

Farm Impacts Test:

OAR 660-033-0130

(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.

(c) For purposes of subsection (a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

(A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;

(B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and

(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.

(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.

(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsection (a) and (b).

(F) In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).

Agri-tourism Standards:

OAR 660-033-0130

(42)(a) A determination under ORS 215.213(11) or 215.283(4) that an event or activity is 'incidental and subordinate' requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses, that bear on whether the existing farm use remains the predominant use of the tract.

(b) A determination under ORS 215.213(11)(d)(A) or ORS 215.283(4)(d)(A) that an event or activity is 'necessary to support' either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.

Transportation Facilities:

OAR 660-012-0065

(5)(a) For transportation uses or improvements listed in subsection (3) within an exclusive farm use (EFU) or forest zone, except for transportation uses or improvements permitted under ORS 215.213(1), 215.283(1) or OAR 660-006-0025(1)-(3), a jurisdiction shall find that the proposal will comply with the standards described in ORS 215.296. In addition, transportation uses or improvements in a forest zone, except for transportation uses or improvements authorized under OAR 660-006-0025(1)-(3), must also comply with the standards described in OAR 660-006-0025(5).

(b) 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:

(i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;

(ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and

(iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

Private Parks:

OAR 660-033-0130(43) As used in ORS 215.213(2)(e) or 215.283(2)(c), a 'private park' means an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus.

Farm Use Preparation:

OAR 660-033-0020(7)(a) "Farm Use" as that term is used in ORS chapter 215 and this division means "farm use" as defined in ORS 215.203.

(b) As used in the definition of "farm use" in ORS 215.203 and in this division:

(A) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

(B) "Products or by-products raised on such land" ~~means~~ **includes;**

~~(i) that those pP~~ Products or by-products ~~are~~ raised on the farm operation where the preparation occurs;

~~(ii) Products or by-products raised on other farmland provided;~~

~~(A) or on other farm land provided the~~ The preparation is occurring only on ~~land-a tract being used for the primary purpose of obtaining a profit in money from the farm use of the currently employed for a farm use or farm uses other than preparation; and~~

~~(B) Such products or by-products are prepared in the same facilities as and in conjunction with products or by-products raised on the farm operation where the preparation occurs.~~

Farm Dwelling and Farm Stand Verification of Income:

Farmworker Dwellings:

OAR 660-033-0130(24) Accessory farm dwellings as defined by subsection (e) of this section may be considered customarily provided in conjunction with farm use if:

...

(h) The applicant shall submit to the local government an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements in paragraph (b)(A) or (B), whichever is applicable.

Primary Farm Dwellings:

OAR 660-033-0135(3) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

...

(e) The applicant shall submit to the local government an IRS tax return transcript and any other information the local jurisdiction may require that demonstrates compliance with the gross farm income requirement.

OAR 660-033-0135(4) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

...

(e) The applicant shall submit to the local government an IRS tax return transcript and any other information the local jurisdiction may require that demonstrates compliance with the gross farm income requirement.

Farm Stands:

OAR 660-033-0130(23) A farm stand may be approved if:

...

(f) At the request of a local government with land use jurisdiction over the farm stand, the farm stand operator of a farm stand approved under this section shall submit to the local government evidence of compliance with the annual sales requirement of subsection (a). Such evidence shall consist of an IRS tax return transcript and any other information the local jurisdiction may require to document ongoing compliance with this section or any other condition of approval.

Home Occupations:

OAR 660-033-0130(14) Home occupations and the parking of vehicles may be authorized.

(a) 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.

(b) 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.

(c) A governing body may only approve a use provided in OAR 660-033-0120 as a home occupation if:

(A) The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120, and

(B) The use is accessory, incidental and subordinate to the primary residential use of a dwelling on the property.

Farm Dwelling Replacement Criteria for Fast Track

1. 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;
2. An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed above.
3. Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.
4. The dwelling to be replaced shall meet one of the following conditions;
 - a. If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction, or demolition and since the later of:
 - i. Five years before the date of the destruction
 - ii. The date that the dwelling was erected upon or fixed to the land became subject to property tax assessment; or
 - b. The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for the purposes of ad valorem taxation since the later of:
 - i. Five years before the date of the application; or
 - ii. The date that the dwelling was erected upon or affixed to the land and became subject to property tax assessment.
5. For replacement of a lawfully established dwelling under this section:
 - a. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - 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 ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

d. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.

e. The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if the dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or if no statewide map of wildfire risk has been adopted.

Forest Dwelling Replacement Criteria for Fast Track

1. The dwelling to be altered, restored or replaced has, or formerly had:
 - a. Intact exterior walls and roof structures;
 - 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.
2. An application under this subsection must be filed within three years following the date that the dwelling last possessed all the features listed above.
3. Construction of a replacement dwelling approved under this subsection must commence no later than four years after the approval of the application under this section becomes final.
4. The dwelling to be replaced shall meet one of the following conditions:
 - a. If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - i. Five years before the date of the destruction or demolition;
 - ii. The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
 - b. The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - i. Five years before the date of the application; or
 - ii. The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
5. For replacement of a lawfully established dwelling under this subsection:
 - a. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - 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 ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

d. A replacement dwelling under this subsection 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.

e. The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if the dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or if no statewide map of wildfire risk has been adopted.

f. If an applicant is granted a deferred replacement permit under this subsection, the deferred replacement permit:

i. Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and

ii. May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.