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.¶
- (l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).¶
- (m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.¶
- (n) If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections (g), (i) and (j) of this section.¶
- (39) Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2019, when:¶
- (a) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and¶
 - (b) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.¶

(40) A youth camp may be established on agricultural land under the requirements of this section. The purpose of this section is to allow for the establishment of youth camps that are generally self-contained and located on a lawfully established unit of land of suitable size and location to limit potential impacts on nearby land and to ensure compatibility with surrounding farm uses.¶

(a) Definitions: In addition to the definitions provided for this division in OAR 660-033-0020 and ORS 92.010, for purposes of this section the following definitions apply:¶

(A) "Low impact recreational facilities" means facilities that have a limited amount of permanent disturbance on the landscape and are likely to create no, or only minimal impacts on adjacent private lands. Low impact recreational facilities include, but are not limited to, open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas, swimming pools and zip lines. Low impact recreational facilities are designed and developed in a manner consistent with the lawfully established unit of land's natural environment.¶

(B) "Youth camp" means a facility that is either owned or leased, and is operated by a state or local government or a nonprofit corporation as defined under ORS 65.001 and is established for the purpose of providing an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include a juvenile detention center or juvenile detention facility or similar use.¶

(C) "Youth camp participants" means persons directly involved with providing or receiving youth camp services, including but not limited to, campers, group leaders, volunteers or youth camp staff.¶

(b) Location: A youth camp may be located only on a lawfully established unit of land suitable to ensure an outdoor experience in a private setting without dependence on the characteristics of adjacent and nearby public and private land. In determining the suitability of a lawfully established unit of land for a youth camp the county shall consider its size, topography, geographic features and other characteristics, the proposed number of overnight participants and the type and number of proposed facilities. A youth camp may be located only on a lawfully established unit of land that is:¶

(A) At least 1,000 acres;¶

(B) In eastern Oregon;¶

(C) Composed predominantly of class VI, VII or VIII soils;¶

(D) Not within an irrigation district;¶

(E) Not within three miles of an urban growth boundary;¶

(F) Not in conjunction with an existing golf course;¶

(G) Suitable for the provision of protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands and uses. Such buffers shall consist of natural vegetation, topographic or other natural features and shall be implemented through the requirement of setbacks from adjacent public and private lands, public roads, roads serving other ownerships and riparian areas. Setbacks from riparian areas shall be consistent with OAR 660-023-0090. Setbacks from adjacent public and private lands, public roads and roads serving other ownerships shall be 250 feet unless the county establishes on a case-by-case basis a different setback distance sufficient to:¶

(i) Prevent significant conflicts with commercial resource management practices;¶

(ii) Prevent a significant increase in safety hazards associated with vehicular traffic on public roads and roads serving other ownerships; and¶

(iii) Minimize conflicts with resource uses on nearby resource lands;¶

(H) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section; and¶

(I) Suitable to allow for youth camp development that will not interfere with the exercise of legally established water rights on nearby properties.¶

(c) Overnight Youth Camp Participants: The maximum number of overnight youth camp participants is 350 participants unless the county finds that a lower number of youth camp participants is necessary to avoid conflicts with surrounding uses based on consideration of the size, topography, geographic features and other characteristics of the lawfully established unit of land proposed for the youth camp. Notwithstanding the

preceding sentence, a county may approve a youth camp for more than 350 overnight youth camp participants consistent with this subsection if resource lands not otherwise needed for the youth camp that are located in the same county or adjacent counties that are in addition to, or part of, the lawfully established unit of land approved for the youth camp are permanently protected by restrictive covenant as provided in subsection (d) and subject to the following provisions:¶¶

(A) For each 160 acres of agricultural lands predominantly composed of class I-V soils that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;¶¶

(B) For each 160 acres of wildlife habitat that is either included on an acknowledged inventory in the local comprehensive plan or identified with the assistance and support of Oregon Department of Fish and Wildlife, regardless of soil types and resource land designation that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;¶¶

(C) For each 160 acres of agricultural lands predominantly composed of class VI-VIII soils that are permanently protected from development, an additional 25 overnight youth camp participants may be allowed; or¶¶

(D) A youth camp may have 351 to 600 overnight youth camp participants when:¶¶

(i) The tract on which the youth camp will be located includes at least 1,920 acres; and¶¶

(ii) At least 920 acres is permanently protected from development. The county may require a larger area to be protected from development when it finds a larger area necessary to avoid conflicts with surrounding uses.¶¶

(E) Under no circumstances shall more than 600 overnight youth camp participants be allowed.¶¶

(d) The county shall require, as a condition of approval of an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section requiring other lands to be permanently protected from development, that the land owner of the other lands to be protected sign and record in the deed records for the county or counties where such other lands are located a document that protects the lands as provided herein, which for purposes of this section shall be referred to as a restrictive covenant.¶¶

(A) A restrictive covenant shall be sufficient if it is in a form substantially the same as the form attached hereto as Exhibit B.¶¶

(B) The county condition of approval shall require that the land owner record a restrictive covenant under this subsection:¶¶

(i) Within 90 days of the final land use decision if there is no appeal, or¶¶

(ii) Within 90 days after an appellate judgment affirming the final land use decision on appeal.¶¶

(C) The restrictive covenant is irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the land subject to the restrictive covenant is located.¶¶

(D) Enforcement of the restrictive covenant may be undertaken by the department or by the county or counties where the land subject to the restrictive covenant is located.¶¶

(E) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the restrictive covenant required by this subsection.¶¶

(F) The county planning director shall maintain a copy of the restrictive covenant filed in the county deed records pursuant to this section and a map or other record depicting the tracts, or portions of tracts, subject to the restrictive covenant filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.¶¶

(e) In addition, the county may allow:¶¶

(A) Up to eight nights during the calendar year during which the number of overnight youth camp participants may exceed the total number of overnight youth camp participants allowed under subsection (c) of this section.¶¶

(B) Overnight stays at a youth camp for participants of adult programs that are intended primarily for individuals over 21 years of age, not including staff, for up to 30 days in any one calendar year.¶¶

(f) Facilities: A youth camp may provide only the facilities described in paragraphs (A) through (I) of this subsection:¶¶

(A) Low impact recreational facilities. Intensive developed facilities such as water parks and golf courses are not allowed;¶¶

(B) Cooking and eating facilities, provided they are within a building that accommodates youth camp activities but not in a building that includes sleeping quarters. Food services shall be limited to those provided in conjunction with the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants;¶

(C) Bathing and laundry facilities;¶

(D) Up to three camp activity buildings, not including a building for primary cooking and eating facilities.¶

(E) Sleeping quarters, including cabins, tents or other structures, for youth camp participants only, consistent with subsection (c) of this section. Sleeping quarters intended as overnight accommodations for persons not participating in activities allowed under this section or as individual rentals are not allowed. Sleeping quarters may include restroom facilities and, except for the caretaker's dwelling, may provide only one shower for every five beds. Sleeping quarters may not include kitchen facilities.¶

(F) Covered areas that are not fully enclosed for uses allowed in this section;¶

(G) Administrative, maintenance and storage buildings including permanent structures for administrative services, first aid, equipment and supply storage, and a gift shop available to youth camp participants but not open to the general public;¶

(H) An infirmary, which may provide sleeping quarters for medical care providers (e.g., a doctor, registered nurse, or emergency medical technician);¶

(I) A caretaker's residence, provided no other dwelling is on the lawfully established unit of land on which the youth camp is located.¶

(g) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule may not be established in conjunction with a youth camp.¶

(h) Conditions of Approval: In approving a youth camp application, a county must include conditions of approval as necessary to achieve the requirements of this section.¶

(A) With the exception of trails, paths and ordinary farm and ranch practices not requiring land use approval, youth camp facilities shall be clustered on a single development envelope of no greater than 40 acres.¶

(B) A youth camp shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and 358.905 to 358.961, as follows:¶

(i) If a particular area of the lawfully established unit of land proposed for the youth camp is proposed to be excavated, and if that area contains or is reasonably believed to contain resources protected by ORS 97.740 to 97.750 and 358.905 to 358.961, the application shall include evidence that there has been coordination among the appropriate Native American Tribe, the State Historic Preservation Office (SHPO) and a qualified archaeologist, as described in ORS 390.235(6)(b).¶

(ii) The applicant shall obtain a permit required by ORS 390.235 before any excavation of an identified archeological site begins.¶

(iii) The applicant shall monitor construction during the ground disturbance phase(s) of development if such monitoring is recommended by SHPO or the appropriate Native American Tribe.¶

(C) A fire safety protection plan shall be adopted for each youth camp that includes the following:¶

(i) Fire prevention measures;¶

(ii) On site pre-suppression and suppression measures; and¶

(iii) The establishment and maintenance of fire-safe area(s) in which camp participants can gather in the event of a fire.¶

(D) A youth camp's on-site fire suppression capability shall at least include:¶

(i) A 1000 gallon mobile water supply that can reasonably serve all areas of the camp;¶

(ii) A 60 gallon-per-minute water pump and an adequate amount of hose and nozzles;¶

(iii) A sufficient number of firefighting hand tools; and¶

(iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.¶

(v) An equivalent level of fire suppression facilities may be determined by the governing body or its designate. The

equivalent capability shall be based on the response time of the effective wildfire suppression agencies.¶

(E) The county shall require, as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, the operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting:¶

(i) 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;¶

(ii) future land divisions resulting in a lawfully established unit of land containing the youth camp that is smaller in size than required by the county for the original youth camp approval; and¶

(iii) development on the lawfully established unit of land that is not related to the youth camp and would require a land use decision as defined at ORS 197.015(10) unless the county's original approval of the camp is rescinded and the youth camp development is either removed or can remain, consistent with a county land use decision that is part of such rescission.¶

(F) Nothing in this rule relieves a county from complying with other requirements contained in the comprehensive plan or implementing land use regulations, such as the requirements addressing other resource values (e.g. resources identified in compliance with statewide planning Goal 5) that exist on agricultural lands.¶

(i) If a youth camp 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 youth camp 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 consistent with OAR chapter 660, divisions 16 and 23. If there is no program to protect the listed Goal 5 resource(s) included in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures in compliance with OAR chapter 660, division 23; and¶

(ii) If a proposed youth camp is located on lands where, after site specific consultation with a district state biologist, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs), the applicant shall conduct a site-specific assessment of the land in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife 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 youth camp 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 youth camp facility.¶

(iii) The commission shall consider the repeal of the provisions of subparagraph (ii) on or before January 1, 2022.¶

(i) Extension of Sewer to a Youth Camp. A Goal 11 exception to authorize the extension of a sewer system to serve a youth camp shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this section. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 11 shall not apply. Exceptions adopted pursuant to this section shall be deemed to fulfill the requirements for goal exceptions under ORS 197.732(1)(c) and Goal 2.¶

(A) A Goal 11 exception shall determine the general location for the proposed sewer extension and shall require that necessary infrastructure be no larger than necessary to accommodate the proposed youth camp.¶

(B) To address Goal 2, Part II(c)(1), the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Goal 2, Part II(c)(1) shall be found to be satisfied if the proposed sewer extension will serve a youth camp proposed for up to 600 youth camp participants.¶

(C) To address Goal 2, Part II(c)(2), the exception shall demonstrate that areas which do not require a new

exception cannot reasonably accommodate the proposed sewer extension. Goal 2, Part II(c)(2) shall be found to be satisfied if the sewer system to be extended was in existence as of January 1, 1990 and is located outside of an urban growth boundary on lands for which an exception to Goal 3 has been taken.¶

(D) To address Goal 2, Part II(c)(3), the exception shall demonstrate that the long term environmental, economic, social, and energy consequences resulting from the proposed extension of sewer with measures to reduce the effect of adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the lawfully established unit of land proposed for the youth camp. Goal 2, Part II(c)(3) shall be found to be satisfied if the proposed sewer extension will serve a youth camp located on a tract of at least 1,000 acres.¶

(E) To address Goal 2, Part II(c)(4), the exception shall demonstrate that the proposed sewer extension is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Goal 2, Part II(c)(4) shall be found to be satisfied if the proposed sewer extension for a youth camp is conditioned to comply with section (5) of this rule.¶

(F) An exception taken pursuant to this section does not authorize extension of sewer beyond what is justified in the exception.¶

(j) Applicability: The provisions of this section shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this section, or that are necessary to ensure compliance with any standards or criteria in this section.¶

(41) Equine and equine-affiliated therapeutic counseling activities shall be conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract. All individuals conducting therapeutic or counseling activities must act within the proper scope of any licenses required by the state.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040, ORS 215.213, ORS 215.275, ORS 215.282, ORS 215.283, ORS 215.301, ORS 215.448, ORS 215.459, ORS 215.705, ORS 215.449