

Chapter 410
EXCLUSIVE FARM USE ZONE (EFU)

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410.01 Purpose. The Exclusive Farm Use Zone is intended to conserve and maintain productive agricultural land for continued agricultural use. The purpose of this Chapter is to describe the applicability, permitted uses, and requirements for the EFU Zone.

410.02 Uses Permitted Through a Type I Procedure. In the EFU Zone, the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 115.05.

A. Farm/Forest Resource

1. Farm use, as defined in ORS 215.203(2).
2. Agricultural buildings customarily provided in conjunction with farm use.
3. The propagation or harvesting of a forest product.

B. Natural Resource

1. Creation of, restoration of, or enhancement of wetlands.
2. Emergency feeding stations shall be approved when the following is met:
 - a. Written notice will be provided to the Planning Director as to the location of emergency feeding stations or feeding sites on private or public land, said notice to be provided within 15 days of the establishment of said feeding station. After notification of the siting of an emergency feeding station, the Planning Director will send written notice of that siting to abutting landowners and operators. Upon written request of any abutting landowner, a public hearing will be scheduled for review and approval or disapproval of the feeding site within 30 days of the close of the feeding site for the season.
 - b. The applicable decision criteria shall be as follows. The emergency feeding station operators shall demonstrate that:
 - i. The permanent feeding station criteria cannot be applied;

- ii. The feeding station is located in an area where there is reasonable evidence that its operation will effectively reduce or prevent significant damage by big game to private property or otherwise solve the emergency; and
- iii. Where the purpose of the feeding station is for damage control, other less intrusive management techniques (e.g., hazing and fencing) have been utilized and have not solved the identified problem.

C. Commercial

1. Type I Minor Home Occupations, subject to the provisions of Section 225.02.

D. Transportation

1. Climbing and passing lanes within the right-of-way existing as of July 1st, 1987.
2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the sub-surface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such a time as no longer needed.
4. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous publicly-owned property utilized to support the operation and maintenance of public roads and highways.

E. Utility Facilities

1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
4. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505(1).

F. Parks/Public/Quasi-public

1. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
2. Fire service facilities providing rural fire protection services.

G. Mineral, Aggregate, Oil, and Gas

1. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be the basis for a goal exception.
2. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for a goal exception.

410.03 Uses Permitted Through a Type II Procedure. In the EFU Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06.

A. Farm/Forest Resource

1. A facility for the processing of farm products is a permitted use if the facility:
 - a. Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. The 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, Baker County shall apply applicable standards and criteria pertaining to floodplains, geologic hazards, airport safety, and fire siting standards.
 - c. 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.

B. Residential

1. A primary dwelling customarily provided in conjunction with farm use, if one of the following tests are met. Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.
 - a. Parcel Size Test. A single-family dwelling may be considered in conjunction with farm use if it is not identified as high-value farmland, pursuant to OAR 660-033-0020(8) and:
 - i. The dwelling is proposed on a parcel which is currently employed for farm use, as defined in ORS 215.203;
 - ii. The tract contains no other dwelling except season farm worker housing approved prior to 2001;
 - iii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
 - iv. Complies with the minimum parcel size requirements of Section 410.06(B)(6).

- v. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- b. Capability Test as provided in OAR 660-033-0135(2). A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland and:
- i. Is at least as large as the median size of commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are wholly or partially within one mile from the perimeter of the subject parcel; and
 - ii. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm and ranch tracts identified in Section 410.03(B)(1)(b)(i) determined, pursuant to OAR 660-033-0135(3); and
 - iii. The subject parcel or tract is currently employed for farm use as defined in ORS 215.203, at a level capable of producing the annual gross sales required by Section 410.03(B)(1)(b)(i); and
 - iv. The subject parcel or tract on which the dwelling is proposed is not less than 20 acres; and
 - v. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and
 - vi. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use as required by Section 410.03(B)(1)(b)(iii).
 - vii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
 - viii. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- c. Income Test. A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland; and
- i. The subject parcel is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:
 - 1. At least \$40,000 in gross annual income from the sale of farm products; or
 - 2. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
 - ii. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation;
 - iii. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (i) of this Section; and
 - iv. In determining the gross income required by Section (i) of this subsection:
 - 1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and
 3. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- v. For the purpose of the income test described in this subsection (c), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements.
1. Prior to the final approval for a dwelling authorized under this Section that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "*Exhibit A*" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - a. All future rights to construct a dwelling except for accessory farm dwellings, secondary farm dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS 215; and
 - b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
 - c. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - d. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions 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 which is subject to the covenants, conditions and restrictions required by this Section;
 - f. The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section, and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section. The map or other record required by this Section shall be readily available to the public in the Baker County Planning Department.
- d. High Value Test. A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on a parcel or tract which is identified as high-value farmland; and
- i. The subject parcel or tract is currently employed for farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years, or in an average of three of the last five years; or
 - ii. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more.

- iii. There is no other dwelling on the subject parcel or tract, except farm-worker housing as permitted by ORS 215.278 and ORS 215.283; and
- iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (i) of this Section.
- v. In determining the gross income required by subsection (i) of this Section:
 - 1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation.
 - 2. Only gross income from land owned, not leased or rented, shall be counted; and
 - 3. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- vi. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- vii. Non-contiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. Prior to the final approval for a dwelling authorized under this Section, the requirements set forth in Section 410.03(B)(1)(c)(v)(1) shall be met.

e. Transfer of Operation. A dwelling may be considered customarily provided in conjunction with farm use if:

- i. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Section 410.03(B)(1)(c) or (d), whichever is applicable;
- ii. The subject lot or parcel on which the dwelling will be located is:
 - 1. Currently employed for the farm use, as defined in ORS 215.203, that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Section 410.03(B)(1)(c) or (d), whichever is applicable; and
 - 2. At least the size of the applicable minimum parcel size under Section 410.06(B)(1) or (2).
 - 3. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
 - 4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (i) of this Section; and
 - 5. In determining the gross income required by subsections (i) and (ii)(1) of this Section:
 - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - b. Only gross income from land owned, not leased or rented, shall be counted.

2. Relative Farm Help Dwellings, which satisfy the following requirements:

- a. The relative farm help dwelling is located on the same lot or parcel as the dwelling of the farm operator and is located on real property used for farm use;
- b. The dwelling is occupied by a relative of the farm operator or the farm operator's spouse, 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.

- c. 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.
 - d. For the purpose of this Section, “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.
 - e. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
 - f. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcels size requirements under subsection 410.06(B)(1-2), if the owner of a dwelling described in this paragraph obtains construction financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined on ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.
3. Accessory Farm Dwellings as defined by subsection (g) of this Section may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets 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; and
 - b. The dwelling will be located:
 - i. On the same lot or parcel as the primary farm dwelling; or
 - 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; or
 - iii. On a lot or parcel on which the principal 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 re-approved 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. Baker 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 parcel

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 that could reasonably be used as an accessory farm dwelling.
- d. 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:
 - i. 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:
 - a. At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, or
 - b. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with 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.
 - ii. 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;
- e. The 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 OAR 660-033-0100.
- f. 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 410.04(C)(1) of this chapter.
- g. For the purposes of this Section, “accessory farm dwelling” includes all types of residential structures allowed by the applicable state building code.
- h. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.
- i. An acknowledgement of farm and forest practices shall be recorded with the County Clerk that meets the standards of Section 410.05(C).

4. Lot-of-Record Dwelling

- a. A single-family dwelling proposed on a lot or parcel meeting all of the following criteria:
 - i. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner (as defined in subsection 410.03(B)(4)(d)):
 1. Since prior to January 1, 1985; or
 2. By devise or intestate succession from a person who acquired the lot or parcel since prior to January 1, 1985;
 - ii. The tract on which the dwelling will be sited does not include a dwelling.
 - iii. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists prior to January 1, 1985.
 - iv. 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.
 - v. The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not high-value farmland except as provided in Section 410.03(B)(4)(b).
 - vi. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
 - vii. 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.
- b. Notwithstanding the requirements of Section 410.03(B)(4)(a)(v), a single-family dwelling may be sited on high-value farmland if:
 - i. It meets all other requirements of Section 410.03(B)(4);
 - ii. The lot or parcel is protected as high-value farmland; and
 - iii. The Planning Commission or Hearings Officer determines that:
 1. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. 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 to the land or 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 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;
 2. The dwelling will not materially alter the stability of the overall land use pattern in the area.
- c. Notice for all dwellings allowed under this Section shall be provided to the State Department of Agriculture and shall be mailed at least 20 calendar days prior to the issuance of a final decision by the Planning Director.

- d. For the purposes of this Section, "owner" includes the spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 - e. When approval for a single-family dwelling is granted under the provisions of this Section, the application may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
 - f. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
 - i. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
5. Replacement Dwelling. A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the Planning Director finds to their satisfaction, based on substantial evidence, that:
- a. The dwelling to be altered, restored or replaced has, or formerly had:
 - i. Intact exterior walls and roof structure;
 - ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - iii. Interior wiring for interior lights; and
 - iv. A heating system.
 - b. In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions:
 - i. If the dwelling was removed, destroyed or demolished:
 - 1. the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
 - 2. any removal, destruction or demolition occurred on or after January 1, 1973.
 - c. 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 taxes; or
 - d. A dwelling not described in subsections (b) or (c) of this Section was assessed as a dwelling for 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.
 - e. For replacement of a lawfully established dwelling under this Section:

- i. The dwelling to be replaced shall be removed, demolished, or converted to an allowable non-residential use:
 1. Within one year after the date the replacement dwelling is certified for occupancy, pursuant to ORS 455.055; or
 2. If the dwelling to be replaced is, in the discretion of Baker 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 Baker County that is not less than 90 days after the replacement permit is issued; and
 3. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the Planning Director for the new location.
 4. 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.
 - f. As a condition of approval, if the replacement dwelling 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 a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Planning Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this Section and either ORS 215.283(l) or ORS 215.283(p) regarding replacement dwellings have changed to allow the lawful siting of another dwelling. The Planning Director, or the Planning Director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (e) of this Section, including a copy of the deed restrictions filed under subsection (e)(iii) of this Section.
 - g. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - h. 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 other 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.
 - i. A replacement dwelling permit that is issued under this Section is a land use decision where the dwelling to be replaced formerly had the features described in paragraph (5)(c) of this Section, and is not subject to the time limits of ORS 215.417.
 - j. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
6. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places. An acknowledgement of farm and forest practices shall be recorded with the County Clerk that meets the standards of 410.05(C).

7. Temporary Hardship Dwelling. A manufactured dwelling, or recreational vehicle, or the temporary use of an existing building in conjunction with an existing dwelling, or the temporary use of a dwelling may be allowed for the term of the hardship suffered by the existing resident or relative, as defined in ORS 215, subject to the following:
 - a. The manufactured dwelling shall use the same sub-surface 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.
 - b. Permits shall be reviewed every year.
 - c. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.
 - d. A temporary residence approved under this Section is not eligible for replacement under ORS 215.283(1)(p).
 - e. As used in this Section, "*hardship*" means a medical hardship or hardship for the care of an aged or infirm relative as defined in ORS 215.
 - f. The criteria in Section 410.05(B) shall be met.
 - g. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).

C. Commercial

1. Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, when:
 - a. The number of dogs participating in training does not exceed 10 dogs 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 is limited to four or fewer trials per calendar year.
2. Farm stands 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 sale 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 or livestock and does not include structures for banquets, public gatherings or public entertainment.

- c. As used in this Section, “farm crops and livestock” include 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” include 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 a county in Idaho adjacent to Baker County.
3. A winery, as described in ORS 215.452 or ORS 215.453, and ORS 215.237.
 2. A cider business, as provided in ORS 215.451.
 3. A farm brewery, as described in ORS 215.449.

D. Transportation

1. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.
3. Improvements of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required, but not resulting in the creation of new land parcels.

E. Utility Facilities

1. Utility facility service lines.
2. Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet high. To demonstrate that a utility facility is necessary, as described in ORS 215.283(1)(c), 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 non-resource lands;
 - iv. Availability of existing rights-of-way;
 - v. Public health and safety;
 - vi. Other requirements of state and federal agencies

- b. Costs associated with any of the factors listed in Section 410.03(D)(1)(a) may be considered; however, 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. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating 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 Section 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 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 the surrounding farmlands.
- e. The provisions of subsections (2) to (5) of this Section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

F. Parks/Public/Quasi-Public

- 1. Land application of reclaimed water, agricultural or industrial process water or bio-solids, or the on-site treatment of septage prior to the land application of bio-solids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251. For the purposes of this Section, onsite treatment of septage prior to the land application of biosolids is limited to 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.
- 2. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. The following criteria shall apply:
 - a. 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 pre-existed the use approved under this Section.
 - b. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section.
 - c. 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.
 - d. 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.

- e. 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.
3. Firearms training facility in existence on September 9, 1995, meeting the standards of Section 410.05(A).

G. Institutions

1. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, may be allowed subject to the standards in subsection 410.05(A).

410.04 Uses Permitted Through a Type III Procedure. In the EFU Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.05. These uses shall also require a Conditional Use Permit as described in Chapter 210, and shall comply with the criteria set forth in Section 410.05(E).

A. Farm/Forest Resource

1. A facility for the primary processing of forest products, provided that such facility is found not to seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a 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. A facility for the primary processing of forest products approved under this Section shall meet the standards of Section 410.05(B).

B. Natural Resource

1. The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species. Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. Notice of all applications under this Section shall be provided to the Oregon Department of Agriculture. Notice shall be provided in accordance with Section 115.07 but shall not be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
2. Big game feeding stations within the Big Game Habitat Overlay (BGHO) Zone subject to the following provisions:
 - a. Permanent feeding stations:
 - i. Permanent feeding stations may be allowed as a conditional use in specified zones when in compliance with the following standards:
 - a) The feeding station shall be located on an area inventoried as winter game habitat in the following order of preference:

- 1) On federal lands wherever suitably located to provide feeding sites to minimize winter damage from big game. Such sites shall be exempt from local review.
 - 2) Whenever private land is proposed as a management area/feeding site, said land shall adjoin federally owned land whenever feasible, and the owner(s) of record have joined in the application for permit.
- b) When a site on privately-held land meets the requirements in Section 410.04(B)(2)(a)(i):
- 1) The applicant shall document that:
 - A. Other less-intrusive management techniques (e.g., hazing, fencing, hay stack panels and trapping/removal) have been examined and will not solve the identified problems;
 - B. The project complies with the standards, criteria and other requirements of any feeding station facilities plan adopted by the Oregon Department of Fish and Wildlife (ODFW).
 - C. The project complies with the management objective adopted by ODFW.
 - D. The tract of land shall be sufficient in size to accommodate the projected number of big game animals; or that additional management techniques such as game fences can be designed to overcome anticipated limitations of the parcel's size. A judgment relative to the sufficiency of size shall be based upon the carrying capacity of the air, land, and water resources of the area as measured by the following:
 1. Number of animals;
 2. Topography as it relates to providing cover and bedding areas;
 3. Thermal cover;
 4. Bedding areas;
 5. Hiding cover;
 6. Access; and
 7. Proximity to public lands.
 - 2) The applicant shall describe which of the ODFW programs for minimizing or mitigating off-site damage, such as the Green Forage Program, as authorized by ORS 496.012, are relevant to the proposed use. The proposed use shall be consistent with such programs.
 - 3) The proposed use must comply with all applicable state and federal air and water quality standards, such as the animal waste control provisions of the 208 Water Quality Program.
- ii. Conditions of Approval. The following condition shall be attached to any permit issued for a permanent feeding station: "The feeding station and associated activities must remain in compliance with the terms and conditions imposed by its conditional use permit designed to assure compliance with the approval standards of Section 210.07(A) of the Baker County Zoning Ordinance."

C. Residential

1. Single-family dwellings not provided in conjunction with farm use, provided 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. The dwelling will be sited on a lot or parcel created before January 1, 1993, unless the dwelling and land division are allowed under subsection (2) of this Section.
- c.
 - 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 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 part of a forestry operation, it is not “generally unsuitable”. If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominately 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;
- d. The dwelling will not materially alter the stability of the overall land use pattern in the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, Baker County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the following standards. 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 following standards:
 - i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area of 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 the other, adjacent agricultural areas. Findings shall include the study area, its boundaries, the location of the subject parcel within the 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 zone 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 subsections 410.03(B)(4) and 410.04(C)(1) of this Ordinance, 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(5) and ORS 215.284(4). The findings shall describe the existing land use pattern of the area including the distribution or 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 dwelling 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 County considers necessary.
 - f. If a single-family dwelling is established on a lot or parcel as a lot-of-record dwelling set forth in Sections 410.03(B)(4) or 420.03(B)(1) of this Ordinance, as a large tract forest dwelling as set forth in Section 420.03(B)(2) of this Ordinance, as a template test dwelling as set forth in Section 420.04(B)(1) of this Ordinance, or a dwelling established under OAR 660-006-0027, no additional dwelling may be later sited as a single-family dwelling not provided in conjunction with farm use.
 - g. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
 - h. No final approval of a nonfarm use under this Section shall be given unless any additional taxes imposed upon the change in use have been paid.
 - i. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
2. Residential home or facility, as defined in ORS 197.660, in existing dwellings, meeting the criteria in Section 410.05(B) and where an acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
 3. Room and board arrangements for a maximum of five unrelated persons in existing residences meeting the criteria in Section 410.05(B) and where an acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).

D. Commercial

1. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203, but excluding activities in conjunction with a marijuana crop. A commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm products, provide products or services essential to the practice of agriculture, and/or significantly enhance the farming enterprises of the local agricultural community.
2. Type III Major Home Occupations, subject to the provisions of Section 225.04.
3. Commercial dog boarding kennels, or dog training classes or testing trials that cannot be permitted as a Type II procedure.
4. A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.
5. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.310, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
6. Operations for the extraction and bottling of water, meeting the standards of Section 410.05(B).
7. Equine and equine-affiliated therapeutic and counseling activities, provided:
 - a. the activities are conducted in existing buildings that were lawfully constructed on the property before January 1st, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and
 - b. all individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.
8. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as permitted in ORS 215.283(4). The use shall comply with the standards in Section 410.05(B).
9. Guest Ranch, in conjunction with an existing commercial cattle, sheep, horse, or bison operation that complies with ORS 215.203, as well as the requirements listed in Chapter 210 and those set forth below.
 - a. A guest ranch may not be sited where the proposed site of the guest ranch is within the boundaries of or surrounded by:
 - i. A federally designated wilderness area or a wilderness study area;
 - ii. A federally designated wildlife refuge;
 - iii. A federally designated area of critical environmental concern; or
 - iv. An area established by an Act of Congress for the protection of scenic or ecological resources.
 - b. The guest ranch shall be located on a lawfully created parcel that is:
 - i. At least 160 acres in size;

- ii. On the parcel on which the primary farm dwelling of the person conducting the livestock operation is located;
 - iii. Is not high-value farmland, as defined in ORS 215.710.
- c. The guest ranch operation shall be incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use. For the purposes of a guest ranch, "livestock" means cattle, sheep, horses and bison. For the purposes of this Section, an existing livestock operation will be defined as a livestock operation that has been in operation for a minimum of one year prior to the date of application for a guest ranch. The livestock operation must remain the primary use of the land. A guest ranch will be incidental and accessory to a livestock operation.
- d. With regard to Section 410.04(A)(4)(a), subject to prior approval by the Decision Making Body, a livestock operation may cease operation for a period of not more than two years due to poor market conditions or such factors as disease within the livestock herd. The guest ranch may continue to operate during such time. If the livestock operation ceases for more than two years, the guest ranch shall cease operation, unless an extension of the two-year time limit is granted by the Planning Director for special circumstances by means of a Type I permit, as governed by Chapter 115.
- e. A 'guest lodging unit' means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence. Except as provided in Section 410.04(A)(4)(e), the guest lodging units of the guest ranch cumulatively must:
 - i. Include not fewer than four nor more than 10 overnight guest lodging units; and
 - ii. Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.
- f. For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in Section 410.04(A)(4)(a), up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.
- g. Ranch and recreational activities provided in conjunction with a guest ranch shall include:
 - i. A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting, including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming.
 - ii. Intensively developed recreational facilities such as golf courses and campgrounds, as described in ORS 215.283(2)(c), whether existing or planned, shall not be provided in conjunction with the operation of a guest ranch.
- h. Food services shall be incidental to the operation of the guest ranch and shall be provided only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not

a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.

- i. Notwithstanding ORS 215.263, a proposed division of land in an Exclusive Farm Use Zone for a guest ranch shall not be approved.
- j. A guest ranch shall not be separated from the primary farm dwelling of the person conducting the livestock operation.
- k. Transfer of conditional use approval for a guest ranch operation to a new owner/livestock operator shall be subject to approval by the Decision Making Body and a new Type III conditional use review.
- l. A guest ranch that is authorized by a county under this Section on or after January 1, 2020, shall annually report to the county. The records shall be made available to the public, upon request. The report must contain:
 - i. The size of the guest ranch's livestock operation;
 - ii. The income that the guest ranch obtained from:
 - a) Livestock operations; and
 - b) Guest ranch activities; and
 - c) Other information the county may require to ensure ongoing compliance with this Section or any condition of approval required by the county.

10. Parking up to seven log trucks.

11. A restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery that is described in ORS 215.453 that occur on more than 25 days in a calendar year. The use must meet the standards included in Section 410.05(B).

E. Mineral, Aggregate, Oil, and Gas. All uses in this subsection must meet the standards included in Sections 410.05(B) and (D).

1. Uses:

- a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other sub-surface resources, subject to ORS 215.298.
- b. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement. New uses that batch and blend the 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.
- c. Processing of other mineral resources and other sub-surface resources.
- d. Operations conducted for mining and processing of geothermal resources, as defined by ORS 522.005, and oil and gas, as defined by ORS 520.005, not otherwise permitted.

F. Transportation. All uses in this subsection must meet the standards included in Section 410.05(B).

1. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
2. Personal-use airports for airplanes and helicopter pads including associated hangar, maintenance and service facilities. 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 guest(s), 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 the 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.

G. Utility/Solid Waste Disposal Facilities

1. Transmission towers over 200 feet in height, subject to the provisions set forth in Chapter 740.
2. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities. Permanent features of a power generation facility shall not use, occupy or cover more than 20 acres (or 12 acres on high value farmland) 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 Section 410.05(B) and shall have no effect on the original approval.
3. A Small-Scale Wind Power Generation Facility, if sited on high-value farmland, subject to the provisions of Chapter 750. A wind power generation facility under this Section shall meet the standards of Section 410.05(B).
4. A Commercial Wind Power Generation Facility, subject to the provisions of Chapter 750. A solar facility under this Section shall meet the standards of Section 410.05(B).
5. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760. A solar facility under this Section shall meet the standards of Section 410.05(B).
6. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760. A solar facility under this Section shall meet the standards of Section 410.05(B).
7. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760 shall meet the standards of Section 410.05(B).

8. A site for the disposal of solid waste approved by the governing body of Baker County and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be maintained, enhanced or expanded on the same tract subject to other requirements of law. Sites for disposal of solid waste under this Section shall meet the standards of Section 410.05(B).
9. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060. 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 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. 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 that are transported in one vehicle.
 - a. Composting facilities under this Section shall meet the standards of Section 410.05(B).

H. Parks/Public/Quasi-Public

1. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for the residents of the rural area in which the school is located. Schools shall meet the standards in Section 410.05(B). This use is not permitted on high-value farmland. Reference ORS 215.135 for expansion of schools.
2. Private parks, playgrounds, hunting and fishing preserves and campgrounds can be permitted on land not designated as high-value farmland, when the standards of Sections 410.05(A) and (B) are met. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Private campgrounds shall only be those allowed subject to the following:
 - 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 in subsection (b) of this Section.
 - b. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.
 - c. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
3. Public parks and playgrounds can be permitted on land not designated as high value farmland when established consistent with the provisions of ORS 195.120 and meeting the standards of Sections 410.05(A) and (B). Public parks may only include the uses specified under OAR 660-035-0035 or 660-034-0040, whichever is applicable.

4. Community centers owned by a governmental agency or a non-profit organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph 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 1st, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services. A community center must meet the standards in Sections 410.05(A) and (B).
5. Golf courses on land determined not to be high-value farmland as defined in ORS 195.300(10), with accessory uses limited as described in OAR 660-033-0130(19). Non-regulation golf courses are not allowed in the Exclusive Farm Use zone, including, but not limited to par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
6. Living history museum. "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. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A living history museum 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. Living history museums must meet the standards in Sections 410.05(A) and (B).
7. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
8. 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.
9. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306, subject to the standards in Section 410.05(B).

Youth camps on land that is composed predominately of Class VI, VII or VIII soils, meeting the standards of Section 410.05(B) and OAR 660-033-0130 (40).

410.05 Standards for Certain Uses in the EFU Zone

A. As specified above, certain facilities in the EFU Zone shall comply with the following standards:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 34.
 2. Any enclosed structures or group of enclosed structures described in subsection (1) 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.
 3. 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.
- B. As specified above, certain uses in the EFU Zone shall demonstrate that the following criteria are met:
1. The use will not force a significant change in accepted farming practices on surrounding lands devoted to farm or forest use; and
 2. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- C. As a condition of approval of a single-family dwelling allowed in the Exclusive Farm Use Zone, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- D. Extraction, exploration and processing of resources and related mining activities shall demonstrate compliance with the following approval criteria in addition to the general approval criteria contained in Section 210.04:
1. Plans and specifications must contain sufficient information to allow the Decision Making Body to consider and set standards pertaining to the following:
 2. The most appropriate use of the land.
 3. Setbacks from property lines.
 4. The protection of pedestrians and vehicles through the use of fencing, screening and setbacks.
 5. The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
 6. The prevention of the collection and stagnation of water of all stages of the operation.
 7. The rehabilitation of the land upon termination of the operation including consideration of final slope of cut banks and leveling and/or restoration of terrain.
 8. Surface mining equipment, the mining process itself, and necessary access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the

Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ).

E. Explanation acceptable to the County is provided to demonstrate that:

1. Existing public services, utilities, and road systems are adequate to accommodate the proposed use, or that any such need will be provided by the applicant.
2. The proposed development is designed to minimize adverse impacts to existing terrain, slope, and ground cover and to protect the immediate and surrounding area from potential adverse impacts caused by surface water run-off.
3. Water, both in terms of quantity and quality, is available and adequate for the use, and adequate provisions for solid waste disposal will be provided.
4. The use complies with such other conditions, as the Planning Commission considers necessary. Conditions of approval must be consistent with the standards of ORS 215.296.

410.06 Minimum Parcel Size

A. General Exceptions to Parcel Size Requirements.

1. Any parcel of land or portion thereof which has been or is to be dedicated to a public or semi-public entity for a road, railroad, utility or other public use shall be entitled to an adjustment from the minimum parcel size requirement set forth by this Ordinance. The adjustment shall be limited to the amount of land dedicated to and accepted for public use.
2. Minimum requirements relative to lot size, where applicable, shall be considered as standard metes and bounds land section divisions. Therefore, lot sizes may be smaller than set forth in this Ordinance if a total section acreage reduction is due to a U.S. Public Lands survey adjustment.
3. Statutory "*Lot of Record*" provisions (Sections 9-13, Chapter 884, Oregon Laws 1981, as amended by Sections 14 and 15, Chapter 826, Oregon Laws 1983) may provide a development right for sub-standard sized lots or parcels if said lot(s) or parcels qualify under the law. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 apply.

B. Except as provided for under Section 410.06(A), new parcels in the EFU Zone shall comply with the following minimum parcel size requirements:

1. 80 acres if fully covered by valid primary water rights.
2. 160 acres for non-irrigated land or 2 acres for each dry acre less than 80 for land partially covered by valid primary water rights. For example, 60 acres of irrigated land would require a minimum parcel size of 100 acres ($80 - 60 = 20$; $20 \times 2 = 40$; $60 \text{ irrigated acres} + 40 \text{ non-irrigated acres} = 100 \text{ acres}$).
3. In the EFU Zone, a parcel created to accommodate a conditional use shall comply with the following requirements:

- a. The proposed parcel shall be the minimum amount of land necessary for the proposed use, considering applicable state and local standards and the criteria set forth in this Ordinance, but shall be no less than 2 acres; and
 - b. The remaining parcel complies with the requirements under Sections 410.05(B)(1) or (2), as applicable.
4. If land in the EFU Zone is also located in the Big Game Habitat Overlay, the minimum parcel size standards of Section 620.04 apply for all lot of record or nonfarm dwellings.
 5. For non-farm partitions in the Big Game Habitat Overlay, the minimum parcel size shall be 40 acres.
 6. The minimum parcel size for a farm related dwelling shall be 160 acres if covered with at least 160 acres of valid primary water rights or 320 acres if non-irrigated, or a combination thereof, except that there shall be 2 acres for each dry acre less than 160. For example, 100 acres of land with valid primary water rights would require a minimum parcel size of 220 acres (160 - 100 = 60; 60 x 2 = 120; 100 irrigated acres + 120 non-irrigated acres = 220 acres).

C. Land Divisions for Non-Farm Parcels

1. A division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum parcel size established in Section 410.06(B), each to contain a dwelling not provided in conjunction with farm use if:
 - a. The nonfarm dwellings have been approved under Section 410.04(C)(1); and
 - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum parcel size established under Sections 410.06(B)(1) & (2);
 - d. The remainder of the original lot or parcel that does not contain the nonfarm dwelling complies with the minimum size established under Sections 410.06(B)(1) & (2); and
 - e. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
2. A division of land in an exclusive farm use zone to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:
 - a. The nonfarm dwellings have been approved under Section 410.04(C)(1); and
 - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

- c. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size established under Sections 410.06(B)(1) & (2), but equal to or larger than 40 acres; and
 - d. The parcels for the nonfarm dwellings are:
 - 1) Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and
 - 2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. A parcel that produces, or is capable of producing, 1,050¹ or more total pounds of dry matter per acre in a normal year, as calculated using the Natural Resources Conservation Service Soil Survey for Baker County, is considered to produce adequate herbaceous forage for the purposes of this Section.
 - e. The parcels for nonfarm dwellings do not have established water rights for irrigation; and
 - f. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
 - g. If the parcel(s) on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
- 3. This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
 - 4. This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
 - 5. No land division may be approved for a lot or parcel described in ORS 215.283(1)(d) or (2)(L), or a proposed division that separates a facility for the processing of farm products, as defined in ORS 215.255, from the farm operation.
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