

AGENDA

BOARD OF COMMISSIONERS MEETING

Tuesday, July 2, 2024, 9 AM

How to Participate in the Board of Commissioners Meeting

Zoom Video [Click for Zoom link](#)

[Click for YouTube LiveStream link](#)

In-person: Kalapuya Building, 4500 SW Research Way, Corvallis, Oregon

NOTE: Two County Service District Meetings will occur immediately following the Board of Commissioners meeting: Alpine and South Third Street.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by contacting the Board of Commissioners Office at 541-766-6800 or 800-735-2900 TTY, by email bocinfo@bentoncountyor.gov, or on the County's website at <https://boc.bentoncountyor.gov/contact/>.

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session; however, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)), and the notice shall state the specific reason for the executive session as required by ORS 192.660.

1. Call to Order and Introductions

2. Review and Approve Agenda

Chair may alter the agenda

3. Comments from the Public

Time restrictions may be imposed on public comment, dependent on the business before the Board of Commissioners. Individual comment may be limited to three minutes.

4. Work Session

4.1 20 minutes – Discussion Regarding Food Truck and Winery Approvals – Petra Schuetz, James Wright; Community Development

- 4.2 15 minutes – Update on New Construction at Benton County Facilities – Gary Stockhoff, Public Works
- 4.3 10 minutes – McBee Forest Stewardship Plan Update – Jesse Ott, Adam Stebbins; Natural Areas, Parks, and Events

5. New Business

- 5.1 10 minutes – Approval of Contract Between Oregon Youth Authority and Linn and Benton Counties – Matt Wetherell, Juvenile Department
- 5.2 40 minutes – Approval to Apply for Transportation Growth Management Program Grants, Resolutions R2024-020 and R2024-021 – Petra Schuetz, Inga Williams, James Wright, Community Development; Jesse Ott, Natural Areas, Parks, and Events
- 5.3 5 minutes – Delegation of Solid Waste Advisory Council Duties to the Environment and Natural Resources Advisory Committee, Order No. D2024-048 – Vance Croney, County Counsel

6. Other

ORS 192.640(1) "...notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

7. Announcements

8. Executive Session

The Board will convene in Executive Session under ORS 192.660[2][d] – Labor Negotiations

WORK SESSIONS

BOC Agenda Checklist Final Approval

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * James Wright

Phone Extension * 3559

Meeting Attendee Name * Petra Schuetz, James Wright

Agenda Item Details



Item Title * Food Truck and Winery Approvals

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 20 minutes

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

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Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

Whether to allow food trucks at wineries as an authorized agritourism event.

Options *

n/a

Fiscal Impact *

- Yes
 No

2040 Thriving Communities Initiative

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service?* Yes No

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.
 Vibrant, Livable Communities
 Supportive People Resources
 High Quality Environment and Access
 Diverse Economy that Fits
 Community Resilience
 Equity for Everyone
 Health in All Actions
 N/A

Explain Core Values Selections* Allowing food trucks at wineries may stimulate local business and provides additional opportunities for entrepreneurs.

Focus Areas and Vision* Select all that apply.
 Community Safety
 Emergency Preparedness
 Outdoor Recreation
 Prosperous Economy
 Environment and Natural Resources
 Mobility and Transportation
 Housing and Growth
 Arts, Entertainment, Culture, and History
 Food and Agriculture
 Lifelong Learning and Education
 N/A

Explain Focus Areas and Vision Selection* Allowance of food trucks at wineries would require Environmental Health approval.

Recommendations and Motions

Item Recommendations and Motions

Staff Not applicable; discussion only.

Recommendations*

Meeting Motions* I move to ...

Not applicable; discussion only.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

- A. Guidance for Food service at wineries on farmland.pdf 523 kb
- B. OAN_Agritourism-Handbook_3-6_web-original.pdf 3779 kb
- C. wineryguidance.pdf 547 kb
- D. oregonlegislature.gov_bills_laws_ors_ors215.html.pdf 1460 kb
- E BOC presentation Winery and Food Cart_final draft.pptx 8999 kb

Comments (optional) If you have any questions, please call ext.6800

Department Approver AMANDA MAKEPEACE

1.

Department Approval

Comments

Signature

Amanda Makepeace

2.

Counsel Approval

Comments

Signature

Vance H. Croney

3.

County Administrator Approval

Comments

Signature

Rachel L McEneny

4.

BOC Final Approval

Comments

Signature

Amanda Makepeace

GUIDANCE FOR FOOD SERVICE AT WINERIES ON FARMLAND Under Oregon Senate Bill 841

January 2017



Oregon Department of Land
Conservation and Development



OREGON
WINEGROWERS
ASSOCIATION

This guidance document is produced by the Oregon Department of Land Conservation and Development (DLCD) and Oregon Liquor Control Commission (OLCC) in coordination with the Oregon Winegrowers Association (OWA). No rights are reserved, so please distribute.

Contact DLCD: 503-373-0050

Contact OLCC: 503-872-5000

Contact OWA: 503-228-8336

Introduction

Senate Bill (SB) 841 from 2013 provides comprehensive land use rules for wineries located in exclusive farm use (EFU) or mixed farm-forest zones throughout Oregon. SB 841 modified ORS 215.452 and was a consensus bill that culminated from several years of legislative initiatives. Pertinent statutes are provided at the end of this publication.

Among other changes to ORS 215.452, SB 841 established new rules governing food service at permitted use wineries. Since the passage of SB 841, questions have arisen regarding the interpretation of these rules. This document, issued by the Oregon Department of Land Conservation and Development and the Oregon Liquor Control Commission in coordination with the Oregon Winegrowers Association, provides guidance to local governments, wineries, and other stakeholders regarding the application of SB 841's food service rules.

Applicability of SB 841

Oregon statute contains two lists of uses allowed in EFU zones. The first list defines uses that are permitted as of right, and the second list defines uses that must be approved by the county subject to criteria (often called a "conditional use").¹ Pursuant to ORS 215.452, a winery that has least 15 planted vineyard acres on-site, and that abides by certain limitations on wine production and commercial activities, qualifies as a permitted use under the EFU statutes.² SB 841 applies to these permitted use wineries in EFU zones and in mixed farm-forest zones throughout Oregon.

SB 841 also affirms that a winery that does not meet the requirements of ORS 215.452 may be sited in an EFU zone as a conditional use under the category of "commercial activities that are in conjunction with farm use."³ The food service rules in SB 841 do not apply directly to these conditional use wineries, but counties have discretion to impose a range food service conditions on conditional use wineries.

Effect of SB 841 on pre-existing winery permits

Prior to SB 841, ORS 215.452 restricted food service at permitted use wineries to that of a "limited service restaurant," which is defined as "individually portioned prepackaged foods prepared from an approved source by a commercial processor."⁴ Land use permits for permitted use wineries issued by counties prior to SB 841 generally contain a condition that imposes this now outdated food service restriction.

¹ See ORS 215.213 and ORS 215.283. ORS 215.213 applies in Lane and Washington Counties; ORS 215.283 applies in all other counties, though the two statutes are generally similar and are identical with respect to winery zoning.

² See ORS 215.213(1)(p); ORS 215.283(1)(n); ORS 215.452

³ ORS 215.456

⁴ ORS 624.010(5).

In the 1995 case of *Brentmar v. Jackson County*,⁵ the Oregon Supreme Court held that counties may not impose additional restrictions on a permitted use in the EFU zone beyond the state EFU regulations that apply to that particular use. ORS 215.452 wineries are permitted uses in the EFU zone, and land use permits that impose the outdated limited food service requirement on these wineries are more restrictive than state law as set forth in SB 841. *Brentmar* therefore prohibits counties from enforcing limited service restaurant conditions on permitted use wineries.

**Legislative intent
of SB 841**

The food service provisions of SB 841 are intended to allow wineries to pair food with wine to enhance wine appreciation and to ensure responsible alcohol service. SB 841 allows wineries to conduct a range of marketing activities including, for example, “wine tastings” and “winemaker dinners and luncheons.”⁶ Wineries may also host charitable events and a limited number of commercial events such as weddings.⁷ SB 841’s food service provisions are tied to these marketing and event privileges as follows:

[ORS 215.452](2) In addition to producing and distributing wine, a winery established under this section may:

...

(c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:

(A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(B) Served in conjunction with [a marketing activity or event] authorized by paragraph (b), (d) or (e) of this subsection. (emphasis added).

⁵ *Brentmar v. Jackson County*, 321 Or 481 (1995).

⁶ ORS 215.452(2)(b).

⁷ ORS 215.452(2)(d) and (e).

SB 841, however, prohibits a permitted use winery from operating as a restaurant. Specifically, the statute provides that:

(3) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. *Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.* (emphasis added).

SB 841 therefore establishes a qualitative standard that distinguishes between food pairings and discrete events with food on the one hand, and regular restaurant-type meal service on the other hand. Because food preparation is allowed for marketing and events, a winery may have a commercial-type kitchen. This kitchen may not, however, be used as a justification for a non-permitted restaurant.

Related ORS 215.452 regulations

Although the distinction between permitted food pairings and prohibited restaurant service is imprecise, it is important to note that SB 841’s food provisions are part of a larger scheme of winery land use regulations. Much of the ambiguity in the food provisions is resolved by two other related requirements in ORS 215.452.

First, ORS 215.452(4) limits a winery’s gross income from all retail sales of non-wine products and services to 25 percent of the winery’s on-site retail sales of wine. The statute also expressly allows a local government to require a written statement from a winery’s certified public accountant demonstrating the winery’s compliance with the 25 percent income standard. The 25 percent rule therefore provides an additional, quantitative limit on a winery’s food service.

Second, as noted in the italicized statutory language above, ORS 215.452 requires the marketing and sale of food to be “incidental” to the on-site retail sale of wine. This language indicates that wine tastings, wine sales, and related wine marketing, not food consumption, must be the primary visitor activities at a winery tasting room.

ORS 215.452 therefore provides local governments with several tools to evaluate whether a winery’s food service is appropriate as a matter of land use law.

OLCC requirements for wineries

As noted above, SB 841 allows a permitted use winery to serve any food required to be made available by the Oregon Liquor Control Commission (OLCC) in conjunction with the consumption of wine on the premises. This provision is intended to avoid a conflict between land use rules and OLCC requirements for responsible alcohol consumption.

At this time, however, OLCC does not require that any particular food service be made available in conjunction with the consumption of wine at wineries. Although OLCC often considers food service in determining when *minors* may be present in a tasting room, this determination is *not* a requirement for a particular level of food service under SB 841. In other words, *a winery may not use an OLCC minor posting determination as a justification for food service that exceeds the food limits set forth in SB 841.*

Additional food service guidelines

The following guidelines are intended to assist local governments and wineries in determining whether particular food service practices are consistent with SB 841. No single factor in this list is necessarily determinative of a winery's compliance or violation of ORS 215.452.

- Whether the food is tailored to the wine offerings and marketed as an accompaniment to the wine or is a stand-alone offering;
- Whether the winery offers a menu of diverse and substantial food options and/or provides defined meal service (*e.g.*, lunch, dinner);
- Whether the winery consistently provides substantial food service, or instead reserves this service to special occasions;
- Whether the predominant activity in the tasting room is dining as opposed to wine tasting, wine sales and related wine marketing;
- Whether the winery can produce a straightforward accounting of compliance with the 25 percent rule or instead utilizes multiple business entities or unusual pricing schemes to influence the accounting of its revenue.

PERTINENT STATUTES

ORS 215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) [Lane and Washington counties], the following uses may be established in any area zoned for exclusive farm use:

* * *

(p) A winery, as described in ORS 215.452 or 215.453.

ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties. (1) The following uses may be established in any area zoned for exclusive farm use:

* * *

(n) A winery, as described in ORS 215.452 or 215.453.

ORS 215.452 Winery; conditions; permissible products and services; local government findings and criteria; fees. (1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

- (A) Owns an on-site vineyard of at least 15 acres;
- (B) Owns a contiguous vineyard of at least 15 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and the winery:

- (A) Owns an on-site vineyard of at least 40 acres;
- (B) Owns a contiguous vineyard of at least 40 acres;
- (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

- (2) In addition to producing and distributing wine, a winery established under this section may:
- (a) Market and sell wine produced in conjunction with the winery.
 - (b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (B) Wine club activities;
 - (C) Winemaker luncheons and dinners;
 - (D) Winery and vineyard tours;
 - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (F) Winery staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
 - (c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
 - (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.
 - (d) Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.
 - (e) Host charitable activities for which the winery does not charge a facility rental fee.
- (3) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (4) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.
- (5) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.

(6) For events described in subsection (5) of this section for a winery in the Willamette Valley:

(a) Events on the first six days of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year license that:

(A) Has a term of five years; and

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section.

(b) The local government's decision on a license under paragraph (a) of this subsection is not:

(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(c) Events on days seven through 18 of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year permit that:

(A) Has a term of five years;

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section; and

(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

(d) The local government's decision on a permit under paragraph (c) of this subsection is:

(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(7) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the local government may impose conditions on a license or permit issued pursuant to subsection (6) of this section related to:

(a) The number of event attendees;

(b) The hours of event operation;

(c) Access and parking;

(d) Traffic management;

(e) Noise management; and

(f) Sanitation and solid waste.

(8) A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.

(9) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

(10) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.

(11) A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

- (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and
- (b) Provision of direct road access and internal circulation.

(12) A local government shall apply:

- (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;
- (b) Regulations of general applicability for the public health and safety; and
- (c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

(13) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:

- (a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
- (b) The meals may be served at the bed and breakfast facility or at the winery.

(14) As used in this section:

- (a) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
- (b) “On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

215.453 Large winery; conditions; products and services; local government findings and criteria.

(1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(p) or 215.283 (1)(n) or on land zoned for mixed farm and forest use if:

- (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
- (b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (a) of this subsection; and
- (c) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this section.

(2) In addition to producing and distributing wine, a winery described in subsection (1) of this section may:

- (a) Market and sell wine produced in conjunction with the winery;
- (b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;

- (B) Wine club activities;
 - (C) Winemaker luncheons and dinners;
 - (D) Winery and vineyard tours;
 - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (F) Winery staff activities;
 - (G) Open house promotions of wine produced in conjunction with the winery; and
 - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
- (c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
- (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection;
- (d) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
- (A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - (B) Are incidental to the retail sale of wine on-site; and
 - (C) Are limited to 25 days or fewer in a calendar year; and
- (e) Host charitable activities for which the winery does not charge a facility rental fee.
- (3) (a) The gross income of the winery from the sale of incidental items pursuant to subsection (2)(c) of this section and services provided pursuant to subsection (2)(d) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
- (b) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.
- (4) A winery operating under this section:
- (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
 - (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.
- (5) (a) A winery shall obtain a permit from the local government if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under subsection (2)(d) of this section occurring on more than 25 days in a calendar year.
- (b) In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:

- (A) Complies with the standards described in ORS 215.296;
 - (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
 - (C) Does not materially alter the stability of the land use pattern in the area.
- (c) If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- (6) A person may not have a substantial ownership interest in more than one winery operating a restaurant under this section.
- (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted.
- (8) A local government shall require a winery operating under this section to provide for:
- (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
 - (b) Direct road access and internal circulation.
- (9) A local government shall apply:
- (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;
 - (b) Regulations for the public health and safety; and
 - (c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.
- (10) The local government may authorize a winery described in subsection (1) of this section to sell or deliver items or provide services not described in subsection (2)(c) or (d) or (3) of this section under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c) or 215.283 (2)(a) or under other provisions of law.
- (11) (a) A local government may issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government issued permits to wineries operating under this section in similar circumstances before August 2, 2011.
- (b) A local government may not issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government did not issue permits to wineries operating under this section in similar circumstances before August 2, 2011.
- (12) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:
- (a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - (b) The meals may be served at the bed and breakfast facility or at the winery.

(13) As used in this section:

(a) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

(b) “On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

ORS 215.456 Siting winery as commercial activity in exclusive farm use zone. (1) A local government may authorize the siting of a winery, on land zoned for exclusive farm use, pursuant to the standards that apply to a commercial activity in conjunction with farm use under ORS 215.213 (2)(c) or 215.283 (2)(a) or other law if the winery:

(a) Does not qualify for siting under ORS 215.452 or 215.453; or

(b) Seeks to carry out uses or activities that are not authorized by ORS 215.452 or 215.453.

(2) If a county authorizes the establishment of a winery on land zoned for exclusive farm use or mixed farm and forest use under provisions of law other than ORS 215.452 or 215.453 after June 28, 2013, the gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery.

OREGON AGRITOURISM HANDBOOK

2022



PHOTO: MICHAEL HANSON



PHOTO: CHRISTIAN HEEB

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Welcome to the Oregon Agritourism Handbook

This resource was created for a wide range of people with a common interest in the intersection of agriculture and tourism. So whether you're a farmer or rancher, have a tourism business that works with farmers and ranchers, or are a budding entrepreneur with no land but an agritourism venture idea, this handbook is for you.

If you're just starting out, you may want to work through the information in the order of the Table of Contents. If you have an existing operation, just skip around to the sections that seem most relevant. You can download and print whatever you need.

What do we mean by "agritourism?" While the term "agritourism" just entered the Merriam-Webster dictionary in 2006, the activity has a rich history. Basically, agritourism is *any activity that generates supplemental income for working farms and ranches by connecting their agricultural resources and products with visitors*. It includes on-farm and off-farm activities. To borrow from California's language*, agritourism "promotes farm products and generates additional farm income, in the process of providing visitors with entertainment, recreation, hands-on participation and education."

Here in Oregon, where culinary tourism is already a major draw, we incorporate elements of culinary tourism into agritourism. Here, tourists participate in agritourism when they experience a working landscape by visiting a farm or ranch, meeting producers and tasting local products.

Oregon statutes define agritourism more narrowly from a legal and regulatory perspective, permitting very specific activities on exclusive farm-use (EFU) land. For the purposes of compliance, [Section III](#) of this handbook is geared toward this narrower definition.

This handbook focuses on welcoming visitors, as opposed to local residents. Travel Oregon uses a specific definition of "tourist" to differentiate their activity from that of local customers: Tourists travel at least 50 miles from home, or they stay overnight at their destination. That's not to say that local residents don't visit local farms and ranches. But visitors from outside your area bring new dollars into your community. That's our focus here.

This handbook is brought to you by the [Oregon Agritourism Network](#), established in 2015 to grow high-quality Oregon agritourism, guided by these [goals and vision for the future](#). Please check back in the future, as the handbook will be regularly improved and updated. If you'd like to see or contribute additional information, please contact development@traveloregon.com.



*An often-used definition of agritourism is included in "Agritourism and Nature Tourism in California," a publication of the University of California's Small Farm Center. The full definition specifies activities that occur on a working agricultural or horticultural operation. Here in Oregon, we also consider some off-farm/ranch activities to fall under the agritourism umbrella.



A Brief History of Agritourism, Internationally and in the United States

INTERNATIONAL AGRITOURISM*

“As populations increase and the cost of land and labor sky-rockets, farmers and ranchers across the U.S. Excerpted with permission from Chapter 2, Colorado Cultural, Heritage and Agritourism Strategic Plan, 2013. are following the lead of Europe, Australia and New Zealand, turning to agritourism as one way to diversify their revenue. In Italy, this business is termed “Agriturismo,” and in Britain, Australia and New Zealand it is known as “farm stay holidays.”

As small-scale farming became less profitable in Italy in the 1950s to 1970s, farms were abandoned when farmers left to search for work in larger towns and cities. An agriturismo law was passed in 1985 to regulate and encourage Italian farm stays. Estimates place today’s number of agriturismo locations in Italy between 9,000 and 20,000, and their success has led many other European Union countries to enact similar national policies to help increase farm income and create jobs in rural communities. There are three types of agriturismo classifications in Italy: one that provides light meals or self-service snacks; one that offers full-service meals; and one that provides farm holidays that include meals, lodging and other activities. In Italy, agriturismo farmers are also allowed to sell value-added farm products including locally-produced wines, olive oils, pasta, prepared meats, cheeses, jellies and jams, honey, baked good and crafts.

One subset of farm stay holidays currently attracting many young travelers is called WWOOFing. This acronym has variously meant ““Working Weekends on Organic Farms,” “Willing Workers on Organic Farms” and, most recently, “World Wide Opportunities on Organic Farms.” WWOOF was established in the fall of 1971 when a secretary in London organized a working weekend at a farm as an affordable way to get to spend time in the British countryside. Currently,

there are 1,634 WWOOF farms located in 43 different countries, and the numbers are growing.”

*Excerpted with permission from Chapter 2, Colorado Cultural, Heritage and Agritourism Strategic Plan, 2013.

AGRITOURISM IN THE UNITED STATES*

“Agritourism and entertainment farming enterprises have an extensive history in the United States. Farm-related recreation and tourism can be traced back to the late 1800s, when families visited farming relatives in an attempt to escape from a city’s summer heat. Visiting the country became even more popular with the widespread use of the automobile in the 1920s. Rural recreation gained interest again in the 1930s and 1940s from folks seeking an escape from the stresses of the Great Depression and World War II. These demands for rural recreation led to widespread interest in horseback riding, farm petting zoos and farm nostalgia during the 1960s and 1970s. Farm vacations, bed and breakfasts, and commercial farm tours were popularized in the 1980s and 1990s.

The demand for a slower-paced farm experience, once supplied by rural family members, seems to be somewhat difficult to satisfy today because of the four- and five-generation gap between farming and non-farming citizens.” (Georgia)

“Today, with fewer farmers producing more food, people have become disconnected from the sources of their food. Agritourism offers a new way to fulfill the desire to reshape this food/source connection. This past decade has seen tremendous growth in the number of statewide agritourism programs in the United States.” (Colorado)

*Excerpted with permission from Considerations for Agritainment Enterprise in Georgia, 2002 and the Colorado Cultural, Heritage and Agritourism Plan.



Goals and Vision for Agritourism in Oregon

OREGON AGRITOURISM: OUR VISION FOR 2025

- Oregon is recognized as a world-class destination for interesting, educational, fun and life-changing food, farm and ranch-based experiences.
- Visitors find diverse, accessible and high-quality opportunities to experience excellent food and bountiful landscape throughout the state.
- It's easy for Oregon visitors to explore, dine and experience life on a farm or ranch, and to connect agritourism experiences with other nearby activities and attractions.
- While agriculture remains the primary function of farms and ranches, exposure to visitors through agritourism enhances these operations.
- The success of agritourism brings increased prosperity to Oregon communities.

GOALS FOR THE OREGON AGRITOURISM NETWORK

Improved Policy

The state and local regulatory framework for agritourism is clear and improved, so agritourism businesses that are compatible with the intent of land-use law and public health regulations are able to operate efficiently.

Effective, Industry-Driven Network

Agritourism businesses are well networked with each other to produce exceptional visitor experiences, promote their offerings, learn best practices and pursue supportive policies.

Targeted Marketing

Oregon has implemented a strategic agritourism marketing plan that is appropriately connected with culinary tourism marketing.

Meaningful Standards

Based on a clear definition of agritourism (including its crossover with culinary tourism), locals and visitors can discover agritourism products and services that have been vetted for authenticity and quality.

Stewardship Education

Young people have a close and knowledgeable connection with the state's agricultural sector as part of Oregon's history, culture, health and economic vitality.

Economic Impact

Agritourism tangibly contributes to the vitality of Oregon agriculture and communities.



Why Consider Agritourism?

There is a growing market for agritourism in Oregon and if it's a fit for your farm, ranch or business, it can provide many opportunities for creative products and services. This section provides background information on the market for agritourism, the pros and cons of expanding into agritourism, and a list of possible activities to consider. When you're done, you should have an initial sense of what form your agritourism enterprise might take.

FOOD FOR THOUGHT

According to the Vermont Agritourism Collaborative's "Assessing Your Farm for Agritourism" guide, the following factors contribute to the well-being of farmers. How does your agritourism enterprise stack up in terms of delivering these benefits?

- Goals that are based in deeply held values
- An atmosphere with good communication and mutual respect
- Reliable access to information and services that support the business
- A symbiotic connection between the farm/ranch and its community: the community provides value to the farm and the farm provides value to the community
- Good relationships with employees and neighbors
- A long-range view with the well-being of the next generation in mind
- Taking time to enjoy one's self, family and friends



Why People Travel

In thinking about the experience you hope to create for your visitor, it's helpful to know what visitors are seeking. The following list shows the reasons people travel. Most content is adapted with permission from the Agri-Business Council of Oregon's Agritourism Workbook (revised in 2007).

To build and strengthen relationships

The primary reason Americans travel on vacation is to spend time with family. They want to be together in stress-free surroundings, and they consider a trip away from home to be the ideal opportunity. They view travel as a time to rekindle and strengthen their relationships, as well as an opportunity to make new friends.

To improve health and well-being

Vacations are vital to travelers' physical and mental well-being. They seek an experience that gets their blood pumping or their mind cleared. Many Oregon travelers do this by participating in outdoor activities.

To rest and relax

Americans on vacation want to rest and relax. A trip away from home is a trip away from work and worry. When they return, they feel refreshed and renewed.

To experience adventure

Some travelers vacation away from home to find adventure. They want their vacations to provide excitement, be it dangerous or romantic.

To experience places they have read about or seen through media

Travel-related visuals can incite a sense of "wanderlust" that inspires an intense desire to physically visit a destination. Social media, television, internet sites and other travel publications highlight a diversity of options that can incite that travel bug—as well as highlight hidden gems outside the typical well-known destinations.

To escape and find connection

Many people travel to escape daily routines, worry and stress, and to attain what they sense is missing in their lives (Krippendorf 1986). They seek something different: perhaps a better climate, a slower pace of life, cleaner air, prettier scenery or quieter surroundings. This connection can be to other people, the environment, or themselves and their purpose.



To check something off their bucket list

Travel can be a major focus for those who have created a list of personal milestones and accomplishments to complete. For example, it is common for Europeans to want to visit every U.S. national park. Completing a travel-related bucket list item can be a source of external bragging rights, or provide a sense of accomplishment.

To learn

Some travelers travel to learn and discover. They want to see, hear, touch and feel unfamiliar things. More specifically, they want to learn or practice a language, study a culture, explore gourmet foods or wines, investigate spirituality, etc. Visitors want to meet people from other cultures and be exposed to new perspectives, and acquire an understanding of a different culture’s lifestyle, food and daily life.

To mark a special occasion

Many Americans vacation away from home to celebrate life milestones and special occasions. New relationships, marriages, birthdays and professional achievements provide a reason.

To save money or time by traveling locally

People sometimes take short, local vacations to save money or time. Some vacationers are very frugal. Some vacationers want to enjoy a “staycation” to stretch their vacation dollars and reduce travel. Sometimes travelers will seek an opportunity to combine a work-related trip with a visitor experience, not only to see the area beyond the office or meeting location but to expand the cost-effectiveness of the trip.

To reminisce

Travel can evoke the past. Some vacationers—particularly older ones—visit a farm to rekindle memories of the simple rural lifestyle they once knew. Although these people do buy food, lodging, transportation and souvenirs, they are primarily purchasing a sentimental journey.

To view nature

A recent U.S. Fish and Wildlife survey reported that nature tourists view wildlife to observe nature’s beauty, relax from daily pressures, get away from home, and be with family and friends (Leonard 2008). Social interaction and relaxation are particularly important, sometimes secondary only to seeing wildlife. These tourists like learning about nature, being physically active and meeting people with similar interests.

To visit places they have heard about from friends and family

Recommendations from friends and family are a strong motivator in selecting a location for travel. Endorsements help travelers select locations, because they know their friends and family have vetted the location based on common interests and general qualities like safety and the amount and type of amenities.



Increasing Farm Viability Through Agritourism: An Oregon Producer Study

As part of a USDA National Institute of Food and Agriculture-funded grant, a multi-state research and extension team conducted a [national survey](#) of farms that are open to visitors for product sales or experiences. The goal of the survey was to better understand the types of experiences and products offered, the economic viability of agritourism enterprises, and ways to support a healthy future for producers and their communities. The online survey was open from November 2019 to February 2020.

In Oregon, we collected 191 responses from farmers, ranchers and vineyard operators who offered agritourism experiences and product sales. Of these, 166 responses provided enough detail to constitute data used in this report. For socio-demographic information of respondents, please see the [full Oregon report](#).

Note: Since the survey was conducted in the winter of 2019–20, responses reflect the state of agritourism in Oregon before the COVID-19 pandemic.

KEY TAKEAWAYS FOR OREGON:

- Today, in Oregon, just over 1% of the population lives on farms, and fewer than 20% of the population lives in rural areas. On-farm agritourism experiences help provide the remaining small farms with additional revenue streams, while also educating visitors from urban areas about the importance of farming.

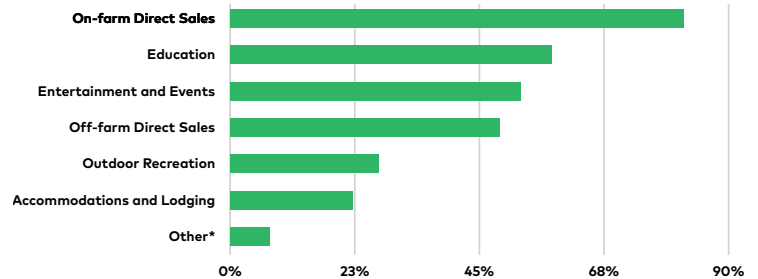
“It is more than just profits. It’s really important today, if you have the attitude to do it, to open your door to people who aren’t in farming and ranching, to help them see the truth about the good work farmers and ranchers do. It’s really important that the voice of the ranchers and farmers, the real people that do the work, be heard by most people who don’t.”

~ Oregon livestock producer

- Oregon agritourism operators reported 2,028,516 visits in 2018 with an average of 12,226 visits annually per farm, with 34% of visitors traveling from 50 miles away or further.

- 23% of farms and ranches reported a gross revenue of \$25,000–\$99,999 from agritourism sales and services.
- 43% of farms are open to visitors 261-365 days each year; 21% keep their farms open 101–250 days each year and 36% open seasonally for 100 days or fewer each year.
- Many farmers and ranchers in the study reported supplementing on- and off-farm product sales with experiences such as visits with the farmer or rancher, farm tours, refreshments, train rides, etc. In addition, many of the farmers and ranchers sold standalone services including education, outdoor recreation such as hiking or hunting on their property, and in some cases, lodging to provide a multi-day experience.

Types Of Agritourism Experiences Offered By Oregon Farmers And Ranchers



- 88% of operators ranked “building goodwill in community” as an important or very important motivator behind offering agritourism activities on their farms and ranches.
- When asked about the types of support that have helped to increase success with their agritourism operation, respondents ranked information around how to operate legally and navigate liability the highest, followed by social media marketing and management support and marketing plan development assistance.
- Respondents ranked regulations and permitting as “very challenging” when asked about barriers to achieve success.

Market Trends for Agritourism: Information from Other Regions

Agritourism can attract visitors with diverse interests and market profiles. This is because “agriculture is one of the few industries that tap our connections with the natural world as well as our cultural past. Farms are unique repositories of biological, historical and cultural wealth, and thus hold a fascination for many people. Agritourism provides an opportunity for people to experience a real change of pace, get closer to nature, learn how food is produced and farmers live, and have a good time and memorable experience while doing it” (Washington State University Extension—Agritourism: Cultivation Tourists on the Farm, 2008).

The big picture is that Oregon’s farms and ranches are well positioned to take advantage of many favorable market trends. At the same time, there are differences in market opportunities based on specific location and amenities. This document summarizes market trends from several state and national studies. For more detailed trend information, refer to the reference documents. As new data becomes available, it will be added to the handbook.

SOCIAL TRENDS THAT FAVOR AGRITOURISM

Much of what draws national and international visitors to agritourism is already strong in Oregon. Our state has a strong appreciation for good food, offers easy access to nature and celebrates local culture. These intrinsic characteristics are the basis for authentic agritourism experiences.

Growing interest in knowing the source of food and how it is produced

- Nutrition
- Health and safety
- Environmental resiliency
- Interest in strong food systems and “buying local”

The rise of artisan production and respect for “making/makers” versus consumption

- Small-scale producers and small-batch production
- Niche products
- Value-added products
- Not limited to food

Food and travel as a cultural experience

- Slow food movement
- Desire to experience an “authentic sense of place”
- Especially for international travelers, experience “The West”
- Interest in interactive learning while on vacation

Technology overload

- “Unplugged” family time
- Nostalgia for traditional skills and lifestyles
- Reconnecting with nature
- See stars in the dark open skies



TOURIST ACTIVITY TRENDS

Travelers interested in agritourism share an interest in several other types of tourism. This suggests opportunities for cross-marketing and itineraries that include a mix of activities.

- Many travelers interested in agritourism come from a short distance away, especially in the case of rural areas close to urban areas. These travelers are often day-trippers, coming for a singular experience such as a festival, a farm-to-table dinner or a roadside stand. For travelers from farther away, agritourism is typically one of many activities they enjoy on the same trip.
- The primary audiences for agritourism are families seeking fun and educational activities, seniors and children’s groups. While visitors from across the U.S. and around the world are not uncommon, they usually don’t visit agritourism sites as their primary destination, but rather tend to find out about agritourism experiences while in the area and add them to their itineraries (Agritourism: Cultivating Tourists on the Farm—WA State Extension). There are exceptions—for example, destination ranches—but in general, attracting visitors from far away requires connecting your agritourism experience with the array of other things visitors do in your region.
- In general, local people from nearby rural areas tend not to visit local agritourism sites except when hosting family or friends from out of town — if they consider your place a “must see” activity. Locals do participate in festivals or tours especially designed for them. Harvest festivals are popular (Agritourism: Cultivating Tourists on the Farm).
- Agritourism that integrates active outdoor recreation is more likely to occur in non-metropolitan rural areas with natural amenities and scenic landscapes (Southwest Ontario Agritourism Development Strategy and Marketing Plan, 2011). Multi-day itineraries that link agritourism and outdoor recreation tend to be found in similar areas.
- Across tourism sectors, long extended vacations have been replaced by short intensively active vacations, with key markets two to three hours away from a given destination (Agritourism and Nature Tourism in California, 2nd Edition 2011).
- California links nature tourism and agritourism development together, because the markets overlap and draw travelers to rural areas. Nature tourists tend to be affluent, and their numbers are growing: According to a 2006 study by the International Ecotourism Society, nature tourism grew by 20 to 30% annually starting in the early 1990s. Bird-watching is the fastest-growing segment of nature tourism; it is more popular than hiking, camping, fishing or hunting (Agritourism and Nature Tourism in California).
- Canadian travelers participating in agritourism in 2007 were much more likely than other pleasure travelers to participate in wine, beer and food tasting, aboriginal cultural experiences and participatory historical activities. They also participated in outdoor activities, including wildlife viewing, ocean/lake activities, hiking, climbing and paddling (Southwest Ontario Agritourism Strategy).
- Colorado links heritage, cultural and agritourism development together in an integrated plan. This is because nearly 75% of Colorado visitors include an agricultural, food or heritage activity on their trip. Of those, a third are traveling specifically for agritourism. There is also a strong connection to outdoor recreation, through a long tradition of farms and ranches hosting hunters (Colorado Cultural, Heritage and Agritourism Strategic Plan, 2013).
- National Geographic has promoted the emergence of “geo-tourism” to capture and promote traveler preferences for destinations that protect the authenticity and geographic character of their place. Agritourism is a good fit for geo-tourists, and Oregon’s Central Cascades are already a [featured geo-tourism destination](#) in partnership with National Geographic.
- Oregon already has a strong brand for culinary tourism that is well-known internationally; culinary tourism overlaps with agritourism when the culinary activity takes place on a farm or ranch, or when it involves meeting the producer. 55% of Oregon visitors participate in at least one culinary activity, according to the 2011 [Oregon Bounty Visitor Behavior and Attitudes Related to Oregon Products](#) report. The growth of food and farm trails here in Oregon and elsewhere is a harbinger for the potential of agritourism to benefit from interest in culinary tourism.

PHOTO: JONI KABANA

DEMOGRAPHIC TRENDS

Demographic trends indicate a mixed bag for agritourism.

- The market for agritourism and nature tourism industries serves primarily senior citizens and middle-age baby boomers (Agritourism and Nature Tourism in California). This could create issues if interest in agritourism does not grow among younger generations.
- There is a trend toward grandparents traveling with grandchildren, which is an opportunity for agritourism.
- As noted above, most agritourists are day-trippers from urban areas, and they travel within a 40-mile radius at best ([USDA 2007 Agricultural Resource Management Survey, Farm-based Recreation Report](#)). This is a sizable source of dependable customers for farm-direct sales near urban areas, even if these local customers do not “count” as tourists.
- While agritourism enthusiasts tend to be well-educated (33% have at least a bachelor’s degree, compared with 20% of the U.S. population), they have moderate income levels. This contrasts with similarly educated heritage, cultural and nature tourists, who are more affluent.
 - Oregon visitors tend to skew even more toward being highly educated: 47% of Oregon visitors surveyed in 2011 had at least a bachelor’s degree (Oregon Bounty Visitor Behavior and Attitudes Related to Oregon Products, 2011).
- While there is some overlap between outdoor recreation and agritourism activities, outdoor recreation enthusiasts are younger and tend not to travel with children.
- Culinary tourists are also more affluent and younger than non-culinary tourists (How to Get Started in Culinary Tourism, Massachusetts Dept. of Agricultural Resources).

ECONOMIC IMPACT

The research related to spending associated with agritourism is scant, outdated, and uses different methodologies. Because the activities are so broad-based—from stopping by a roadside produce stand to embarking on a week-long farm-based culinary course—and because agritourism is often one of many visitor activities on a given trip, there is no typical spending amount. Below is select data that may be helpful.

- The most available data is on farm visits, primarily farm stands.
 - Tennessee, 2005 survey — The median expenditure per visitor was \$15 (product and admission/user fee). It was much higher for wine tourists, where the average expenditure was over \$25 per person ([Visitors to Tennessee Agritourism Attractions: Demographics, Preferences, Expenditures, Projected Economic Impact](#)).
 - California, 2004-2005 — 61% of respondents (residents of Yolo and Sacramento counties) spent between \$5 and \$40 on a farm; 16% spent more than \$40.
 - Southwest Ontario, 2011 — Typical visitors spent \$16-\$50 per visit.
- The Oregon Bounty 2011 research revealed that half of all Oregon tourists bought local food products, and two-thirds bought such products to take home. They spent an average of \$142 on such products.
- Connecting agritourism with heritage and cultural travelers creates more opportunities for revenue, as these travelers spend more and stay longer in a destination than other travelers ([Exploring Authentic Oregon: The Importance of Cultural Tourism, 2006](#)).



Benefits and Challenges with Agritourism Enterprises

With agritourism, “opportunity knocks at the doors of farmers and ranchers who have vision, skills and commitment. This opportunity unites tourists’ pursuit for of well-being and rural experiences with farmers’ and ranchers’ need to supplement their income. It provides operators an opportunity to diversify and protect themselves from fluctuating markets, and can allow landowners to benefit financially from wise use of their land” (Holly George and Ellie Rilla, *Agritourism and Nature Tourism in CA*, 2011).

While agritourism began as a strategy for developing supplemental farm and ranch income, many operators today are as interested in sharing their passion for food production, land stewardship, rural lifestyles and authentic agricultural experience as they are in generating income. There are many other associated benefits you can realize, but also some challenges to consider. The table below lists some of these. The “Assessing Your Potential” section of the handbook will help you identify which benefits best fit your circumstances, as well as which challenges you’ll need to anticipate.

BENEFITS OF AGRITOURISM

Increased and more diversified income

- Provides an opportunity to generate more income. This will probably not take the place of current agricultural crops, but it can add a new profit center to the current operation.
- Can be a small, part-time focus to supplement farm operations, or a main featured activity and income generator.
- Can extend the season for income generation beyond the normal farm/ranch cycle.
- Often, it is a means to add value to farm products through processing and direct marketing.
- Gives more opportunity to be a price-maker versus a price-taker; you can make higher profits from direct-to-consumer marketing of your products.
- Can help you capture the consumer’s food dollar as well as some of what they spend on entertainment and recreation each year.

- Builds future customers for your products; once they return home, they may order more product from you.
- Expands your market; beyond tourists, local people are a built-in market for farm- and ranch-based experiences and high-quality, locally-grown food.

PHOTO COURTESY OF PLATE AND PITCHFORK



More value from existing assets

- Offers a way to increase revenue without increasing acreage.
- Provides an opportunity to build a new business with resources that already exist. It takes advantage of underused buildings, land and talent.
- Can build additional physical infrastructure that has value.

Strengthened opportunities for families

- Provides a way to include future generations on the farm or ranch and keep the land in the family.
- Creates new working opportunities for a spouse, children and family members that tap into varied talents.
- Maintains family interest in and attention to the farm.

Sharing of your way of life and promotion of the value of agriculture

- Gives you the chance to educate people about rural living, nature and the agriculture industry, which can lead to improved local policies.
- Can build bridges between farmers and consumers, and between rural and urban populations.
- Demonstrates and showcases how producers protect and care for the land and natural resources.

- Provides an opportunity to educate people about both historic and modern methods of farming, and the risks involved in everyday agriculture.
- Improves people's understanding of local food systems.

Contribution to the economic vitality of your community

- Promotes farming in your community.
- Increases demand for locally-grown farm products.
- Keeps youth and entrepreneurial activities in the local community.
- Addresses the shortage of lodging in rural areas (through farm and ranch stays).
- Presents an opportunity to organize itineraries related to agritourism and other experiences that together draw more visitors to your community.

A fun experience

- Allows you to meet visitors from all walks of life.
- Gives you creative expression.
- Is personally rewarding.

CHALLENGES OF AGRITOURISM

More work

- Can provide low financial return, at least at first.
- Can be hard work for you and family members.
- May require developing new skills.
- Requires more work to keep the farm clean, safe and presentable, which can sometimes affect primary operations.
- Can create staffing issues and increase paperwork.
- It's time-consuming and complicated to learn about and comply with a host of applicable laws and regulations.

More risk

- Presents more regulatory and liability risks.
- Often requires you to spend money upfront to improve facilities for visitors and meet regulatory requirements.
- Depends on travelers having discretionary income to spend, and thus is sensitive to economic downturns even though tourism is a growing sector.
- Potentially creates conflict with neighbors as business ramps up and traffic increases.
- Is not a familiar term for most travelers, and thus the market is not well-defined. There is a need for education to make visitors aware of agritourism experiences as a viable option.

Less down time

- Demands your full and constant attention, and can interfere with family time and activities.
- Requires that you are always “on” — upbeat and available.
- Involves a loss of privacy.

These lists were compiled from several sources, including: Agritourism and Nature Tourism in California, 2nd Edition – University of California Agriculture and Natural Resources; The New Agritourism – Barbara Berst Adams; Agritourism: Cultivating Tourists on the Farm – Washington State University Extension; Agritourism Master Plan for Clackamas County, Clackamas County Tourism Development Council; Creating Successful Agritourism Activities for your Farm – Community Involved in Sustaining Agriculture; Getting Started in Agritourism – Cornell Cooperative Extension; and Oklahoma Agritourism Resource Manual.

PHOTO: GREG ROBESON



Checklist: Types of Agritourism Activities

The following is a list of possible agritourism activities, to stimulate your thinking about what might best fit your skills, interests and facilities. Check the ones that interest you.

Clearly, some are more complex undertakings than others; as you continue planning, be sure to analyze liability issues and the compatibility of your options with the character of your farm/ranch, as well as your values, goals and financial resources. You'll refer back to this checklist as you proceed.

Keep in mind that Oregon land-use codes and regulations can limit the frequency and types of certain agritourism activities, as well as the percentage of farm or ranch income derived from non-production uses on land zoned for exclusive farm use (EFU). See the [“Legal and Regulatory Requirements”](#) section of the handbook for more specific guidance.

Direct Sales of Fresh or Value-added Products

- Roadside farm stand
- Farmers market
- Sale of handcrafted products
- Sale of value-added food products
- Sale of farm/ranch promotional items (shirts, aprons, mugs, etc.)

Overnight Accommodations

- Bed and breakfast
- Cabins
- Camping sites
- Farm stay/farm vacation
- Full-service farm vacation with activities and meals

For-fee Recreation

- Archery
- Bird-watching
- Fishing
- Hunting
- Game preserve or guided hunts
- Guiding and outfitting for recreation
- Hiking trails
- Horse stables
- Horseback trail riding
- Pack trips
- Shooting range

- Swimming area
- Trap and skeet shooting
- Wilderness experiences
- Wildlife viewing

Demonstrations and Displays

- Animal husbandry
- Antique tools and equipment demonstrations
- Barn raising
- Beekeeping, homeopathy
- Bread-making, flour milling
- Cattle roundup and branding demonstration
- Cider pressing
- Conservation technology
- Demonstrations related to agricultural enterprise (sheep shearing, pruning, etc.)
- Display gardens
- Food preparation (cheese-making, canning, etc.)
- Harvest demonstrations
- Historic museum or display
- Traditional crafts (wool spinning, quilting, wreath-making, soap-making, weaving, etc.)

Hands-on Experiences

- Animal birthing
- Candle-making with local beeswax
- Caring for animals (helping with feeding, herding, etc.)
- Children's camps
- Classes in farming or ranch skills, including cooking, planting, harvesting
- Classes in recreational activities (fishing, hunting, wildlife viewing)
- Classes on crafts, especially traditional crafts
- Classes on medicinal herbs and homeopathy
- Crafting herbal remedies
- Cutting flowers, flower arranging
- Cutting own Christmas tree
- Educational camps for adults
- Experience “a week in the life of” to learn and test a new occupation
- Farm or ranch work experience
- Fly fishing or tying clinics
- Habitat improvement activities (native planting, tree planting)
- Hay-making (moving, raking, baling, stacking)
- Hay rides

- Petting zoo
- Photography/painting classes
- Pony rides
- Pumpkin painting
- U-pick produce
- Weed identification, seed saving
- Wine, beer, cider or other tasting
- Working farm stay

Tours

- Alternative crop tours
- Foraging for wild mushrooms, berries, plants, flowers, rocks and gems
- Forest ecology
- Guided crop tours
- Habitat improvement projects
- Heritage buildings and heritage trails
- Production process tours for agriculture professionals
- Self-guided farm loops and specific farm product tours (honey trail, cheese trail, food or farm trail)
- School tours or activities
- Vineyard, winery, brewery or cidery tour

Festivals and Events

- Casual farm-to-table events (pancake breakfast)
- Crop art
- Gourmet farm-to-table events
- Historic or culturally themed festival (cowboy poets)
- Hunting, cattle, sheep dog training and competition
- Living history events
- Presentations on local community history, culture or customs
- Rodeo
- Seasonally themed festival (harvest, holiday)
- Specific crop- or product-themed festival
- Square dances or other similar events

Entertainment

- Contests (apple bobbing, corn shucking, cherry-pit spitting, rooster crowing, etc.)
- Corn or tall-grass maze and related seasonal activities
- Farm-themed playground
- Gourd golf, pumpkin bowling
- Haunted barn or house
- Outdoor games
- Storytelling

Other Hospitality Services

- Catering services
- Picnic baskets for sale, picnic area
- Refreshment sales



This list has been compiled from Oregon’s experience and several other agritourism development manuals, including: Agritourism and Nature Tourism in California, 2nd Edition – University of California Agriculture and Natural Resources; The New Agritourism – Barbara Berst Adams; Agritourism: Cultivating Tourists on the Farm – Washington State University Extension; Agritourism Master Plan for Clackamas County, Clackamas County Tourism Development Council; Creating Successful Agritourism Activities for your Farm – Community Involved in Sustaining Agriculture.



II. Assessing your Potential for Agritourism Success

Now that you have a sense of visitor interests, market trends and the range of possible activities, the next step is to assess how agritourism fits your skills and interests, your property, and the marketplace. When you're done, you'll have some specific ideas to research and develop.

It's essential to assess the likelihood of success for your agritourism venture. Instead of looking outside of your business, consider investing time in self-assessments to identify gaps and opportunities that may not have been considered. This intentional reflection can open doors by being intentional about how you proceed. Sometimes it's easier to make decisions once you've set aside time to discern what works best for you, your business and your family. The following self-assessment process has five parts, some of which include consulting with family members, employees and possible partners.

ACTIVITIES

This chapter offers several activities to help assess your potential for agritourism success.

Self-assessments

- Is agritourism a fit for you and your family?
- Is your property suitable for agritourism?
- Do you have time?
- Is there a customer base for your idea?
- What connections are important to your success?

Goal-setting

- Setting goals for your agritourism enterprise

Success Factors

- Keys to agritourism success

Enjoy exploring what's possible! Keep in mind that you have many choices about how to proceed.



Assessment: Is Agritourism a Fit for You and Your Family?

Agritourism may provide additional income for your farm or ranch, but it's not for the faint of heart, and it's not for everyone. Take the time to assess whether this is really something that will enhance your life by first assessing your skills, personality and preferences according to the questions in the table below. Have your family members

and, if applicable, key employees and partners answer the same questions, and then discuss your results together, using these three questions to focus your conversation:

- What conclusions do you draw from your personal and collective responses?

	Agree	Somewhat Agree	Somewhat Disagree	Disagree
Entrepreneur Attributes and Skills				
I am a self-starter				
I am prepared to invest substantial time in planning and operating a new enterprise				
I follow through on what I start				
I have a strong work ethic				
I am in good health and have plenty of energy				
I am comfortable making important decisions				
The idea of taking on more responsibility excites me				
I am creative in developing ideas and solving problems				
I adapt well to change				
I am comfortable with assessing and managing risk				
I am willing to risk losing an investment				
I will be able to survive financially if a new enterprise does not generate a profit for a few years				
My family is 100% committed to starting and operating an agritourism venture				



	Agree	Somewhat Agree	Somewhat Disagree	Disagree
Hospitality Attributes and Skills				
I like meeting and working with all types of people				
I enjoy finding common ground with people who are different than me				
I would enjoy having more people visit my farm/ranch				
I'd like to show people my farming/ranching operation				
I don't mind losing some privacy at home				
I value a clean farm/ranch				
I am not afraid of working long hours, including holidays, weekends and evenings when visitors would be most able to visit				
I can be patient and sensitive to the needs of visitors				
I don't mind serving people; I actually like it				
I enjoy being around and responsible for a large number of people, including children				
I am knowledgeable about agriculture				
I am knowledgeable about my community and region – its natural and cultural history beyond my own farm/ranch				
I like the idea of teaching people what I know				
I have customer relations experience				
I am an effective communicator				
I have a good sense of humor and am not easily offended				
I'm generally an even-keeled and cheerful person				
Managerial Skills and Attributes				
I have experience managing and operating a business				
I can manage the additional business responsibilities associated with an agritourism operation				
I am good at managing and organizing my home and business expenses and financial records				
I enjoy learning new things				
I am flexible in my approach to work, depending on what the circumstances call for				
I have knowledge of basic business law				
I have sales skills				
I have supervisory skills				
I am effective at setting and meeting deadlines to accomplish tasks				
I am determined to succeed				

- Are there critical gaps in skills or attributes among the group? If so, can you tailor your business to work around those gaps? (For example, if privacy is a non-negotiable, perhaps your agritourism activity could take place off-site such as at a farmers market, or you could limit visitors to certain parts of your property that are away from your house.) Or could you enlist the help of someone who could fill the critical gaps?
- Looking back at the “Types of Agritourism Activities” checklist in Part I of the handbook, do any ideas stand out as particularly promising given what you’ve uncovered about your personal skills and interests?

Specific Skills/Interests of Family Members, Key Employees or Partners

Name	Delivering / Producing	Managing	Marketing

This list has been compiled from Oregon’s experience and several other agritourism development manuals, including: Agritourism in Focus: A Guide for Tennessee Farmers, University of Tennessee Extension; Agritourism and Nature Tourism in California, 2nd Edition – University of California Agriculture and Natural Resources; Creating Successful Agritourism Activities for your Farm – Community Involved in Sustaining Agriculture; Agri-tourism – Virginia Cooperative Extension; Oklahoma Agritourism Resource Manual; Are you Ready to Host Visitors at Your Farm? University of Vermont Tourism Research; Assessing your Farm for Agritourism, VT Farms! Association and Nebraska’s Guide to Agri-tourism and Eco-tourism Development, 2005.



Assessment: Is Your Property Suitable for Agritourism?

Your land and what's on it are the foundation of your agritourism venture. You'll want to systematically take stock of what you have, so that your agritourism activities can both draw visitors and co-exist with your primary agricultural activity. You'll also need to pay careful attention to Oregon land-use law, state and local regulations, and risk management; see Sections [III](#) and [IV](#) of the handbook for more information.

This assessment will help you think about how you want to use your land — especially those features that don't require much additional investment to be suitable for agritourism.

For example:

- Access to a roadside may enhance your ability to sell produce directly from the farm.
- Farms or ranches with wooded areas can be ideal for mushroom production, hunting or trails.
- Open areas might be good sites for festivals, events and demonstrations.
- Fallow fields might provide hunting areas.
- Pastures could be used for alternative livestock.
- Scenic areas and outlooks lend themselves to outdoor recreation and other activities such as photography.
- Water access can support hunting and water sports.
- Structures and sites with heritage can anchor guided tours and storytelling.

INSTRUCTIONS

This is another exercise that benefits from involving your family and, if applicable, your key employees. On the following pages you'll find a blank assessment form for evaluating the agritourism potential of your property's natural and physical assets. There is also a simple example of how you might fill it in. Here are the steps:

- Complete columns 1–3 based on what already exists on your property and how well it works for your current agricultural

activities. You may want to draw a map showing the location of key assets, current activities and potential hazards.

- In column 4, note if there is anything of historical, cultural, artistic or educational significance (for example, an old barn or orchard).
- Next, keeping in mind your self-assessment as well as the checklist of potential agritourism activities in [Section I](#), put some preliminary ideas in column 5 about what could work on your property. You may want to ask friends, family or potential partners to walk your property with you and get their “fresh eyes” on the possibilities.
- Finally, use column 6 to note the pros and cons of your ideas. Will you need to invest in property improvements in order to implement the ideas?

If possible, visit with other agritourism businesses and learn from their experiences as you mull over the possibilities. Feel free to keep updating and modifying your ideas as you begin the business planning. Sections [V](#) and [VI](#) of the handbook offer more specifics on how to move forward with your new business enterprise.



This document has been compiled from Oregon's experience and several other agritourism development manuals, including: Agritourism and Nature Tourism in California, 2nd Edition – University of California Agriculture and Natural Resources; Taking the First Step: Farm and Ranch Alternative Enterprises and Agritourism Resource Evaluation Guide – Southern Maryland Resource Conservation and Development Board; Your Agritourism Business in Pennsylvania: A Resource Handbook – The Center for Rural Pennsylvania.

Sample:

Assets	Current use	Benefits/limitations	Heritage element?	Potential uses	Benefits/limitations
Barn	Empty	Esthetic value Requires repair		Office Store Product processing Historic barn Cattle feeding	Centennial barn Visitor attraction Education center
House	Family home	Living		Historic attraction	Visitor attraction
Farm worker's cabins	Disrepair	Being preserved		Historic attraction	Education Farm history
Granary	Storage	Esthetic value leaky roof		Haunted house Education center Chicken house	Cash income Education Farm history

Sample reproduced with permission from [Taking the First Step: Farm and Ranch Alternative Enterprises and Agritourism Resource Evaluation Guide](#) – Southern Maryland Resource Conservation and Development Board.

Assets	Current use	Benefits/ limitations of current use	Heritage element?	Potential agritourism uses	Benefits/ limitations of potential new uses
Natural assets: Features that occur naturally					
High-value agricultural soil					
Lower-value agricultural soil					
Water features and resources (river access, farm pond, stream, etc.)					
Scenery (vantage points, atmosphere)					
Topography (landscape features; e.g., flat area, dry lake, butte, mesa, etc.)					
Wildlife and insects, including special habitat areas					
Vegetation (plant life, crops, special crops)					
Other natural assets from adjacent neighbors or surrounding community (woodlot next door, river nearby, etc.). These are assets to which you could connect your own agritourism activities					

Assets	Current use	Benefits/ limitations of current use	Heritage element?	Potential agritourism uses	Benefits/ limitations of potential new uses
Physical assets: Constructed features					
Residential buildings					
Non-residential buildings					
Structures with other functions (wind towers, open-air pavilion, etc.)					
Transportation routes on the property					
Other improved spaces (campsites, trails)					
Decorative elements					
Other physical assets from adjacent neighbors or surrounding community (a trail system, a mountain, a woodlot next door, a river nearby, etc.). These are assets to which you could connect your own agritourism activities					



Assessment: Do You Have Time?

Time is one of the major limitations for agritourism entrepreneurs. The following table will help you assess whether and when you'll have time available to add the responsibilities of planning for and accommodating visitors on top of what you're already doing. If you find that you're stretched too thin, you don't have to give up on your idea: You can strategize on how to fill the gap with other family members, partners or employees.

Instructions: List your current farm/ranch operations or tasks, and mark the "month" column for each month when the operation requires labor. Include time spent in all aspects of the task, including preparation, implementation and follow-up activities. Then, following the same process, add proposed agritourism activities, with their labor and timing requirements. Now take a look: Do you have the time and labor resources to manage and operate your existing farm/ranch enterprise, take care of personal obligations, and conduct agritourism activities effectively?

Task Schedule	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Current tasks												
Proposed agritourism tasks												

Table from: Agritourism in Focus: A Guide for Tennessee Farmers, University of Tennessee Extension (used with permission), as adapted from A Primer for Selecting New Enterprises for Your Farm, University of Kentucky, 2000.



PHOTO: SIONNIE LAFOLLETTE

Assessment: Is There a Customer Base for Your Idea?

Now that you've thought about your capacity and interests related to agritourism, it's time to circle back and connect your ideas with concrete market trends... and your ideal customers! As you develop a business and marketing plan you'll create more specific action steps.

First, consider the information about market trends in [Section I](#) of the handbook. What are the key market trends that will affect your success? What types of customers are you most likely to attract, given these trends?

Next, consider the types of agritourism activities and experiences you're potentially interested in developing – both in the short term and the long term. Of those options, which activities/experiences are the best fit with market trends in terms of delivering what customers are seeking? The “Why People Travel” information in [Section I](#) of the handbook is an additional resource to revisit for this question.

Now, what are the attributes of customers you'd like to have? And, just as important, what type of customer would you rather not have?

Finally, imagine the profile of your ideal visitors. You may have more than one, so there are two identical charts below that you can use to profile different types of customers/visitors as needed. Make additional copies if you need more. Thinking about this now will help you with your marketing strategy later.

Where is this customer from?	
Are they single or married? Do they have children?	
What is their age?	
What is their income?	
In what type of group do they travel? Solo? Couple? With family? With friends? With a club or organization? As part of a small organized tour? A large organized tour?	
What magazines, newspapers, books and social media appeal to them?	
What are their hobbies and interests?	
How much time do they have for the activities you offer?	
How much time do they spend in your community when they visit?	
What types of experiences are they seeking? Demonstration and guidance? Relaxation? Entertainment? Action or physical activities? Other?	
Other notes:	

Where is this customer from?	
Are they single or married? Do they have children?	
What is their age?	
What is their income?	
In what type of group do they travel? Solo? Couple? With family? With friends? With a club or organization? As part of a small organized tour? A large organized tour?	
What magazines, newspapers, books and social media appeal to them?	
What are their hobbies and interests?	
How much time do they have for the activities you offer?	
How much time do they spend in your community when they visit?	
What types of experiences are they seeking? Demonstration and guidance? Relaxation? Entertainment? Action or physical activities? Other?	
Other notes:	

The ideal visitor profile chart is adapted from information in [Agri-Business Council of Oregon's Agritourism Workbook](#) and [Agritourism and Nature Tourism in California, 2nd Edition](#).

PHOTO: ANDREA JOHNSON



Setting Goals for Your Agritourism Enterprise

You may have had some sense of goals for your agritourism enterprise when you first started exploring potential ideas. This worksheet is a tool for articulating and aligning your agritourism enterprise with your deepest values and future aspirations. Ask your family and/or key partners to each work through this goal-setting process, and then compare notes to ensure you're on the same page as you move forward.

PART I: WHAT DO YOU HOPE TO GAIN FROM YOUR AGRITOURISM ENTERPRISE?

Below is a list of some reasons you may have become interested in agritourism. How would you rank these business goals in terms of their importance for you? Ask your family and/or key partners to do the same, and then discuss your conclusions.

- ___ Diversifying farm and ranch income.
- ___ Increasing farm and ranch income.
- ___ Reducing debt and putting away money for the future.
- ___ Modeling and teaching the public about responsible agricultural practices.
- ___ Bringing variety to your work and meeting new people on a regular basis.
- ___ Ensuring a place for the next generation to viably farm.
- ___ Creating more diverse on-farm employment opportunities for family.
- ___ Providing agriculture, business and customer service learning opportunities for family.
- ___ Engaging local community members as friends of the farm or ranch.
- ___ Strengthening connections to local community well-being.
- ___ Partnering with other farms and ranches to attract visitors.
- ___ Gaining more free time by developing a line of business that can easily be delegated.
- ___ Creating a beautiful working landscape or environment.
- ___ Other _____
- ___ Other _____

PART II: WHAT MATTERS MOST TO YOU IN TERMS OF A WELL-LIVED LIFE?

From your perspective, what are the four most important aspects for leading a satisfying life? When you look back on your life, what factors would you consider? For example, you might want a close-knit family, professional success, financial independence, early retirement, good health, positive impact on your community, improved health or beauty of your land, life-long learning, fame, etc.

1. _____
2. _____
3. _____
4. _____

Quadrant exercise used with permission from Pat Flynn, author of "Will It Fly? How to Test Your Next Business Idea So You Don't Waste Time and Money," 2016.

PHOTO: SIONNIE LAFOLLETTE



On the chart below, label each quadrant with one of the four key aspects of your life. For each quadrant, imagine what your life will be like in five years if you're progressing toward these goals. You don't need to know HOW you will get there, just what's possible if you apply yourself. Write the specifics down in the appropriate quadrant as if they are already true; the more specific you can be, the better.

PART III: WILL THIS BUSINESS IMPROVE YOUR LIFE IN WAYS THAT MATTER?

Next, consider what you have described as your future life in the previous exercise. How does your top business idea reinforce or conflict with the future life you see for yourself and your family? If you have more than one potential idea, repeat the analysis for each idea.

Agritourism Enterprise Idea:	
How could this enterprise reflect my values and help me achieve my life goals?	How might this enterprise potentially compromise my values or distract from my life goals?

PART IV: FIVE-YEAR GOALS

Now let's tie everything together. For your agritourism enterprise and your life, how will you track your progress in the next five years?

	What milestones will you ideally reach with your business?	What milestones will you ideally reach toward your life goals?
In one year		
In three years		
In five years		



Assessment: What Connections Are Important to Your Success?

By its very nature, successful agritourism depends on successful partnerships — because it crosses so many interests. It encompasses your family and employees; your neighbors and community leaders; your local and regional economic development and tourism advocates; a wide range of related businesses; planning and regulatory

professionals and public lands managers; your elected officials; your banker and your insurance agent — and even your competition. There are many relationships to build and nurture. Begin thinking now about who to talk with, about what, and when. And then start talking, to seek input and build support for your venture.

WHO? (Note specific people)	WHAT? (Add to these suggestions as needed)
Your family and employees	Be sure everyone is on board, and has an opportunity to get involved according to their skills and interests.
WHEN?	
Your banker	If you need to borrow as part of your venture, what might you qualify for, and what information do you need?
WHEN?	
Your insurance agent	What safety practices and insurance coverages are needed to minimize risk?
WHEN?	
Your lawyer/accountant	What is the best legal structure for operating your agritourism business?
WHEN?	
Your neighbors	Brief them on your ideas, and seek input and support. Identify issues to be addressed, including activities near property lines, access, etc.
WHEN?	
Your local or county planning department	Ensure that specific activities are legal, what permits are needed, the timing and fees for permits, and any issues to address.
WHEN?	
Your local or county health, public works or public safety departments, as appropriate	Ensure that specific activities are legal, what permits are needed, the timing and fees for permits, and any issues to address.
WHEN?	

WHO? (Note specific people)	WHAT? (Add to these suggestions as needed)
Your local elected officials and other community leaders	Do they understand and support your proposal? Do they have any advice? Do they see any concerns or barriers?
WHEN?	
Your local and regional tourism promotion and development organization (see Section VI – Marketing Your Agritourism Venture)	What resources are available for marketing and promotion? What opportunities exist to connect with complementary businesses and events?
WHEN?	
Your economic development organization and chamber of commerce	What small business development programs support entrepreneurs? What are appropriate networking opportunities?
WHEN?	
Other ventures with agritourism	Do they understand and support your proposal? Do they have any advice? Do they see any concerns or barriers? Are they interested in collaborating /cross-promoting?
WHEN?	
Other non-farm businesses with related services (outfitters, event planners, chefs, lodging facilities and restaurants, tour guides, educators, etc.)	Are they interested in collaborating? Do they have any advice?
WHEN?	
Community event and festival sponsors related to farms and ranches	Are there mutually beneficial opportunities to support each other?
WHEN?	
Oregon Agritourism Network and other associations (see Section VIII)	Who can you learn from? Who can you help? What are the big issues you need to address together?
WHEN?	



Keys to Agritourism Success

“Agritourism activities are dramatically different than most traditional farming activities. Customers who visit you may want to participate in various activities, such as harvesting crops, hiking, hay rides, feeding animals and many others. These customers often do not come from a farming background, and will ask many questions about daily farm activities that may seem trivial.” (Assessing your Farm for Agritourism, Vermont Farms! Association, 2014). You’ll have to be patient!

Agritourism is, above all, a people business that fosters genuine and beneficial connections between agricultural producers and visitors. As the Vermont document referenced above notes, “the ideal agritourism host requires many of the same personality traits that make a good host at any tourist attraction or any kind of service industry.” If you don’t have the personality traits to make customers feel welcome, and their questions valued, you’ll want to have someone on your team (a family member or employee) who can fill this role. Alternatively, you can choose an agritourism enterprise that doesn’t require you to interact with the public beyond your comfort level.



A BAKER'S DOZEN KEYS TO SUCCESS

- Choose something you love to do, as this will give you energy to persevere.
- Offer a high-quality product or service that delivers on what visitors are seeking: fun, education and/or relaxation.
- Start small and grow naturally.
- Be responsive to what customers want.
- Nurture a loyal customer base.
- Provide an experience, not just a product.
- Don't go it alone. Involve family members, partners and trusted advisors to tap different skills and talents. Look for opportunities to connect with your community.
- Track relevant trends affecting your business, and network with your peers.
- Create a realistic business plan for the future, but also stay open to exploring unanticipated opportunities that emerge as you move forward.
- Keep good records (production, financial, regulatory, marketing).
- Continually monitor and evaluate your business against your goals, and make adjustments as you learn.
- Secure adequate capitalization, either through your cash reserves or by creating a business that uses assets you already have without much additional investment.
- Don't give up — ideas take a long time to become reality.

This material is adapted from Oklahoma Agritourism Resource Manual and Assessing your Farm for Agritourism, Vermont Farms! Association.

TOP PHOTO: CHRISTIAN HEEB

III. Complying with Legal and Regulatory Requirements

Now that you have some preliminary agritourism business ideas, you're ready to identify the permits required to operate. This section is designed to provide the information needed to successfully tackle this challenge without hitting too many obstacles.

In Oregon, the first and most complex factors to consider are statewide land-use laws. While most agritourism land-use regulations focus on preserving real working farms on land zoned "Exclusive Farm Use" (EFU), there are also land-use implications for forest and mixed-zoned acreage. As you may know from your current business operations, rules and regulations change often — thus, you'll also find website links to the latest information from the relevant agencies in charge of administration and enforcement.

An additional complexity is that these laws are primarily implemented at the county level, and each county interprets the law in its own way. This means that, although we reference activities deemed legal and acceptable on farm land as defined by the Oregon Revised Statutes, your county may not have adopted these statutes into local code. In fact, the regulations vary dramatically from one county to the next. So you'll want to investigate how your specific county treats agritourism ventures. The state statutes offer a useful framework and a common language for discussions with your local officials.

As you're wading through this process, keep in mind that rules and regulations are generally written by lawyers; those of us without a legal degree can feel like we must speak a second language to figure out exactly what we need to do to comply. To save yourself time and headaches, we highly recommend reading the regulations, making a list of questions, and contacting the licensing agency before you begin your application. An informal review meeting, or

in some cases just a phone call, will make the application process much easier for you and the agency. By establishing that relationship early, you can cultivate an ally, an advocate and an expert to guide you not just in your start-up phase, but also as you discover new wrinkles or new ideas.

When you're done with Section III, you'll have more insight about the legal feasibility of your idea, as well as a timeline for addressing the legal and regulatory steps associated with your specific location and business activity. As you get your legal ducks in a row, you may want to look ahead to [Section IV](#). It will help you identify, reduce and even eliminate other risks associated with your operation.

State Land-Use Law Related to Agritourism

- State Law Summary Chart: "Allowable Activities in Exclusive Farm Use Zones, as Included in ORS 215.213 and ORS 215.283."
- Companion to Summary Chart: "Guidance on Specific State Land-Use Regulations Affecting Agritourism."
- A-Z Glossary of Common Land-Use Terms.

Specific Permitting Considerations

- Uses Permitted in EFU-Zoned Farms vs. Wineries.
- Using BLM Land for Events.
- Keeping It Legal: Regulations and Licenses for Growing and Selling Food in Oregon.

Allowable Activities in Exclusive Farm Use Zones

Allowable Activities in Exclusive Farm Use Zones, as Included in ORS 215.213 & ORS 215.283						
Permitted Uses	Farm Use	Commercial Activities with Farm Use	Room & Board	Mass Gathering	Farm Buildings	Farm Stand
Types of Agritourism	Permits vary by county, please always contact and consult your local planning department for assistance.					
Recreation	Fishing, hunting					
Education	Farm tours & demonstrations					Farm product promotional activities
Agri-tainment					Equestrian events & dog trials	Corn mazes, hay rides, harvest festivals, petting zoos
Food Service				Catered food		Farm-to-table dinners
Accommodations			Room & board for up to five unrelated persons in existing residence who work on the farm			
Sales	U-picks, CSA	Business-to-business sales; e.g., fertilizer & seed		Concerts, festivals, etc.	Farm stand sales	Raw & processed farm products
Celebratory Events						Farm-themed birthday parties

Allowable Activities in Exclusive Farm Use Zones, as Included in ORS 215.213 & ORS 215.283 (Continued)					
Permitted Uses	Home Occupation	Private Park	Guest Ranch	Other Commercial Events	Wineries/Cideries/Breweries
Types of Agritourism	Permits vary by county, please always contact and consult your local planning department for assistance.				
Recreation		Low-intensity uses such as hiking trails	Fishing, hunting		
Education	Farm skills, craft and cooking classes		Farm/ranch skills classes	Farm skills, crafts and cooking classes	Tasting & tours
Agri-tainment	Farm skills, craft and cooking classes			Seasonal festivals and farm-related events (up to 18 days)	Up to 18 events that may include concerts & dances
Food Service	Food processing, breakfast for B&B guests		Meals for guests	Farm-to-table dinners	Limited food service for tastings; catered food service
Accommodations	B&B, up to five rooms	Camping in a limited number of tents or yurts	Up to 25 units		
Sales					Wine/cider/beer & incidentals
Celebratory Events					Weddings & retreats

Oregon Agritourism Network Policy Action Team: 2019



Guidance on Specific State Land-Use Regulations Affecting Agritourism

Chances are you've had success in life and business by adopting the motto "better to ask for forgiveness than beg for permission" – after all, it's a hallmark of creative thinkers, pioneers and business innovators. Unfortunately, when it comes to navigating the policies and regulations regarding agriculture, failing to ask for and obtain permission can put you and your customers in jeopardy.

BACKGROUND ON OREGON LAND-USE LAW

In response to competing interests and a desire to strengthen the state's economy while simultaneously conserving farmland and natural resources, the Legislative Assembly passed the original Oregon Land Use Act in 1973. This act required all cities and counties to adopt comprehensive plans that met mandatory standards set by the state. These programs, and the semi-independent roles of the state and local jurisdictions, set the foundation for the land-use policies we encounter today.

For instance, even though the state legislature adopted Senate Bill (SB) 960 in 2011, which created a process and structure for agritourism events, each of Oregon's 36 counties has the option to respond by implementing those parameters as they are written in statute, to implement a lesser version, or to implement nothing. It's important to keep this in mind as you continue reading this section: Just because there's a policy in place at the state level doesn't mean it will directly translate to your location.



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FIRST STEPS: PREPARING FOR PERMITS

As you embark on this venture, it's important to remember that you're doing something new, and the very thought of agritourism can cause quite the kerfuffle. Your neighbors may associate tourists with increased traffic and noise rather than with spending that bolsters the local economy. Planners and inspectors find themselves in the challenging position of meeting your needs and those of your neighbors, while ensuring the safety of the public. As you proceed through the permitting process, patience and frequent communication will work to your benefit as you gain allies rather than make enemies.

Give yourself plenty of time to deal with the agencies regulating the industry. Agencies are often understaffed and can seem slow to process applications. Your business idea may be brilliant, but it may take time to build the regulator's understanding of your proposed operation and goals. Sometimes rules and regulations can themselves be confusing: Keep in mind that regulations were written by lawyers, and it might take both you and the agency representative time to figure out what tools at their disposal can yield you the proper permits. You may need to appear before a board or committee whose agendas require a 30-day advance public notice. Given all these factors, arriving at your regulator's or inspector's office with only a few days to act tends to cause unnecessary conflicts and stress. Don't be afraid to ask questions, but remember to be patient and courteous.

Finally, don't be discouraged if your county hasn't adopted a policy that you feel you need to operate your business. Oftentimes, a lack of resources or a lack of demand is the only reason a policy hasn't been changed. You can work with your planners and regulators to make some improvements.

COMMON REGULATIONS THAT IMPACT AGRITOURISM ACTIVITIES

Below you will find information about the most common regulations that impact agritourism in Exclusive Farm Use zones.

A. FARM USE

Farm use is regulated by ORS 215.203. This statute allows direct sales and marketing of farm crops.

Types of Allowable Uses

Uses may be subject to county review, and include:

- Direct sales and marketing
- U-Pick
- U-Cut
- Christmas tree sales
- Community-Supported Agriculture (CSAs), limited to crops grown/harvested on-site

Limitations and Requirements

- Sales are limited to crops grown and harvested on-site.

B. MASS GATHERINGS

Mass gatherings are defined and regulated by ORS 433.735(1), ORS 433.750, ORS 433.755 and ORS 433.763(1). These statutes define “outdoor mass gatherings” to mean an anticipated assembly of more than 3,000 persons that continues, or can reasonably be expected to continue, for more than 24 consecutive hours but less than 120 total hours within any three-month period.

Other gatherings are defined as an assembly of 3,000 or fewer persons not anticipated to continue for more than 120 hours in any three-month period. Counties are allowed to make modifications to this definition (e.g., “large gatherings” in Marion County).

Types of Allowable Uses

- Concerts
- Festivals
- Fairs
- Carnivals

Limitations and Requirements

Mass gatherings:

- Subject to review by the planning commission.
- Demonstrate compatibility with existing land uses.
- Not materially alter stability of land-use pattern of the area.
- No permanent structures are allowed.
- Have very detailed requirements for sanitary services, parking, medical services on-site, sewage, trash and food service.

Small or “other” gatherings:

- Not subject to review (e.g., not a “land-use decision”).

Note: If you have an agritourism permit, you may not also apply for a mass gathering permit. If your county has adopted an agritourism policy based on SB960, you may not use “mass gathering” permits in lieu of an agritourism permit.



C. FARM STANDS

Farm stands are defined by ORS 215.283 (1)(o), which defines farm stands as structures “designed and used for the sale of farm crops or 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.”

Types of Allowable Uses

- Direct sales of farm crops and livestock produced on the farm or other farms in Oregon, and retail incidental items.
- Fee-based activity to promote the sale of crops could potentially include a variety of uses, but it’s worthy to note that these uses are based on a Court of Appeals case:
 - Small-scale gatherings such as a birthday or picnic
 - Corn mazes
 - School tours
 - Pumpkin patch events
 - Hay rides
 - Farm animal exhibits
 - Farm product food contests
 - Food preparation demonstrations
 - Outdoor farm-to-table dinners

Limitations and Requirements

- This statute does not include temporary or permanent structures designed for occupancy as a residence, or for activity other than the sale of farm crops or livestock.
- Nor does this statute provide for temporary or permanent structures designed for banquets, public gatherings and/or public entertainment.
- Annual sales of incidental items and fees from promotional activities are limited to 25% of total annual farm-stand retail sales.



D. AGRITOURISM/COMMERCIAL EVENTS OR ACTIVITIES

This is the core of SB 960, approved by the Oregon Legislature in 2011 and referenced earlier in this chapter. While agritourism events are defined by ORS 215.283(4), the statute doesn’t specifically define the term “agritourism.” The customary definition is any commercial enterprise at a working farm or ranch conducted for the enjoyment of visitors that generates supplemental income for the owner. To date, your county may have chosen to adopt these regulations in whole, in part or not at all.

What is consistent no matter where you are is that agritourism and other commercial events must be related to and supportive of agriculture. All the activities approved by these provisions must be “incidental and subordinate to existing farm use.” To define that phrase a little further, think of it this way: Is this event secondary to your on-site farming in terms of income generated, area occupied and off-site impacts? Does this event generate supplemental income that will support your farming efforts?

Types of Allowable Uses

The statute is not clear about the types of events and activities that might be allowed, so counties may interpret these uses differently. In general this permit could include activities related to:

- Education
- Hospitality
- Entertainment
- Outdoor recreation

More specifically, we see agritourism permits issued for:

- Cooking classes using farm products
- School tours (which could also be conducted with a farm stand permit)
- Farm/garden/nursery tours and stays
- Festivals and “Harvest Days”
- Pony rides, petting zoos, corn mazes
- Farm-to-table events

Limitations and Requirements

State law requires that the activities and events must be related to and supportive of agriculture, and be incidental and subordinate to existing farm use.

State law provides for a variety of permits; they increase in cost and intensity as the events do.

They are:

- One expedited event permit.
- One-event permit with a conditional land-use permit.
- Up to six events with a conditional land-use permit.
- Up to 18 events with a conditional land-use permit.

Conditions associated with these permits are set by the local jurisdiction, but are likely to include:

- Parking
- Noise
- Sanitation
- Signage
- Food service

Although there is no specified limitation on annual agritourism event revenue in relation to overall farm income, these events are intended to be subordinate to existing use.

E. WINERY, CIDERY AND BREWERY BUSINESSES

Wineries, as related to land use and events, are regulated by ORS 215.452 and ORS 215.453. A small winery is defined by statute as less than 50,000 gallons on at least 15 acres, or more than 50,000 gallons on at least 40 acres. A large winery is defined as at least 150,000 gallons on 80 acres or more. A cider business, as related to land use and events, is regulated by ORS 215.451 and may be established on land zoned for EFU if the cider business produces less than 100,000 gallons of cider annually and owns an on-site or contiguous orchard of at least 15 acres; or produces at least 100,000 gallons of cider annually and owns an on-site or contiguous orchard of at least 40 acres. It's worthy to note that statute defines cider as a product made of apple or pears. In general, wineries and cideries have a wider array of allowable activities. Certain activities are more restricted for wineries than for farms with permitted farm stands. However, there are also activities that are only permitted on EFU land occupied by wineries.

In 2019 SB 287 passed the Oregon Legislature and affords breweries the same opportunities based upon their size and crops. Specifically, a farm brewery may be established in an EFU zone if it produces less than 150,000 barrels of malt beverages annually, a portion of the production may be produced offsite. Additionally, if the farm brewery produces less than 15,000 barrels of malt beverages annually on site; owns an on-site or contiguous hop farm of at least 15 acres; has a long-term contract for the purchase of all of the hops from at least 15 acres of a hop farm contiguous to the farm brewery; or obtains hops from a total of 15 acres from any combination of sources described in the statute.

Types of Allowable Uses

Operations that are directly related to the sale or marketing of wine, cider or malt beverages produced in conjunction with the business may be allowed.

This includes limited service restaurants and the sale of incidental items directly related to on-site sales, including:

- Tours and tastings
- Buying club meetings
- Winemaker/cidermaker/brewer luncheons and dinners
- Business activities for wine/cider/brewing industry professionals
- Open houses to promote wine, cider or beer
- Bed-and-breakfast and room-and-board facilities

Agritourism or other commercial events in conjunction with these facilities are also allowed.

The promotion of wine, cider or beer produced in conjunction with the business is a secondary purpose of the event. Such events include:

- Outdoor concerts for which admission is charged
- Educational, cultural, health or lifestyle events
- Facility rentals
- Celebratory gatherings
- Charitable activities for which the winery does not charge a facility rental fee
- Other events

Limitations and Requirements

- Income from limited-service restaurants and sales of incidental items must not exceed 25% of income from wine/cider/beer sales.
- The size of the business and frequency of events determines what permits are required. For small operations that host events more than six days per year, and large operations that host events more than 24 days per year, land-use permits are required.
- Both 7-18 and over 25-day applications must address potential impacts and must be subordinate to the production and sales of wine/cider/beer and may not create adverse impacts to uses on surrounding land.
- Small wineries/cideries/breweries are allowed a maximum of 18 days per year for events.
- 1-6 days is not a land-use decision.
- 7-18 days requires a land-use decision.
- Large wineries/cideries/breweries are allowed a maximum of 25 days per year for events.
- A land-use permit is required.
- Restaurants, where permitted, may operate 25+ days.

F. GUEST RANCHES

Guest ranches as related to agritourism and events are regulated by ORS 215.296 (1)(2) and ORS 321.805. The guest ranch must be located on a lawfully established unit of land that is at least 160 acres, contains the dwelling of the individual conducting the livestock operation and is not on high-value farmland.

Types of Allowable Uses

- Lodging
- Hunting
- Fishing
- Hiking
- Biking
- Horseback riding
- Swimming

- Food service (only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch)

Limitations and Requirements

You may not establish a guest ranch if the proposed site of the guest ranch is within the boundaries of or surrounded by:

- A federally designated wilderness area or a wilderness study area.
- A federally designated wildlife refuge.
- A federally designated area of critical environmental concern.
- An area established by an Act of Congress for the protection of scenic or ecological resources.

Additionally:

- A guest lodge must include no fewer than four and no more than 10 overnight guest lodging units.
- It may 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.
- 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, 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.
- Recreation may not include the development of golf courses.
- 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.

PHOTO: CHRISTIAN HEEB



A-Z Glossary of Common Land Use Terms

Accessory Structure: A building or structure subordinate to the property's primary use.

Administrative Decision: A discretionary decision on a land-use permit, made by city or county staff without a hearing.

Applicant: The person who fills out an application for a permit to develop or divide land (see "Property Owner").

Building Official: The official who administers the building code and issues building permits.

Building Permit: Approval from the local building official to build, alter or place structures on real property.

Comprehensive Plan: A document adopted by the local government that provides the long-range land-use planning goals and policies of a city or county. The plan is composed of text and a map.

Conditional Use: A use that may be allowed, if it meets prescribed conditions in the zoning ordinance or additional conditions set forth by the decision-making body.

Complete Application: An application is deemed complete when all the information necessary to process it is provided to the planning official.

Decision-Making Body: The body that has the legal authority to make decisions on requests for development permits and adopt or amend land-use ordinances (i.e., planning commission or city council).

Department of Land Conservation and Development (DLCD): The administrative arm of the Land Conservation and Development Commission.

Easement: A right to use, for a specified purpose, a particular piece of land owned by another.

Evidentiary Hearing: A hearing in which evidence may be presented.

Findings: A statement of the standards, facts and conclusions used in decision making.

Floodplain: Low areas adjacent to rivers, lakes, estuaries and oceans that are periodically flooded at intervals of varying frequency.

Height Requirements: The maximum distance, from the ground to the highest part of the structure, that is allowed by a zoning ordinance.

Land-Use Application: A form on which a person requests a land-use action.



Land-Use Action: A final decision or determination made by a decision-making body affecting land use.

Land Conservation and Development Commission (LCDC): A seven-person volunteer commission appointed by the Governor to develop and administer Oregon's statewide planning goals.

Land Use Board of Appeals (LUBA): An independent, three-person board appointed by the Governor to hear and rule on appeals of land-use decisions made by local governments and special districts. LUBA is the only forum that can hear appeals of local land-use decisions.

Legislative Decision: Decisions that create general rules or policies. A legislative matter affects an entire jurisdiction or a broad area, and a wide range of property owners. Making a legislative decision is generally optional.

Ministerial Decision: A non-discretionary decision on a proposed use of land, often made by staff. An example is a building permit for a structure that is an outright permitted use in the zone (see "Outright Permitted Use").

Nonconforming Use: A land use not permitted by current zoning regulations. The term is frequently used to describe a structure that was legally established but is no longer permitted. An example may be a house constructed prior to zoning regulations in an area that is now designated industrial.

Nuisance: That which substantially interferes with the enjoyment and use of one's land.

Off-Street Parking: An area on private property designated for parking motor vehicles.

Oregon Revised Statutes: The laws passed by the Oregon Legislature (also referred to as "ORS" and "statutes").

Outright Permitted Use: A use permitted by a zoning ordinance that does not require consideration of discretionary approval criteria by a planning official.

Partition: An act of partitioning land, or an area or tract of land that is partitioned. "Partition land" means to divide land into two or three parcels within a calendar year.

Planning Commission: A group of laypeople appointed by the governing body of a city or county to advise the governing body in matters pertaining to land use and comprehensive planning.

Pre-Hearing Contact: Contact between a decision-maker and an applicant or citizen on a matter that is to be heard by the decision-making body.

Periodic Review: A formal process by which the local government's land-use planning documents are reviewed to address changing circumstances and ensure compliance with new laws and rules.

Public Notice: Information about a land-use decision or a hearing to be held regarding such a decision. Such notice is published in a newspaper, mailed to property owners of adjacent property, or both.

Quasi-Judicial: The application of existing regulations to specific properties. The local government is generally required to make a decision on a quasi-judicial matter.

Residential: Structures intended for or used as living quarters for human beings (single-family dwellings, apartments, manufactured homes, etc.).

Setback: The placement of a building a specified distance away from a property line, other structure or feature.

Sign Ordinance: An ordinance that regulates the size, shape, color and elimination of signs.

Site Plan: A map showing the land and buildings involved in an application for a development permit.

Statewide Planning Goals: The state of Oregon adopted 19 planning goals, 14 of which are applicable to every jurisdiction in the state. The remaining five goals cover the Willamette Greenway (Goal 15) and the coastal area (Goals 16-19).

Structural Plan: A plan describing how a building will be constructed.

Subdivision: Either an act of subdividing land, or an area or tract of land that is subdivided. "Subdivide land" means to divide land into four or more lots within a calendar year.

Subsurface Facilities: Facilities installed beneath the earth's surface, such as septic tanks and electrical, sewer and water lines.

Urban Growth Boundary (UGB): An imaginary line around cities separating urban from rural land. Upon establishment, an UGB contains sufficient land to accommodate 20 years of growth for residential, commercial, industrial and public uses.

Variance: A decision to lessen or otherwise modify the requirements of a land-use ordinance as it applies to a particular piece of property.

Zoning Ordinance: An implementation tool of the comprehensive plan or zoning code. It identifies specific land-use zones and provides the regulations affecting uses within each zone. It includes the processes to administer various types of land-use actions. Sometimes it is combined with the regulations for dividing land.

Zoning Map: A map that shows parcel-specific zoning districts.



Using BLM Land for Events

Any individual or group conducting commercial activities and business on federally or state-managed lands must obtain a special use permit from the agency managing the land on which the business is being proposed. For agritourism, Bureau of Land Management (BLM) lands are the most common public lands in question.

Furthermore, anyone charging a fee to lead, guide or assist an outdoor recreation activity on public lands must also be registered with the Marine Board (503.378.8587, 435 Commercial Street, Salem OR 97310) as an outfitter/guide. Both the BLM and U.S. Forest Service require proof of a guide registration before issuing a permit.

To gauge if you need a permit for your agritourism operations, consider these questions.

- Will your event be held on public lands?
- Will you be rafting a river that requires a permit?
- Will you be traveling in a designated wilderness area?
- Will you advertise?
- Will you charge a fee?
- Do you expect to make a profit on the event, or is the fee purely to cover expenses?
- Will there be a competition?
- Will you mark a course for an activity?
- Will you be expecting vehicles at your event? (How many?)
- Is anyone being paid to organize, lead or participate in your activity?

If you answered “yes” to any of these questions, you need a permit from the BLM.

For all uses requiring a Special Recreation Permit, you must apply to your local BLM office at least 180 days prior to your event. Contact your local BLM office directly for more information.

Why is a permit needed?

The permit process is intended to identify any potential land-use or resource conflicts that may arise; identify applicable procedures, permits and special conditions needed to protect resources and public uses; achieve a common understanding between the agency and the applicant about the objectives of the activities; and identify time frames, limitations and responsibilities.

In addition, fees generated by the commercial use of lands managed by the federal government are returned to the U.S. Treasury as revenue.

PHOTO: CHRISTIAN HEEB



TYPES OF PERMITS

Commercial Use

Commercial use is defined as recreational use of public land and related waters for business or financial gain. When any person, group or organization makes or attempts to make a profit, receive money, amortize equipment or obtain goods or services as compensation from participants in recreational activities occurring on public land, the use is considered commercial.

Examples: Outfitters and guides, jeep tours, horseback and wagon-train rides, cattle drives, educational tours or uses and photography associated with a recreational activity.

Competitive Use

Competitive use means any organized, sanctioned or structured use, event or activity on public land in which two or more contestants compete and either: 1) participants register, enter or complete an application for the event; or 2) a predetermined course or area is designated.

Examples: Off-Highway Vehicle races, horse-endurance rides, mountain bike races, rodeos.

Special-Area Use

Special areas are areas officially designated by statute (law) or secretarial order.

Examples: Camping in Oregon and Washington, floating many BLM-managed rivers, backpacking in primitive areas, hiking in wilderness areas in Oregon and Washington.

Organized-Group Activity

Organized-group activity permits are for noncommercial and noncompetitive group activities and recreation events.

Examples: A large scout campout, a fraternity activity, a large family reunion, an educational tour or use, or a dual-sport event.

Vending

Vendor permits are temporary, short-term, nonexclusive, revocable authorizations to sell goods or services on public land, in conjunction with a recreation activity.

Examples: T-shirt sales in conjunction with a raft race, a hot-dog stand at a motocross event, firewood sales in a BLM campground, and shuttle services.

To obtain a permit, complete the form found [here](#). Use the instructions found [here](#).

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IV. Managing Risk

Agritourism can help your farm or ranch reduce its operating risks by diversifying your income sources and your customer base. But, with any customer service venture comes the potential for additional operating risks.

However, there are steps you can take to minimize risk and protect yourself and your farm and ranch if things go wrong despite your best efforts. And it's easier than ever before in Oregon to find that sweet spot between excellent, safe visitor experiences and viable business operations. That's because Oregon has joined most other U.S. states in developing limited liability protection statutes specifically for agritourism. When you complete your risk assessment and management plan, you should have a good sense of what agritourism activities are appropriate for you from a risk standpoint, and the risk management costs you need to account for in your business plan.

Overview and Oregon liability laws related to agritourism

- Oregon Equine Inherent Risk Law ([OR 360.687 to 360, 697](#)) passed in 1993 establishes special liability protections for agritourism activities associated with horses.
- Oregon Agritourism Inherent Risk Law ([OR SB341](#)) passed in 2015 extends liability protections for all Oregon agritourism activities as defined by statute.

Managing risk

- [Top 10 Ways to Limit Your Liability When Visitors Come to Your Farm](#), Kerr Center for Sustainable Agriculture, Poteau, OK.

Additional risk assessment and management resources

- Risks can be quite different from one agritourism operation to another, depending on size and specific focus. A small family farm with no outside employees, for example, will have very different potential risks than a large commercial operation with value-added processing and events in the mix. As a result, risk management takes many different forms, depending on the appropriate level of detail required. This handbook aims for a middle ground starting point. However, if these tools don't fit your circumstances, the following page contains links to many other planning resources.



More Useful Tools from Other States for Risk Assessment and Management

The following publications have more detailed tools for assessing and managing agritourism risk.

- [Agritourism and Nature Tourism in CA, 2nd Edition](#), University of California Agriculture and Natural Resources pp. 70-88. See especially the “Accessibility Checklist” on page 87.
- [Managing the Safety Risks of Agritourism Farms](#), Rutgers Cooperative Extension.
- [Agritourism General Farm Safety Assessment Checklist](#), Rutgers Cooperative Extension.
- [Agritourism Onsite Farm Safety Guide, Vermont’s Northeast Kingdom](#), University of Vermont.
- [Agritourism Emergency Response and Legal Liability Assessment Checklist](#), Rutgers Cooperative Extension.



Reducing Risk by Managing Liability

Why risk management matters, in the words of farmers and ranchers with agritourism operations.

- Visitors are coming for an experience; we want those experiences to be positive ones.
- We want visitors to have fun and be safe.
- We want our employees to be happy (and not have to spend their time chasing people away from where they shouldn't be).
- We don't want to be sued; we want to get paid.
- We need to know the details of our policies — what we are protected against and how we can protect ourselves.
- We must actively manage risk through such things as fencing off areas we don't want people to explore and hiring extra help for busy times.
- In farming and ranching, we often learn by doing, but in the case of managing risk, preparation is really important.

RISK IS EVERYWHERE

There is a degree of risk inherently associated with most activities. Risk can be high or low, but as panelist Keith Barnhart of Willow Springs Ranch noted, “every time someone comes on your ranch, it's a risk. We just need to accept that as a given.” Risk cannot be eliminated, but it can be managed.

While it's safe to assume that you already have liability policies for your farming and ranching operations, the minute you invite someone onto your property and charge a fee, this negates the liability protections in your general policy unless the fee-based operations have been included specifically. For that reason, you need to consider additional insurance, specific to your planned agritourism activities, that specifically protects you for risks associated with those activities. In the case of Willow Springs Ranch, the outfitter's liability policy covers their agritourism activities, while general liability policy covers ranching operations.

RISK COMES IN MANY FORMS:

There are several classes of risk to consider in order to protect your assets. You have more control over some than you do others.

- Economic — Changes in the market that affect your operations.
- Legal — What compliance/statutory liability laws affect your activities?
- Political — Laws and policies change over time.
- Social — This includes public/neighbor relations, the potential loss of reputation, and scenarios that could irritate neighbors.
- Physical property and people on your property — If people are staying on your farm or ranch and they venture off your property, you may still be liable for anything that happens to them over the period of time that they are your guests. Ask your insurance agent about how this applies in your case.
- Judicial — Judge/jury decisions can cause changes in public attitudes.



MANAGING RISK INCLUDES SEVERAL STEPS

Risk management is the process of protecting your assets by analyzing and planning for risks associated with your operation.

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- Identify the specific risk exposures for planned activities at your business. In other words, imagine all the ways people can injure themselves. Keep in mind that adults are usually a greater challenge than children, who tend to obey rules.
- Analyze the degree of risk associated with specific activities. Are there situations that could cause serious injuries? These are especially critical to address.
- Develop strategies for controlling exposure to risk. For example, can you put something away, fence it off, add a sign, provide advance information, etc.?
 - Keep in mind that you want to balance being hospitable and avoiding risk. For example, if you go to extremes and tack up “Do not” signs everywhere, this may detract from the welcoming experience you want to give your guests.
- Determine how to finance losses associated with risk. Through sound risk management strategies alone, you can reduce, but not entirely eliminate risk. In purchasing liability insurance, you transfer the risk costs to your insurance company in exchange for your premium payments; your deductibles represent what you directly assume as your share of the risk beyond what the carrier pays.
- This only works well if your insurance agent fully knows what your operations entail. Otherwise, you may have issues when/if you need to make a claim.
- If you have vendors providing agritourism services on your property, you can have them add you as an Additional Insured on their liability insurance for their operations (e.g., someone holding an event or a farm dinner).
- Having waivers and releases signed by your customers with “hold harmless” language can also alleviate your risk-exposure issues if you aren’t negligent, but such waivers don’t keep you from being sued. Most insurance policies do provide for legal defense.
- Since you cannot transfer the risk costs associated with your negligence, you need to consistently implement and monitor your risk management activities: Have clear policies and procedures in place and be sure you consistently apply them. For example, Willow Springs Ranch sends its release form to customers as part of a welcome package of information that people can review before sending their payment. The form has a check box to acknowledge that the information has been read and understood. It’s best to send that information in advance for activities that have some real risk (e.g., horseback riding is more risky than u-pick strawberries), or else you could be accused of “unfair inducement,” which means giving folks no option but to sign after they’ve already paid for an experience.
- If you need to make a claim, it should not preclude you from securing insurance in the future, but it may increase your rate, depending on the size of the claim, the state of your industry, whether you informed the insurance company of all your activities in advance, and whether you were actually negligent.
- Remember that even if you have done everything “by the book” to ensure your visitors’ safety, it will still impact you if someone gets hurt on your property. So try your best to anticipate and address as much as you can with risk management, and ensure that you are never negligent.

TIPS FOR FINDING A GOOD INSURANCE AGENT

- The questions on the following page should give you a good vocabulary for interviewing agents. If your prospective agent isn't asking you these questions, he/she may not have the expertise to insure a farm, ranch or agritourism operation.
- Ask others with similar operations about whom they use.
- Check with your state insurance commission regarding reputation and complaints against your prospective insurance agent.
- Trust your intuition to tell you if it's a good fit.

OTHER RESOURCES

- [Oregon Equine Inherent Risk Law](#) (1993), offers specific liability protections for agritourism activities associated with horses.
- [Oregon Agritourism Inherent Risk Law](#) (2015), expands liability protections for all Oregon agritourism activities as defined by statute.

Excerpted from a presentation at the 2012 Oregon Agritourism Summit by Lance Adams, PayneWest Insurance, Baker City, OR, along with Keith Barnhart, Willow Springs Guest Ranch, Lakeview OR.

The information included in the Oregon Agritourism Handbook should not be construed or treated as legal advice or counsel on matters of legal, tax, land-use or other policy. The Oregon Agritourism Handbook is strictly written to provide information to individuals interested in pursuing an agritourism business. This information is intended as a guide and resource hub. It is the responsibility of the individual to determine and understand all applicable laws, rules and regulations for each specific business and location. This handbook only offers information on where and how to connect with those resources. In no way is the information compiled intended to replace advice obtained from professionals such as an attorney, insurance agent, financial planner or land-use planner. Content and outside links found in the Oregon Agritourism Handbook do not necessarily reflect the views of Travel Oregon, Oregon Tourism Commission, or the State of Oregon. While the writers of this content have taken precautions to ensure the accuracy of the information provided, please note that content is subject to change. The advice of qualified and licensed professionals should be sought before embarking on any new or expanded business venture

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Questions for Your Insurance Agent

General

- Do you understand what I propose to do?
- Where do you see the risks? (This will help you see how well the agent understands.)

Existing policies

- What exactly does my general farm liability insurance already cover? Where are the gaps? (Think about those yourself ahead of time, so you can probe with specifics.)
 - Am I covered for sales made off the farm or ranch (e.g., farmers markets)? To what extent?
 - Are farm employees covered for anything they may do in association with the agritourism operation?
 - Does my automobile coverage on farm vehicles cover agritourism-related travel? If not, what type of policy do I need?
 - Any other questions (based on your operation).
- What are the specific reasons, if any, that indicate I need to supplement my general farm liability policy with a more specialized commercial business policy?

Agritourism-specific insurance

- To what extent would this proposed policy cover:
 - My premises and operations liability?
 - My product and operations liability?
 - My contractual obligations to others?
 - My personal liability to or injury to others (e.g., slander, invasion of privacy)?
 - My advertising liability to others?
 - My property liability to others?
 - Incidental medical malpractice resulting from my helping an injured person?
 - Host liquor liability?
 - Court cost for defense?

- Are there any specific exclusions?
- What size umbrella policy will provide adequate coverage, and what coverage levels would you recommend for each type of liability coverage? Why?
- Is my policy a “claims and occurrences” policy? And what happens if I change insurers?
- What are my options, including options for deductibles?
- How is the company you’re recommending rated? Based on what?

Risk management

- Will guests have to sign anything special to be covered, such as a waiver?
- Should groups using my farm or ranch for an event be required to show evidence of insurance? When should I ask to be an Additional Insured?
- Should my contractors (e.g., outfitters, caterers) be required to show evidence of insurance? When should I ask to be an Additional Insured?
- What types of documentation should I keep to protect myself from negligence claims?

This information was adapted from several sources, including: *Creating Successful Agritourism Activities for your Farm*; *Community Involved in Sustaining Agriculture*; *Agritourism in Focus: A Guide for Tennessee Farmers*, University of Tennessee Extension; and *Taking the First Step: Farm and Ranch Alternative Enterprises and Agritourism Resource Evaluation Guide*, Southern Maryland Resource Conservation and Development Board.

Assessing Risks for Your Agritourism Enterprise

Agritourism can be a risk-management strategy for your farm or ranch as a whole, because it diversifies your income streams, creates new marketing channels and possibly evens out your seasonal cash flow. Agritourism is not without risk itself, however. The risks associated with agritourism, or any business operation, fall into eight major categories:

1. Physical safety of your site.
2. Safety of products for sale, including food safety, compliance with direct-sales regulations, etc.
3. Compliance with environmental and land-use regulations.
4. Compliance with other applicable laws and general business regulations, including employee safety and welfare, as well as animal safety and welfare.
5. Market changes.
6. Business interruption due to natural disasters or weather.
7. Legal and management structure.
8. Financial solvency.

This risk assessment will primarily focus on the first two categories of risk. The Risk Management Plan in this section of the handbook includes space to develop strategies for all eight risk factors.

INSTRUCTIONS

Take a walk around your farm or ranch as if you were a visitor. If possible, bring along a friend who may be able to observe with fresh, less familiar eyes. Make a list of potential hazards and specify the location (Worksheet 1); take pictures as needed to help you remember and/or to convince a partner not walking with you that certain things are problematic.

Next, use Worksheet 2A to assess the specific risks associated with agritourism activities. List the specific agritourism activities you're considering and where they will take place (Column 1). List the associated risks that visitors could encounter from the moment they arrive on your farm or ranch (Column 2).

Then assess the importance of the risk to your operation, along two dimensions: the likelihood of injury and the magnitude of potential loss (Columns 3 and 4). Finally, identify ideas to avoid, reduce, accept or transfer risk (Column 5), and guesstimate the cost of implementing these risk management strategies (Column 6).

Finally, complete the related Worksheets 2B and 2C as per their slightly different column headings.

Now you're ready to develop a Risk Management Plan.



This list has been compiled from Oregon's experience and several other agritourism development manuals, including: *Agritourism in Focus: A Guide for Tennessee Farmers*, University of Tennessee Extension; *Agritourism and Nature Tourism in California*, 2nd Edition; University of California Agriculture and Natural Resources; *Creating Successful Agritourism Activities for your Farm*; *Community Involvement in Sustaining Agriculture*; and *Vermont Agritourism Collaborative: Agritourism Best Practices: Safety and Risk Management*. Worksheets 2A, 2B and 2C are directly adapted from Tennessee's *Agritourism in Focus*, with permission.

WORKSHEET 1

Risk assessment: Where are the risks located?

Specific Risk/Hazard?	Where?

WORKSHEET 2A

What are the specific risks by location? What ideas do you have to manage these risks?

Agritourism Activity and Location	Risk	Likelihood of Injury (low to high)	Magnitude of Potential Loss (small to large)	Potential Strategies to Address	Estimated Cost
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		

WORKSHEET 2B

What risks are associated with agritourism that are not location-specific?
 What ideas do you have to manage these risks?

Agritourism Activity and Location	Risk	Likelihood of Injury (low to high)	Magnitude of Potential Loss (small to large)	Potential Strategies to Address	Estimated Cost
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		

* Consider legal and regulatory compliance issues reviewed in [Section III](#) of this Handbook. For example, risk associated with sale of products, and tastings, pesticide storage, watershed protection, ADA accessibility, employee relations, etc.

WORKSHEET 2C

Are there other general risks for your agritourism operation that are not activity-specific?*

What ideas do you have for risk management?

Agritourism Activity and Location	Risk	Likelihood of Injury (low to high)	Magnitude of Potential Loss (small to large)	Potential Strategies to Address	Estimated Cost
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		
		1 2 3 4 5	1 2 3 4 5		

* For example, issues with neighbors, market changes, etc. Keep these in mind as you move forward into business planning.



Strategies to Avoid, Reduce, Transfer and Adapt to Agritourism Business Risks

AVOID RISK

- Just say no to the activity with unacceptable risk. Explore other ideas instead.

REDUCE RISK

- Be familiar with laws and regulations and follow all requirements.
- Develop and implement safety measures and procedures for customers and employees and post rules.
- Define visitor areas, visitor activities and visitor supervision procedures.
- Keep visitor areas clean and free of hazards.
- Provide visitors a map and post property boundaries.
- Provide sanitary restrooms.
- Make hand-washing facilities available for employees and customers.
- Flag unsafe areas on your property, and create signage that directs people away from risky places.
- Safely store pesticides, herbicides and other toxins.
- Identify and lock “do not enter” areas.
- Keep implements and machinery away from visitors
- Develop and implement an emergency response plan.
- Block off bodies of water.
- Guard against fire.
- Develop and implement safe food-handling procedures.
- Ensure your products are labeled correctly.
- Orient and train employees in proper operational procedures.
- Keep your animals vaccinated and healthy.
- Get first aid training and require the same of employees.

- Retain an on-site first aid kit, fire extinguishers and a weather radio.
- Place lists of emergency phone numbers with directions to your operation at all phones.
- Provide adequate parking that eliminates roadside hazards.
- Develop and implement an accident reporting system to preserve contact information for injured parties and witnesses, as well as photos and other relevant information.
- Seek assistance from professionals such as lawyers, accountants, production specialists and others as needed.



ADAPT TO RISK:

- Set up a beneficial legal structure for your agritourism operations that limits associated risks.
- Have a strong business plan.
- Have a strong management team and structure for monitoring risk on an ongoing basis.
- Create an emergency fund to pay for insurance deductibles and unplanned expenses.

TRANSFER RISK:

- Obtain property insurance.
- Obtain liability insurance that fits the specific activities you are planning.
- Obtain health and disability insurance.
- Obtain crop insurance.
- Ensure you are protected for off-farm or ranch liability: “sponsored activities that cause off-farm harm, hazard or injury.”
- Learn and follow insurance requirements and claim procedures.
- Require customers to sign lease or rental agreements for appropriate activities (such as fee hunting or equipment rental).
- Require vendors and independent contractors to maintain current licenses and insurance while operating on your property; and when they are earning money from other customers while on your property, have them add you to their liability policy as an Additional Insured.
- Require customers to sign hold harmless agreements or liability waivers.

Adapted with permission from Agritourism in Focus, University of Tennessee Extension Service; Agritourism and Nature Tourism in CA, 2nd Edition.



CHRISTIAN HEEB



V. Developing a Business Plan

Sure, you have an agritourism idea for your business, but do you have a business plan? And do you need a written plan? It depends. The format for your business plan can vary greatly. If you're seeking outside financing, you will likely need a formal, comprehensive business plan, for which there are many guides. If you're establishing a partnership or other legal structure, you'll want a written plan to spell out agreements regarding business goals, operations, and key roles and responsibilities.

The following resources can help you get started on your business plan.

General resources for business planning and management

- [Growing Farms: Successful Whole Farms Management](#) — OSU Small Farms Program
- [Online Tool for Building Your Business Plan](#) — Small Business Association
- [Agriculture Business Planning Workbook](#) — Colorado State University Extension
- Oregon Start a Business Guide — Oregon Secretary of State ([English](#), [Spanish](#))
- [Small Business Resource Guide](#) — Oregon/Washington edition from Small Business Administration
- [State of Oregon Business Resources](#)

Financing your agritourism operation

- [Creative Financing for Agricultural Businesses](#) — From Columbia Gorge-based farmer and author [Rebecca Thistlethwaite](#)
- [Business Oregon Business Finance Programs](#)



VI. Marketing Your Agritourism Venture

Marketing can feel intimidating, but you can tackle it step by step. Determine the most likely customers for your product or service; communicate what you offer in terms of what your customers value; deliver what you promise and delight your customers, who will recommend you to others; and price your offerings for a profit.

The marketing strategy ties into your general business plan (see business planning resources in the previous section); it should be consistent with your overall business values, goals and budget. But the marketing plan is different because it focuses on detailed tactics. Below are some Oregon resources, as well as selected tools from other states that are particularly useful.

Market data

- Part I of this handbook, “Why Consider Agritourism?” contains information about market preferences and trends for agritourism.

Marketing resources and advice from Travel Oregon

- An overview of Travel Oregon’s marketing resources for tourism entrepreneurs, as well as general marketing tips are available in the two resources below:
 - [Agritourism Marketing Toolkit](#)
 - [Agritourism Customer Service Basics](#)

Developing a marketing strategy

- [Marketing Strategies for Agritourism Operations](#) — Holly George and Ellie Rilla, University of California at Davis, Agriculture and Natural Resources.
- [Developing a Marketing Plan for Your Farm](#) — Communities Involved in Sustaining Agriculture (CISA).
- [Making a Marketing Plan](#) — Small Business Administration.

Other marketing tools

- [Agritourism Signage: A Study of Best Practices](#) — MARStewart Group
- Digital marketing for agritourism: At little to no cost, businesses can use web-based communications to disseminate information and impart their unique brand identities. Below are examples of effective digital marketing messages from agritourism businesses and partners based in Oregon. These examples showcase three types of online tools: websites, blogs and social media. The website is your general resource for customers, like a paper guide that doesn’t change often. The blog is a window to your world, speaking more broadly about industry topics than your business alone, as well as a way to boost your website’s SEO (search engine optimization). Social media platforms like Facebook and Instagram can serve as newsletters, where you announce upcoming events and showcase recent happenings. All these tools help you connect, and stay connected, with customers.
 - [Leaping Lamp Farm Stay \(Alsea\)](#)
 - [Plate & Pitchfork \(Portland\)](#)
 - [Camas Country Mill \(Junction City\)](#)
 - [Dragonfly Farm and Nursery \(Langlois\)](#)
 - [Winding Waters River Expeditions \(Joseph\)](#)

Oregon Agritourism Marketing Strategy Template

Here is a simple, three-part template to help you think about and capture the essential ingredients of your marketing strategy:

PART 1: BIG PICTURE

Focus on defining the unique features and benefits of your product and service, and how you will position them in the marketplace* given your target audience.

The key variables that determine market position are what marketing professionals call the “Four P’s:” product (or service), place, price and promotion. The concept has evolved more recently to the “Four C’s,” which reflect the same four categories, but from the point of view of your customers: customer benefit, convenience, customer cost and (two-way) communication.

TOP PHOTO: CHRISTIAN HEEB, BELOW: GREG ROBERSON



<p><i>Product/Customer Benefit</i></p> <ul style="list-style-type: none"> • What does your target customer want? • What features must your product or service offer to meet these needs? • How is your product different from your competitors? Quality? Style? Beauty? Personality? Service packages? 	<p><i>Place/Convenience</i></p> <ul style="list-style-type: none"> • Where do buyers look for your product or service? • Is it easy to find? If not, is that a disadvantage? • How often is your product or service available? • When your product is available, do you keep reliable business hours?
<p><i>Price/Customer Cost</i></p> <ul style="list-style-type: none"> • What is the value of the product or service to the customer? • Are there established prices? • How will your prices compare with your competitors? • Will your price be considered fair? • Will you offer volume discounts? 	<p><i>Promotion/Communication</i></p> <ul style="list-style-type: none"> • Where and when can you get your message across to the people you are targeting as customers? • What mediums will you use to communicate? (Keep in mind that advertising is the most expensive medium!) • How will you engage with your customers?

* Note that your competition is not just other farm stays, farm stands, ranch vacations, etc. Try to think broadly about what choices your customers have for their leisure time: to stay home and relax, to visit exotic places, to make their own jam, to hike in a forest, etc.

PART 2: TACTICS

Focus on the specific types of promotion and public relations you will undertake to connect with your customers.

The medium is the method for delivering your message to your potential customers, as well as the method for two-way communication with your customers.

Examples of Marketing Mediums:	
Website	Add a blog to your site
Posters around town	Better signage
Hand out flyers at events	Hold events
Product demonstrations, trainings, presentations	Monthly e-newsletter to customers
Distribute brochures/business cards	Sales, discounts, contests
Cultivate relationship with media, pitch stories and make yourself available for interviews (“earned” media)	Distribute take-homes (e.g., bookmarks with recipes) at point of sale
Cross-promote or package with other related businesses	Direct mail to prospective customers
Cultivate word-of-mouth network	Promote to clubs and associations
Go to trade shows	Create videos
Join appropriate marketing associations, from the local chamber to the Cheese Guild, depending on what fits	Encourage past customers to review on platforms such as TripAdvisor, etc.
Social media – Facebook, Instagram, Twitter – What fits you best?	Buy cooperative advertising
Travel Oregon marketing platforms	Regional Destination Management Organization (RDMO) platforms

Content adapted from Agritourism and Nature Tourism in California, 2nd edition.

PART 3: ANNUAL SCHEDULE

Create a monthly to-do list of marketing activities.

AGRITOURISM MARKETING STRATEGY — PART 1: BIG PICTURE

TARGET AUDIENCE	
Who are your target customers? (location, income, age, etc.)	
What do your target customers need and desire?	
MARKET MIX AND POSITION	
What specific products and services will you offer?	
What makes your product or service unique?	
How does your product or service meet your target market's needs and desires?	
What advantages do you have over your competition?	
How will you price your product or service relative to the competition?	
What positive associations do you want to convey to your target customers about your product and service? What are your biggest selling points?	
MESSAGE	
What information does the customer need to make a decision?	
TACTICS	
What budget can you set aside annually for marketing?***	
What are the best ways to reach your target customer? (continue with Part 2)	
MARKETING GOALS	
What can you specifically measure to determine if your marketing efforts are effective?	

***During the first four years of operation, expect to spend 10-25% of your total agritourism-related operating costs on marketing, according to the authors of Agritourism and Nature Tourism in California, 2nd edition.

AGRITOURISM MARKETING STRATEGY – PART 2: TACTICS

Communication Medium	Target Audience	Features and Benefits to Highlight	When/ How Often?	Cash Cost	Other Cost	Who?

AGRITOURISM MARKETING STRATEGY – PART 3: ANNUAL SCHEDULE

Month	Recurring Marketing Activities	Seasonal or Special Marketing Activities	Expected Cost
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			

GREG ROBERSON



VII. Delivering a Great Visitor Experience

In an era of lightning-fast communication via social media, a great visitor experience can make a big impact. Happy visitors can become extremely valuable ambassadors for your products and services. This section of the handbook contains resources for great customer service, as well as guides to creating specific types of agritourism experiences.

Exceptional Customer Service

- [Oregon Guest Service Training Program](#) is a partnership between the Oregon Restaurant and Lodging Association Education Foundation and Travel Oregon. Through the program, you and your employees or family members can participate in an accredited and internationally recognized customer service training program, starting at a cost of \$30/person. Learn more from the [course introduction video](#).

High-Quality Experiences

- [Offering High Quality On-farm Experiences](#), by the Vermont Agritourism Collaborative, explains how to build authenticity, safe environments and facilities, educational experiences (both farmer-led and self-guided) and strong customer service.

- The following guides for specific activities are sourced from several states. Some regulatory information is specific to the state, but the content on how to deliver memorable experiences is broadly applicable.
- Farm Stays
 - [How to Develop a Farm Stay](#), Vermont Agritourism Collaborative.
 - [Farm Stay USA](#), the national association for farm stays, based in Oregon.
 - [What to Expect During a Farm Stay](#) (a customer perspective), Farm Stay USA.
- On-Farm Sales
 - [How to Develop a Farm Stand](#), Vermont Agritourism Collaborative.
 - [How to Develop a Pick-Your-Own Business](#), Vermont Agritourism Collaborative.
- Events
 - [How to Develop Farm-to-Table Dinners](#), Plate and Pitchfork, Erika Polmar.
- Educational Experiences
 - [How to Develop a Farm Tour](#), Vermont Agritourism Collaborative.

[Section VIII](#) of the handbook provides additional examples of high-quality experiences created through win-win partnerships.



How to Develop Successful Farm-to-Table Dinners

Farm dinners provide an opportunity for food lovers to learn more about the people and places that grow their food. By participating in a dinner, they will hopefully develop greater appreciation for the process of growing, harvesting and preparing meals with high-quality, locally grown ingredients.

There is not one model to follow to produce a successful farm dinner. Creating an experience that best represents your farm and your goals will provide your guests with the most authentic and enjoyable experience. Producing successful dinners is time consuming and can be complicated, especially when it comes to executing them without disrupting your current workload. You will need to address elements such as safety, signage, liability, permitting, event production and zoning. This section is intended to get your planning off to a good start.

Zoning

Your land use zone determines which activities are permissible on your property with and without a permit. Refer to [Section III](#) of this handbook for more detailed information. Before you begin planning your farm dinners, contact your local planning office and determine if permits are required and if so, what the process to obtain them entails. See page X for more detailed guidance.

Liability Insurance

Although your current insurance may cover having guests on your property, make sure you also have coverage for the preparation or consumption of food and alcohol. Be sure to contact your insurance agent and share your intentions so they may provide you with the proper policy. There are numerous types of liability insurance, but you will want to discuss the following with your agent:

- Premises
- Product
- Property damage
- Personal
- Liquor
- Employees

Meal Preparation and Permitting

Food served to the public must be prepared with health and safety in mind. If you are planning to do the cooking yourself, you will need to speak to your local health inspector to determine how to safely and legally prepare food on your property. You will also be required to obtain a temporary restaurant permit to serve food to the public if you are not currently operating a commercially licensed kitchen on your premises. Typically, a permit application must be submitted six weeks prior to an event and will require an onsite inspection of your refrigeration, sanitation and cooking equipment.

PHOTO: PLATE & PITCHFORK



One way to simplify the planning of your dinner is to hire a commercial caterer who not only holds the necessary licenses to serve food and alcohol, they will also be skilled at setting up events and have a relationship with a party supply rental company that will provide the equipment you need to create both a field kitchen and dining area.

You might choose to work with a local chef who uses your products in their restaurant. Although restaurants operate with their own set of permits, you will still be required to obtain a temporary restaurant permit for the food preparation on your farm.

Any individual who is producing or serving food must have a current food handler's permit issued by a county health department in Oregon.

Alcohol Service Permits

If you will be selling or serving alcohol at your dinner you will need a liquor license.

A liquor license is needed at special events where:

- Alcohol will be sold.
- Alcohol is available (but not being sold) and you are charging or accepting donations for admission, or where payment is required to attend the event.

A liquor license is not needed at special events where:

- You are making alcohol available, but there is no payment or purchase required and no donations of money are accepted for alcohol or for entry/admission, or for any other product or service (e.g. a wedding reception where you make alcohol available, but you don't require payment or purchase and don't accept donations of money).

Temporary/Special Event liquor permits are available for a small fee. Your local planning office will need to review your permit before you submit the application to the Oregon Liquor Control Commission (OLCC) and in some instances they may charge a fee as well. Plan on a minimum of six weeks for this process. Applications and instructions are available here.

Individuals serving alcohol must have a current, state-issued service permit.

Top Ten Tips for a Successful Farm Dinner

Think about the experience from the customer's perspective, from the time they arrive at your farm until they head home.

1. There's clear directional signage and plenty of parking.
2. Attendance is limited so guests can easily engage with the hosts and the location.
3. Outdoor events will be subject to factors like heat, rain and stinging insects. Find methods for deterring/repelling

critters without offending your guests. Monitor weather forecasts and adjust your plans accordingly.

4. Staffing is sufficient to serve the meal and provide guest service.
5. Presenters at the dinner are clear on the key messages you wish to deliver to your guests, prepared to answer questions and concise in their delivery.
6. Keep your dishes and décor simple and elegant. Minimalist décor offers a more authentic experience and frees up time and resources that could be put into the execution of the event.
7. Make sure that as many ingredients as possible are from your farm and work closely with your culinary partners to craft a menu that best represents you and your community.
8. Have materials ready for people to take home: your CSA order form, a schedule of future events or a schedule of farmers markets you attend. If you have a mailing list, make sure a sign-up sheet is available.
9. If your event is raising money for a specific cause — new fencing, expanding beehives, remodeling the farm stand, supporting CSA shares for low-income families — share this information and make sure your staff provides consistent messaging about how the funds will be used and how guests may contribute.
10. Preparing your property to host an event of this scale can be more time consuming than anticipated. Take care to determine where you can set up the dining area and kitchen so that it makes the least impact on your daily operations. Budget time to prepare for the event and to return the space back to its regular working order.

This information was compiled from information presented on the websites of various Farm Dinner operations, and then combined with the personal experience of the author. This information is for education only, and should not be considered legal advice.

PHOTOS COURTESY OF PLATE AND PITCHFORK



VIII. Productive Partnerships

Working together – with both the obvious partners and more unusual candidates – can help you build a successful and resilient agritourism product or service. Partnerships among similar businesses, such as farms in a particular area, can generate economies of scale for marketing. Partnerships with other hospitality operations, such as chefs, outfitters and guides, can yield incredible and seamless visitor experiences that increase revenue potential. Partnerships with schools and heritage organizations can build local support and enlist community ambassadors that help you diversify your customer base. Partnerships with government and land management agencies can accelerate permitting and access.

Food Trails

One of the oldest agritourism collaborations in Oregon, the Hood River Fruit Loop was organized in 1992 as a self-guided 35-mile driving tour to market farm products and activities as a destination experience. Today, there are more than 30 different attractions, with activities that vary throughout the agricultural season.

- [Grant's Getaways Spring Tour of Fruit Loop](#)
- [Hood River Fruit Loop Map](#)

In 2018, Travel Oregon launched the Oregon Food Trails program to provide communities a way to package and showcase their local farm, ranch, seafood and other agricultural assets, as well as local culinary businesses that feature locally-sourced products. There are now several trails participating in the program across the state. Explore the Oregon Food Trails on oregonfoodtrails.com.

Culinary and Outdoor Recreation

Winding Waters River Expeditions in Wallowa County launched in 2005 as a guided river-tour operator. Over time its owners established many partnerships, including with local ranches and a farm-to-table dinner company, to create memorable visitor experiences.

- [Winding Waters River Expeditions partnership networks](#) (“Faces of Travel and Tourism” series, Travel Oregon)
- [Plate and Pitchfork Collaboration](#)

Agricultural Heritage

Camas Country Mill in Veneta has grown beyond producing heritage grains to becoming a visitor attraction, by engaging local schools and renovating an old schoolhouse with a crowdfunding campaign.

- [Grant's Getaways Camas Country Mill Travel Oregon Forever project](#)

Tips for Building Marketing and Community Partnerships

Establishing relationships and cooperative alliances with your community is a key element of long-term success.

1. Speak about your project early on with neighbors, family and local businesses. Share your ideas. Listen to their concerns and feedback. Address any problems early in the development of the project.
2. Develop a comfortable level of public presentation. Speak at service clubs, association meetings and other gatherings.
3. See your shortcomings or weaknesses as future opportunities for collaboration. Inventory your community and seek out those who have what you need to complete your goals. Return the favor.
4. Define who shares potential customers with you. Align yourself with other businesses and attractions, and openly discuss potential customers. Develop exchange promotions and track where your leads come from.
5. Comply with local ordinances. Work through compliance issues as required by law and in the spirit of cooperation with surrounding properties and interests.
6. Engage adversaries. Most simply want to be heard or are afraid of unknown impacts. Sit down one-on-one and listen. Address the concerns; don't shrug them off or disregard them.

7. Manage physical growth of your operation to ensure quality of life for all citizens affected.

8. Work to foster a sense of community.

Excerpted with permission from the 2003 Agri-Tourism Workbook: Agri-Business Council of Oregon



TOP AND BOTTOM PHOTOS COURTESY OF PLATE AND PITCHFORK

Agritourism Partnership Self-Assessment

Consider the people, businesses and organizations you work with already, or would like to work with to support your agritourism venture. This worksheet helps you assess what mutual value your current partnerships generate, as well as who else might be a good partner and what you might be able to do together. The columns in the following exercise show a variety of potential collaborative activities, from the least intensive/interdependent to the most. More intensive is not necessarily better: While they can yield great benefits, intensive activities require a high degree of trust and often a lot of time as well. It's up to you to decide how much collaboration makes sense for you. Here's how to proceed:

- Start by listing your current partners and check the items that apply to the activities you conduct together. The last three columns ask you to analyze the value of these partnerships: Do you have something valuable to contribute to this partner so you both win? Do you have ideas for working together in new ways? Given your business goals, is this partner a priority for the future?
- After you've assessed your current partners, think about potential partners. For example, if you would like to reach visitors from outside your area, perhaps you can partner with a local inn or farm stay. If you want to offer horseback riding, perhaps you can partner with a public park manager. Go through the same steps of identifying the types of activities you could pursue with new partners, the benefits you could offer, and the priority order to approach these potential new partners.
- What do you conclude about the value of partnering for your venture?



See the following page for the Partnership Self-Assessment Activity.

Appendix: Agritourism Resources and Industry Organizations in Oregon

[Oregon Agritourism Network](#)

[Travel Oregon](#)

[Oregon State University Small Farms Program](#)

[Oregon State University – Extension Service](#)

[Oregon Department of Agriculture - New and Small Farms Program](#)

[Farm Stay USA](#)

[Oregon Aglink](#)

[Department of Land Conservation and Development](#)

[Oregon Restaurant & Lodging Association](#)

[Oregon Farm Bureau](#)

[Lavender Northwest](#)

[Oregon Wine Board](#)

[Oregon Cheese Guild](#)

[Oregon Brewers Guild](#)

[Oregon Farmers Markets Association](#)

[Oregon Food Innovation Center](#)

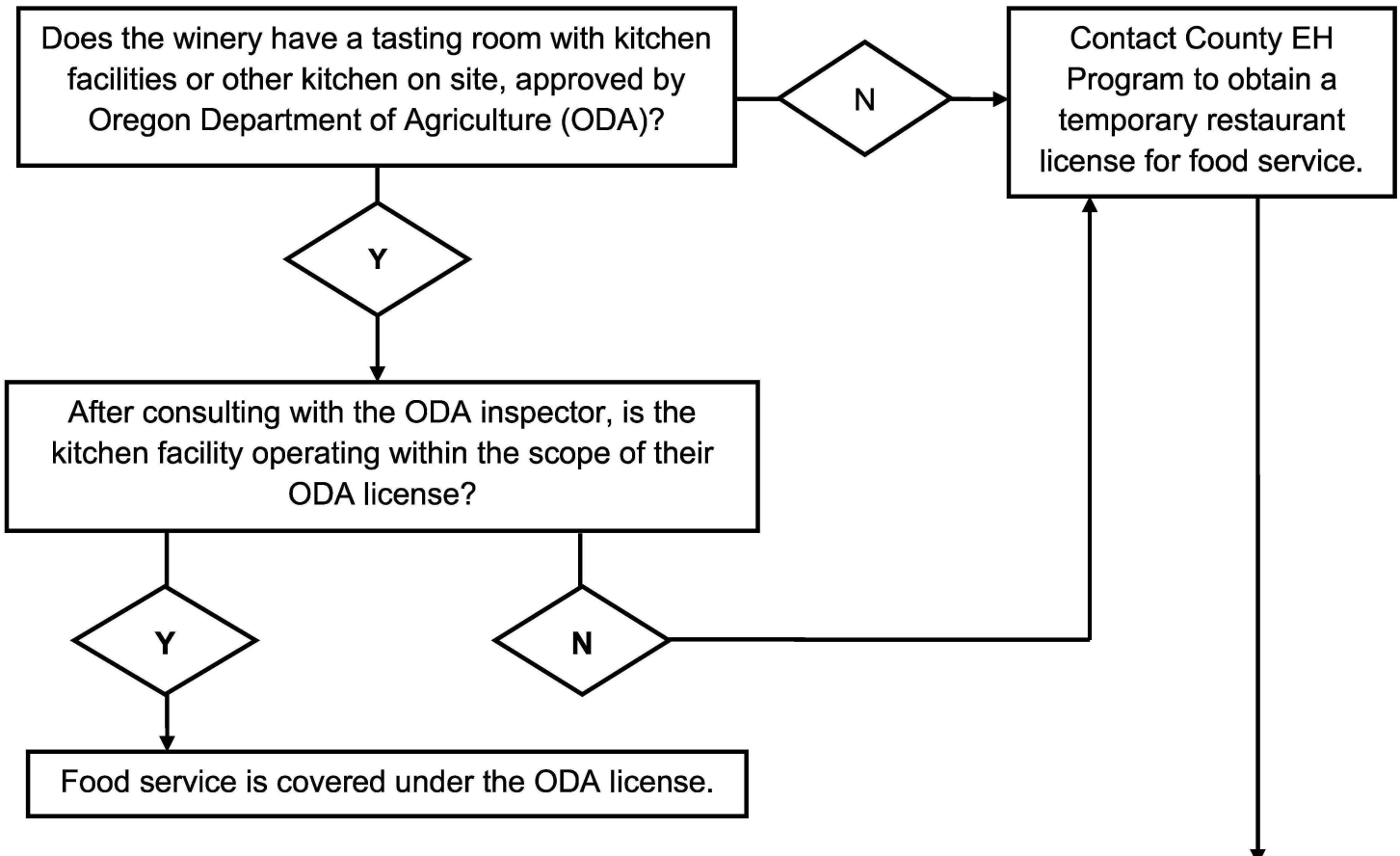
TOP PHOTO: SIONNIE LAFOLLETTE



Winery Licensing and Inspection Guidance
Oregon Health Authority and
Oregon Department of Agriculture
 June 1, 2016



Local County Health Department staff should consult with their local ODA inspector to determine if food service activities are approved for a particular winery and what food service activities are allowed. Based upon that consultation, use the following information to determine if the LPHA will be involved in licensing and inspecting an activity at the winery or whether the activities are covered under the existing ODA license.



There are three types of temporary restaurant licenses issued by LPHA:

1. **Single Event Temporary Restaurant License** - Good for the duration of the event at a single location, not to exceed 30 days.
2. **Intermittent Temporary Restaurant License** – Allows for at least two oversight organizations at same location but different events, covers events within a 30 day period. Requires a plan review approval.
3. **Seasonal Temporary Restaurant License** – Good for up to 90 days at a single location for events arranged by the same oversight organization. Requires a plan review approval.

Applicable Statute: Food Service Facilities - ORS 624 Applicable Rule: Oregon Food Sanitation Rules - OAR 333-150

Winery Food Service Activities Regulated by ODA:

- 1) In general, a winery activity that involves providing only appetizers or hors d'oeuvres in conjunction with wine tasting will be covered under the ODA license. ***This is the vast majority of winery food service activities.***
- 2) A winery licensed by ODA that has acceptable on-site indoor kitchen facilities to provide food for an event inside the facility is the responsibility of ODA.
- 3) A winery licensed by ODA that has acceptable on-site indoor kitchen facilities may serve food prepared in the kitchen to customers sitting at tables outside the facility.

Winery Food Service Activities Regulated by LPHA:

- 1) A winery licensed by ODA that does not have acceptable on-site indoor kitchen facilities to provide food for a public event inside the facility requires a temporary restaurant license from the LPHA.
- 2) A winery licensed by ODA that does not have acceptable on-site indoor kitchen facilities and has food catered in for an event open to the public must obtain a temporary restaurant license from the LPHA.
- 3) A winery licensed by ODA that has acceptable on-site indoor kitchen facilities and would like to cook, prepare or serve food from equipment or areas outside the facility (hot or cold holding units, Sunday brunch buffet, barbecue but dispensing food not prepared on the barbecue) must obtain a temporary restaurant license from the LPHA.
- 4) A restaurant operated in an ODA licensed winery by a different owner than the winery should be licensed and inspected as a restaurant by the LPHA.

Other Considerations:

- 1) A winery licensed by ODA that does not have acceptable on-site indoor kitchen facilities that has food catered in for a private event is not a regulated activity.
- 2) The licensing of a winery with multiple buildings that do not engage in combination activities (e.g., separate wine production facility, tasting room, restaurant and outdoor food service location) will be licensed as determined by the local ODA and LPHA inspectors. In general, separate facilities shall be licensed by the agency that typically has jurisdiction. For example, the restaurant and the outdoor food service location should be licensed and inspected by the LPHA and the wine production facility and tasting room by ODA. Each winery scenario will be unique and should be determined on a case-by-case basis.

Note: Winery food service operations are eligible to be licensed as temporary restaurants because they are considered "food product promotions" as defined in ORS 624.010.

Chapter 215 — County Land Use Planning; Resource Lands

ORS sections in this chapter were amended or repealed by the Legislative Assembly during its 2024 regular session. See the table of ORS sections amended or repealed during the 2024 regular session: [2024 A&R Tables](#)

2023 EDITION

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COUNTY PLANNING

215.010 Definitions. As used in this chapter:

(1) The terms defined in ORS 92.010 shall have the meanings given therein, except that “parcel”:

(a) Includes a unit of land created:

(A) By partitioning land as defined in ORS 92.010;

(B) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

(C) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

(b) Does not include a unit of land created solely to establish a separate tax account.

(2) “Tract” means one or more contiguous lots or parcels under the same ownership.

(3) The terms defined in ORS chapters 197 and 197A shall have the meanings given therein.

(4) “Farm use” has the meaning given that term in ORS 215.203.

(5) “Recreational structure” means a campground structure with or without plumbing, heating or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, by the Director of the Department of Consumer and Business Services.

(6) “Recreational vehicle” has the meaning given that term in ORS 174.101.

(7) “The Willamette Valley” is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range. [Amended by 1955 c.756 §25; 1963 c.619 §1 (1); 1985 c.717 §4; 1993 c.792 §8; 1999 c.327 §1; 2019 c.585 §19a; 2022 c.54 §15]

215.020 Authority to establish county planning commissions. (1) The governing body of any county may create and provide for the organization and operations of one or more county planning commissions.

(2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003 to 190.130. [Amended by 1973 c.552 §1; 1975 c.767 §15]

215.030 Membership of planning commission. (1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years.

(2) A commission member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty.

(3) Any vacancy on the commission shall be filled by the governing body for the unexpired term.

(4) Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses.

(5) Members of a commission shall be residents of the various geographic areas of the county. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or

developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade or profession.

(6) The governing body may designate one or more officers of the county to be nonvoting members of the commission.

(7) Except for subsection (5) of this section, the governing body may provide by ordinance for alternative rules to those specified in this section. [Amended by 1963 c.619 §2; 1973 c.552 §2; 1977 c.766 §1]

215.035 [1973 c.552 §10; renumbered 244.135 in 1993]

215.040 [Amended by 1973 c.552 §3; repealed by 1977 c.766 §16]

215.042 Planning director. (1) The governing body of each county shall designate an individual to serve as planning director for the county responsible for administration of planning. The governing body shall provide employees as necessary to assist the director in carrying out responsibilities. The director shall be the chief administrative officer in charge of the planning department of the county, if one is created.

(2) The director shall provide assistance, as requested, to the planning commission and shall coordinate the functions of the commission with other departments, agencies and officers of the county that are engaged in functions related to planning for the use of lands within the county.

(3) The director shall serve at the pleasure of the governing body of the county. [1973 c.552 §9]

215.044 Solar access ordinances; purpose; standards. (1) County governing bodies may adopt and implement solar access ordinances. The ordinances shall provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities. The county governing body shall consider for inclusion in any solar access ordinance, but not be limited to, standards for:

- (a) The orientation of new streets, lots and parcels;
- (b) The placement, height, bulk and orientation of new buildings;
- (c) The type and placement of new trees on public street rights of way and other public property; and
- (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

(2) The State Department of Energy shall actively encourage and assist county governing bodies' efforts to protect and provide for solar access.

(3) As used in this section, "solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21. [1981 c.722 §2]

215.046 [1973 c.552 §11; repealed by 1977 c.766 §16]

215.047 Effect of comprehensive plan and land use regulations on solar access ordinances. Solar access ordinances shall not be in conflict with acknowledged comprehensive plans and land use regulations. [1981 c.722 §3]

215.050 Comprehensive planning, zoning and subdivision ordinances; copies available. (1) Except as provided in ORS 527.722, the county governing body shall adopt and may from time to time revise a comprehensive plan and zoning, subdivision and other ordinances applicable to all of the land in the county. The plan and related ordinances may be adopted and revised part by part or by geographic area.

(2) Zoning, subdivision or other ordinances or regulations and any revisions or amendments thereof shall be designed to implement the adopted county comprehensive plan.

(3) A county shall maintain copies of its comprehensive plan and land use regulations, as defined in ORS 197.015, for sale to the public at a charge not to exceed the cost of copying and assembling the material. [Amended by 1955 c.439 §2; 1963 c.619 §3; 1973 c.552 §4; 1977 c.766 §2; 1981 c.748 §41; 1987 c.919 §5; 1991 c.363 §1]

215.055 [1955 c.439 §3; 1963 c.619 §4; 1971 c.13 §2; 1971 c.739 §1; 1973 c.80 §43; 1975 c.153 §1; repealed by 1977 c.766 §16]

215.060 Procedure for action on plan; notice; hearing. Action by the governing body of a county regarding the plan shall have no legal effect unless the governing body first conducts one or more public hearings on the plan and unless 10 days' advance public notice of each of the hearings is published in a newspaper of general circulation in the county or, in case the plan as it is to be heard concerns only part of the county, is so published in the territory so concerned and unless a majority of the members of the governing body approves the action. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television. [Amended by 1963 c.619 §5; 1967 c.589 §1; 1973 c.552 §6]

215.070 [Repealed by 1963 c.619 §16]

215.080 Power to enter upon land. The commission, and any of its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

215.090 Information made available to commission. Public officials, departments and agencies, having information, maps or other data deemed by the planning commission pertinent to county planning shall make such information available for the use of the commission. [Amended by 1977 c.766 §3]

215.100 Cooperation with other agencies. The county planning commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

215.104 [1955 c.439 §4; 1963 c.619 §6; 1967 c.589 §2; 1973 c.552 §7; repealed by 1977 c.766 §16]

215.108 [1955 c.439 §5; 1961 c.607 §1; repealed by 1963 c.619 §16]

215.110 Recommendations for implementation of comprehensive plan; enactment of ordinances; referral; retroactivity. (1) A planning commission may recommend to the governing body ordinances intended to implement part or all of the comprehensive plan. The ordinances may provide, among other things, for:

- (a) Zoning;
- (b) Official maps showing the location and dimensions of, and the degree of permitted access to, existing and proposed thoroughfares, easements and property needed for public purposes;
- (c) Preservation of the integrity of the maps by controls over construction, by making official maps parts of county deed records, and by other action not violative of private property rights;
- (d) Conservation of the natural resources of the county;
- (e) Controlling subdivision and partitioning of land;
- (f) Renaming public thoroughfares;
- (g) Protecting and assuring access to incident solar energy;
- (h) Protecting and assuring access to wind for potential electrical generation or mechanical application; and

(i) Numbering property.

(2) The governing body may enact, amend or repeal ordinances to assist in carrying out a comprehensive plan. If an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest. If an ordinance is initiated by the governing body, it shall, prior to enactment, request a report and recommendation regarding the ordinance from the planning commission, if one exists, and allow a reasonable time for submission of the report and recommendation.

(3) The governing body may refer to the electors of the county for their approval or rejection an ordinance or amendments thereto for which this section provides. If only a part of the county is affected, the ordinance or amendment may be referred to that part only.

(4) An ordinance enacted by authority of this section may prescribe fees and appeal procedures necessary or convenient for carrying out the purposes of the ordinance.

(5) An ordinance enacted by authority of this section may prescribe limitations designed to encourage and protect the installation and use of solar and wind energy systems.

(6) No retroactive ordinance shall be enacted under the provisions of this section.
[Amended by 1963 c.619 §7; 1973 c.696 §22; 1975 c.153 §2; 1977 c.766 §4; 1979 c.671 §2; 1981 c.590 §7]

215.120 [Amended by 1957 c.568 §2; repealed by 1963 c.619 §16]

215.124 [1955 c.683 §§2, 4; 1957 c.568 §3; repealed by 1959 c.387 §1]

215.126 [1955 c.683 §3; 1957 c.568 §1; 1959 c.387 §2; repealed by 1963 c.619 §16]

215.130 Application of ordinances and comprehensive plan; alteration of nonconforming use. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

(2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:

(a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or

other provision provided otherwise; and

(b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.

(3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.

(4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

(6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration or replacement is made necessary by fire, other casualty or natural disaster. Restoration or replacement must be commenced within one year from the occurrence of the fire, casualty or natural disaster. If restoration or replacement is necessary under this subsection, restoration or replacement must be done in compliance with ORS 195.260 (1)(c).

(7)(a) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(b) Notwithstanding any local ordinance, a surface mining use continued under subsection (5) of this section is not considered interrupted or abandoned for any period after July 1, 1972, provided:

(A) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a state or local exemption from surface mining regulation; and

(B) The surface mining use was not inactive for a period of 12 consecutive years or more.

(c) For purposes of paragraph (b) of this subsection, "inactive" means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(d) A use continued under subsection (5) of this section is not considered interrupted or abandoned for any period while a federal, state or local emergency order temporarily limits or prohibits the use or the restoration or replacement of the use.

(8) Any proposal for the verification or alteration of a use under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county or its designate on a proposal for the alteration of a use described in subsection (5) of this section shall be made as an administrative decision without public hearing in the manner provided in ORS 215.416 (11).

(9) As used in this section, “alteration” of a nonconforming use includes:

- (a) A change in the use of no greater adverse impact to the neighborhood; and
- (b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

(10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:

(a) For purposes of verifying a use under subsection (5) of this section, a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application.

(b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section.

(c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation of adverse impacts as described in subsection (9) of this section.

(11) For purposes of verifying a use under subsection (5) of this section, a county may not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. [Amended by 1961 c.607 §2; 1963 c.577 §4; 1963 c.619 §9; 1969 c.460 §1; 1973 c.503 §2; 1977 c.766 §5; 1979 c.190 §406; 1979 c.610 §1; 1993 c.792 §52; 1997 c.394 §1; 1999 c.353 §1; 1999 c.458 §1; 1999 c.1103 §10; 2021 c.25 §3]

(Temporary provisions relating to restoration or replacement of uses lost to 2020 wildfires)

Note: Sections 5 and 6, chapter 25, Oregon Laws 2021, provide:

Sec. 5. Restoration or replacement of a use under ORS 215.130 (5) or under city land use regulations that allow the restoration or reestablishment of a nonconforming use, including under section 2 of this 2021 Act [227.283], must commence no later than September 30, 2025, notwithstanding the time limitation under ORS 215.130 (6) or any other local land use regulation if the restoration is for uses that between September 1 and September 30, 2020, were damaged or destroyed by wildfires that were:

- (1) The subject of a federal or state major disaster declaration; or
- (2) Subject to a Governor’s executive order invoking the Emergency Conflagration Act under ORS 476.510 to 476.610. [2021 c.25 §5]

Sec. 6. Section 5 of this 2021 Act is repealed January 2, 2026. [2021 c.25 §6]

215.135 Expansion of nonconforming school in exclusive farm use zone. (1)

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

- (a) The expansion complies with ORS 215.296;
- (b) The school was established on or before January 1, 2009;
- (c) The expansion occurs on a tax lot:
 - (A) On which the school was established; or

(B) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and

(d) The school is a public or private school for kindergarten through grade 12.

(2) A county may not deny an expansion under this section upon any rule or condition establishing:

(a) A maximum capacity of people in the structure or group of structures;

(b) A minimum distance between structures; or

(c) A maximum density of structures per acre. [2009 c.850 §14; 2019 c.416 §1]

Note: 215.135 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.140 [Repealed by 1963 c.619 §16]

215.141 Energy resilience plans. (1) The Legislative Assembly finds that each county should plan for and develop energy resilience and be prepared, in the event of major grid disruption, to maintain basic services and functions.

(2) In order to carry out the provisions set forth in subsection (1) of this section, a county may:

(a) Develop and adopt an energy resilience plan; and

(b) Incorporate the energy resilience plan into the county's applicable natural hazard mitigation plan.

(3) An energy resilience plan developed under this section must:

(a) Be based on and plan for short-term, medium-term and long-term power outages;

(b) Identify and map:

(A) Existing energy infrastructure located within the county, including transmission lines, distribution lines, substations and energy storage systems;

(B) Natural hazard risks; and

(C) Communities that experience social vulnerability;

(c) Identify potential locations for community resilience centers and communication zones that the public may use to access electricity services during a power outage;

(d) Inventory the energy consumption needs of critical public services facilities;

(e) Identify critical public services facilities where the development of alternate energy generation and storage resources will meet local energy resilience needs;

(f) Identify opportunities to coordinate and locate energy infrastructure development to align with and support critical public services facilities;

(g) Identify time schedules, priorities and potential funding sources for developing energy resilience; and

(h) Identify other actions and resources needed to implement the energy resilience plan.

(4)(a) To identify and map communities that experience social vulnerabilities under subsection (3)(b)(C) of this section, a county shall consult with representatives from local environmental justice communities.

(b) A county shall use the locations of communities that experience social vulnerabilities to prioritize the potential locations of community resilience centers under subsection (3)(c) of this section.

(5) A public utility that is operating or serving customers within the boundaries of a county that is developing an energy resilience plan shall use reasonable efforts to assist with and

comply with requests from the county for information regarding energy infrastructure that is located or serving customers within the boundaries of the county, provided that the information is exempt from disclosure under ORS 192.355.

(6) As used in this section, “critical public services facility” includes a facility related to law enforcement, fire protection, health and medical services, sanitation services, fuel and fueling, public works and engineering, public information and communications and emergency response. [2023 c.562 §5]

Note: 215.141 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 6 and 7, chapter 562, Oregon Laws 2023, provide:

Sec. 6. County grants for energy resilience plans. (1) The State Department of Energy shall establish a program for awarding grants to counties to cover the costs of developing energy resilience plans that meet the requirements under section 5 (3) of this 2023 Act [215.141 (3)].

(2) Under the program:

(a) A county shall use grant moneys to cover the costs of developing an energy resilience plan that meets the requirements listed under section 5 (3) of this 2023 Act;

(b) A county may be awarded a total of no more than \$50,000;

(c) Counties may combine and use together grant moneys that have been awarded to the counties;

(d) A county may use grant award moneys to cover:

(A) The salaries and expenses of county employees for the time the employees work on developing an energy resilience plan;

(B) The costs to hire or contract with a technical assistance provider; and

(C) Any other necessary costs as approved by the department; and

(e) The department may issue grant award moneys to a county or directly to a technical assistance provider or providers hired or contracted by the county.

(3) The department shall establish the:

(a) Application process;

(b) Eligibility criteria for awarding grants;

(c) Process of awarding grants; and

(d) Requirements for reporting on the use of grant award moneys by grantees.

(4) No later than September 15, 2025, the department shall submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to energy. The report must, at a minimum:

(a) Identify the counties that have received grants under the program and describe the status of the counties’ energy resilience plans;

(b) Identify opportunities to incorporate county energy resilience plans into a state energy resilience plan and other planning efforts; and

(c) Make recommendations for improvements to the program and investments that would improve future planning efforts. [2023 c.562 §6]

Sec. 7. Section 6 of this 2023 Act is repealed on January 2, 2026. [2023 c.562 §7]

215.150 [Amended by 1955 c.439 §8; repealed by 1963 c.619 §16]

215.160 [Repealed by 1963 c.619 §16]

215.170 Authority of cities in unincorporated area. The powers of an incorporated city to control subdivision and other partitioning of land and to rename thoroughfares in adjacent unincorporated areas shall continue unimpaired by ORS 215.010 to 215.190 and 215.402 to 215.438 until the county governing body that has jurisdiction over the area adopts regulations for controlling subdivision there. Any part of the area subject to the county regulations shall cease to be subject to the two powers of the city, unless otherwise provided in an urban growth area management agreement jointly adopted by a city and county to establish procedures for regulating land use outside the city limits and within an urban growth boundary acknowledged under ORS 197.251. [Amended by 1963 c.619 §10; 1983 c.570 §4]

215.180 [1955 c.439 §6; 1963 c.619 §11; repealed by 1977 c.766 §16]

215.185 Remedies for unlawful structures or land use. (1) In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used, in violation of an ordinance or regulation designed to implement a comprehensive plan, the governing body of the county or a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, the person shall furnish undertaking as provided in ORCP 82 A(1).

(2) The court may allow the prevailing party reasonable attorney fees and expenses in a judicial proceeding authorized by this section that involves a dwelling approved to relieve a temporary hardship. However, if the court allows the plaintiff reasonable attorney fees or expenses, such fees or expenses shall not be charged to the county if the county did not actively defend itself or the landowner in the proceeding.

(3) Nothing in this section requires the governing body of a county or a person whose interest in real property in the county is or may be affected to avail itself of a remedy allowed by this section or by any other law. [1955 c.439 §7; 1963 c.619 §12; 1977 c.766 §6; 1981 c.898 §48; 1983 c.826 §5; 2001 c.225 §1]

215.190 Violation of ordinances or regulations. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190 and 215.402 to 215.438. [1955 c.439 §9; 1963 c.619 §13]

215.200 [1957 s.s. c.11 §1; renumbered 215.285]

AGRICULTURAL LAND USE

(Exclusive Farm Use Zones)

215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as

exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.

(2)(a) As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3).

(b) As used in this subsection, “current employment” of land for farm use includes:

- (A) Farmland, the operation or use of which is subject to any farm-related government program;
- (B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of this paragraph, prior to maturity;
- (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- (F) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.255 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
- (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- (I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- (J) Any land described under ORS 321.267 (3) or 321.824 (3); and
- (K) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - (i) Only the crops of the landowner are being processed;

(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or

(iii) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

(c) As used in this subsection, “accepted farm practice” means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(d) As used in this subsection, “cultured Christmas trees” means trees:

(A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(B) Of a marketable species;

(C) Managed to meet U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation or irrigation. [1963 c.577 §2; 1963 c.619 §1(2), (3); 1967 c.386 §1; 1973 c.503 §3; 1975 c.210 §1; 1977 c.766 §7; 1977 c.893 §17a; 1979 c.480 §1; 1981 c.804 §73; 1983 c.826 §18; 1985 c.604 §2; 1987 c.305 §4; 1989 c.653 §1; 1989 c.887 §7; 1991 c.459 §344; 1991 c.714 §4; 1993 c.704 §1; 1995 c.79 §75; 1995 c.211 §1; 1997 c.862 §1; 2001 c.613 §18; 2003 c.454 §117; 2003 c.621 §67a; 2005 c.354 §1; 2007 c.739 §34; 2009 c.850 §4; 2012 c.74 §1; 2019 c.410 §3]

215.205 [1957 s.s. c.11 §2; renumbered 215.295]

215.207 [1989 c.653 §2; repealed by 1999 c.314 §94]

215.209 Department of Land Conservation and Development database; rural land maps; contents. The Department of Land Conservation and Development shall develop, in conjunction with local governments and other state agencies, a computerized database that is capable of producing county-wide maps that show the diversity of Oregon’s rural lands. The database shall include, at a minimum, information on soil classifications, forest capabilities, irrigated lands, croplands, actual farm use, and plan and zone designations. To create the database, the department shall use the most current soils information from the United States Natural Resources Conservation Service, or its successor agency, and may use any other related information that is readily available. [1999 c.1014 §3]

Note: 215.209 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.210 [Amended by 1955 c.652 §6; renumbered 215.305]

215.211 Agricultural land; detailed soils assessment; fee. (1) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the United States Natural Resources Conservation Service would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the Department of Land Conservation and Development arrange for an assessment of the capability of the land by a professional soil classifier who is:

- (a) Certified by and in good standing with the Soil Science Society of America; and
- (b) Chosen by the person.

(2) A soils assessment produced under this section is not a public record, as defined in ORS 192.311, unless the person requesting the assessment utilizes the assessment in a land use proceeding. If the person decides to utilize a soils assessment produced under this section in a land use proceeding, the person shall inform the Department of Land Conservation and Development and consent to the release by the department of certified copies of all assessments produced under this section regarding the land to the local government conducting the land use proceeding. The department:

- (a) Shall review soils assessments prepared under this section.

(b) May not disclose a soils assessment prior to its utilization in a land use proceeding as described in this subsection without written consent of the person paying the fee for the assessment.

(c) Shall release to the local government conducting a land use proceeding all soils assessments produced under this section regarding land to which the land use proceeding applies.

(3) Before arranging for a soils assessment under this section, the department shall charge and collect from the person requesting the assessment a fee in an amount intended to meet the costs of the department to assess the soils and administer this section.

(4) The department shall deposit fees collected under this section in the Soils Assessment Fund established under ORS 215.212.

(5) This section authorizes a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but this section does not otherwise affect the process by which a county determines whether land qualifies as agricultural land. [2010 c.44 §1; 2013 c.1 §22]

Note: 215.211 and 215.212 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.212 Soils Assessment Fund; purposes. The Soils Assessment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Soils Assessment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development to meet the costs of the department to assess soils under and to administer ORS 215.211. [2010 c.44 §2]

Note: See note under 215.211.

215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993; rules. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

- (a) Churches and cemeteries in conjunction with churches.

- (b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Nonresidential buildings customarily provided in conjunction with farm use.

(f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(g) 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 a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (q) of this subsection.

(j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(k) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

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

(m) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A 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.

(o) Creation, restoration or enhancement of wetlands.

(p) A winery, as described in ORS 215.452 or 215.453.

(q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS 215.291.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or 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 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 activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "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.

(u) A facility for the processing of farm products as described in ORS 215.255.

(v) Fire service facilities providing rural fire protection services.

(w) 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.

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

(A) A public right of way;

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

(C) The property to be served by the utility.

(y) 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 ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use

allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, 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.

(z) Dog training classes or testing trials, which may be conducted outdoors or in farm buildings in existence on January 1, 2019, 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.

(aa) A cider business, as described in ORS 215.451.

(bb) A farm brewery, as described in ORS 215.449.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

(d) Operations conducted for:

(A) 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 under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites,

whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447. A renewable energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

(h) 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 guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not 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 which is renewable. These facilities are 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 parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both 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.

(k)(A) Commercial dog boarding kennels; or

(B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of this section.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) 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 State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

- (n) Home occupations as provided in ORS 215.448.
- (o) Transmission towers over 200 feet in height.
- (p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
- (q) 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.
- (r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- (s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.
- (t) Room and board arrangements for a maximum of five unrelated persons in existing residences.
- (u) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with 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 the metropolitan urban growth boundary. As used in this paragraph:
 - (A) "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; and
 - (B) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
- (v) Operations for the extraction and bottling of water.
- (w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
- (x) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- (y) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.
 - (z) 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 1, 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.
- (aa) Child care facilities, preschool recorded programs or school-age recorded programs that are:
 - (A) Authorized under ORS 329A.250 to 329A.450;
 - (B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

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

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

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

(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) 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.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(11) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-

tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (11)(d) of this section.

(13) For the purposes of subsection (11) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (11) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (11) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (11)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (11) of this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities. [1963 c.577 §3; 1963 c.619 §1a; 1969 c.258 §1; 1973 c.503 §4; 1975 c.551 §1; 1975 c.552 §32; 1977 c.766 §8; 1977 c.788 §2; 1979 c.480 §6; 1979 c.773 §10; 1981 c.748 §44; 1983 c.743 §3; 1983 c.826 §6; 1983 c.827 §27b; 1985 c.544 §2; 1985 c.583 §1; 1985 c.604 §3; 1985 c.717 §5; 1985 c.811 §12; 1987 c.227 §1; 1987 c.729 §5; 1987 c.886 §9; 1989 c.224 §25; 1989 c.525 §1; 1989 c.564 §7; 1989 c.648 §59; 1989 c.739 §1; 1989 c.837 §26; 1989 c.861 §1; 1989 c.964 §10; 1991 c.459 §345; 1991 c.866 §1; 1991 c.950 §2; 1993 c.466 §1; 1993 c.469 §5; 1993 c.704 §2; 1993 c.792 §29a; 1995 c.435 §1; 1995 c.528 §1; 1997 c.249 §59; 1997 c.250 §1; 1997 c.276 §1; 1997 c.312 §1; 1997 c.318 §1; 1997 c.363 §1; 1997 c.862 §2; 1999 c.608 §1; 1999 c.640 §1; 1999 c.758 §1; 1999 c.816 §1; 1999 c.935 §20; 2001 c.149 §1; 2001 c.260 §§1,2; 2001 c.488 §1; 2001 c.613 §7; 2001 c.676 §1; 2001 c.757 §1; 2001 c.941 §1; 2003 c.247 §§1,2; 2005 c.22 §§161,162; 2005 c.150 §§1,2; 2005 c.354 §§2,3; 2005 c.609 §§24,25; 2005 c.693 §§1,2; 2007 c.71 §71; 2007 c.541 §1; 2007 c.739 §35; 2009 c.850 §1; 2011 c.459 §2; 2011 c.462 §1; 2011 c.567 §1; 2011 c.679 §7; 2012 c.74 §2; 2013 c.197 §1; 2013 c.242 §3; 2013 c.462 §§4,7; 2017 c.148 §§1,2; 2017 c.253 §§3,4; 2017 c.504 §§3,4; 2018 c.119 §§1,2; 2019 c.244 §§3,4; 2019 c.410 §§6,7; 2019 c.432 §§1,2; 2019 c.440 §6; 2019 c.650 §§5,6; 2021 c.369 §9]

215.214 [1979 c.773 §11; 1983 c.743 §4; 1983 c.826 §10; 1985 c.565 §29; 1987 c.729 §5c; repealed by 1993 c.792 §55]

215.215 Reestablishment of nonfarm use. (1) Notwithstanding ORS 215.130 (5) to (11), if a nonfarm use exists in an exclusive farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county may allow by its zoning regulations such use to be reestablished to its previous nature and extent, but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements.

(2) Consistent with ORS 215.243, the county governing body may zone for the appropriate nonfarm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the nonfarm use prior to the establishment of the exclusive farm use zone. [1977 c.664 §41; 1991 c.67 §49; 2021 c.25 §7]

215.218 Certain private hunting preserves not subject to land use approval; complaint procedures. (1) A person who owns a private hunting preserve that was licensed under ORS 497.248 on or before July 28, 2003, and that has not been submitted to the appropriate local governing body or its designee for land use approval may continue to operate the hunting preserve without local land use approval. The hunting preserve may include one sport clay station that existed on July 28, 2003, is used during the hunting season only for shooting practice in conjunction with hunting and is subordinate to the use of the land as a hunting preserve.

(2) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body or its designee, alleging that the operation of the hunting preserve has:

(a)(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Adversely affected the complainant.

(3) The local governing body or its designee shall process a complaint filed under this section in the manner described in ORS 215.296 (4) to (7). [2003 c.616 §2]

Note: 215.218 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.220 [Repealed by 1963 c.619 §16]

215.223 Procedure for adopting zoning ordinances; notice. (1) No zoning ordinance enacted by the county governing body may have legal effect unless prior to its enactment the governing body or the planning commission conducts one or more public hearings on the ordinance and unless 10 days' advance public notice of each hearing is published in a newspaper of general circulation in the county or, in case the ordinance applies to only a part of the county, is so published in that part of the county.

(2) The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television.

(3) In effecting a zone change the proceedings for which are commenced at the request of a property owner, the governing body shall in addition to other notice give individual notice of the request by mail to the record owners of property within 250 feet of the property for which a zone change has been requested. The failure of the property owner to receive the notice described shall not invalidate any zone change.

(4) Notice of a public hearing on a zone change pursuant to the application of a property owner shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the zone change application is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(5) Notwithstanding the provisions of subsection (4) of this section, notice of a zone change hearing need not be provided as set forth in subsection (4) of this section if the zone change would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Oregon Department of Aviation.

(6) The failure of an airport owner to receive notice that was mailed shall not invalidate any zone change.

(7) Before enacting at the request of a property owner an ordinance that would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the ordinance. The governing body may require an applicant for such a zone change to pay the costs of such notice. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change. [1963 c.619 §8; 1967 c.589 §3; 1985 c.473 §14; 1987 c.106 §1; 1989 c.648 §60; 1999 c.935 §21]

215.230 [Repealed by 1963 c.619 §16]

215.233 Validity of ordinances and development patterns adopted before September 2, 1963. Nothing in ORS 215.010, 215.030, 215.050, 215.060, 215.110, 215.130, 215.170, 215.185, 215.190, 215.203, 215.213 and 215.223 and this section shall impair the validity of ordinances enacted prior to September 2, 1963. All development patterns made and adopted prior to that time shall be deemed to meet the requirements of ORS 215.010, 215.030, 215.050, 215.060, 215.110, 215.130, 215.170, 215.185, 215.190, 215.203, 215.213 and 215.223 and this section concerning comprehensive plans. [1963 c.619 §14; 1971 c.13 §3; 1985 c.565 §30; 2001 c.672 §17]

215.236 Nonfarm dwelling in exclusive farm use zone; qualification for special assessment. (1) As used in this section, "dwelling" means a single-family residential dwelling not provided in conjunction with farm use.

(2) The governing body or its designee may not grant final approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is, or has been, receiving special

assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.

(3) The governing body or its designee may grant tentative approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7). An application for the establishment of a dwelling that has been tentatively approved shall be given final approval by the governing body or its designee upon receipt of evidence that the lot or parcel upon which establishment of the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.

(4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

(a) Notify the county assessor that the lot or parcel is no longer being used as farmland or for other specially assessed uses described in subsection (2) or (3) of this section;

(b) Request that the county assessor disqualify the lot or parcel from special assessment under ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

(c) Pay any additional tax imposed upon disqualification from special assessment.

(5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified pursuant to subsection (4) of this section may not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

(6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 or conservation easement special assessment under ORS 308A.450 to 308A.465 without satisfying the requirements of subsection (5) of this section.

(b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 or disqualification from conservation easement special assessment under ORS 308A.465, the lot or parcel shall be subject to the requirements of subsection (5) of this section.

(7) When the owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved notifies the county assessor that the lot or parcel is no longer being used as farmland and requests disqualification of the lot or parcel for special assessment at value for farm use, the county assessor shall:

(a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment by removing the special assessment;

(b) Provide the owner of the lot or parcel with written notice of the disqualification; and

(c) Impose the additional tax, if any, provided by statute upon disqualification.

(8) The Department of Consumer and Business Services, a building official, as defined in ORS 455.715 (1), or any other agency or official responsible for the administration and enforcement of the state building code, as defined in ORS 455.010, may not issue a building permit for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of the lot or parcel upon which the dwelling is proposed to be

constructed has paid the additional tax, if any, imposed by the county assessor under subsection (7)(c) of this section. [1981 c.748 §46; 1983 c.462 §14; 1983 c.570 §6; 1983 c.826 §23; 1985 c.717 §6; 1985 c.811 §6; 1987 c.305 §5; 1987 c.414 §147; 1991 c.459 §346; 1993 c.792 §27; 1993 c.801 §36a; 1999 c.314 §58; 2001 c.704 §7; 2003 c.454 §85; 2003 c.539 §19; 2003 c.621 §68; 2007 c.809 §13]

215.237 Events or activities conducted by winery in exclusive farm use zone or mixed farm and forest zone. If a winery sited on land zoned for exclusive farm use or mixed farm and forest use under ORS 215.452 conducts agri-tourism or other commercial events authorized in ORS 215.452 (5), the winery may not conduct agri-tourism or other commercial events or activities authorized by ORS 215.213 (11) or 215.283 (4). [2011 c.567 §3; 2013 c.554 §4]

Note: 215.237 to 215.239 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.238 Attorney fees in action for nuisance or trespass relating to agri-tourism event or activity. Notwithstanding ORS 30.938, in an action or claim for relief alleging nuisance or trespass and arising from a practice that is alleged by either party to be a farming or forest practice, the prevailing party is not entitled to judgment for reasonable attorney fees and costs incurred at trial and on appeal if:

- (1) The party owns, operates or attends an agri-tourism or other commercial event or activity authorized under ORS 215.213 (11) or 215.283 (4); and
- (2) The action or claim arises from the event or activity. [2011 c.567 §4]

Note: See note under 215.237.

215.239 Siting of agri-tourism event or activity. The uses authorized by ORS 215.213 (11) or 215.283 (4) may be allowed on lands that are planned and zoned for exclusive farm use and designated as rural reserves under ORS 197A.235 or as urban reserves under ORS 197A.245. [2011 c.567 §5]

Note: See note under 215.237.

215.240 [Repealed by 1963 c.619 §16]

215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

- (1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.
- (2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.
- (3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban

activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones. [1973 c.503 §1]

215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

(a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

(a) The tract is included within an acknowledged urban growth boundary;

(b) The tract is rezoned to a zone other than an exclusive farm use zone;

(c) The different use of the tract is a farm use as defined in ORS 215.203; or

(d) The different use of the tract is a use allowed under:

(A) ORS 215.213 (1)(b), (d) to (f), (i) to (n), (p) to (r), (u), (w) or (x);

(B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

(C) ORS 215.213 (11);

(D) ORS 215.283 (1)(b), (d), (e), (h) to (L), (n) to (p), (r), (t) or (u);

(E) ORS 215.283 (2)(a), (j), (L) or (p) to (s); or

(F) ORS 215.283 (4).

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u). [2001 c.488 §4; 2009 c.850 §5; 2011 c.567 §8; 2013 c.242 §6]

Note: 215.246 to 215.251 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.247 Transport of biosolids to tract of land for application. If biosolids are transported by vehicle to a tract on which the biosolids will be applied to the land under a license, permit or approval issued 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 ORS 468B.095, the transport and the land application are allowed outright, and a state or local government license, permit or approval in connection with the use is not a land use decision. [2001 c.488 §5]

Note: See note under 215.246.

215.249 Division of land for application of biosolids. Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land in an exclusive farm use zone for the land application of reclaimed water, agricultural or industrial process water or biosolids described in ORS 215.213 (1)(y) or 215.283 (1)(v). [2001 c.488 §6; 2009 c.850 §6]

Note: See note under 215.246.

215.250 [Repealed by 1973 c.619 §16]

215.251 Relationship to other farm uses. Nothing in ORS 215.213 (1)(y), 215.246 to 215.249 or 215.283 (1)(v) affects whether the land application of a substance not described in ORS 215.213 (1)(y), 215.246 to 215.249 or 215.283 (1)(v) is a farm use as defined in ORS 215.203. [2001 c.488 §7; 2003 c.14 §100; 2009 c.850 §7]

Note: See note under 215.246.

215.253 Restrictive local ordinances affecting farm use zones prohibited; exception.

(1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. "Farming practice" as used in this subsection shall have the meaning set out in ORS 30.930.

(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state. [1973 c.503 §8; 1983 c.826 §12; 1985 c.565 §31; 1995 c.703 §10]

215.255 Farm product processing facility; conditions. (1) As used in this section:

(a) "Biofuel" has the meaning given that term in ORS 315.141.

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

(A) Processing farm crops, including the production of biofuel, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

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

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

(2) A county may allow a facility for the processing of farm products as a permitted use under ORS 215.213 (1)(u) and ORS 215.283 (1)(r) on land zoned for exclusive farm use, only if the facility:

(a) Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards; or

(b) Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area.

(3) A county may not apply siting standards in a manner that prohibits the siting of a facility for the processing of farm products under subsection (2)(a) of this section. [2019 c.410 §2; 2023 c.81 §2]

Note: 215.255 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.260 [Amended by 1955 c.652 §3; repealed by 1957 s.s. c.11 §4 (215.261 enacted in lieu of 215.260)]

215.261 [1957 s.s. c.11 §5 (enacted in lieu of 215.260); repealed by 1963 c.619 §16]

215.262 Legislative findings related to nonfarm dwellings. The Legislative Assembly declares that the creation of small parcels for nonfarm dwellings in exclusive farm use zones introduces potential conflicts into commercial agricultural areas and allows a limited number

of nonfarm dwellings in exclusive farm use zones. To protect the state's land base for commercial agriculture from being divided into multiple parcels for nonfarm dwellings while continuing to allow a limited number of nonfarm dwellings on less productive agricultural land not suitable for farm use, it is necessary to:

(1) Limit the incremental division of lots or parcels larger than the minimum size established under ORS 215.780 into smaller lots or parcels for the purpose of creating new nonfarm dwellings; and

(2) Allow a limited number of lots or parcels equal to or less than the minimum size established under ORS 215.780 to be partitioned into not more than two parcels unsuitable for farm use and eligible for siting nonfarm dwellings under ORS 215.284. [2001 c.704 §2; 2003 c.621 §69; 2019 c.262 §2]

Note: 215.262 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.263 Land divisions in exclusive farm use zones; criteria for approval; rules. (1) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of the county in which the land is situated. The governing body of a county by ordinance shall require prior review and approval for divisions of land within exclusive farm use zones established within the county.

(2)(a) The governing body of a county or its designee may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds that:

(A) The proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area;

(B) The parcels created by the proposed division are not smaller than the minimum size established under ORS 215.780; or

(C) A portion of a lot or parcel has been included within an urban growth boundary and redesignated for urban uses under the applicable acknowledged comprehensive plan and the portion of the lot or parcel that remains outside the urban growth boundary and zoned for exclusive farm use is smaller than the minimum lot or parcel size established under ORS 215.780, subject to paragraph (b) of this subsection.

(b) When a parcel for farm use is created in an exclusive farm use zone under paragraph (a) of this subsection, the partition must occur along the urban growth boundary and:

(A) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.

(B) If the parcel does not contain a dwelling, the parcel:

(i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(ii) May not be considered in approving or denying an application for siting any other dwelling; and

(iii) May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

(3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (1)(c) or (2) or 215.283 (1)(c) or (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria

as it considers necessary. Land that is divided under this subsection pursuant to ORS 215.213 (1)(c) or 215.283 (1)(c) may not later be rezoned by the county for retail, commercial, industrial or other nonresource use, except as provided under the statewide land use planning goals or under ORS 197.732.

(4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined in ORS 215.010, the governing body of a county or its designee:

(a) May approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:

(A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

(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 size established under ORS 215.780;

(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; 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.

(b) May approve 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 ORS 215.284 (2) or (3);

(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 ORS 215.780 but equal to or larger than 40 acres;

(D) The parcels for the nonfarm dwellings are:

(i) Not capable of producing more than 50 cubic feet per acre per year of wood fiber; and

(ii) Composed of at least 90 percent Class VI through VIII soils;

(E) The parcels for the 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.

(5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

(a) May approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:

(A) The nonfarm dwellings have been approved under ORS 215.284 (7);

(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 size established under ORS 215.780;

(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; 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.

(b) May approve 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 ORS 215.284 (7);

(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 ORS 215.780 but equal to or larger than 40 acres;

(D) The parcels for the nonfarm dwellings are:

(i) Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and

(ii) 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. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level;

(E) The parcels for the 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.

(6) 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.

(7) 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.

(8) The governing body of a county may not approve any proposed division of a lot or parcel described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division that separates a facility for the processing of farm products, as defined in ORS 215.255, from the farm operation.

(9) The governing body of a county may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:

(a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

(b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).

(10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may approve a proposed division of land provided:

(A) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and

(B) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

(b) A parcel created pursuant to this subsection that does not contain a dwelling:

(A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(B) May not be considered in approving or denying an application for siting any other dwelling;

(C) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(D) May not be smaller than 25 acres unless the purpose of the land division is:

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

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

(11) The governing body of a county or its designee may approve a division of land smaller than the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone provided:

(a) The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

(b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

(c) The newly created lot or parcel is not larger than five acres; and

(d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or parcel.

(12) Notwithstanding the minimum lot or parcel size described in ORS 215.780 (1) or (2), the governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for the nonfarm uses set out in ORS 215.213 (1)(v) or 215.283 (1)(s) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.

(13) The governing body of a county may not approve a division of land for nonfarm use under subsection (3), (4), (5), (9), (10), (11) or (12) of this section unless any additional tax imposed for the change in use has been paid.

(14) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur. [1973 c.503 §9; 1977 c.766 §9; 1979 c.46 §2; 1981 c.748 §48; 1983 c.826 §7; 1985 c.544 §4; 1987 c.729 §5b; 1989 c.224 §26; 1989 c.564 §8; 1989 c.861 §3; 1991 c.459 §347; 1993 c.704 §7; 1993 c.792 §12; 1997 c.318 §2; 1997 c.550 §2; 1997 c.862 §4; 1999 c.321 §1; 1999 c.349 §1; 2001 c.544 §4; 2001 c.613 §19; 2001 c.704 §3; 2003 c.621 §70; 2009 c.850 §8; 2011 c.135 §1; 2015 c.104 §1; 2019 c.262 §1; 2019 c.410 §4]

215.265 Land divisions; limiting certain causes of action. In approving a land division under ORS 215.263 (2)(a)(C) or (10), the governing body of a county or its designee shall require as a condition of approval that the owner of any parcel not containing a dwelling sign and record in the deed records for the county where the parcel is located an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937. [1999 c.321 §3; 2001 c.704 §10; 2015 c.104 §5]

Note: 215.265 was added to and made a part of 215.203 to 215.311 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

215.270 [Repealed by 1963 c.619 §16]

215.273 Applicability to thermal energy power plant siting determinations. Nothing in ORS 215.130, 215.203, 215.213, 215.243, 215.253, 215.263, 215.273, 215.283, 215.284, 308A.050 to 308A.128 and 316.844 is intended to affect the authority of the Energy Facility Siting Council in determining suitable sites for the issuance of site certificates for thermal power plants, as authorized under ORS 469.300 to 469.563, 469.590 to 469.619 and 469.930. [1973 c.503 §16; 1983 c.740 §56; 1983 c.826 §19; 1995 c.79 §76; 1997 c.99 §20; 1999 c.314 §56; 2001 c.672 §18]

215.274 Associated transmission lines necessary for public service; criteria; mitigating impact of facility. (1) As used in this section, "associated transmission line" has the meaning given that term in ORS 469.300.

(2) An associated transmission line is necessary for public service if an applicant for approval under ORS 215.213 (1)(c)(B) or 215.283 (1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:

- (a) At least one of the requirements listed in subsection (3) of this section; or
- (b) The requirements described in subsection (4) of this section.

(3) The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

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

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

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

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

(4)(a) Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors:

- (A) Technical and engineering feasibility;

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

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

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

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

(c) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service. [2013 c.242 §2]

Note: 215.274 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility. (1) A utility facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) must 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:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned 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;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. 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.

(4) The owner of a utility facility approved under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the

siting, maintenance, repair or reconstruction of the facility. Nothing in this 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.

(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) 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.

(6) 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. [1999 c.816 §3; 2009 c.850 §9; 2013 c.242 §5]

Note: 215.275 was added to and made a part of 215.203 to 215.311 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

215.276 Required consultation for transmission lines to be located on high-value farmland. (1) As used in this section:

(a) “Consult” means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.

(b) “High-value farmland” has the meaning given that term in ORS 195.300.

(c) “Transmission line” means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

(2) If the criteria described in ORS 215.275 for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, or if the criteria described in ORS 215.274 for siting an associated transmission line are met, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider’s obligation to consult.

(3) The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. [2009 c.854 §1; 2013 c.242 §7]

Note: 215.276 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.277 Farmworker housing; compliance with agricultural land use policy required.

It is the intent of the Legislative Assembly that the provision of farmworker housing, as defined in ORS 215.278, not allow other types of dwellings not otherwise permitted in exclusive farm use zones and that farmworker housing be consistent with the intent and

purposes set forth in ORS 215.243. [1989 c.964 §9; 2001 c.613 §10; 2003 c.588 §14; 2011 c.471 §5]

215.278 Accessory dwellings for farmworkers; rules. (1) The Land Conservation and Development Commission shall revise administrative rules regarding dwellings customarily provided in conjunction with farm use to allow, under ORS 215.213 and 215.283, the establishment of accessory dwellings needed to provide opportunities for farmworker housing for individuals primarily engaged in farm use whose assistance in the management of the farm is or will be required by the farm operator on the farm unit.

(2) As used in this section:

(a) “Farm unit” means the contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.

(b) “Farmworker” means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the:

(A) Production of farm products;

(B) Planting, cultivating or harvesting of seasonal agricultural crops; or

(C) Forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(c) “Farmworker housing” means housing:

(A) Limited to occupancy by farmworkers and their immediate families; and

(B) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

(d) “Owner” means a person that owns farmworker housing. “Owner” does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

(e) “Relative” means:

(A) A spouse of the owner or operator; and

(B) An ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator. [2001 c.613 §6; 2011 c.471 §6]

Note: The amendments to 215.278 by section 3, chapter 533, Oregon Laws 2023, become operative July 1, 2025. See section 4, chapter 533, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user’s convenience.

215.278. (1) The Land Conservation and Development Commission shall revise administrative rules regarding dwellings customarily provided in conjunction with farm use to allow, under ORS 215.213 and 215.283, the establishment of accessory dwellings needed to provide opportunities for farmworker housing for individuals primarily engaged in farm use whose assistance in the management of the farm is or will be required by the farm operator on the farm unit.

(2) County land use regulations may not establish standards for accessory farmworker housing that are in addition to those required under this chapter or commission rules unless the standards are clear and objective.

(3) As used in this section:

(a) “Farm unit” means the contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.

(b) “Farmworker” means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the:

- (A) Production of farm products;
- (B) Planting, cultivating or harvesting of seasonal agricultural crops; or
- (C) Forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(c) "Farmworker housing" means housing:

- (A) Limited to occupancy by farmworkers and their immediate families; and
- (B) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

(d) "Owner" means a person that owns farmworker housing. "Owner" does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

(e) "Relative" means:

- (A) A spouse of the owner or operator; and
- (B) An ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

Note: 215.278 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.279 Farm income standard for dwelling in conjunction with farm use. In any rule adopted by the Land Conservation and Development Commission that establishes a farm income standard to determine whether a dwelling is customarily provided in conjunction with farm use on a tract, the commission shall allow a farm operator to satisfy the income standard by earning the required amount or more of farm income on the tract:

- (1) In at least three of the last five years;
- (2) In each of the last two years; or
- (3) Based on the average farm income earned on the tract in the best three of the last five years. [2011 c.459 §1]

Note: 215.279 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.280 [Repealed by 1963 c.619 §16]

215.281 Legislative findings related to dwellings in conjunction with commercial dairy farm. The Legislative Assembly finds that:

- (1) Dairies and dairying are an important part of Oregon agriculture and make a significant contribution to the state and local economies;
- (2) Dairies require continuous on-site labor to operate the dairy and to protect the significant investment in milking and waste disposal facilities, equipment and livestock necessary to operate a commercial dairy; and
- (3) Dairies require more on-site housing than other types of farms because of the year-round labor-intensive nature of a dairy operation and justify different standards for the review of a primary or accessory dwelling customarily provided in conjunction with a commercial dairy farm under ORS 215.213 and 215.283. [2001 c.149 §4]

Note: 215.281 and 215.282 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.282 Dwellings in conjunction with commercial dairy farm; rules. The Land Conservation and Development Commission shall consider the findings of ORS 215.281 and adopt rules that provide standards for the review of a primary or accessory dwelling customarily provided in conjunction with a commercial dairy farm. Notwithstanding any other administrative rule establishing a gross farm income standard, the rules adopted under this section shall allow the siting of a dwelling on a commercial dairy farm prior to the dairy earning any gross farm income. [2001 c.149 §5]

Note: See note under 215.281.

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules. (1) The following uses may be established in any area zoned for exclusive farm use:

- (a) Churches and cemeteries in conjunction with churches.
- (b) The propagation or harvesting of a forest product.
- (c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:
 - (A) ORS 215.275; or
 - (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.
- (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.
- (e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.
- (f) 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 a basis for an exception under ORS 197.732 (2)(a) or (b).
- (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).
- (h) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(i) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

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

(k) Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(L) A 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.

(m) Creation, restoration or enhancement of wetlands.

(n) A winery, as described in ORS 215.452 or 215.453.

(o) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or 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 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 activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS 215.291.

(q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "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.

(r) A facility for the processing of farm products as described in ORS 215.255.

(s) Fire service facilities providing rural fire protection services.

(t) 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.

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

(A) A public right of way;

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

(C) The property to be served by the utility.

(v) 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 ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, 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.

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

(x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting farm buildings, 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.

(y) A cider business, as described in ORS 215.451.

(z) A farm brewery, as described in ORS 215.449.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

(b) Operations conducted for:

(A) 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 under subsection (1)(f) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(e) Community centers owned by a governmental agency or a nonprofit community 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 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(f) Golf courses on land:

(A) Determined not to be high-value farmland, as defined in ORS 195.300 (10); or

(B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:

(i) Is not otherwise described in ORS 195.300 (10);

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

(iii) Is west of U.S. Highway 101.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447. A renewable energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

(h) 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 guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) Home occupations as provided in ORS 215.448.

(j) A facility for the primary processing of forest products, provided that such facility is found to not 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 which is renewable. These facilities are 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 parcel of land or contiguous land where the primary processing facility is located.

(k) A site for the disposal of solid waste approved by the governing body of a city or county or both 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.

(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed

or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under subsection (1)(p) of this section.

(m) Transmission towers over 200 feet in height.

(n)(A) Commercial dog boarding kennels; or

(B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of this section.

(o) Residential homes as defined in ORS 197.660, in existing dwellings.

(p) 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 State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(q) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(r) 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.

(s) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(t) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(u) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(v) Operations for the extraction and bottling of water.

(w) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(x) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with 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. As used in this paragraph:

(A) "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; and

(B) "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.

(y) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(z) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in

conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(aa) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

(bb) 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 1, 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.

(cc) Guest ranches in eastern Oregon, as described in ORS 215.461.

(dd) Child care facilities, preschool recorded programs or school-age recorded programs that are:

(A) Authorized under ORS 329A.250 to 329A.450;

(B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.

(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(4) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4)(d) of this section.

(6) For the purposes of subsection (4) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (4) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (4) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (4)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (4)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (4) of this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities. [1983 c.826 §17; 1985 c.544 §3; 1985 c.583 §2; 1985 c.604 §4; 1985 c.717 §7; 1985 c.811 §7; 1987 c.227 §2; 1987 c.729 §5a; 1987 c.886 §10; 1989 c.224 §27; 1989 c.525 §2; 1989 c.564 §9; 1989 c.648 §61; 1989 c.739 §2; 1989 c.837 §27; 1989 c.861 §2; 1989 c.964 §11; 1991 c.459 §348; 1991 c.950 §1; 1993 c.466 §2; 1993 c.704 §3; 1993 c.792 §14; subsections (3) to (8) renumbered 215.284 in 1993; 1995 c.528 §2; 1997 c.250 §2; 1997 c.276 §2; 1997 c.312 §2; 1997 c.318 §3; 1997 c.363 §2; 1997 c.862 §3; 1999 c.320 §1; 1999 c.608 §2; 1999 c.640 §2; 1999 c.756 §§14a,14b; 1999 c.758 §2; 1999 c.816 §2; 1999 c.935 §22; 2001 c.149 §§2,3; 2001 c.488 §§2,3; 2001 c.544 §§1,2; 2001 c.613 §§8,9; 2001 c.676 §§2,3; 2001 c.757 §§2,3; 2001 c.941 §§2,3; 2003 c.247 §3; 2005 c.22 §163; 2005 c.354 §4; 2005 c.609 §26; 2005 c.625 §76; 2005 c.693 §3; 2005 c.737 §1; 2007 c.71 §72; 2007 c.541 §2; 2007 c.739 §36; 2009 c.850 §2; 2011 c.459 §3; 2011 c.462 §2; 2011 c.567 §2; 2011 c.679 §8; 2012 c.74 §3; 2013 c.197 §2; 2013 c.242 §4; 2013 c.462 §§5,8; 2017 c.148

§§3,4; 2017 c.253 §§5,6; 2017 c.393 §§1,2; 2017 c.504 §§5,6; 2018 c.119 §§3,4; 2019 c.244 §§5,6; 2019 c.270 §§3,4; 2019 c.410 §§8,9; 2019 c.440 §7; 2019 c.650 §§7,8; 2021 c.369 §10]

215.284 Dwelling not in conjunction with farm use; existing lots or parcels; new lots or parcels. (1) In the Willamette Valley, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding 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 that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(2) In counties not described in subsection (1) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding 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 is situated upon a lot or parcel or portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel may 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;

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(3) In counties in western Oregon, as defined in ORS 321.257, not described in subsection (4) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding 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 is situated upon a lot or parcel or portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel may 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;

(c) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263 (4);

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(4)(a) In the Willamette Valley, a lot or parcel allowed under paragraph (b) of this subsection for a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through Class VIII soils; and

(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber.

(b) Any parcel to be created for a dwelling from the originating lot or parcel described in paragraph (a) of this subsection will not be smaller than 20 acres.

(c) The dwelling or activities associated with the dwelling allowed under this subsection 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.

(d) The dwelling allowed under this subsection will not materially alter the stability of the overall land use pattern of the area.

(e) The dwelling allowed under this subsection complies with such other conditions as the governing body or its designee considers necessary.

(5) 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.

(6) If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to 215.750, no additional dwelling may later be sited under subsection (1), (2), (3), (4) or (7) of this section.

(7) In counties in eastern Oregon, as defined in ORS 321.805, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to the approval of the county governing body or its designee, in any area zoned for exclusive farm use upon a finding 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 after January 1, 1993, as allowed under ORS 215.263 (5);

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(d) The dwelling complies with such other conditions as the governing body or its designee considers necessary. [Formerly subsections (3) to (8) of 215.283; 2001 c.704 §4; 2003 c.621 §71; 2015 c.27 §24]

215.285 [Formerly 215.200; repealed by 1971 c.13 §1]

215.288 [1983 c.826 §16; 1985 c.565 §33; 1985 c.811 §8; repealed by 1993 c.792 §55]

215.290 [Repealed by 1963 c.619 §16]

215.291 Alteration, restoration or replacement of lawfully established dwelling; conditions; siting; deferral. (1) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213 (1)(q), 215.283 (1)(p) or 215.755 (1) if the county determines that the dwelling to be altered, restored or replaced:

(a) 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; and

(b)(A) Unless the value of the dwelling was eliminated as a result of destruction or demolition, 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; or

(B) If the value of the dwelling was eliminated as a result of destruction or demolition, 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; or

(ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.

(2) 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 replacement dwelling:

(A) May be sited on any part of the same lot or parcel.

(B) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

(C) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

(i) 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

(ii) No statewide map of wildfire risk has been adopted.

(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 this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(3) The county planning director, or the 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 (2) of this

section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.

(4) If an applicant is granted a deferred replacement permit under this section:

(a) The deferred replacement permit:

(A) 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

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

(b) The 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.

(5) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (1)(a) of this section.

(6) 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. [2013 c.462 §2; 2019 c.440 §§1,5; 2023 c.301 §3]

Note: 215.291 was added to and made a part of 215.203 to 215.311 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

215.293 Dwelling in exclusive farm use or forest zone; condition; declaration; recordation. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [1983 c.826 §11; 1995 c.703 §11]

215.294 Railroad facilities handling materials regulated under ORS chapter 459 or 466. (1) In addition to the nonfarm uses that may be established under ORS 215.283 (2), and subject to the approval of the governing body or its designate in any area zoned for exclusive farm use subject to ORS 215.296, the use of existing railroad loading and unloading facilities authorized to unload materials regulated under ORS chapter 459 and the expansion of such facilities by no greater than 30 percent, for the unloading of materials regulated under ORS chapter 466 for transfer to a facility permitted to dispose of materials regulated under ORS chapter 466, may be allowed.

(2) A permit for a use allowed under subsection (1) of this section must be applied for no later than December 31, 1993.

(3) A county shall allow an application for a permit authorizing the use allowed under this section prior to the adoption of amendments to the comprehensive plan or land use regulations. [1993 c.530 §1]

215.295 [Formerly 215.205; repealed by 1971 c.13 §1]

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS

215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body or its designee alleging:

(a) That a condition imposed pursuant to subsection (2) of this section has been violated;

(b) That the violation has:

(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(c) That the complainant is adversely affected by the violation.

(4) Upon receipt of a complaint filed under this section or ORS 215.218, the local governing body or its designee shall:

(a) Forward the complaint to the operator of the use;

(b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

(c) Determine whether the allegations made in a complaint filed under this section or ORS 215.218 are true.

(5) Upon a determination that the allegations made in a complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.

(6) If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a second complaint that a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.

(7) If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.

(8) If a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) is initiated without prior approval pursuant to subsection (1) of this section, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (4) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the

violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.

(9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses conducted within:

(A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705;

(B) An exception area approved under ORS 197.732; or

(C) An acknowledged urban growth boundary.

(b) A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (3) of this section.

(10) This section does not prevent a local governing body approving a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) from establishing standards in addition to those set forth in subsection (1) of this section or from imposing conditions to ensure conformance with the additional standards. [1989 c.861 §6; 1993 c.792 §15; 2001 c.704 §8; 2003 c.616 §3; 2011 c.567 §9]

215.297 Verifying continuity for approval of certain uses in exclusive farm use zones.

(1) As part of the conditional use approval process under ORS 215.296, for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213 (2)(w) or 215.283 (2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies.

(2) A use authorized in ORS 215.213 (2)(w) or 215.283 (2)(y) may be altered, restored or replaced pursuant to ORS 215.130 (5) to (11). [2003 c.247 §4; 2021 c.25 §8]

Note: 215.297 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.298 Mining in exclusive farm use zone; land use permit. (1) As used in this section and ORS 215.213 (2) and 215.283 (2):

(a) "Impact area" means an area extending 1,500 feet in any direction from the area of a proposed mining site or the farthest point from the proposed mining site where a significant conflict exists, whichever is greater, excluding from the area of the proposed mining site any undisturbed buffer areas or areas on a parcel where mining is not authorized.

(b)(A) "Mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.

(B) "Mining" does not include excavations of sand, gravel, clay, rock or similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

(c) “Significant mineral resource site” means a proposed mining site, other than a site for the mining of aggregate, that is located at least one mile outside the border of the nearest incorporated city and that either:

(A) Has an estimated quantity of gold, silver or other precious minerals proposed for mining of 500,000 ounces or more and will create 75 or more full-time mining-associated jobs, including but not limited to site construction, mining, operations management, processing, hauling and reclamation; or

(B) Will create 100 or more full-time mining-associated jobs, including but not limited to site construction, mining, operations management, processing, hauling and reclamation.

(2)(a) Except as provided in subsection (3) of this section, for purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A county may set standards for a lower volume or smaller surface area than that set forth in this subsection.

(b) A permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.

(3) Notwithstanding any contrary provision of ORS 215.283 (2), county approval of an application for a land use permit under ORS 215.283 (2)(b) for mining or excavation preparatory to mining of a significant mineral resource site on land zoned for exclusive farm use that is located in Baker County, Grant County, Harney County, Lake County, Malheur County, Union County or Wallowa County is not subject to:

(a) The provisions of ORS 215.296; or

(b) Except as provided in subsection (4) of this section, any statewide land use planning goal or any administrative rule relating to land use.

(4) A county shall deny an application for a land use permit described in subsection (3) of this section if the county determines that the use will conflict with an administrative rule adopted for the purpose of implementing the Oregon Sage-Grouse Action Plan and Executive Order 15-18.

(5) A county shall deny an application for a land use permit described in subsection (3) of this section only if:

(a) The county determines, based on clear and objective standards, that the proposed use will create:

(A) A significant conflict with local road capacity, sight distances, horizontal or vertical alignment and cross section elements;

(B) A significant safety conflict with existing public airports due to bird attractants; or

(C) A significant health or safety conflict with existing residential uses within the boundaries of the impact area of the proposed use; and

(b) The county determines that the conflict identified in paragraph (a) of this subsection cannot be minimized through the imposition of reasonable and practicable mitigation measures as conditions of approval.

(6) For purposes of a county determination described in subsection (5) of this section, the county shall determine the impact area of the proposed use. [1989 c.861 §7; 2017 c.736 §1]

215.299 Policy on mining resource lands. (1) The Legislative Assembly finds that:

(a) The extraction of aggregate, other minerals and other subsurface resources is an essential contribution to Oregon’s economic well-being.

(b) Oregon has an economic and social interest in locating and providing affordable aggregate, other minerals and other subsurface resources in close proximity to the end user of

the materials.

(c) Oregon has an interest in balancing competing land use demands for lands identified as farmlands or forestlands in a manner that protects the economic viability of mining and other resource uses.

(d) To balance competing resource uses, Oregon has an interest in providing significant volumes of high-quality aggregate, other minerals and other subsurface resources that are critical to building Oregon's communities and infrastructure while preserving farmland for agricultural production.

(2) The Legislative Assembly declares that:

(a) High-value farmland composed predominantly of Class I and Class II soils in the Willamette Valley should not be available for mining unless there is a significant volume of high-quality aggregate and other minerals and other subsurface resources available for extraction.

(b) State agencies and local governments should balance competing resource uses and not restrict the removal of the full depth of aggregate unless public health and safety concerns necessitate the restriction of mining activity. [2013 c.706 §1]

Note: 215.299 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.300 [Repealed by 1963 c.619 §16]

215.301 Blending materials for cement prohibited near vineyards; exception. (1)

Notwithstanding the provisions of ORS 215.213, 215.283 and 215.284, no application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard.

(2) Nothing in this chapter shall be construed to apply to operations for batching and blending of mineral and aggregate under a local land use approval on October 3, 1989, or a subsequent renewal of an existing approval.

(3) Nothing in ORS 215.213, 215.263, 215.283, 215.284, 215.296 or 215.298 shall be construed to apply to a use allowed under ORS 215.213 (2) or 215.283 (2) and approved by a local governing body on October 3, 1989, or a subsequent renewal of an existing approval. [1989 c.861 §§4,5]

215.303 [1989 c.861 §8; repealed by 1993 c.792 §55]

215.304 Rule adoption; limitations. (1) The Land Conservation and Development Commission shall not adopt or implement any rule to identify or designate small-scale farmland or secondary land.

(2) Amendments required to conform rules to the provisions of subsection (1) of this section and ORS 215.700 to 215.780 shall be adopted by March 1, 1994.

(3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700 to 215.780 on March 1, 1994:

(a) Shall not be implemented or enforced; and

(b) Has no legal effect.

(4) Notwithstanding subsection (3) of this section, the uses authorized by ORS 215.283 (1) (x) or (2)(n) may be established on land in exclusive farm use zones, including high-value farmland. [1993 c.792 §28; 2001 c.672 §19; 2012 c.74 §4]

215.305 [Formerly 215.210; repealed by 1971 c.13 §1]

215.306 Conducting filming activities in exclusive farm use zones. (1) The limitations on uses made of land in exclusive farm use zones described in ORS 215.213, 215.283, 215.284 and 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to activities described in this section.

(2) The provisions of this section do not affect the eligibility of a zone for special assessment as provided in ORS 308A.050 to 308A.128.

(3)(a) On-site filming and activities accessory to on-site filming may be conducted in any area zoned for exclusive farm use without prior approval of local government but subject to ORS 30.930 to 30.947.

(b) Notwithstanding paragraph (a) of this subsection, on-site filming and activities accessory to on-site filming that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days may be conducted only upon approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296. In addition to other activities described in subsection (4) of this section, these activities may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities. Temporary facilities may be used as temporary housing for security personnel.

(4) For purposes of this section, “on-site filming and activities accessory to on-site filming”:

(a) Includes:

(A) Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming.

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

(b) Does not include:

(A) Facilities for marketing, editing and other such activities that are allowed only as a home occupation; or

(B) Construction of new structures that requires a building permit.

(5) A decision of local government issuing any permits necessary for activities under subsection (3)(a) of this section is not a land use decision. [1995 c.722 §1; 1997 c.550 §3; 1999 c.314 §59; 2001 c.672 §20]

215.310 [Repealed by 1971 c.13 §1]

215.311 Log truck parking in exclusive farm use zones; dump truck parking in forest zones or mixed farm and forest zones. (1) The limitations on uses of land in exclusive farm use zones described in ORS 215.283, 215.284 and 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to log truck parking under this section.

(2) The provisions of this section do not affect the eligibility of a zone for special assessment as provided in ORS 308A.050 to 308A.128.

(3) Notwithstanding any other provision of law except for health and safety provisions, parking no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local government determines that log truck parking on a lot or parcel will:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(4) The limitations on uses of land zoned for forest use or mixed farm and forest use described in ORS 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to dump truck parking under this section.

(5) The provisions of this section do not affect the eligibility of land for special assessment as provided in ORS 308A.250 to 308A.259, 308A.300 to 308A.330, 308A.350 to 308A.383, 308A.403 to 308A.430 or 308A.450 to 308A.465.

(6) Notwithstanding any other provision of law except for health and safety provisions, parking up to seven dump trucks and up to seven trailers is allowed on land zoned for forest use or mixed farm and forest use unless the local government determines that dump truck parking on a lot or parcel will:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. [1995 c.799 §1; 1999 c.314 §60; 2001 c.672 §21; 2011 c.629 §4]

215.312 Public safety training facility. (1) As used in this section, “public safety training facility” or “facility” means one or more improvements established by Portland Community College in support of curriculum focused on public safety training or education, including public safety response to an emergency, as defined in ORS 401.025.

(2) In addition to the nonfarm uses that may be established in an area zoned for exclusive farm use under ORS 215.283 (1), Portland Community College may establish a public safety training facility as an outright permitted use on up to 300 acres of land in an area zoned for exclusive farm use, notwithstanding:

(a) The statewide land use planning goals and administrative rules adopted by the Land Conservation and Development Commission.

(b) The minimum lot or parcel size under ORS 215.780.

(3) Portland Community College may establish the public safety training facility jointly in cooperation with one or more other public bodies, as defined in ORS 174.109.

(4) Portland Community College shall:

(a) Use the public safety training facility to support curriculum focused on public safety training and education; and

(b) Make the facility available for use by other public bodies for public safety training or education of public safety personnel, as defined in ORS 181A.355, and other providers of emergency services, as defined in ORS 401.025.

(5) A public safety training facility authorized by this section:

(a) Must be sited on land that is within a community college district in Columbia County.

(b) May not be established unless Portland Community College applies for land use approval of the facility on or before December 31, 2015.

(6) When making decisions approving the public safety training facility authorized by this section, the local government:

(a) Shall apply only those procedural provisions and objective development standards of its land use regulations that apply to uses permitted outright under ORS 215.283 (1).

(b) Is not required to amend the acknowledged comprehensive plan or land use regulations to implement this section.

(7) Before approving the public safety training facility authorized by this section, the local government shall hold at least one public hearing and allow interested persons to testify regarding the location of the facility.

(8) A decision made by the local government to approve the public safety training facility authorized by this section is not:

(a) A land use decision or a limited land use decision, as those terms are defined in ORS 197.015; and

(b) Subject to review by the Land Use Board of Appeals under ORS 197.805 to 197.855. [2013 c.725 §3]

Note: 215.312 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Marginal Lands)

215.316 Termination of adoption of marginal lands. (1) Unless a county applies the provisions of ORS 215.705 to 215.730 to land zoned for exclusive farm use, a county that adopted marginal lands provisions under ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) may continue to apply those provisions. After January 1, 1993, no county may adopt marginal lands provisions.

(2) If a county that had adopted marginal lands provisions before January 1, 1993, subsequently sites a dwelling under ORS 215.705 to 215.750 on land zoned for exclusive farm use, the county shall not later apply marginal lands provisions, including those set forth in ORS 215.213, to lots or parcels other than those to which the county applied the marginal lands provisions before the county sited a dwelling under ORS 215.705 to 215.750. [1993 c.792 §29]

215.317 Permitted uses on marginal land. (1) A county may allow the following uses to be established on land designated as marginal land under ORS 197.247 (1991 Edition):

(a) Intensive farm or forest operations, including but not limited to “farm use” as defined in ORS 215.203.

(b) Part-time farms.

(c) Woodlots.

(d) One single-family dwelling on a lot or parcel created under ORS 215.327 (1) or (2).

(e) One single-family dwelling on a lot or parcel of any size if the lot or parcel was created before July 1, 1983, subject to subsection (2) of this section.

(f) The nonresidential uses authorized in exclusive farm use zones under ORS 215.213 (1) and (2).

(g) One manufactured dwelling or recreational vehicle in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(2) If a lot or parcel described in subsection (1)(e) of this section is located within the Willamette River Greenway, a floodplain or a geological hazard area, approval of a single-family dwelling shall be subject to local ordinances relating to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable. [1983 c.826 §3; 1989 c.648 §62; 1993 c.792 §24; 1997 c.249 §60; 1999 c.640 §3]

215.320 [Repealed by 1971 c.13 §1]

215.325 [1953 c.662 §6; 1963 c.9 §4; repealed by 1971 c.13 §1]

215.327 Divisions of marginal land. A county may allow the following divisions of marginal land:

(1) Divisions of land to create a parcel or lot containing 10 or more acres if the lot or parcel is not adjacent to land zoned for exclusive farm use or forest use or, if it is adjacent to such land, the land qualifies for designation as marginal land under ORS 197.247 (1991 Edition).

(2) Divisions of land to create a lot or parcel containing 20 or more acres if the lot or parcel is adjacent to land zoned for exclusive farm use and that land does not qualify for designation as marginal land under ORS 197.247 (1991 Edition).

(3) Divisions of land to create a parcel or lot necessary for those uses authorized by ORS 215.317 (1)(f). [1983 c.826 §4; 1993 c.792 §25]

215.330 [Repealed by 1971 c.13 §1]

215.337 [1983 c.826 §4a; repealed by 1993 c.792 §55]

215.340 [Repealed by 1971 c.13 §1]

215.350 [Amended by 1953 c.662 §7; repealed by 1971 c.13 §1]

215.360 [Amended by 1953 c.662 §7; subsection (2) enacted as 1953 c.662 §1; repealed by 1971 c.13 §1]

215.370 [Repealed by 1971 c.13 §1]

215.380 [Amended by 1955 c.652 §4; repealed by 1971 c.13 §1]

215.390 [Repealed by 1971 c.13 §1]

215.395 [1953 c.662 §3; 1955 c.652 §5; repealed by 1971 c.13 §1]

215.398 [1955 c.652 §2; repealed by 1971 c.13 §1]

215.400 [Repealed by 1971 c.13 §1]

PLANNING AND ZONING HEARINGS AND REVIEW

215.401 Preapplication process for land use approval of disposal site for composting.

(1) As used in this section:

- (a) "Compost" has the meaning given that term in ORS 459.005.
- (b) "Disposal site" has the meaning given that term in ORS 459.005.
- (c) "Local government" has the meaning given that term in ORS 174.116.

(2) Before an applicant may submit an application under ORS 215.402 to 215.438 for land use approval to establish or modify a disposal site for composting that requires a permit issued by the Department of Environmental Quality, as provided in subsection (3) of this section, the applicant shall:

(a) Request and attend a preapplication conference described in subsections (4) to (6) of this section; and

(b) Hold a preapplication community meeting described in subsections (7) to (9) of this section.

(3) Subsection (2) of this section applies to an application to:

(a) Establish a disposal site for composting that sells, or offers for sale, resulting product;

or

(b) Allow an existing disposal site for composting that sells, or offers for sale, resulting product to:

(A) Accept as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste; or

(B) Increase the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

(4) During the preapplication conference:

(a) The applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

(b) The county with land use jurisdiction over the proposed disposal site for composting and the other representatives described in subsection (5) of this section shall inform the applicant of permitting requirements to establish and operate the proposed disposal site for composting and provide all application materials to the applicant.

(5) The applicant shall submit a written request to the county with land use jurisdiction to request a preapplication conference. A representative of the planning department of the county and a representative of the Department of Environmental Quality shall attend the conference along with representatives, as determined necessary by the county, of the following entities:

(a) Any other state agency or local government that has authority to approve or deny a permit, license or other certification required to establish or operate the proposed disposal site for composting.

(b) A state agency, a local government or a private entity that provides or would provide to the proposed disposal site for composting one or more of the following:

(A) Water systems.

(B) Wastewater collection and treatment systems, including storm drainage systems.

(C) Transportation systems or transit services.

(c) A city or county with territory within its boundaries that may be affected by the proposed disposal site for composting.

(d) The Department of Land Conservation and Development.

(e) The State Department of Agriculture.

(6) The county with land use jurisdiction may use preapplication procedures, if any, in the acknowledged land use regulations of the county, consistent with the requirements that the

county shall:

(a) Provide notice of the preapplication conference to the entities described in subsection (5) of this section by mail and, as appropriate, in any other manner that ensures adequate notice and opportunity to participate;

(b) Hold the preapplication conference at least 20 days and not more than 40 days after receipt of the applicant's written request; and

(c) Provide preapplication notes to each attendee of the conference and the other entities described in subsection (5) of this section for which a representative does not attend the preapplication conference.

(7) After the preapplication conference and before submitting the application for land use approval, the applicant shall:

(a) Hold a community meeting within 60 days after the preapplication conference:

(A) In a public location in the county with land use jurisdiction; and

(B) On a business day, or Saturday, that is not a holiday, with a start time between the hours of 6 p.m. and 8 p.m.

(b) Provide notice of the community meeting to:

(A) The owners of record, on the most recent property tax assessment roll, of real property located within one-half mile of the real property on which the proposed disposal site for composting would be located;

(B) The resident or occupant that receives mail at the mailing address of the real property described in subparagraph (A) of this paragraph if the mailing address of the owner of record is not the mailing address of the real property;

(C) Neighborhood and community organizations recognized by the governing body of the county if a boundary of the organization is within one-half mile of the proposed disposal site for composting;

(D) A newspaper that meets the requirements of ORS 193.020 for publication;

(E) Local media in a press release; and

(F) The entities described in subsection (5) of this section.

(8) During the community meeting, the applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

(9) The applicant's notice provided under subsection (7)(b) of this section must include:

(a) A brief description of the proposed disposal site for composting;

(b) The address of the location of the community meeting; and

(c) The date and time of the community meeting. [2013 c.524 §1]

Note: 215.401 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.402 Definitions for ORS 215.402 to 215.438 and 215.700 to 215.780. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:

(1) "Contested case" means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) "Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS 197.360. [1973 c.552 §12; 1977 c.654 §1; 1981 c.748 §49; 1991 c.817 §8; 1995 c.79 §77; 1995 c.595 §12; 2001 c.672 §15; 2015 c.260 §4]

215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings. (1) A county governing body may authorize appointment of one or more planning and zoning hearings officers, to serve at the pleasure of the appointing authority. The hearings officer shall conduct hearings on applications for such classes of permits and contested cases as the county governing body designates.

(2) In the absence of a hearings officer a planning commission or the governing body may serve as hearings officer with all the powers and duties of a hearings officer. [1973 c.552 §13; 1977 c.766 §10]

215.410 [Repealed by 1971 c.13 §1]

215.412 Adoption of hearing procedure and rules. (1) The governing body of a county by ordinance or order shall adopt one or more procedures for the conduct of hearings.

(2) The governing body of a county by ordinance or order shall adopt rules stating that all decisions made by the governing body will be based on factual information, including adopted comprehensive plans and land use regulations. [1973 c.552 §14; 1977 c.766 §11; 1997 c.452 §2]

215.415 [1953 c.662 §5; repealed by 1971 c.13 §1]

215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The

governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A county may not approve an application if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197A.400 (2); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197A.400 (3).

(c) A county may not condition an application for a housing development on a reduction in density if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not condition an application for a housing development on a reduction in height if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may condition an application for a housing development on a reduction in density or height only if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the county must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.797.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a “public use airport” if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an “instrument airport.”

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway “approach surface” as defined by the Oregon Department of Aviation.

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(b) When an ordinance establishing approval standards is required under ORS 197A.200 and 197A.400 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial shall be given to all parties to the proceeding.

(11)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.797 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county’s land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.797 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.797 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(14) Notwithstanding the requirements of this section, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828. [1973 c.552 §§15, 16; 1977 c.654 §2; 1977 c.766 §12; 1979 c.772 §10a; 1983 c.827 §20; 1987 c.106 §2; 1987 c.729 §17; 1991 c.612 §20; 1991 c.817 §5; 1995 c.595 §27; 1995 c.692 §1; 1997 c.844 §4; 1999 c.357 §2; 1999 c.621 §1; 1999 c.935 §23; 2001 c.397 §1; 2017 c.745 §2; 2019 c.640 §17]

215.417 Time to act under certain approved permits; extension. (1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

(2) An extension of a permit described in subsection (1) of this section is valid for two years. A county may approve no more than five additional one-year extensions of a permit if:

(a) The applicant makes a written request for the additional extension prior to the expiration of an extension;

(b) The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019; and

(c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(3) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015.

(4) As used in this section, “residential development” means dwellings provided for under ORS 215.213 (1)(q), (3) and (4), 215.283 (1)(p), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3). [2001 c.532 §2; 2009 c.850 §10; 2013 c.462 §§6,9; 2019 c.432 §§3,3a,4,4a]

215.418 Approval of development on wetlands; notice. (1) After the Department of State Lands has provided the county with a copy of the applicable portions of the Statewide Wetlands Inventory, the county shall provide notice to the department, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory:

(a) Subdivisions;

(b) Building permits for new structures;

(c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;

(d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and

(e) Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the department has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

(a) Issuance of a permit under ORS 196.665 and 196.800 to 196.900 by the department required for the project before any physical alteration takes place within the wetlands;

(b) Notice from the department that no permit is required; or

(c) Notice from the department that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the department fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the county approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The county may issue local approval for parcels identified as or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the department with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the department within five days following local approval.

(7) Failure by the county to provide notice as required in this section will not invalidate county approval. [1989 c.837 §29; 1991 c.763 §24]

(Temporary provisions relating to wetlands in Tillamook County)

Note: Sections 1 to 8, chapter 84, Oregon Laws 2016, provide:

Sec. 1. Sections 2 to 6 of this 2016 Act are added to and made a part of ORS chapter 215. [2016 c.84 §1]

Sec. 2. Legislative findings. The Legislative Assembly finds and declares that Tillamook County experiences unique challenges related to the creation, restoration or enhancement of wetlands on lands zoned for exclusive farm use, including regularly occurring and devastating flood events and landowner conflicts. It is therefore in the public interest to establish a pilot program in Tillamook County that applies conditional use review for the creation, restoration or enhancement of wetlands on lands zoned for exclusive farm use, and that incorporates a means for stakeholders to engage in a collaborative process for ensuring the protection and enhancement of agricultural land uses and wetlands. [2016 c.84 §2]

Sec. 3. Definitions. As used in sections 2 to 6 of this 2016 Act:

(1) “Mitigation bank” has the meaning given that term in ORS 196.600.

(2) “Permit” has the meaning given that term in ORS 215.402.

(3) “Reclamation” has the meaning given that term in ORS 517.750.

(4) “Riparian area” means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, in which existing or potential elements of the soil-vegetation complex are influenced by the surface or subsurface water that the zone is dependent upon.

(5) “Surface mining” has the meaning given that term in ORS 517.750.

(6) “Wetlands” has the meaning given that term in ORS 196.800. [2016 c.84 §3]

Sec. 4. Pilot program for reviewing creation, restoration or enhancement of wetlands in exclusive farm use zones. (1) Notwithstanding ORS 215.283 (1)(m), the governing body of Tillamook County may, by ordinance or regulation, adopt a pilot program for reviewing, subject to ORS 215.296, the creation, restoration or enhancement of wetlands in any area zoned for exclusive farm use.

(2) Notwithstanding ORS 215.296 (10), ordinances or regulations adopted by the governing body under the pilot program may not establish standards in addition to the standards described in ORS 215.296 (1) for approving the creation, restoration or enhancement of wetlands in areas zoned for exclusive farm use.

(3) Notwithstanding any contrary provision of ORS 215.416, the ordinances or regulations adopted as part of the pilot program shall provide for a mechanism by which, upon request by the applicant and prior to the approval or denial of a permit under the procedures required by ORS 215.402 to 215.438, the following parties may enter into a project-specific collaborative process for settling disputes concerning the application:

- (a) The applicant;
- (b) Any person whose use of the person's property may be adversely affected by the proposed use;
- (c) Any person who is entitled to notice under ORS 215.416 (11)(c);
- (d) Representatives of any state or federal agency that is involved in the project for which the application for the use was submitted or that has expertise related to issues raised by the application or by comments received by the governing body; and
- (e) For the purpose of assisting in the project-specific collaborative process, any person with technical expertise in:
 - (A) Creating, restoring or enhancing wetlands in Tillamook County;
 - (B) Creating, restoring or enhancing wetlands in areas with site characteristics similar to those identified in the application for the use; or
 - (C) The impacts of wetlands on agricultural operations.

(4) If an applicant requests to enter into a project-specific collaborative process adopted under subsection (3) of this section, the periods set forth in ORS 215.427 (1) and (5) for the governing body of a county or its designee to take final action on the application shall be extended in the manner provided for in ORS 215.427 (10).

(5) If the parties to a project-specific collaborative process requested under subsection (3) of this section agree to conditions that, if imposed on the proposed use, would satisfy the standards for approval set forth in ORS 215.296 (1) in a manner that is acceptable to all parties, an approval of the application for the permit shall include the conditions agreed to by the parties.

(6) The governing body shall discontinue a project-specific collaborative process requested under subsection (3) of this section if, at any time during the process, the applicant requests that the governing body resume processing the permit application under the procedures required by ORS 215.402 to 215.438. [2016 c.84 §4]

Sec. 5. Planning process. (1) As part of a pilot program authorized by section 4 of this 2016 Act, the governing body of Tillamook County shall, subject to subsection (4) of this section, initiate a planning process to:

- (a) Identify areas zoned for exclusive farm use that are suitable for future wetland creation, restoration or enhancement projects; and
- (b) Designate areas zoned for exclusive farm use as priority areas for maintenance of agricultural use.

(2) The governing body shall engage stakeholders in the planning process, including, but not limited to, representatives of conservation interests and agricultural interests, state and federal agencies and Indian tribes.

(3) A planning process initiated under this section shall include consideration of:

- (a) The historic location and quantity of wetlands within the county;
- (b) The location and quantity of wetlands within the county at the time the planning process is initiated;
- (c) Agricultural interests within the county, and the land use patterns necessary for the stability of agricultural and associated farming practices;

(d) The amount and location of potential wetland projects that would provide the greatest benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values;

(e) Locations where future wetland projects would be most likely to provide the greatest benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values while remaining compatible with the land use patterns necessary for the stability of agricultural and associated farming practices;

(f) Locations where the creation, restoration or enhancement of wetlands is likely to materially alter the stability of the agricultural land use patterns or cause a significant change to farming practice, alone or in combination with other wetlands in the area; and

(g) Locations or land-use arrangements, opportunities, conditions or approaches that could best enable benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values in a manner that complements the land use patterns necessary for the stability of agricultural and associated farming practices.

(4) The governing body is not required to initiate the planning process provided for in this section if the governing body determines that adequate funding, which may include funding from any combination of local, state, federal or other sources, is not reasonably available.

(5) If a plan developed under this section is acknowledged pursuant to ORS 197.625, the governing body may, by ordinance, adopt a process for denying permits or streamlining the permitting process for permit applications subject to the pilot program under section 4 of this 2016 Act. Ordinances adopted under this section must provide for a process that is consistent with the priorities identified in the plan. [2016 c.84 §5]

Sec. 6. Applicability of pilot program provisions. Sections 4 and 5 of this 2016 Act and ordinances and regulations adopted pursuant to sections 4 and 5 of this 2016 Act do not apply to the creation, restoration or enhancement of wetlands:

(1) For purposes related to a mitigation bank;

(2) For reclamation of lands affected by surface mining;

(3) If the wetlands are created, restored or enhanced for the purpose of meeting conditions necessary to comply with a National Pollutant Discharge Elimination System permit or water pollution control facility permit issued by the Department of Environmental Quality pursuant to ORS 468B.050;

(4) For which construction had commenced, or required permits had been issued, prior to the adoption of ordinances or regulations by the governing body of Tillamook County under section 4 of this 2016 Act; and

(5) If the creation, restoration or enhancement of the wetlands only involves planting vegetation in a wetland or riparian area. [2016 c.84 §6]

Sec. 7. Reporting requirements. (1) The governing body of Tillamook County shall provide for the production and filing of a report on the progress of a pilot program adopted under section 4 of this 2016 Act in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to environment and natural resources no later than September 15 of each odd-numbered year following the effective date of this 2016 Act [January 1, 2017], until and including September 15, 2025.

(2) In developing a report required by this section, the governing body must consult with stakeholders including, but not limited to, representatives of conservation interests and agricultural interests, state and federal agencies and Indian tribes.

(3) A report required by this section must include, but need not be limited to:

(a) Information on whether and to what extent the governing body has taken action as provided for in sections 4 and 5 of this 2016 Act and the form of the action taken;

(b) The number of permit applications received under the pilot program adopted under section 4 of this 2016 Act, the number of applicants that have requested entering into a project-specific collaborative process to settle disputes concerning their applications and the disposition of applications received under the pilot program; and

(c) Any significant successes, challenges or recommendations for legislation related to the pilot program.

(4) The report that is required to be filed under this section no later than September 15, 2025, shall include information detailing the success of the pilot program and recommendations on whether the pilot program should be made permanent. [2016 c.84 §7]

Sec. 8. Sections 2 to 7 of this 2016 Act are repealed on January 2, 2027. [2016 c.84 §8]

215.420 [Amended by 1955 c.439 §10; repealed by 1971 c.13 §1]

215.422 Review of decision of hearings officer or other authority; notice of appeal; fees; appeal of final decision. (1)(a) A party aggrieved by the action of a hearings officer or other decision-making authority may appeal the action to the planning commission or county governing body, or both, however the governing body prescribes. The appellate authority on its own motion may review the action. The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body, but shall not require the notice of appeal to be filed within less than seven days after the date the governing body mails or delivers the decision to the parties.

(b) Notwithstanding paragraph (a) of this subsection, the governing body may provide that the decision of a hearings officer or other decision-making authority is the final determination of the county.

(c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall allow any party to an appeal proceeding held on the record to prepare a transcript of relevant portions of the proceedings conducted at a lower level at the party's own expense. If an appellant prevails at a hearing or on appeal, the transcript fee shall be refunded.

(2) A party aggrieved by the final determination may have the determination reviewed in the manner provided in ORS 197.830 to 197.845.

(3) No decision or action of a planning commission or county governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(4) A communication between county staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this

section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer approved under ORS 215.406 (1). [1973 c.552 §§17,18; 1977 c.766 §13; 1979 c.772 §11; 1981 c.748 §42; 1983 c.656 §1; 1983 c.827 §21; 1991 c.817 §9]

215.425 Review of decision relating to aggregate resources. (1) A decision relating to aggregate resource uses permitted in ORS 215.213 (2)(d) or 215.283 (2)(b) is subject to review solely under the provisions of ORS 197.195 and 197.828 if:

(a) The aggregate resource site is identified as a significant resource site in the acknowledged comprehensive plan;

(b) A program to achieve any statewide goal relating to open spaces, scenic and historic areas, and natural resources has been developed for the aggregate resource site and is included within applicable land use regulations; and

(c) The decision concerns how, but not whether, aggregate resource use occurs.

(2) The provisions of subsection (1) of this section do not apply to mineral and other uses not related to aggregate resources. [1991 c.817 §11]

215.427 Final action on permit or zone change application; refund of application fees.

(1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section and ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information, as described in subsection (2) of this section, within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards

and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 215.429 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated. [1997 c.414 §2; 1999 c.393 §§3,3a; enacted in lieu of 215.428 in 1999; 2003 c.800 §30; 2007 c.232 §1; 2009 c.873 §15; 2011 c.280 §10; 2017 c.745 §10; 2023 c.223 §3]

215.428 [1983 c.827 §23; 1989 c.761 §15; 1991 c.817 §14; 1995 c.812 §2; 1997 c.844 §7; repealed by 1999 c.393 §2 (215.427 enacted in lieu of 215.428)]

215.429 Mandamus proceeding when county fails to take final action on land use application within specified time; jurisdiction; notice; peremptory writ. (1) Except when an applicant requests an extension under ORS 215.427, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as appropriate, after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within 120 days or 150 days, as appropriate, of the date the application is deemed complete, the applicant may elect to proceed with the application according to the applicable provisions of the county comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the county comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the county comprehensive plan or land use regulations. [1999 c.533 §7; 1999 c.393 §5]

215.430 [1955 c.682 §2; repealed by 1971 c.13 §1]

215.431 Plan amendments; hearings by planning commission or hearings officer; exceptions. (1) A county governing body may authorize, by ordinance or order, the planning commission or hearings officer to conduct hearings on applications for plan amendments and to make decisions on such applications.

(2) A decision of the planning commission or hearings officer on a plan amendment may be appealed to the county governing body.

(3) This section shall apply notwithstanding the provisions of ORS 215.050, 215.060 and 215.110.

(4) A decision of a planning commission, hearings officer or county governing body under this section shall comply with the post-acknowledgment procedures set forth in ORS 197.610 to 197.625.

(5) This section does not apply to:

- (a) Any plan amendment for which an exception is required under ORS 197.732; or
- (b) Except as provided under subsection (6) of this section, any lands designated under a statewide planning goal addressing agricultural lands or forestlands.

(6)(a) If a county is acting on the remand of a decision from the Land Use Board of Appeals, the county governing body may authorize the planning commission or hearings officer to conduct hearings and make a decision under subsection (1) of this section for lands designated under a statewide planning goal addressing agricultural lands or forestlands.

(b) The county governing body shall review a planning commission or hearings officer decision made under this subsection and shall:

- (A) Schedule a public hearing and issue a final decision on the application;
- (B) Leave the planning commission or hearings officer decision as the final county decision; or

(C) Adopt the planning commission or hearings officer decision by consent order as the decision of the governing body. [1987 c.729 §20; 2018 c.117 §1]

215.433 Supplemental application for remaining permitted uses following denial of initial application. (1) A person whose application for a permit is denied by the governing body of a county or its designee under ORS 215.427 may submit to the county a supplemental application for any or all other uses allowed under the county's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

(2) The governing body of a county or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days or 150 days, as appropriate, all other applicable provisions of ORS 215.427 shall apply to a supplemental application submitted under this section.

(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the county's comprehensive plan and land use regulations.

(4) The governing body of the county or its designee shall adopt specific findings describing the reasons for approving or denying:

- (a) A use for which approval is sought under this section; and
- (b) A rezoning or variance requested in the application. [1999 c.648 §2; 1999 c.648 §2a]

215.435 Deadline for final action by county on remand of land use decision; exception. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a county, the governing body of the county or its designee shall take final action on an application for a permit, limited land use decision or zone change within 120 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS 197.830, the 120-day period established under this subsection shall not begin until final resolution of the judicial review.

(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the county proceed with the application on remand, but if the county does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the county shall deem the application terminated.

(b) The 120-day period established under subsection (1) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The county shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.

(3) The 120-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the governing body of the county.

(4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. [1999 c.545 §2; 2011 c.280 §11; 2015 c.522 §1]

215.437 Mandamus proceeding when county fails to take final action within specified time on remand of land use decision. (1) If the governing body of a county or its designee fails to take final action on an application for a permit, limited land use decision or zone change within 120 days as provided in ORS 215.435, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised by the parties that the matter has been settled.

(2) A writ of mandamus issued under this section shall order the governing body of the county or its designee to make a final determination on the application. The court, in its discretion, may order such remedy as the court determines appropriate.

(3) In a mandamus proceeding under this section the court shall award court costs and attorney fees to an applicant who prevails on a petition under this section. [1999 c.545 §3; 2015 c.522 §2]

PERMITTED USES IN ZONES

215.438 Transmission towers; location; conditions. The governing body of a county or its designate may allow a transmission tower over 200 feet in height to be established in any zone subject to reasonable conditions imposed by the governing body or its designate. [1983 c.827 §23a]

215.439 Solar energy systems in residential or commercial zones. (1) The installation and use on a residential structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which residential structures are an allowed use.

(2) The installation and use on a commercial structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which commercial structures are an allowed use.

(3) Approval of a permit application under ORS 215.402 to 215.438 is, notwithstanding the definition of “permit” in ORS 215.402, a ministerial function if:

(a) The installation of a solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed; and

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof.

- (4) As part of the permit approval process, a county:
- (a) May not charge a fee pursuant to ORS 215.416 for processing a permit;
 - (b) May not require extensive surveys or site evaluations including, but not limited to, vegetation surveys, contour maps and elevation drawings; and
 - (c) May charge building permit fees pursuant to ORS 455.020, 455.210 and 455.220.
- (5) Subsections (3) and (4) of this section do not apply to a permit application for a residential or commercial structure that is:
- (a) A federally or locally designated historic building or landmark or that is located in a federally or locally designated historic district.
 - (b) A conservation landmark designated by a city or county because of the historic, cultural, archaeological, architectural or similar merit of the landmark.
 - (c) Located in an area designated as a significant scenic resource unless the material used is:
 - (A) Designated as anti-reflective; or
 - (B) Eleven percent or less reflective.
 - (6) As used in this section, “solar photovoltaic energy system” has the meaning given that term in ORS 757.360. [2011 c.464 §1]

Note: 215.439 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.440 [1955 c.682 §3; repealed by 1971 c.13 §1]

215.441 Use of real property for religious activities. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

- (a) Worship services.
 - (b) Religion classes.
 - (c) Weddings.
 - (d) Funerals.
 - (e) Meal programs.
 - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
- (2) A county may:
- (a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
 - (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.
- (3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations. [2001 c.886 §2; 2017 c.745 §7; 2019 c.640 §19; 2021 c.385 §4; 2021 c.446 §4]

215.445 Use of private property for mobile medical clinic. (1) As used in this section:

(a) "Health professional" means a person licensed or certified by the:

- (A) Oregon Medical Board;
- (B) Oregon Board of Dentistry; or
- (C) Oregon State Board of Nursing.

(b) "Health services" means the services that a health professional is licensed or certified to provide.

(c) "Local government" has the meaning given that term in ORS 174.116.

(d) "Mobile medical clinic" means a vehicle or a transportable structure that is:

- (A) Designed to serve as a facility suitable for the provision of health services; and
- (B) In use by a health professional to provide health services to the public.

(e) "Nonprofit" means a corporation organized under and subject to the provisions of ORS chapter 65.

(2) A local government may not prohibit a nonprofit mobile medical clinic from:

(a) Being located on private property with the permission of the owner of the private property; and

(b) Staying in one location for 180 days or less. [2015 c.142 §1]

Note: 215.445 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.446 Renewable energy facility; application; standards; notices. (1) As used in this section:

(a) "Average electric generating capacity" has the meaning given that term in ORS 469.300.

(b) "Energy generation area" has the meaning given that term in ORS 469.300.

(c) "Renewable energy facility" means:

(A) A solar photovoltaic power generation facility using:

(i) More than 100 acres but not more than 240 acres located on high-value farmland as defined in ORS 195.300;

(ii) More than 100 acres but not more than 2,560 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United States Department of Agriculture; or

(iii) More than 320 acres but not more than 3,840 acres located on any other land.

(B) An electric power generating plant with an average electric generating capacity of at least 35 megawatts but less than 50 megawatts if the power is produced from geothermal or wind energy at a single plant or within a single energy generation area.

(2) An application for a land use permit to establish a renewable energy facility must be made under ORS 215.416. An applicant must demonstrate to the satisfaction of the county that the renewable energy facility meets the standards under subsection (3) of this section.

(3) In order to issue a permit, the county shall require that the applicant:

(a)(A) Consult with the State Department of Fish and Wildlife, prior to submitting a final application to the county, regarding fish and wildlife habitat impacts and any mitigation plan that is necessary;

(B) Conduct a habitat assessment of the proposed development site;
(C) Develop a mitigation plan to address significant fish and wildlife habitat impacts consistent with the administrative rules adopted by the State Fish and Wildlife Commission for the purposes of implementing ORS 496.012; and

(D) Follow administrative rules adopted by the State Fish and Wildlife Commission and rules adopted by the Land Conservation and Development Commission to implement the Oregon Sage-Grouse Action Plan and Executive Order 15-18.

(b) Demonstrate that the construction and operation of the renewable energy facility, taking into account mitigation, will not result in significant adverse impacts to historic, cultural and archaeological resources that are:

(A) Listed on the National Register of Historic Places under the National Historic Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

(B) Inventoried in a local comprehensive plan; or

(C) Evaluated as a significant or important archaeological object or archaeological site, as those terms are defined in ORS 358.905.

(c) Demonstrate that the site for a renewable energy facility, taking into account mitigation, can be restored adequately to a useful, nonhazardous condition following permanent cessation of construction or operation of the facility and that the applicant has a reasonable likelihood of obtaining financial assurances in a form and amount satisfactory to the county to secure restoration of the site to a useful, nonhazardous condition.

(d) Meet the general and specific standards for a renewable energy facility adopted by the Energy Facility Siting Council under ORS 469.470 (2) and 469.501 that the county determines are applicable.

(e) Provide the financial assurances described in paragraph (c) of this subsection in the form and at the time specified by the county.

(f) For a renewable energy facility that is a solar photovoltaic power generation facility using the number of acres described in subsection (4) of this section, provide a decommissioning plan to accomplish the restoration of the site to a useful, nonhazardous condition as described in paragraph (c) of this subsection. A decommissioning plan provided under this paragraph must include bonding or other security as the financial assurances described in paragraph (c) of this subsection.

(4) The requirements in subsection (3)(f) of this section apply to a solar photovoltaic power generation facility using:

(a) More than 160 acres but not more than 240 acres located on high-value farmland as defined in ORS 195.300;

(b) More than 1,280 acres but not more than 2,560 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United States Department of Agriculture; or

(c) More than 1,920 acres but not more than 3,840 acres located on any other land.

(5) Upon receipt of a reasonable cost estimate from the state agency or tribe, the applicant and county may jointly enter into a cost reimbursement agreement administered by the county with:

(a) The State Department of Fish and Wildlife to receive comments under subsection (3)(a) of this section.

(b) The State Historic Preservation Officer or any affected federally recognized Indian tribe to receive comments under subsection (3)(b) of this section.

(c) The State Department of Energy to receive comments under subsection (3)(c) and (d) of this section as well as comments regarding other matters as the county may require.

(6) A county that receives an application for a permit under this section shall, upon receipt of the application, provide notice to persons listed in subsection (7) of this section. The notice must include, at a minimum:

- (a) A description of the proposed renewable energy facility;
 - (b) A description of the lots or parcels subject to the permit application;
 - (c) The dates, times and locations where public comments or public testimony on the permit application can be submitted; and
 - (d) The contact information for the governing body of the county and the applicant.
- (7) The notice required under subsection (6) of this section must be delivered to:
- (a) The State Department of Fish and Wildlife;
 - (b) The State Department of Energy;
 - (c) The State Historic Preservation Officer;
 - (d) The Oregon Department of Aviation;
 - (e) The United States Department of Defense; and
 - (f) Federally recognized Indian tribes that may be affected by the application. [2019 c.650 §4; 2021 c.60 §1; 2023 c.336 §1]

215.447 Photovoltaic solar power generation facilities on high-value farmland. (1) As used in this section, “photovoltaic solar power generation facility” means an assembly of equipment and components that has the primary purpose of converting sunlight into electricity by photovoltaic effect and has the capability of storing or transferring the electricity.

(2) A photovoltaic solar power generation facility may be established on land that is high-value farmland, as defined in ORS 195.300 (10)(f)(C), provided the land:

- (a) Is not located within the boundaries of an irrigation district;
- (b) Is not at the time of the facility’s establishment, and was not at any time during the 20 years immediately preceding the facility’s establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;
- (c) Is located within the service area of an electric utility described in ORS 469A.052 (2);
- (d) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052 (3); and
- (e) Does not qualify as high-value farmland under any other provision of law.

(3) When evaluating an application to establish a photovoltaic solar power generation facility under this section, a county:

- (a) Shall apply the criteria and standards applicable to agricultural land adopted under a statewide land use planning goal relating to agricultural lands; and
- (b) May not apply the criteria and standards applicable to high-value farmland adopted under a statewide land use planning goal relating to agricultural lands.

(4) A county is not required to adopt an exception under ORS 197.732 to a statewide land use planning goal relating to agricultural land to authorize the establishment of a photovoltaic solar power generation facility under this section.

(5) A photovoltaic solar power generation facility established under this section is a commercial utility facility under ORS 215.213 (2) or 215.283 (2) if the facility generates power for public use by sale. [2017 c.504 §2]

215.448 Home occupations; parking; where allowed; conditions. (1) The governing body of a county or its designate may allow, subject to the approval of the governing body or its designate, the establishment of a home occupation and the parking of vehicles in any zone. However, in an exclusive farm use zone, forest zone or a mixed farm and forest zone that allows residential uses, the following standards apply to the home occupation:

(a) It shall be operated by a resident or employee of a resident of the property on which the business is located;

(b) It shall employ on the site no more than five full-time or part-time persons;

(c) It shall be operated substantially in:

(A) The dwelling; or

(B) Other buildings normally associated with uses permitted in the zone in which the property is located; and

(d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

(2) The governing body of the county or its designate may establish additional reasonable conditions of approval for the establishment of a home occupation under subsection (1) of this section.

(3) Nothing in this section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

(4) The existence of home occupations shall not be used as justification for a zone change. [1983 c.743 §2; 1995 c.465 §1]

215.449 Farm brewery; conditions; permissible uses; reporting. (1) As used in this section:

(a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of malt beverages produced in conjunction with the farm brewery is a secondary purpose of the event.

(b) "Brewer" means a person who makes malt beverages.

(c) "Farm brewery" means a facility, located on or contiguous to a hop farm, used primarily for the commercial production, shipping and distribution, wholesale or retail sales, or tasting of malt beverages made with ingredients grown on the hop farm.

(d) "Hop farm" means a tract of land planted with hops.

(e) "Malt beverage" has the meaning given that term in ORS 471.001.

(f) "On-site retail sale" includes the retail sale of malt beverages in person at the farm brewery site, through a club or over the Internet or telephone.

(2)(a) A farm brewery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(bb) and 215.283 (1)(z) or on land zoned for mixed farm and forest use if the farm brewery:

(A) Produces less than 150,000 barrels of malt beverages annually, inclusive of malt beverages produced by the farm brewery's owners or operators at the farm brewery or elsewhere, through any entity owned or affiliated with the farm brewery;

(B) Produces less than 15,000 barrels of malt beverages annually on the farm brewery site; and

(C)(i) Owns an on-site hop farm of at least 15 acres;

(ii) Owns a contiguous hop farm of at least 15 acres;

(iii) Has a long-term contract for the purchase of all of the hops from at least 15 acres of a hop farm contiguous to the farm brewery; or

(iv) Obtains hops from a total of 15 acres from any combination of sources described in sub-subparagraph (i), (ii) or (iii) of this subparagraph.

(b) For purposes of this subsection, land planted with other ingredients used in malt beverages produced by the farm brewery counts towards the acreage minimums.

(3) In addition to any other activities authorized for a farm brewery, a farm brewery established under this section may:

(a) Market malt beverages produced in conjunction with the farm brewery.

(b) Conduct operations that are directly related to the sale or marketing of malt beverages produced in conjunction with the farm brewery, including:

(A) Malt beverage tastings in a tasting room or other location on the premises occupied by the farm brewery;

(B) Malt beverage club activities;

(C) Brewer luncheons and dinners;

(D) Farm brewery and hop farm tours;

(E) Meetings or business activities with farm brewery suppliers, distributors, wholesale customers and malt beverage industry members;

(F) Farm brewery staff activities;

(G) Open house promotions of malt beverages produced in conjunction with the farm brewery; and

(H) Similar activities conducted for the primary purpose of promoting malt beverages produced in conjunction with the farm brewery.

(c) Market and sell items directly related to the sale or promotion of malt beverages produced in conjunction with the farm brewery, the marketing and sale of which is incidental to on-site retail sale of malt beverages, including food and beverages:

(A) Required to be made available in conjunction with the consumption of malt beverages on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.

(d) Subject to subsections (6) to (9) of this section, carry out agri-tourism or other commercial events on the tract occupied by the farm brewery.

(e) Host charitable activities for which the farm brewery does not charge a facility rental fee.

(f) Site a bed and breakfast as a home occupation on the same tract as, and in association with, the farm brewery.

(4) A farm brewery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (3)(c) of this section. Food and beverage services authorized under subsection (3)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.

(5)(a) The gross income of the farm brewery from the sale of incidental items or services provided pursuant to subsection (3)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of malt beverages produced in conjunction with the farm brewery. The gross income of a farm brewery does not include income received by third parties unaffiliated with the farm brewery.

(b) At the request of a local government with land use jurisdiction over the site of a farm brewery, the farm brewery shall submit to the local government a written statement prepared

by a certified public accountant that certifies the compliance of the farm brewery with this subsection for the previous tax year.

(6) Except as provided by subsections (7) and (8) of this section, a farm brewery may carry out agri-tourism or other commercial events described in subsection (3)(d) of this section for up to 18 days per calendar year.

(7) A farm brewery in the Willamette Valley may carry out agri-tourism or other commercial events as provided in subsection (6) of this section, provided:

(a) Events on the first six days of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multiyear license that:

(A) Has a term of five years; and

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (8) of this section.

(b) The local government's decision on a license under paragraph (a) of this subsection is not:

(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(c) Events on days seven through 18 of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multiyear permit that:

(A) Has a term of five years;

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (8) of this section; and

(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

(d) The local government's decision on a permit under paragraph (c) of this subsection is:

(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(8)(a) A local government with land use jurisdiction over the site of a farm brewery shall ensure that agri-tourism or other commercial events occurring as described in subsection (3)(d) of this section are subordinate to the production and sale of malt beverages and do not create significant adverse impacts to uses on surrounding land.

(b) A local government may impose conditions on a license or permit issued pursuant to subsection (7) of this section as necessary to meet the requirements of paragraph (a) of this subsection. The conditions must be related to:

(A) The number of event attendees;

(B) The hours of event operation;

(C) Access and parking;

(D) Traffic management;

(E) Noise management; and

(F) Sanitation and solid waste.

(9) A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. The fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.

(10) When a bed and breakfast facility is sited as a home occupation on the same tract as a farm brewery as described in subsection (3)(f) of this section:

(a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(b) The meals may be served at the bed and breakfast facility or at the farm brewery.

(11) A farm brewery operating under this section shall provide parking for all activities or uses of the tract on which the farm brewery is situated.

(12) A local government with land use jurisdiction over the site of a farm brewery shall ensure that the farm brewery complies with:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations of general applicability for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal relating to open spaces, scenic and historic areas and natural resources.

(13)(a) For the purpose of limiting demonstrated conflicts with accepted farm and forest practices on adjacent lands, a local government with land use jurisdiction over the site of a farm brewery shall:

(A) Except as provided in paragraph (b) of this subsection, establish a setback of at least 100 feet from all property lines for the farm brewery and all public gathering places; and

(B) Require farm breweries to provide direct road access and internal circulation for the farm brewery and all public gathering places.

(b) A local government may allow a setback of less than 100 feet by granting a farm brewery an adjustment or variance to the requirement described in paragraph (a)(A) of this subsection. [2019 c.244 §2]

215.450 [1955 c.682 §4; repealed by 1971 c.13 §1]

215.451 Cider business; conditions; permissible uses; reporting. (1) As used in this section:

(a) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of cider produced in conjunction with the cider business is a secondary purpose of the event.

(b)(A) “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears.

(B) “Cider” includes but is not limited to flavored cider, sparkling cider and carbonated cider.

(c) “Cider business” means a facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions or warehousing of cider.

(d) “Cidermaker” means a person who makes cider.

(e) “On-site retail sale” includes the retail sale of cider in person at the cider business site, through a cider club or over the Internet or telephone.

(f) “Orchard” means a piece of land planted with apple or pear trees.

(2) A cider business may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(aa) and 215.283 (1)(y) or on land zoned for mixed farm and forest use if the cider business produces:

(a) Less than 100,000 gallons of cider annually and the cider business:

(A) Owns an on-site orchard of at least 15 acres;

(B) Owns a contiguous orchard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the apples or pears from at least 15 acres of an orchard contiguous to the cider business; or

(D) Obtains apples or pears from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 100,000 gallons of cider annually and the cider business:

(A) Owns an on-site orchard of at least 40 acres;

(B) Owns a contiguous orchard of at least 40 acres;

(C) Has a long-term contract for the purchase of all of the apples or pears from at least 40 acres of an orchard contiguous to the cider business;

(D) Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider business site; or

(E) Obtains apples or pears from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

(3) In addition to any other activities authorized for a cider business, a cider business established under this section may:

(a) Market cider produced in conjunction with the cider business.

(b) Conduct operations that are directly related to the sale or marketing of cider produced in conjunction with the cider business, including:

(A) Cider tastings in a tasting room or other location on the premises occupied by the cider business;

(B) Cider club activities;

(C) Cidermaker luncheons and dinners;

(D) Cider business and orchard tours;

(E) Meetings or business activities with cider business suppliers, distributors, wholesale customers and cider industry members;

(F) Cider business staff activities;

(G) Open house promotions of cider produced in conjunction with the cider business; and

(H) Similar activities conducted for the primary purpose of promoting cider produced in conjunction with the cider business.

(c) Market and sell items directly related to the sale or promotion of cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of cider, including food and beverages:

(A) Required to be made available in conjunction with the consumption of cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.

(d) Subject to subsections (6) to (9) of this section, carry out agri-tourism or other commercial events on the tract occupied by the cider business.

(e) Host charitable activities for which the cider business does not charge a facility rental fee.

(f) Site a bed and breakfast as a home occupation on the same tract, and in association with, the cider business.

(4) A cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (3)(c) of this section. Food and beverage services authorized under subsection (3)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.

(5)(a) The gross income of the cider business from the sale of incidental items or services provided pursuant to subsection (3)(c) to (e) of this section may not exceed 25 percent of the

gross income from the on-site retail sale of cider produced in conjunction with the cider business. The gross income of a cider business does not include income received by third parties unaffiliated with the cider business.

(b) At the request of a local government with land use jurisdiction over the site of a cider business, the cider business shall submit to the local government a written statement prepared by a certified public accountant that certifies the compliance of the cider business with this subsection for the previous tax year.

(6) Except as provided by subsections (7) and (8) of this section, a cider business may carry out agri-tourism or other commercial events described in subsection (3)(d) of this section for up to 18 days per calendar year.

(7) A cider business in the Willamette Valley may carry out agri-tourism or other commercial events as provided in subsection (6) of this section, provided:

(a) Events on the first six days of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multi-year license that:

(A) Has a term of five years; and

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (8) of this section.

(b) The local government's decision on a license under paragraph (a) of this subsection is not:

(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(c) Events on days seven through 18 of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multi-year permit that:

(A) Has a term of five years;

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (8) of this section; and

(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

(d) The local government's decision on a permit under paragraph (c) of this subsection is:

(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(8)(a) A local government with land use jurisdiction over the site of a cider business shall ensure that agri-tourism or other commercial events occurring as described in subsection (3)(d) of this section are subordinate to the production and sale of cider and do not create significant adverse impacts to uses on surrounding land.

(b) A local government may impose conditions on a license or permit issued pursuant to subsection (7) of this section as necessary to meet the requirements of paragraph (a) of this subsection. The conditions must be related to:

(A) The number of event attendees;

(B) The hours of event operation;

(C) Access and parking;

(D) Traffic management;

(E) Noise management; and

(F) Sanitation and solid waste.

(9) A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. The fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.

(10) When a bed and breakfast facility is sited as a home occupation on the same tract as a cider business as described in subsection (3)(f) of this section:

(a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(b) The meals may be served at the bed and breakfast facility or at the cider business.

(11) A cider business operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the cider business is situated.

(12) A local government with land use jurisdiction over the site of a cider business shall ensure that the cider business complies with:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations of general applicability for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

(13)(a) For the purpose of limiting demonstrated conflicts with accepted farm and forest practices on adjacent lands, a local government with land use jurisdiction over the site of a cider business shall:

(A) Except as provided in paragraph (b) of this subsection, establish a setback of at least 100 feet from all property lines for the cider business and all public gathering places; and

(B) Require cider businesses to provide direct road access and internal circulation for the cider business and all public gathering places.

(b) A local government may allow a setback of less than 100 feet by granting a cider business an adjustment or variance to the requirement described in paragraph (a)(A) of this subsection. [2017 c.253 §2]

215.452 Winery; conditions; permissible uses. (1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1) (n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

(A) Owns an on-site vineyard of at least 15 acres;

(B) Owns a contiguous vineyard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and the winery:

(A) Owns an on-site vineyard of at least 40 acres;

(B) Owns a contiguous vineyard of at least 40 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;

(D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or

(E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

(2) In addition to producing and distributing wine, a winery established under this section may:

(a) Market and sell wine produced in conjunction with the winery.

(b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

(A) Wine tastings in a tasting room or other location on the premises occupied by the winery;

(B) Wine club activities;

(C) Winemaker luncheons and dinners;

(D) Winery and vineyard tours;

(E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

(F) Winery staff activities;

(G) Open house promotions of wine produced in conjunction with the winery; and

(H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:

(A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.

(d) Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.

(e) Host charitable activities for which the winery does not charge a facility rental fee.

(3) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.

(4) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(5) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.

(6) For events described in subsection (5) of this section for a winery in the Willamette Valley:

(a) Events on the first six days of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year license that:

(A) Has a term of five years; and

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section.

(b) The local government's decision on a license under paragraph (a) of this subsection is not:

(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(c) Events on days seven through 18 of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year permit that:

(A) Has a term of five years;

(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section; and

(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

(d) The local government's decision on a permit under paragraph (c) of this subsection is:

(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(B) A permit, as defined in ORS 215.402 or 227.160.

(7) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the local government may impose conditions on a license or permit issued pursuant to subsection (6) of this section related to:

(a) The number of event attendees;

(b) The hours of event operation;

(c) Access and parking;

(d) Traffic management;

(e) Noise management; and

(f) Sanitation and solid waste.

(8) A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.

(9) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

(10) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.

(11) A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and

(b) Provision of direct road access and internal circulation.

(12) A local government shall apply:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations of general applicability for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

(13) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:

(a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(b) The meals may be served at the bed and breakfast facility or at the winery.

(14) As used in this section:

(a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

(b) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone. [1989 c.525 §4; 1993 c.704 §6; 1997 c.249 §61; 2001 c.613 §20; 2009 c.850 §11; 2010 c.97 §§1,2; 2011 c.679 §§2,3,3a; 2013 c.554 §2]

215.453 Large winery; conditions; permissible uses. (1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(p) or 215.283 (1) (n) or on land zoned for mixed farm and forest use if:

(a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;

(b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (a) of this subsection; and

(c) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this section.

(2) In addition to producing and distributing wine, a winery described in subsection (1) of this section may:

(a) Market and sell wine produced in conjunction with the winery;

(b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

(A) Wine tastings in a tasting room or other location on the premises occupied by the winery;

(B) Wine club activities;

(C) Winemaker luncheons and dinners;

(D) Winery and vineyard tours;

(E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

(F) Winery staff activities;

(G) Open house promotions of wine produced in conjunction with the winery; and

(H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;

(c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:

(A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection;

(d) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:

(A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;

(B) Are incidental to the retail sale of wine on-site; and

(C) Are limited to 25 days or fewer in a calendar year; and

(e) Host charitable activities for which the winery does not charge a facility rental fee.

(3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection (2)(c) of this section and services provided pursuant to subsection (2)(d) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

(b) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

(4) A winery operating under this section:

(a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

(b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.

(5)(a) A winery shall obtain a permit from the local government if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under subsection (2)(d) of this section occurring on more than 25 days in a calendar year.

(b) In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:

(A) Complies with the standards described in ORS 215.296;

(B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and

(C) Does not materially alter the stability of the land use pattern in the area.

(c) If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.

(6) A person may not have a substantial ownership interest in more than one winery operating a restaurant under this section.

(7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted.

(8) A local government shall require a winery operating under this section to provide for:

(a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and

(b) Direct road access and internal circulation.

(9) A local government shall apply:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

(10) The local government may authorize a winery described in subsection (1) of this section to sell or deliver items or provide services not described in subsection (2)(c) or (d) or

(3) of this section under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c) or 215.283 (2)(a) or under other provisions of law.

(11)(a) A local government may issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government issued permits to wineries operating under this section in similar circumstances before August 2, 2011.

(b) A local government may not issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government did not issue permits to wineries operating under this section in similar circumstances before August 2, 2011.

(12) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:

(a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(b) The meals may be served at the bed and breakfast facility or at the winery.

(13) As used in this section:

(a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

(b) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone. [2011 c.679 §5; 2011 c.679 §5a; 2013 c.554 §6]

215.454 Lawful continuation of certain winery-related uses or structures. (1)(a) A use or structure in an area zoned for exclusive farm use that exists on June 28, 2011, may be lawfully continued, altered, restored or replaced pursuant to ORS 215.130 if the use or structure is located on the same tract, as defined in ORS 215.010, as a winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced more than 250,000 gallons of wine in calendar year 2010.

(b) This subsection does not affect the lawful continuation, alteration, restoration or expansion of the winery sited on the same tract.

(2) A winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced more than 150,000 gallons and not more than 250,000 gallons of wine in calendar year 2010 does not require a permit under ORS 215.213 (2)(c) or 215.283 (2)(a). However, the winery must comply with all provisions of ORS 215.452 except the annual production requirements.

(3) A use or structure that is lawfully established at a winery located in an exclusive farm use zone and that exists on August 2, 2011, including events and activities that exceed the income limit imposed by ORS 215.452, may be continued, altered, restored or replaced pursuant to ORS 215.130.

(4) Subsection (3) of this section does not affect the lawful continuation, alteration, restoration or replacement of the winery sited on the same tract.

(5) A use or structure that is lawfully established at a winery located in an exclusive farm use zone and that exists on June 28, 2013, including events and activities that exceed the income limit imposed by ORS 215.452, may be continued, altered, restored or replaced pursuant to ORS 215.130.

(6) Subsection (5) of this section does not affect the lawful continuation, alteration, restoration or replacement of the winery sited on the same tract. [2011 c.567 §6; subsections

(3) and (4) of 2013 Edition enacted as 2011 c.679 §6; subsections (5) and (6) of 2013 Edition enacted as 2013 c.554 §5]

Note: 215.454 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.455 Effect of approval of winery on land use laws. Any winery approved under ORS 215.213, 215.283, 215.284, 215.452 and 215.453 is not a basis for an exception under ORS 197.732 (2)(a) or (b). [1989 c.525 §5; 2007 c.71 §73; 2011 c.679 §9]

215.456 Siting winery as commercial activity in exclusive farm use zone. (1) A local government may authorize the siting of a winery, on land zoned for exclusive farm use, pursuant to the standards that apply to a commercial activity in conjunction with farm use under ORS 215.213 (2)(c) or 215.283 (2)(a) or other law if the winery:

- (a) Does not qualify for siting under ORS 215.452 or 215.453; or
- (b) Seeks to carry out uses or activities that are not authorized by ORS 215.452 or 215.453.

(2) If a county authorizes the establishment of a winery on land zoned for exclusive farm use or mixed farm and forest use under provisions of law other than ORS 215.452 or 215.453 after June 28, 2013, the gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. [2013 c.554 §3]

Note: 215.456 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.457 Youth camps allowed in forest zones and mixed farm and forest zones. A person may establish a youth camp:

- (1) On land zoned for forest use or mixed farm and forest use, consistent with rules adopted by the Land Conservation and Development Commission.
- (2) On land in eastern Oregon, as defined in ORS 321.805, that is zoned for exclusive farm use and is composed predominantly of class VI, VII or VIII soils, consistent with rules adopted by the Land Conservation and Development Commission. However, a person may not establish a youth camp authorized under this subsection within an irrigation district or within three miles of an urban growth boundary as defined in ORS 197.015. A youth camp may be authorized under this subsection only on a lawfully established unit of land as defined in ORS 92.010 of at least 1,000 acres. [1999 c.586 §2; 2013 c.711 §1; 2023 c.13 §98]

215.459 Private campground in forest zones and mixed farm and forest zones; yurts; rules. (1)(a) Subject to the approval of the county governing body or its designee, a private campground may be established in an area zoned for forest use or mixed farm and forest use. Subject to the approval of the county governing body or its designee, the campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

(b) A public park or campground may be established as provided in ORS 195.120 in an area zoned for forest use or mixed farm and forest use.

(2) Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1).

(3) As used in this section, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance. [1999 c.758 §4]

215.460 [1963 c.619 §15; repealed by 1971 c.13 §1]

215.461 Guest ranch; conditions; permissible uses; reporting. (1) As used in this section and ORS 215.462:

(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.

(b) “Guest ranch” means a facility for guest lodging units, passive recreational activities described in subsection (6) of this section and food services described in subsection (7) of this section that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.

(c) “Livestock” means cattle, sheep, horses and bison.

(2) Subject to the provisions of ORS 215.296 (1) and (2) and other approval or siting standards of a county, a guest ranch under ORS 215.283 (2)(cc) may be established in an area of eastern Oregon, as defined in ORS 321.805, that is zoned for exclusive farm use unless the proposed site of the guest ranch is within the boundaries of or surrounded by:

(a) A federally designated wilderness area or a wilderness study area;

(b) A federally designated wildlife refuge;

(c) A federally designated area of critical environmental concern; or

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

(3) The guest ranch must be located on a lawfully established unit of land that:

(a) Is at least 160 acres;

(b) Contains the dwelling of the individual conducting the livestock operation; and

(c) Is not high-value farmland, as described in ORS 215.710.

(4) Except as provided in subsection (5) of this section, the guest lodging units of the guest ranch cumulatively must:

(a) Include not fewer than four nor more than 10 overnight guest lodging units; and

(b) 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.

(5) 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 subsection (3) of this section, 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.

(6) 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. A guest ranch may not

provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283.

(7) A guest ranch may provide food services 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.

(8) A guest ranch that is authorized by a county under this section on or after January 1, 2020, shall annually report to the county. Counties shall make available to the public, upon request, reports collected from guest ranches under this subsection. The report must contain:

- (a) The size of the guest ranch's livestock operation;
- (b) 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. [2018 c.15 §2; 2019 c.270 §2]

215.462 Limitations on guest ranch. (1) Notwithstanding ORS 215.283, the governing body of a county or its designee may not allow a guest ranch in conjunction with:

- (a) A campground as described in ORS 215.283 (2).
- (b) A golf course as described in ORS 215.283 (2).

(2) Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land in an exclusive farm use zone for a guest ranch.

(3) The governing body of a county or its designee may not approve a proposed division of land that separates the guest ranch from the dwelling of the individual conducting the livestock operation. [2018 c.15 §3]

RURAL RESIDENTIAL USES

215.490 Recreational vehicles on occupied residential properties. (1) As used in this section:

(a) "Recreational vehicle" means a recreational vehicle that has not been rendered structurally immobile and is titled with the Department of Transportation.

(b) "Rural area" means an area zoned for rural residential use as defined in ORS 215.501 or land that is within the urban growth boundary of a metropolitan service district, but not within the jurisdiction of any city, and zoned for residential use.

(2) A county may allow an owner of a lot or parcel in a rural area to site on the property one recreational vehicle that is used for residential purposes and is subject to a residential rental agreement, provided:

(a) The property is not within an area designated as an urban reserve as defined in ORS 197A.230;

(b) A single-family dwelling that is occupied as the primary residence of the property owner is sited on the property;

(c) There are no other dwelling units on the property and no portion of the single-family dwelling is rented as a residential tenancy;

(d) The property owner will not allow the use of the recreational vehicle space or recreational vehicle for vacation occupancy, as defined in ORS 90.100, or other short-term uses;

- (e) The recreational vehicle is owned or leased by the tenant; and
- (f) The property owner will provide essential services to the recreational vehicle space, as described in ORS 90.100 (15)(b).

(3) A county may require that an owner of a lot or parcel who sites a recreational vehicle under this section:

- (a) Register the use with the county.
- (b) Enter into a written residential rental agreement with the tenant of the recreational vehicle.
- (c) Limit the amount of payments that the property owner may accept from the tenant under ORS 90.140 to those reasonably necessary to cover the owner's costs or losses.
- (d) Require that the recreational vehicle comply with any reasonable appearance, repair, inspection or siting standards adopted by the county.

(4) Notwithstanding ORS 455.405, a recreational vehicle sited under this section is not subject to the state building code. [2023 c.295 §2]

215.495 Accessory dwelling units. (1) As used in this section:

- (a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.
 - (b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.
 - (c) "Single-family dwelling" has the meaning given that term in ORS 215.501.
- (2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel, provided:
- (a) The lot or parcel is not located within an area designated as an urban reserve as defined in ORS 197A.230;
 - (b) The lot or parcel is at least two acres in size;
 - (c) One single-family dwelling is sited on the lot or parcel;
 - (d) The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;
 - (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment;
 - (f) The accessory dwelling unit will not include more than 900 square feet of usable floor area;
 - (g) The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling;
 - (h) If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission;
 - (i) No portion of the lot or parcel is within a designated area of critical state concern;
 - (j) The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410;
 - (k) If the lot or parcel is in an area identified on the statewide wildfire hazard map described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392;

(L) The accessory dwelling unit complies with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

(A) The lot or parcel is in an area identified as a high wildfire hazard zone on the statewide wildfire hazard map described in ORS 477.490; or

(B) No statewide wildfire hazard map has been adopted; and

(m) The county has adopted land use regulations that ensure that:

(A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;

(B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; and

(C) If the accessory dwelling unit is not in an area identified on the statewide wildfire hazard map described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit complies with the provisions of this section and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392.

(3) A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.

(4) A county that allows construction of an accessory dwelling unit under this section may not approve:

(a) A subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

(b) Construction of an additional accessory dwelling unit on the same lot or parcel.

(5) A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single-family dwelling, provided such use is allowed for the accessory dwelling unit by an existing water right or a use under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.

(6) An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

(7) Nothing in this section requires a county to allow any accessory dwelling units in areas zoned for rural residential use or prohibits a county from imposing any additional restrictions on accessory dwelling units in areas zoned for rural residential use, including restrictions on the construction of garages and outbuildings that support an accessory dwelling unit. [2021 c.396 §2; 2022 c.85 §5; 2023 c.76 §1; 2023 c.611 §9]

215.501 Conversion of historic homes to accessory dwelling units. (1) As used in this section:

(a) “Accessory dwelling unit” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

(b) “Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 197.015 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.

(c) “Historic home” means a single-family dwelling constructed between 1850 and 1945.

(d) “New” means that the dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(e) “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

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

(a) The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 197A.230;

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

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

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

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

(3) An owner that constructs a new single-family dwelling under subsection (2) of this section may not:

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

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

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

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

(4) A county may require that a new single-family dwelling constructed under this section be served by the same water supply source as the accessory dwelling unit.

(5) A county may impose additional conditions of approval for construction of a new single-family dwelling or conversion of a historic home to an accessory dwelling unit under this section. [2017 c.400 §2; 2023 c.13 §99]

NOTICE TO PROPERTY OWNERS

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, “owner” means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use

change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

— This is to notify you that (governing body of the county) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

— (b) Contain substantially the following language in the body of the notice:

— On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number _____. The (governing body) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____.

— (6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

— This is to notify you that (governing body of the county) has proposed a land use that may affect the permissible uses of your property and other properties.

— (b) Contain substantially the following language in the body of the notice:

— As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number _____. (Governing Body) has determined

that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____.

(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047, or resulting from an order of a court of competent jurisdiction.

(11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section. [1977 c.664 §37; 1999 c.1 §1; 1999 c.348 §10; 2003 c.668 §2]

215.505 [1969 c.324 §1; repealed by 1977 c.664 §42]

215.508 [1977 c.664 §38; repealed by 1999 c.1 §8]

215.510 [1969 c.324 §2; 1973 c.80 §47; repealed by 1977 c.664 §42]

215.513 Forwarding of notice to property purchaser. (1) A mortgagee, lienholder, vendor or seller of real property who receives a mailed notice required by this chapter shall promptly forward the notice to the purchaser of the property. Each mailed notice required by this chapter shall contain the following statement: "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

(2) Mailed notices to owners of real property required by this chapter shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the

affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance. [1977 c.664 §39]

215.515 [1969 c.324 §3; 1973 c.80 §48; repealed by 1977 c.766 §16]

215.520 [1969 c.324 §4; repealed by 1977 c.664 §42]

215.525 [1969 c.324 §6; repealed by 1977 c.664 §42]

215.530 [1969 c.324 §7; repealed by 1977 c.664 §42]

215.535 [1969 c.324 §5; 1973 c.80 §49; repealed by 1977 c.664 §42]

COUNTY CONSTRUCTION CODES

215.605 Counties authorized to adopt housing codes. For the protection of the public health, welfare and safety, the governing body of a county may adopt ordinances establishing housing codes for the county, or any portion thereof, except where housing code ordinances are in effect on August 22, 1969, or where such ordinances are enacted by an incorporated city subsequent to August 22, 1969. Such housing code ordinances may adopt by reference published codes, or any portion thereof, and a certified copy of such code or codes shall be filed with the county clerk of said county. [1969 c.418 §1]

215.606 Standards for clustered mailboxes in county roads and rights-of-way. Each county in this state shall adopt standards and specifications for clustered mailboxes within the boundaries of county roads and rights-of-way that conform to the standards and specifications for such mailboxes contained in the State of Oregon Structural Specialty Code. [2011 c.488 §3]

Note: 215.606 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.610 [1969 c.418 §2; 1979 c.190 §407; repealed by 1983 c.327 §16]

215.615 Application and contents of housing ordinances. The provisions of housing code ordinances authorized by ORS 215.605 and this section shall apply to all buildings or portions thereof used, or designed or intended to be used for human habitation, and shall include, but not be limited to:

(1) Standards for space, occupancy, light, ventilation, sanitation, heating, exits and fire protection.

(2) Inspection of such buildings.

(3) Procedures whereby buildings or portions thereof which are determined to be substandard are declared to be public nuisances and are required to be abated by repair, rehabilitation, demolition or removal.

(4) An advisory and appeals board. [1969 c.418 §3]

215.620 [1997 c.552 §30; renumbered 455.422 in 1999]

FARMLAND AND FORESTLAND ZONES

(Lot or Parcel of Record Dwellings)

215.700 Resource land dwelling policy. The Legislative Assembly declares that land use regulations limit residential development on some less productive resource land acquired before the owners could reasonably be expected to know of the regulations. In order to assist these owners while protecting the state's more productive resource land from the detrimental effects of uses not related to agriculture and forestry, it is necessary to:

- (1) Provide certain owners of less productive land an opportunity to build a dwelling on their land; and
- (2) Limit the future division of and the siting of dwellings upon the state's more productive resource land. [1993 c.792 §10]

(Temporary provisions relating to rezoning of farmlands within the Eastern Oregon Border Economic Development Region)

Note: Sections 1 to 4, chapter 671, Oregon Laws 2021, provide:

Sec. 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS chapter 215. [2021 c.671 §1]

Sec. 2. (1) Notwithstanding any land use planning goal related to urbanization or agricultural lands, a county that has established a review board described in section 3, chapter 671, Oregon Laws 2021, may rezone, and if necessary divide, lands that are zoned for exclusive farm use and within the Eastern Oregon Border Economic Development Region, as defined in ORS 284.771, for the development of one residential unit per lot or parcel of two acres or more, provided that:

- (a) The rezoned lands have not been employed for farm use in the prior three years;
- (b) The rezoned lands are not:
 - (A) High-value farmland, as described in ORS 195.300 (10), excluding lands described in ORS 195.300 (10)(c)(B) and (10)(f)(E);
 - (B) Predominantly composed of Class I, II or III soils; or
 - (C) Viable for reasonably obtaining a profit through a farm use;
- (c) Rezoning will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
- (d) If the water source for the rezoned lands is a well, the lands are not within a critical ground water area as designated under ORS 537.730 to 537.740 or within an area where ground water withdrawals have been restricted by the Water Resources Commission;
- (e) The property owner agrees as a condition of approval of the rezoning to sign and record in the county deed records an irrevocable deed restriction in the form prescribed by the county acknowledging the protected rights of farm, forest and rangeland practices in the area and prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from any farming, forest or rangeland practices if no claim or action is allowed under ORS 30.936 or 30.937 or otherwise protected by law as a farming, forest or rangeland practice;

(f) The rezoning and division, if necessary, comply with all substantive rezoning and land division criteria and standards adopted by the county;

(g) The approval would not result in a cumulative total of more than 200 acres rezoned by the county under this section;

(h) The rezoning has received a public hearing and a written opinion from a review board established under section 3, chapter 671, Oregon Laws 2021;

(i) In the prior 10 years, the rezoned lands have not been assessed for property tax purposes as:

(A) Open space land under ORS 308A.300 to 308A.330;

(B) Riparian habitat under ORS 308A.350 to 308A.383;

(C) Wildlife habitat under ORS 308A.403 to 308A.430; or

(D) A conservation easement under ORS 308A.450 to 308A.465;

(j) The rezoned lands are within a rural fire protection district established under ORS 478.010 to 478.100 and subject to ORS 478.115, 478.120, 478.130, 478.140, 478.150, 478.155 and 478.160 and comply with all applicable fire prevention code requirements under ORS 478.910 to 478.940; and

(k) The rezoned lands are not within an area designated as a 100-year floodplain on a current map of the Federal Emergency Management Agency.

(2) Upon rezoning lands under this section, the county shall file with the county assessor a statement listing the tax lots to which the change in zoning applies and the applicable date of the change. [2021 c.671 §2; 2023 c.566 §1]

Sec. 3. (1) A county with lands within the Eastern Oregon Border Economic Development Region, as defined in ORS 284.771, may establish a review board that consists of four members appointed by the governing body of the county.

(2) The members of the review board shall serve terms of no more than four years and may be reappointed by the governing body.

(3) The review board must include:

(a) One member who represents the interests of the farming community of the county;

(b) One member who represents the Eastern Oregon Border Economic Development Board;

(c) One member who is a member of the governing body of the county; and

(d) One member who is a member of the planning body for the county.

(4) The review board shall review, and conduct at least one public hearing for, each petition filed under section 2 of this 2021 Act to rezone, and if necessary partition, land and shall provide a written opinion to the county.

(5) The opinion developed by the review board is not a land use decision and is not subject to appeal. [2021 c.671 §3]

Sec. 4. Sections 2 and 3 of this 2021 Act are repealed on January 2, 2030. [2021 c.671 §4]

215.705 Dwellings in farm or forest zone; criteria; transferability of application. (1) A governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(A) Prior to January 1, 1985; or

(B) By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(b) The tract on which the dwelling will be sited does not include a dwelling.

(c) 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.

(d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this section.

(e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in ORS 215.720, 215.740 or 215.750.

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

(g) 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.

(2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(A) It meets the other requirements of ORS 215.705 to 215.750;

(B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1); and

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

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

(ii) The dwelling will comply with the provisions of ORS 215.296 (1).

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area.

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

(3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(a) It meets the other requirements of ORS 215.705 to 215.750.

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

(A) Identified in ORS 215.710 (3) or (4);

(B) Not protected under ORS 215.710 (1); and

(C) Twenty-one acres or less in size.

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

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

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

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

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

(4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use zone under this chapter, the county may apply the standards for siting a dwelling under either subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predominant use of the tract on January 1, 1993.

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

- (a) Exceed the facilities and service capabilities of the area;
- (b) Materially alter the stability of the overall land use pattern in the area; or
- (c) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(6) For purposes of subsection (1)(a) 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.

(7) When a local government approves an application for a single-family dwelling 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. [1993 c.792 §2; 1995 c.812 §7; 2001 c.358 §1; 2015 c.629 §34]

215.710 High-value farmland description for ORS 215.705. (1) For purposes of ORS 215.705, high-value farmland is land in a tract composed predominantly of soils that, at the time the siting of a dwelling is approved for the tract, are:

- (a) Irrigated and classified prime, unique, Class I or Class II; or
- (b) Not irrigated and classified prime, unique, Class I or Class II.

(2) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock,

berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.

(3) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(c) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(4) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(b) Subclassification IIIw, specifically, Brenner and Chitwood;

(c) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and Winema; and

(d) Subclassification IVw, specifically, Coquille.

(5) For purposes of approving a land use application under ORS 215.705, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

(a) Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(b)(A) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(B) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based.

(6) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. [1993 c.792 §3; 1995 c.79 §78; 1995 c.812 §8]

215.720 Criteria for forestland dwelling under ORS 215.705. (1) A dwelling authorized under ORS 215.705 may be allowed on land zoned for forest use under a goal protecting forestland only if:

(a) The tract on which the dwelling will be sited is in western Oregon, as defined in ORS 321.257, and is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall be maintained and either paved or surfaced with rock and shall not be:

(A) A United States Bureau of Land Management road; or

(B) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(b) The tract on which the dwelling will be sited is in eastern Oregon, as defined in ORS 321.805, and is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall be maintained and either paved or surfaced with rock and shall not be:

(A) A United States Bureau of Land Management road; or

(B) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(2) For purposes of this section, “commercial tree species” means trees recognized under rules adopted under ORS 527.715 for commercial production.

(3) No dwelling other than those described in this section and ORS 215.740, 215.750 and 215.755 may be sited on land zoned for forest use under a land use planning goal protecting forestland. [1993 c.792 §4 (1),(4),(9); 1997 c.318 §4; 1997 c.732 §1; 2003 c.621 §102]

215.730 Additional criteria for forestland dwelling under ORS 215.705. (1) A local government shall require as a condition of approval of a single-family dwelling allowed under ORS 215.705 on lands zoned forestland that:

(a)(A) If the lot or parcel is more than 30 acres in eastern Oregon as defined in ORS 321.805, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met; or

(B) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

(b) The dwelling meets the following requirements:

(A) The dwelling has a fire retardant roof.

(B) The dwelling will not be sited on a slope of greater than 40 percent.

(C) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.

(D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.

(E) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.

(F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

(G) The owner provides and maintains primary fuel-free break and secondary break areas on land surrounding the dwelling that is owned or controlled by the owner.

(2)(a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

(b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. [1993 c.792 §5; 1995 c.812 §6; 1997 c.293 §1; 2003 c.621 §103]

(Other Forestland Dwellings)

215.740 Large tract forestland dwelling; criteria; rules. (1) If a dwelling is not allowed under ORS 215.720 (1), a dwelling may be allowed on land zoned for forest use under a goal protecting forestland if it complies with other provisions of law and is sited on a tract:

(a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection (3) of this section; or

(b) In western Oregon of at least 160 contiguous acres except as provided in subsection (3) of this section.

(2) For purposes of subsection (1) of this section, a tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

(3)(a) An owner of tracts that are not contiguous but are in the same county or adjacent counties and zoned for forest use may add together the acreage of two or more tracts to total 320 acres or more in eastern Oregon or 200 acres or more in western Oregon to qualify for a dwelling under subsection (1) of this section.

(b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records for the tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.

(c) The Land Conservation and Development Commission shall adopt rules that prescribe the language of the deed restriction, the procedures for recording, the procedures under which counties shall keep records of lots or parcels used to create the total, the mechanisms for providing notice to subsequent purchasers of the limitations under paragraph (b) of this subsection and other rules to implement this section. [1993 c.792 §4(2),(3),(5)]

215.750 Alternative forestland dwelling; criteria. (1) As used in this section, "center of the subject tract" means the mathematical centroid of the tract.

(2) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

- (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
- (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;
- (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 - (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- (3) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
 - (a) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;
 - (b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 - (c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
 - (4) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under subsection (2) or (3) of this section.
 - (5) A proposed dwelling under this section is allowed only if:
 - (a) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations and other provisions of law;
 - (b) It complies with the requirements of ORS 215.730;
 - (c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met;
 - (d) The tract on which the dwelling will be sited does not include a dwelling;
 - (e) The lot or parcel on which the dwelling will be sited was lawfully established;
 - (f) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - (g) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - (h) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.
 - (6) Except as described in subsection (7) of this section, if the tract under subsection (2) or (3) of this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(7)(a) If a tract 60 acres or larger described under subsection (2) or (3) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (6) of this section. However, one of the three required dwellings must be on the same side of the road or stream as the tract and:

(A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or

(B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

(b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling.

(8) Notwithstanding subsection (5)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (2), (3), (6) or (7) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle. [1993 c.792 §4(6),(7),(8); 1999 c.59 §58; 2005 c.289 §1; 2019 c.433 §1]

215.755 Other forestland dwellings; criteria. Subject to the approval of the governing body or its designee, the following dwellings may be established in any area zoned for forest use under a land use planning goal protecting forestland, provided that the requirements of the acknowledged comprehensive plan, land use regulations and other applicable provisions of law are met:

(1) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS 215.291.

(2) One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this subsection. A temporary dwelling established under this section shall not qualify for replacement under the provisions of subsection (1) of this section.

(3) Caretaker residences for public parks and public fish hatcheries. [1997 c.318 §6; 1999 c.640 §4; 2023 c.301 §1]

Note: 215.755 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.757 Accessory dwellings supporting family forestry; conditions. (1) As used in this section, “owner or a relative” means the owner of the lot or parcel, or a relative of the owner or the owner’s spouse, including a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either.

(2) A county may approve a new single-family dwelling unit on a lot or parcel zoned for forest use provided:

(a) The new single-family dwelling unit will be on a lot or parcel no smaller than the minimum size allowed under ORS 215.780;

(b) The new single-family dwelling unit will be on a lot or parcel that contains exactly one existing single-family dwelling unit that was lawfully:

(A) In existence before November 4, 1993; or

(B) Approved under ORS 215.130 (6), 215.705, 215.720, 215.740, 215.750 or 215.755;

(c) The shortest distance between the new single-family dwelling unit and the existing single-family dwelling unit is no greater than 200 feet;

(d) The lot or parcel is within a rural fire protection district organized under ORS chapter 478;

(e) The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;

(f) As a condition of approval of the new single-family dwelling unit, in addition to the requirements of ORS 215.293, the property owner agrees to acknowledge and record in the deed records for the county in which the lot or parcel is located, one or more instruments containing irrevocable deed restrictions that:

(A) Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot or parcel containing the existing single-family dwelling unit; and

(B) Require that the owner and the owner's successors manage the lot or parcel as a working forest under a written forest management plan, as defined in ORS 526.455, that is attached to the instrument;

(g) The existing single-family dwelling unit is occupied by the owner or a relative;

(h) The new single-family dwelling unit will be occupied by the owner or a relative; and

(i) The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition or supervision of forest lots or parcels of the owner.

(3) If a new single-family dwelling unit is constructed under this section, a county may not allow the new or existing dwelling unit to be used for vacation occupancy as defined in ORS 90.100. [2019 c.271 §2]

Note: 215.757 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Other Structures)

215.760 Agricultural buildings on land zoned for forest use or mixed farm and forest use. (1) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use is an authorized use on land zoned for forest use or for mixed farm and forest use.

(2) A person may not convert an agricultural building authorized by this section to another use. [2013 c.73 §2]

(Lot or Parcel Sizes)

215.780 Minimum lot or parcel sizes; land division to establish a dwelling; recordation. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

- (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- (c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) When the county can demonstrate to the Land Conservation and Development Commission that the county can adopt a lower minimum lot or parcel size while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

(b) To divide by partition an area of land zoned for forest use to create a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel created may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres; and

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum lot or parcel size of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel size of the zone.

(c) To divide by partition an area of land zoned for mixed farm and forest use to create a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel created may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum lot or parcel size of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel size of the zone;

(C) The minimum tract eligible under this paragraph is 40 acres;

(D) The tract must be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321; and

(E) The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(d) To allow a division by partition of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

(A) Are not eligible for siting of a new dwelling;

(B) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

(D) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

(i) Facilitate an exchange of lands involving a governmental agency; or

(ii) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland.

(e) To allow a division by partition of a lot or parcel zoned for forest use or mixed farm and forest use under a statewide planning goal protecting forestland if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.291;

(C) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

(D) At least one dwelling is located on each parcel created under this paragraph; and

(E) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

(f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record must be readily available to the public.

(4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing dwelling on the lot or parcel was approved under:

(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.651 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) and (c) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction may not allow a dwelling unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record must be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that must be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use. [1993 c.792 §7; 1995 c.700 §1; 1999 c.348 §14; 2001 c.531 §1; 2007 c.143 §3; 2009 c.850 §12; 2013 c.88 §1; 2015 c.104 §6; 2019 c.440 §8]

215.783 Land division to preserve open space or park; qualification for special assessment. (1) The governing body of a county or its designee may approve a proposed division by partition of land in a forest zone or a mixed farm and forest zone to create one new parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division. [2007 c.143 §2; 2015 c.104 §7]

215.785 Exception to minimum lot or parcel sizes. (1) As used in this section, notwithstanding ORS 215.010, "parcel" has the meaning given that term in ORS 92.010.

(2) Notwithstanding the minimum lot or parcel size established under ORS 215.780 (1), when a portion of a lawfully established unit of land has been included within an urban growth boundary and redesignated for urban uses under the applicable acknowledged comprehensive plan and the portion of the lawfully established unit of land that remains outside the urban

growth boundary and zoned for forest uses or mixed farm and forest uses is smaller than the minimum size established under ORS 215.780 (1), the governing body of a county, or its designee, may approve a proposed division by partition of the land, including the land that remains in a forest zone or a mixed farm and forest zone.

(3) The parcel created in the forest zone or mixed farm and forest zone must be partitioned along the urban growth boundary and:

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

(b) If the parcel does not contain a dwelling, the parcel:

(A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(B) May not be considered in approving or denying an application for siting any other dwelling; and

(C) May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

(4) In approving a land division under this section, the governing body of the county or its designee shall require as a condition of approval that the owner of a parcel not containing a dwelling sign and record in the deed records for the county in which the parcel is located an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937. [2015 c.104 §3]

(Review of Lands Zoned for Farm and Forest Use)

215.788 Legislative review of lands zoned for farm and forest use; criteria. (1) For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands in the county to determine whether the lands planned and zoned for farm use, forest use or mixed farm and forest use are consistent with the definitions of "agricultural lands" or "forest lands" in goals relating to agricultural lands or forestlands.

(2) A county may undertake the reacknowledgment process authorized by this section only if the Department of Land Conservation and Development approves a work plan, from the county, describing the expected scope of reacknowledgment. The department may condition approval of a work plan for reacknowledgment under this section to reflect the resources needed to complete the review required by ORS 197.659 and 215.794. The work plan of the county and the approval of the department are not final orders for purposes of review.

(3) A county that undertakes the reacknowledgment process authorized by this section shall provide an opportunity for all lands planned for farm use, forest use or mixed farm and forest use and all lands subject to an exception under ORS 197.732 to a goal relating to agricultural lands or forestlands to be included in the review.

(4) A county must plan and zone land reviewed under this section:

(a) For farm use if the land meets the definition of "agricultural land" in a goal relating to agricultural lands;

(b) For forest use if the land meets the definition of "forest land" used for comprehensive plan amendments in the goal relating to forestlands;

(c) For mixed farm and forest use if the land meets both definitions;

(d) For nonresource use, consistent with ORS 215.794, if the land does not meet either definition; or

(e) For a use other than farm use or forest use as provided in a goal relating to land use planning process and policy framework and subject to an exception to the appropriate goals under ORS 197.732 (2).

(5) A county may consider the current land use pattern on adjacent and nearby lands in determining whether land meets the appropriate definition. [2009 c.873 §5]

Note: 215.788 to 215.794 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.791 Review of nonresource lands for ecological significance; inventory and protection of ecologically significant nonresource lands; criteria. (1) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under ORS 215.788 to 215.794, the county shall review lands that are planned or rezoned as nonresource lands to determine whether the lands contain ecologically significant natural areas or resources. The county shall consider appropriate goals and the “Oregon Conservation Strategy” prepared in September of 2006 by the State Department of Fish and Wildlife.

(2) The county shall maintain an inventory in the comprehensive plan of nonresource lands that contain ecologically significant natural areas or resources and establish a program to protect the areas or resources from the adverse effects of new uses allowed by the planning or zoning changes. The county may use nonregulatory programs to protect the resources including, but not limited to, programs for the transfer of severable development interests to other lands that do not contain ecologically significant resources.

(3) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under ORS 215.788 to 215.794, the county shall review lands that are planned or rezoned as nonresource lands to determine that the uses allowed by the planning or zoning changes are consistent with the carrying capacity of the lands. The county shall ensure that:

(a) The amount, type, location and pattern of development on lands redesignated as nonresource lands:

(A) Will be rural in character and will not significantly interfere with orderly and efficient development of urban areas in the vicinity;

(B) Will not significantly conflict with existing or reasonably foreseeable farm or forest uses or with accepted farm or forest practices; and

(C) Will not lead to significant adverse effects including, but not limited to, adverse effects on:

(i) Water quality or the availability or cost of water supply;

(ii) Energy use;

(iii) State or local transportation facilities;

(iv) Fish or wildlife habitat or other ecologically significant lands;

(v) The risk of wildland fire or the cost of fire suppression;

(vi) The cost of public facilities or services; or

(vii) The fiscal health of a local government.

(b) Additional residential development on nonresource lands is, to the extent practicable, located and clustered to:

(A) Minimize the effects on farm and forest uses;

(B) Avoid lands subject to natural hazards; and

(C) Reduce the costs of public facilities and services. [2009 c.873 §6]

Note: See note under 215.788.

215.794 Review of county rezoning designations; rules. (1) A county shall submit decisions on planning and rezoning designations under ORS 215.788 to 215.794 to the Department of Land Conservation and Development for review pursuant to the procedures set forth in this section and ORS 197.659.

(2) The department shall coordinate with:

(a) The State Department of Agriculture in reviewing decisions on planning and rezoning designations for lands planned for farm use or mixed farm and forest use.

(b) The State Forestry Department in reviewing decisions on planning and rezoning designations for lands planned for forest use or mixed farm and forest use.

(3) The Land Conservation and Development Commission has exclusive jurisdiction for review of a county's decision made under ORS 215.788 to 215.794.

(4) A person who participated in the proceedings leading to the county's decisions under ORS 215.788 to 215.794 may not raise an issue on review before the commission that was not raised in the local proceedings.

(5) The commission may adopt rules implementing ORS 215.788 to 215.794. [2009 c.873 §7]

Note: See note under 215.788.

WILDLIFE HABITAT CONSERVATION PLANNING

215.799 Location of dwellings on wildlife habitat land. (1) New and existing dwellings may be allowed on a lot or parcel subject to wildlife habitat special assessment under ORS 308A.403 to 308A.430 as follows:

(a) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to (11), may remain.

(b) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling for which the landowner seeks approval complies with all applicable requirements under the county's acknowledged zoning ordinance.

(2) The fact that a lot or parcel is subject to wildlife habitat special assessment may not make it easier or more difficult for a landowner to obtain approval for a dwelling on the lot or parcel. [2003 c.539 §14; 2005 c.94 §1]

Note: 215.799 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.800 [1993 c.764 §1; 1997 c.504 §1; 2001 c.708 §8; 2003 c.454 §§86,88; 2003 c.621 §72; repealed by 2003 c.539 §33]

215.801 [2001 c.708 §7; 2003 c.454 §90; 2003 c.621 §73; repealed by 2003 c.539 §33]

215.802 [1993 c.764 §2; 1997 c.504 §2; 2001 c.708 §9; repealed by 2003 c.539 §33]

215.804 [1993 c.764 §3; 1997 c.504 §3; repealed by 2003 c.539 §33]

215.806 [1993 c.764 §4; 1999 c.59 §59; 2001 c.708 §10; repealed by 2003 c.539 §33]

215.808 [1993 c.764 §5; 1997 c.504 §4; 1999 c.314 §61; 1999 c.503 §8; 1999 c.842 §2; 2001 c.708 §11; 2003 c.454 §§92,94; 2003 c.621 §74; repealed by 2003 c.539 §33]

215.990 [Subsections (1) and (2) enacted as 1955 c.439 §11; subsection (5) enacted as 1969 c.324 §8; 1971 c.13 §4; repealed by 1977 c.766 §16]

CHAPTERS 216 TO 220 [Reserved for expansion]



Food Truck & Winery Approvals

Senate Bill 841; ORS 215

Presenter's Name: James Wright, Associate Planner, Benton County
Community Development

Date of Presentation: July 12, 2024

State Requirements

- Key parts of Oregon Revised Statutes 215
 - General Agritourism (ORS: 215.283(4)) versus Winery Specific Agritourism (ORS: 215.452)
- 215.452 (C) states In addition to producing and distributing wine, a winery established under this section may: (c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, **including food and beverages**:
 - (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (B) Served in conjunction with an activity authorized by paragraph (b) (d)(e)
 - (b) Luncheons, wine maker dinners,, wine tasting
 - (d) Carry our agi-tourism or other commercial events on the tract occupied by the winery
 - (e)(charitable events) of this subsection.
- Senate Bill 841

Allowable Activities in Exclusive Farm Use Zones, as Included in ORS 215.213 & ORS 215.283						
Permitted Uses	Farm Use	Commercial Activities with Farm Use	Room & Board	Mass Gathering	Farm Buildings	Farm Stand
Types of Agritourism	Permits vary by county, please always contact and consult your local planning department for assistance.					
Recreation	Fishing, hunting					
Education	Farm tours & demonstrations					Farm product promotional activities
Agri-tainment					Equestrian events & dog trials	Corn mazes, hay rides, harvest festivals, petting zoos
Food Service				Catered food		Farm-to-table dinners
Accommodations			Room & board for up to five unrelated persons in existing residence who work on the farm			
Sales	U-picks, CSA	Business-to-business sales; e.g., fertilizer & seed		Concerts, festivals, etc.	Farm stand sales	Raw & processed farm products
Celebratory Events						Farm-themed birthday parties

Allowable Activities in Exclusive Farm Use Zones, as Included in ORS 215.213 & ORS 215.283 (Continued)					
Permitted Uses	Home Occupation	Private Park	Guest Ranch	Other Commercial Events	Wineries/Cideries/Breweries
Types of Agritourism	Permits vary by county, please always contact and consult your local planning department for assistance.				
Recreation		Low-intensity uses such as hiking trails	Fishing, hunting		
Education	Farm skills, craft and cooking classes		Farm/ranch skills classes	Farm skills, crafts and cooking classes	Tasting & tours
Agri-tainment	Farm skills, craft and cooking classes			Seasonal festivals and farm-related events (up to 18 days)	Up to 18 events that may include concerts & dances
Food Service	Food processing, breakfast for B&B guests		Meals for guests	Farm-to-table dinners	Limited food service for tastings; catered food service
Accommodations	B&B, up to five rooms	Camping in a limited number of tents or yurts	Up to 25 units		
Sales					Wine/cider/beer & incidentals
Celebratory Events					Weddings & retreats

County Requirements

- BCC 55.150 Wineries allowable activities (1)(b)
 - Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages
 - Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - Food served in conjunction with an activity authorized by subsection (B)(D)(E).
- Events on the first 6 days shall obtain an approval from Benton County of all events. Issuance or denial of a winery events license is a ministerial decision, not subject to notification or appeal. Must be renewed every 5-year term.



Department of Land Conservation and Development response

- **DLCD- Hillary Foote**
Farm/Forest Specialist

- There is no express prohibition in the statutory language at ORS 215.283(4) against including outside vendors in the permitted events.
- There is no express prohibition in the statutory language at ORS 215.452 (Land Use approval) against including outside vendors in the permitted agri-tourism or other commercial events.
 - These events are subject to the standards described at ORS 215.452(7) which include findings that the events, including participation of non-winery vendors, are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land.

Neighboring counties and SB 841

- Allowance of Food Trucks as an Agritourism events for approved wineries.
 - Yamhill County
 - Polk County
 - Marion County
 - Lane County
- How can we (Benton County) regulate food trucks?
 - Renewal of agritourism every 5 years.
 - Limited agritourism events not to exceed 72 hours (6 Weekends Friday - Sunday)
 - 25% of sales
- What about other Agricultural properties (U-picks?)

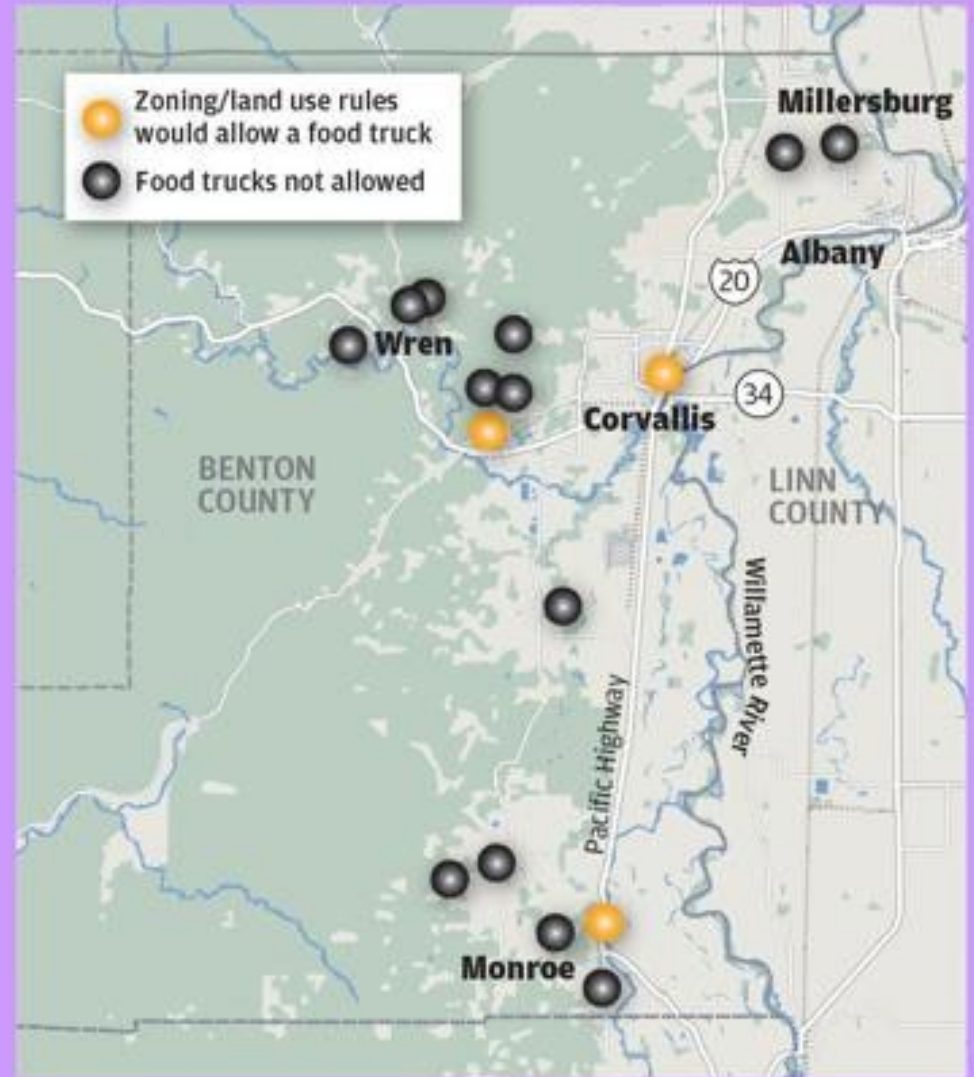


How to evaluate if an event is agritourism or not allowed?

- Is the food tailored to the wine offerings and marketed as an accompaniment to the wine or is it stand-alone offering?
- Is the winery consistently providing food services or instead reserves this service to special occasions.
- Is the predominant activity in the tasting room is dining or is it wine tasting,
- Can the winery produce a straightforward accounting of compliance with 25% rule or instead utilize.
- Has the limit of agritourism events been exceeded?

Mid-Willamette Valley Wineries

Numerous businesses grow grapes, make wine or offer taste tests in Benton County. Many of those are not in a place where county code would allow a food truck.



Questions & Discussion





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Benton County

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Public Works

Contact Name * Gary Stockhoff

Phone Extension * 6010

Meeting Attendee Name * Gary Stockhoff

Agenda Item Details 

Item Title * Update on New Construction at Benton County Facilities

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 15 min

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

Item Issues and Description

Identified Salient Issues*

N/A

Options*

Regular and ongoing update on Benton County Facilities. Project summaries will be provided for the Crisis Center, Courthouse/District Attorney's Office, and Emergency Operations Center projects.

Fiscal Impact*

- Yes
- No

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service Description* If this agenda checklist describes a mandated service or other function, please describe here.
Includes update on EOC, Courthouse, Crisis Center and Mental Health Facilities

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections* Generally speaking, all value and focus areas are in some way associated with the facilities occupied and operated by Benton County.

Focus Areas and Vision* Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection* Generally speaking, all value and focus areas are in some way associated with the facilities occupied and operated by Benton County.

Recommendations and Motions

Item Recommendations and Motions

Staff

N/A

Recommendations*

Meeting Motions*

I move to ...

N/A

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

BOC Project Report - Crisis Center - July24.docx	77.57KB
BOC Project Report - Courthouse - July24.docx	118.67KB
BOC Project Report - EOC - July24.docx	1.81MB

Comments (optional) If you have any questions, please call ext.6800

Department Approver GARY STOCKHOFF

1.

Department Approval

Comments

Signature

Gary Stockhoff

2.

Counsel Approval

Comments

Signature

Vance H. Choney

3.

County Administrator Approval

Comments

Signature

Rachel L McEneny

4.

BOC Final Approval

Comments

Signature

Ananda Makepeace



Crisis Center - Monthly Project Report

July 2024

Project Location: 240 NW 4th Street, Corvallis, OR

Owner's Representative: N/A

Construction Manager/GC: Gerding Builders

Project Owner: Benton County, Gary Stockhoff

Architect/Engineer: Mahlum Architects

Scheduled Completion: Spring of 2025

Summary

The Benton County Crisis Center is a voluntary, walk-in treatment-centered facility that may serve as an alternative to the emergency room, which aims to provide stabilization for individuals experiencing mental health crisis, along with referrals and support for ongoing behavioral health services. The crisis center will be staffed by Benton County Health Department's mental health crisis team and is an expansion of existing mental health crisis services.

By relocating to this facility, with more available space, the Benton County Health Department will add additional staff and services, including:

- 24/7 walk-in (no appointment needed), face-to-face crisis counseling services.
- Crisis, Outreach, Response, and Engagement (CORE) Co-Response team assisting in connecting people in crisis to the new facility for stabilization and support.
- Dispatch center for the Mobile Crisis Team, which responds out in the community to calls from community service providers, including law enforcement and hospital staff.

The new crisis center will also offer a safe and supportive space for voluntary stabilization to adults who are assessed to need short-term stabilization, but do not require the medical capabilities of an acute care hospital or longer-term residential care. In addition, the crisis center will expand the County's currently very limited respite bed capacity for adults. Respite beds and stabilization chairs are for adults, aged 18 years or older; the new facility will contain:

- Five (5) Stabilization Chairs (Recliners) – Up to 23 hours stay in a trauma-informed, treatment-centered environment for adults who need additional time and support to stabilize from mental health crisis and to be connected to appropriate community resources.
- Five (5) Respite Beds – Up to 29 days stay in a trauma-informed, treatment-centered environment for adults recovering from mental health crisis who need respite time away from their current living situation while being connected to ongoing treatment and/or other appropriate community resources.

Land Acquisition

The site was a former gas station and used car lot prior to it being prepared for the Crisis Center. Benton County owned the property, which helped preserve the available funds for construction of the new facility.

Site Development

The new facility will be constructed on a 10,000 SF lot which, as indicated above, has necessitated going to a second story. The project will be providing site upgrades to meet City of Corvallis requirements and the needs of the Crisis Center operation. The gas station was removed in 2022 with the foundation being removed in 2023; site work commenced shortly thereafter. Unfortunately, the soil at this site was found to be contaminated and several old, abandoned fuel tanks were discovered underground which has slowed work on the underground components.

Design Planning and Community Engagement Update

Benton County Behavioral Health formed a design advisory group to help inform the design process by providing a crystal-clear understanding of the unique needs of Benton County residents and what can be accomplished with the new crisis center. The committee consisted of health department staff and mental health professionals as well as community partners, including representatives from:

- Good Samaritan Regional Medical Center
- Intercommunity Health Network Coordinated Care Organization
- Pathfinder Clubhouse
- Corvallis Daytime Drop-In Center
- Strengthening Rural Families
- Oregon State University Counseling & Psychological Service
- Benton County Sheriff’s Office
- Corvallis Police Department
- Mahlum Architects
- Gerding Builders

In the design planning process, the architect team presented concepts to the design committee members who ask questions, provide insight, and help refine the vision for the final design. The committee participated in journey-mapping exercises that put them in the shoes of someone seeking crisis services to help guide the process and flow of services once the center is up and running. Another activity, called visual listening, gave the committee an opportunity to authentically react to different designs, to help define the look and feel of the building.

The facility design was completed in November 2022 and the advisory group’s work has concluded. Mahlum is currently working with the Oregon Health Authority to ensure that our design continues to meet their expectations for licensure.

Budget Update

The total budget for the Crisis Center is \$8,929,094 which is funded through a combination of state and federal resources. As of May 28, 2024, the County has expended \$2.74 million or 30.7% of the budget.

Budget Category	Budget	Expended	Committed	Available
IHN Capital Grant	\$ 100,000	\$ 100,000	\$ -	\$ -
Energy Trust Fund Grant	\$ 2,500	\$ 2,500	\$ -	
OHA State Capital Grant	\$ 1,126,592	\$ 679,497	\$ 447,095	\$ -
HRSA Federal Grant	\$ 1,000,000	\$ -	\$ 1,000,000	\$ -
State ARPA Grant	\$ 1,250,000	\$ 1,250,000	\$ -	\$ -
State Legislative Grant	\$ 5,450,002	\$ 707,885	\$ 4,742,117	\$ -
Total	\$ 8,929,094	\$ 2,739,882	\$ 6,189,212	\$ -

Construction Update

Due to the land use and soil contamination, prior to our project, the Department of Environment Quality requires a vapor mitigation system be put into place; that process is almost complete, and prior to advancing with the foundation work and construction of the building DEQ will need to approve of the installed vapor system. If the measures deployed are acceptable to DEQ work will commence immediately on the foundation, then the structure. The goal is to have the building framed in prior to the next rainy season commencing in the Fall.

Schedule Update

The current anticipated completion date is Spring 2025 with operations expected to also start Spring 2025.



Courthouse Monthly Project Report

July 2024

Project Location: 1000 NE Carson Drive

Project Owner: Benton County, Gary Stockhoff

Owner's Representative: Otak CPM, Sheri Mishler

Architect/Engineer: DLR Group, Jane Gooding

Construction Manager/GC: Hoffman, Justin Paterson

Scheduled Completion: Spring 2026

Summary

The project team is coordinating the final details of various permits and development agreements to prepare for the start of construction later this summer. The current schedule is aligned with construction activities starting in the beginning of September. A ground-breaking ceremony will be held around this time.

Land Acquisition

A settlement has been reached and documents have been finalized by the judge. The stipulated judgement includes all necessary access and utility easements.

Site Development

The final design for site construction has been approved by all jurisdictions. Final revisions to the site work permits, final platting, and all associated agreements are in progress. Given the complexity and review time needed for these documents, issuance of permits is now expected in August.

The farmhouse (Swick House) will be fenced off during construction until certain stipulations are completed. The Section 106 process included two meetings with interested parties to discuss mitigation efforts to compensate for the loss of a historically significant structure, resulting in a Memorandum of Agreement (MOA). Stipulations include further documentation of the Swick House, an interpretive display in the Courthouse and a digital exhibit hosted online, as well as an architectural salvage effort. This MOA is currently under review by the State Historic Preservation Office (SHPO) and the U.S Army Corps of Engineers (USACE).

Design Update

With the completion of the Construction Documents set, the design team has been focusing on preparing addenda for bidding packages and addressing building permit comments. A building permit will be ready to issue soon, however is dependent on issuance of site work permits.

Budget Update

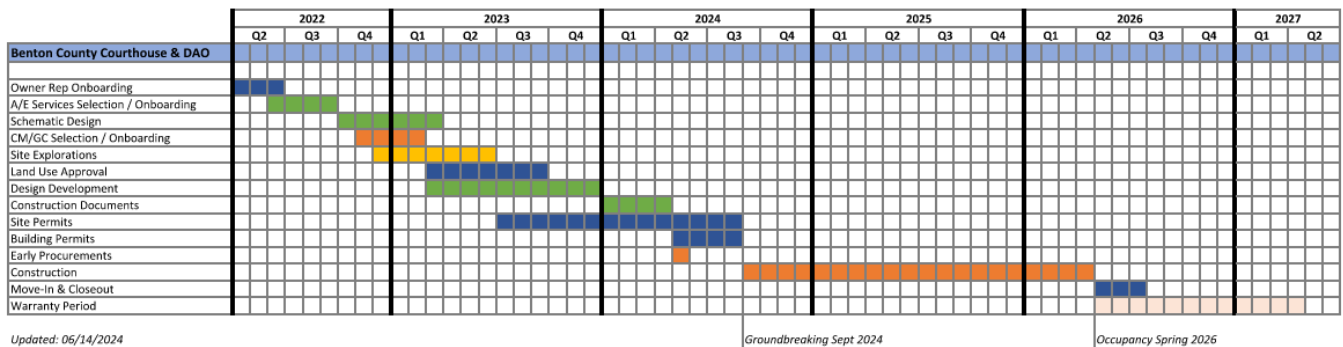
The OJD Master Funding Agreement has been executed and the project team will be moving forward with preparing reimbursement requests for pre-design costs. The OJD Phase Agreement that covers design and construction costs is still under review. There are no updates to the budget at this time.

Construction Update

Hoffman Construction is gearing up to start construction in September, as soon as site work permits are issued. Bid packages for the building have been advertised and will help finalize budget numbers in the coming months.

Schedule Update

The updated schedule forecast below shows a late Summer 2024 construction start and late Spring 2026 finish.



Emergency Operations Center (EOC) - Monthly Project Report

July 2024

Project Location: 1000 NE Carson Drive, Corvallis, OR
Owner's Representative: Otak
Construction Manager/GC: Hoffman Construction

Project Owner: Benton County, Gary Stockhoff
Architect/Engineer: DLR/Mazzetti
Scheduled Completion: Spring 2026

Summary

The EOC will be constructed north and east of the new Courthouse/DA facility off Hwy 20, and the new collector road (NE Carson Drive). The EOC will be approximately 7,000 SF when completed and will house several Sheriff Department groups. It will also provide sufficient and appropriately designed space for emergency operation activations, and large group training opportunities. The construction of the EOC was made possible through a FEMA grant (design only), and an appropriation from the State of Oregon.



Land Acquisition

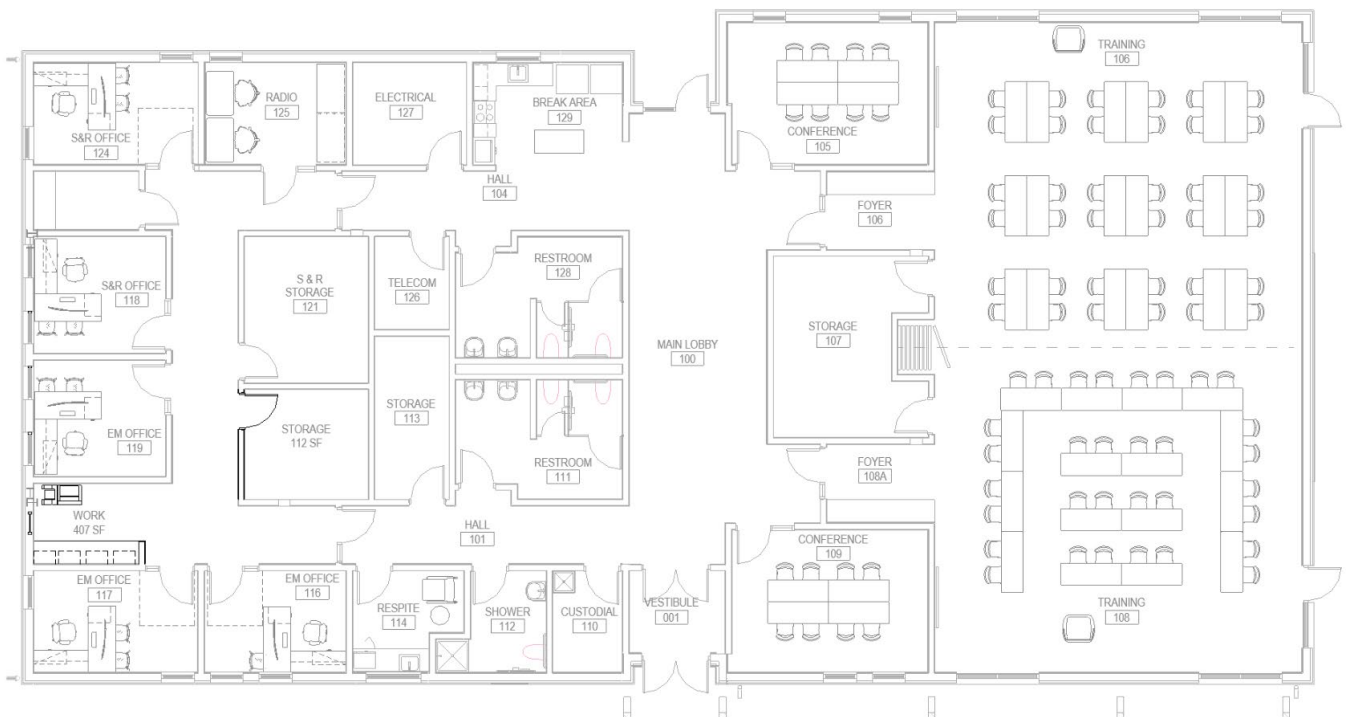
As shown above, the project will be located on the same property as the new Courthouse/DA facility.

Site Development

Site development will occur in conjunction with construction of the Courthouse/DA facility.

Design Update

The project is currently in the Design Development (DD) phase which is scheduled for completion at the end of June 2024. After DD, the project will move into development of the construction drawings and building permit submission. We anticipate that a building permit will be ready to issue by the end of the year.



Budget Update

The total budget for the construction of the Emergency Operations Center is now \$8,885,333, with the addition of a grant from the State for Furniture, Fixtures & Equipment.

This budget is supported by \$5.0 million of lottery backed revenue bonds appropriated by the state legislature through HB 5030 (2023), \$2.5 million of American Rescue Plan Act (ARPA) awarded directly to Benton County, \$1.0 million of a federal emergency operations center grant funded by FEMA, and \$333,333 of county matching resources.

As of May 28, 2024, the County has expended 2.3% of the budget. The total cost estimate of the Schematic Design package was initially over the \$8,833,333 budget, requiring a change in structural materials. The mass timber design was replaced with a more affordable pre-engineered metal building system (PEMB) to bring the project back in budget without reducing critical program space. The table below provides a summary of the budget to date.

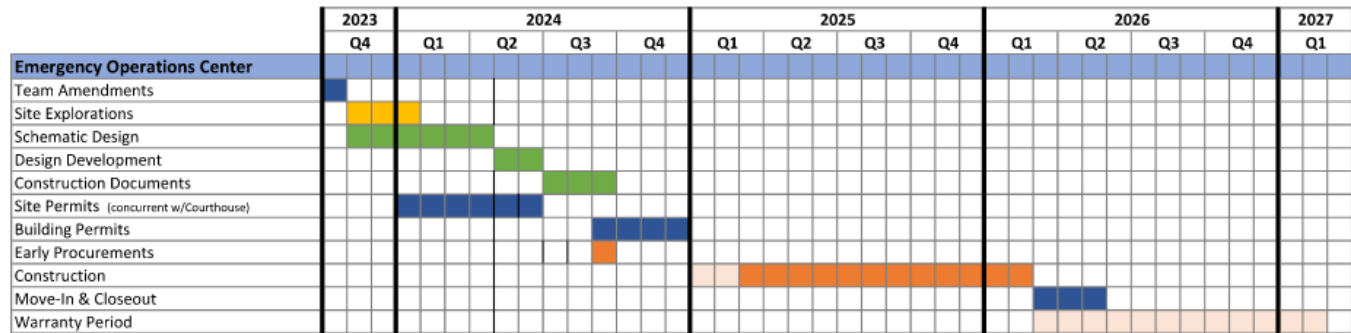
Budget Category	Budget	Expended	Committed	Available
Design and Professional Svcs	\$ 1,590,314	\$ 208,183	\$ 1,382,131	\$ -
Jurisdictional Costs	\$ 146,500	\$ -	\$ 146,500	\$ -
Construction Cost	\$ 6,794,519	\$ -	\$ 6,794,519	\$ -
Furniture, Fixtures & Equipment	\$ 352,000	\$ -	\$ 352,000	\$ -
Incidental Cost	\$ 2,000	\$ -	\$ 2,000	\$ -
Total	\$ 8,885,333	\$ 208,183	\$ 8,677,150	\$ -

Construction Update

With the building permit expected to be issued during the winter season, Hoffman will be evaluating whether to start at the end of the year or push the start to early Spring 2025 if weather conditions prohibit construction activities. As shown on the schedule below, this does not affect the target completion date of Spring 2026.

Schedule Update

The project is on schedule for completion in Spring 2026.



Updated: 05/24/2024

Groundbreaking Early Spring 2025
 \$5M Bonds Available
 \$1M FEMA Grant Expires
 Occupancy Early Spring 2026

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * Work Session

Department * Natural Areas, Parks and Events

Contact Name * Jesse Ott

Phone Extension * 6002

Meeting Attendee Name * Jesse Ott_Adam Stebbins

Agenda Item Details 

Item Title * McBee Forest Stewardship Plan update.

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 10 min

Board/Committee Involvement * Yes No

**Name of
Board/Committee**

Natural Areas and Parks Advisory Board

Advertisement*

- Yes
 No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues*

Natural Areas, Parks and Events (NAPE) needs to prepare the McBee campground for development and the McBee Forest needs access for fire control and a thinning is needed in the forest. NAPE will add an amendment to our Forest Stewardship Plan for these operations.

Options*

The Parks and Natural Areas Advisory Board has reviewed the plan and they accepted the amendment into the forest stewardship plan. They are supportive of the project. We request any questions or input from the Commissioners.

Fiscal Impact*

- Yes
- No

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values*

Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections*

This project will set the stage for the upcoming McBee campground design process. The McBee campground provides excellent access to the natural environment with camping and McBee is also the home of the Green Peak Trail that leads to the Green Peak Falls.

Focus Areas and Vision*

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection*

Part of this project is a forest thinning that promotes healthy growth of our trees and prevent overcrowding. The project also allows us to set the stage for development of the campground.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations*	Support the project that has been vetted and approved by NAPE staff and the Natural Areas and Parks Advisory Board.
Work Session Motions*	I move to ... No motion needed.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

McBee Harvest Assessment 110723.pdf	7.31MB
McBee Campground & Forest Logging Overview 24.pptx	27.15MB
McBee Forest Inventory Phase 1.pdf	449.34KB
McBee_Site_Layout_101607488.pdf	664.6KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver JESSE OTT

1. Dept Approval

Department Approval

Comments

Signature

Jesse Ott

2.

Counsel Approval

Comments

Signature

Vance H. Chokey

3.

County Administrator Approval

Comments

Signature

Rachel L McEneny

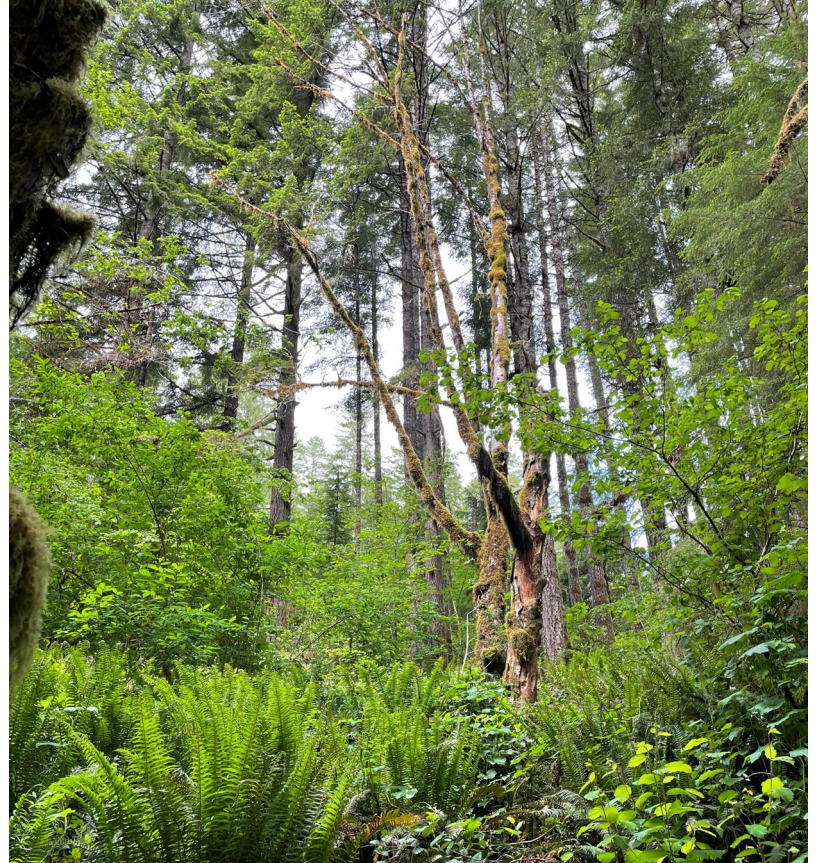
4.

BOC Final Approval

Comments

Signature

Amanda Makepeace



McBee Campground & Forest

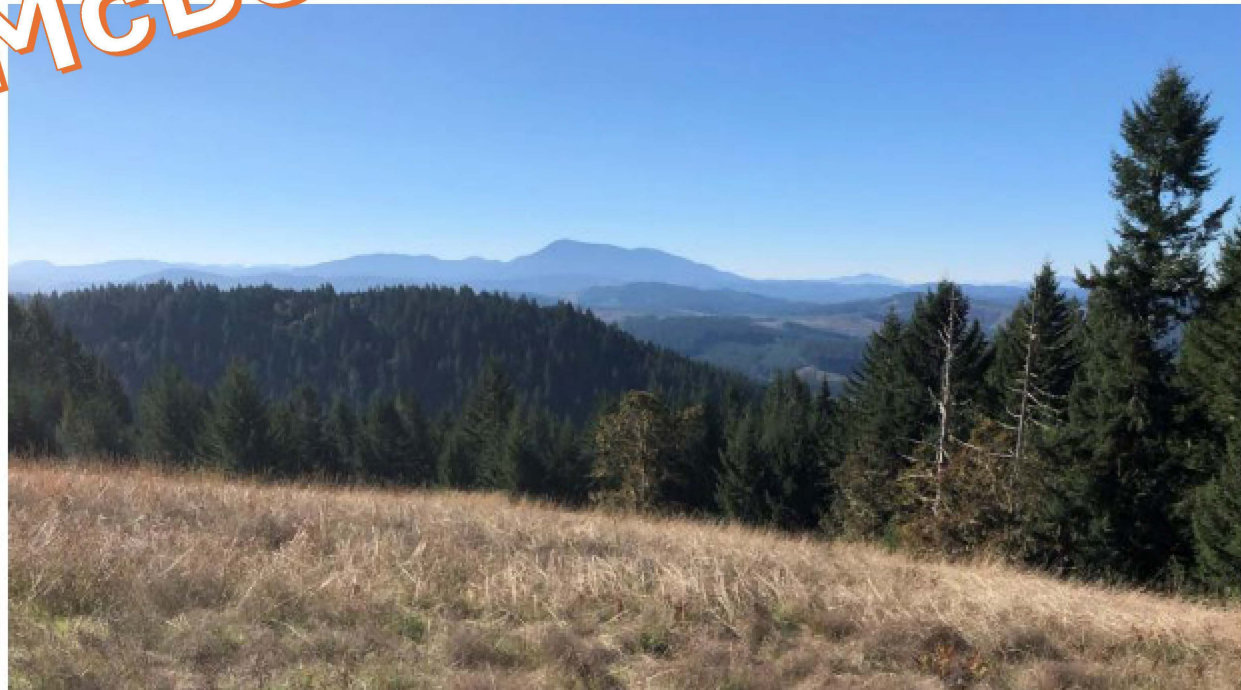
2024 Logging Plan

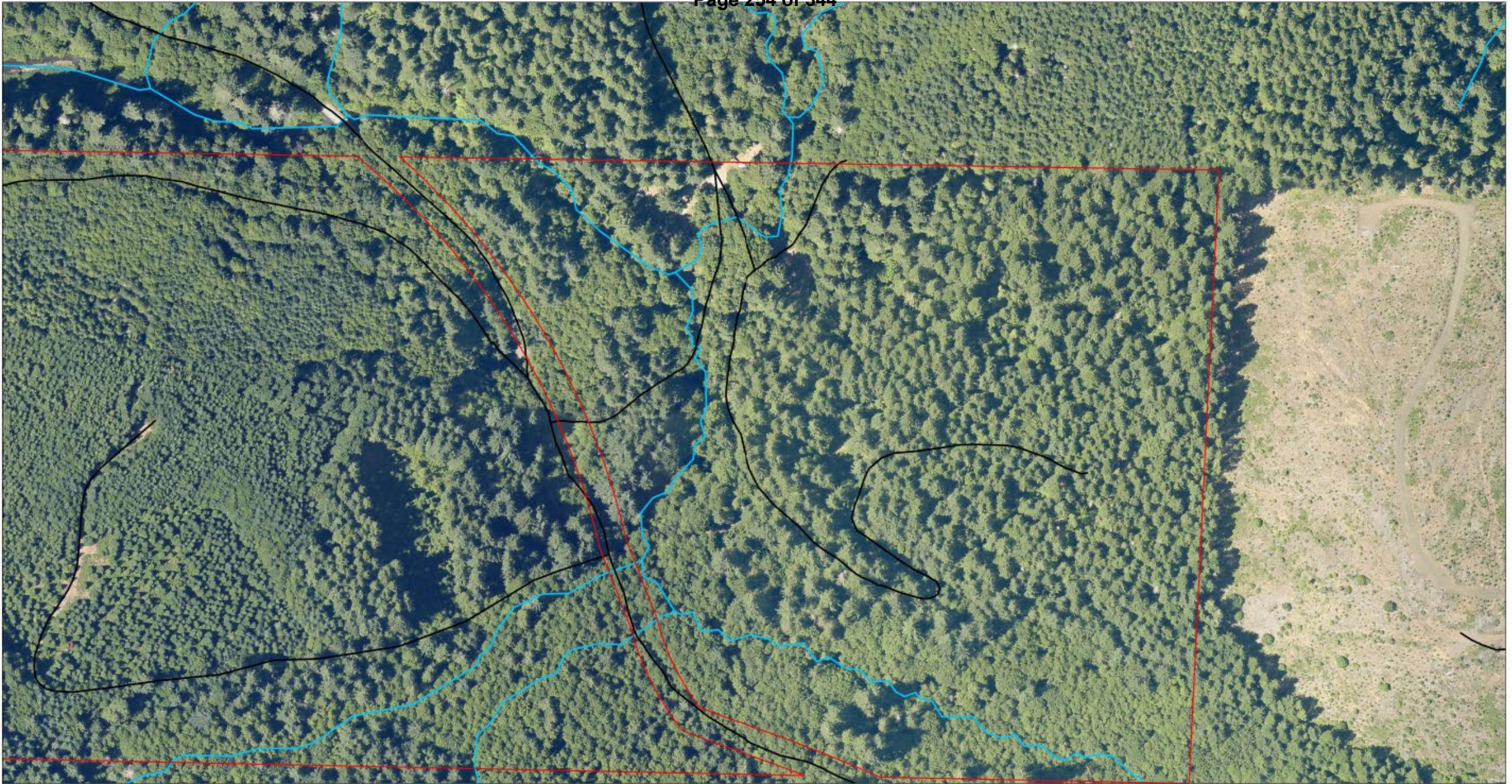
**Forest Resource Stewardship Plan
2021-2030
Benton County Natural Areas & Parks Department**

Bezell Memorial Forest
Fitton Green Natural Area
Fort Hoskins Historic Park

February 2021

McBee!







Table/Shelter

McBee Site 3

McBee Site 7

McBee Site 6

McBee Site 5

Table

McBee Site 4

Restroom

Logging of all currently merchantable timber within the campground entrance

Page 256 of 344

where picnic table area will be converted to parking

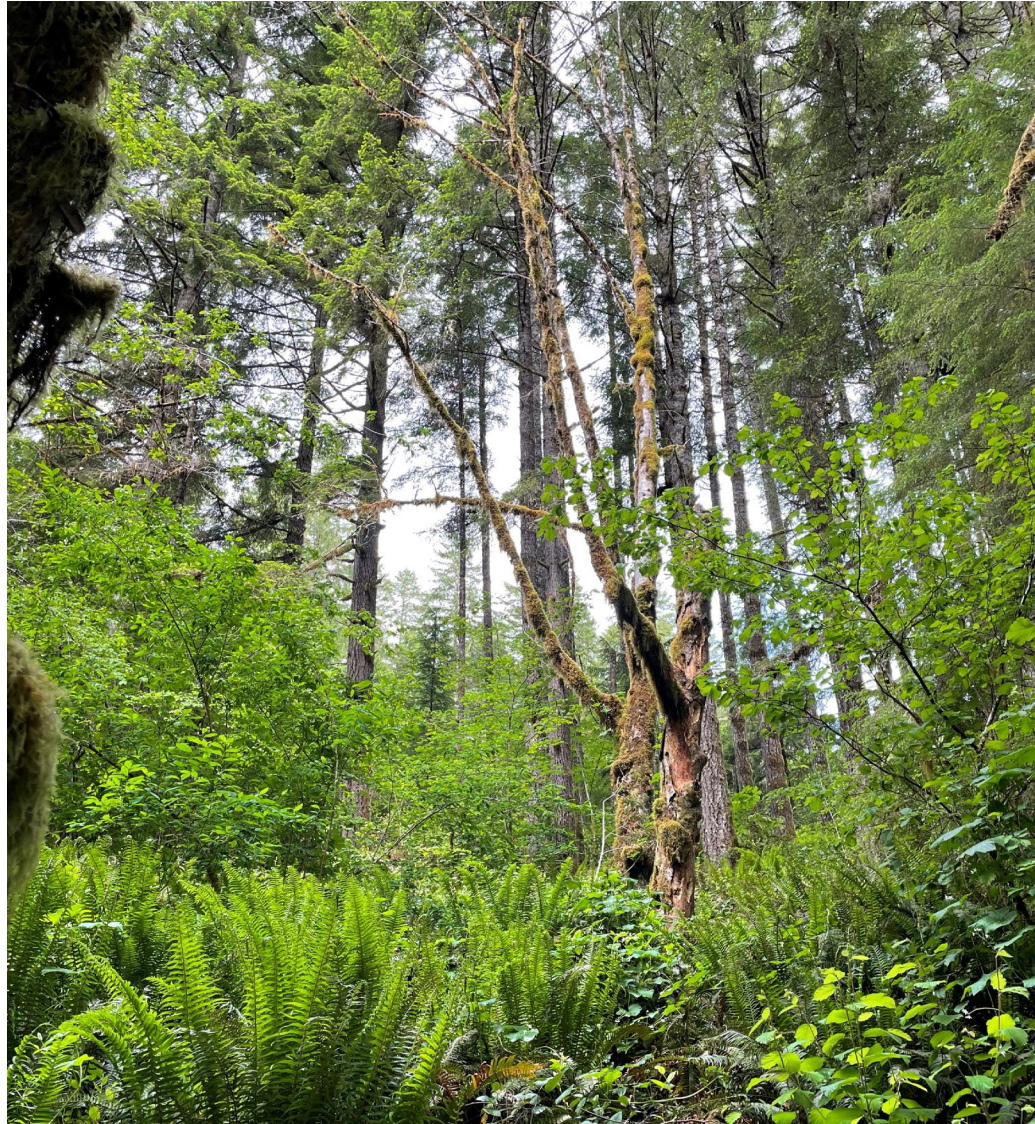
Clearing/logging would occur followed by the property being added to the current stewardship plan. Post logging stump grinding and parking lot install.



Logging of 1-2 rows of merchantable timber on flat ground above Site #4 to provide for planned tent camping



Logging of east side unit directly across from park entrance- 7 acre central thinning as noted on Trout Mountain Forest Assessment
Screening from road will occur along with fire control access



McBee Forest Resources Stewardship Plan (FRSP)

Phase 1 Timber Inventory

Summary Overview

Young stands have opportunities for commercial thinning. These treatments would focus on removal of the smallest and most suppressed trees with a goal of reallocate sunlight, water and growing space to fewer trees. This promotes growth and vigor of the remaining trees and leads to a more resilient and stable forest over time. Young stand thinning is generally relatively high cost and generates modest amounts of low-value logs, but it is appropriate, necessary and financially viable on approximately 8 acres.

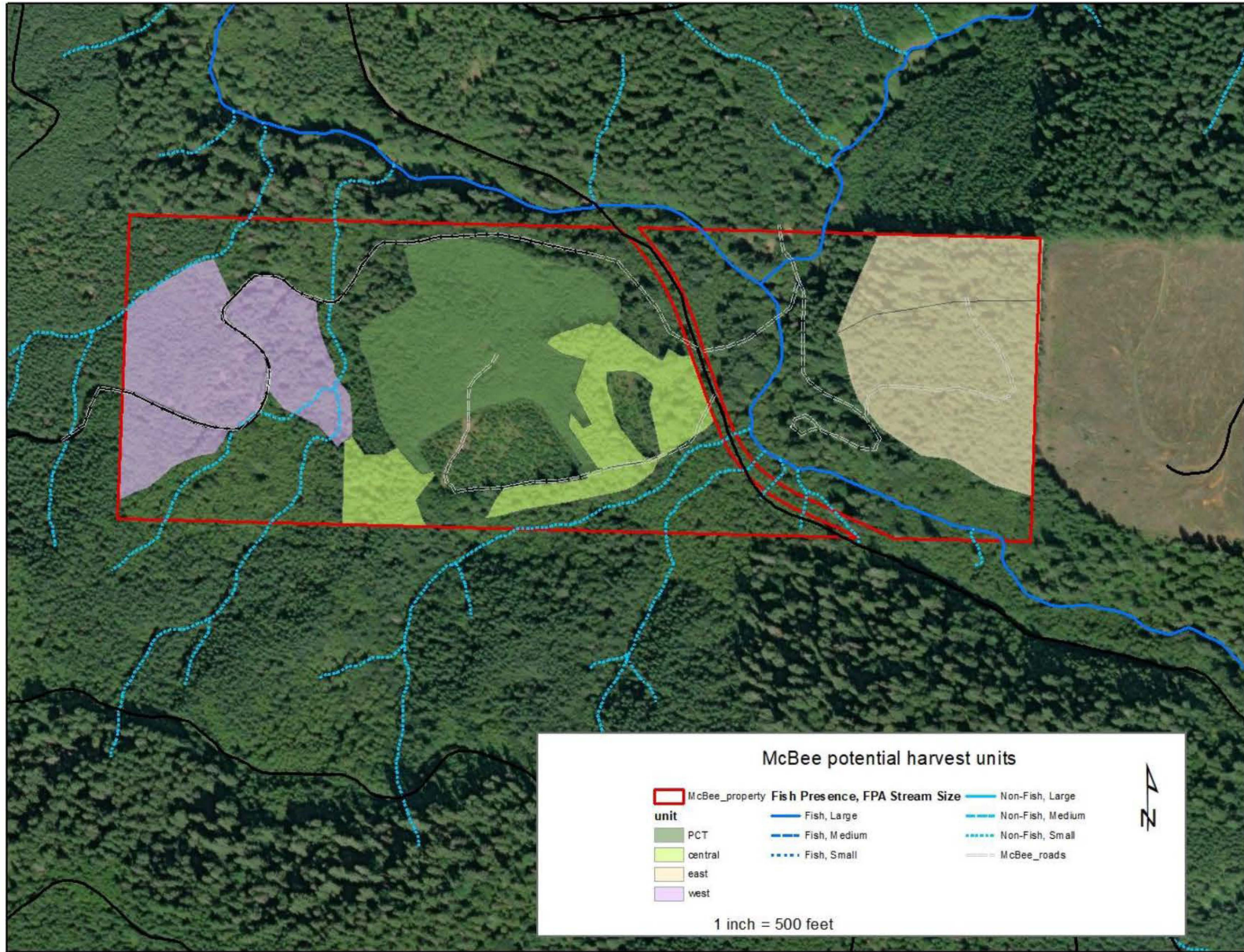
Mature stands provide opportunities for harvesting high value timber using thinning, group selection and small openings (i.e.: patch cuts, <5 acres). These harvests can be designed to maintain the ecological and aesthetic value of the stand while enhancing stand structure and generating income. Intensity of harvest can be adjusted to meet financial needs while still following guidelines of the FRSP. The harvest approach in these stands defined here is on the conservative end of the spectrum. Approximately 24 acres of mature stands provide near-term harvest opportunities.

One 15-acre pre-merchantable stand would benefit from a precommercial thinning. This involves cutting small trees and leaving them on the forest floor to decompose, as they are too small to be marketable as logs. This expense is a long-term investment in the growth and vitality of the stand.

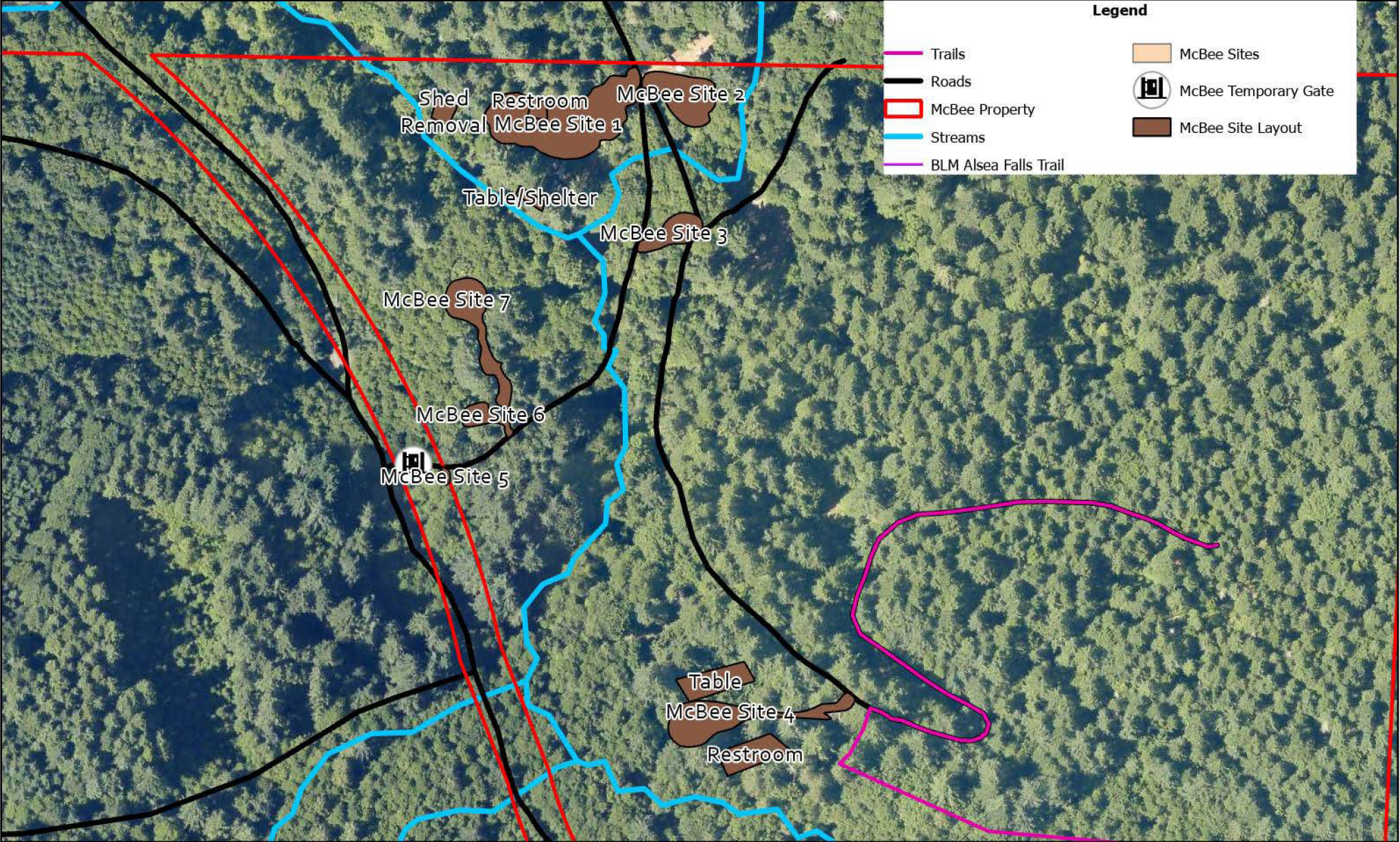
Tree removal for safety around camp infrastructure may produce modest income or at a minimum cover costs, based on sale of logs removed.

See table and inventory map below for current phase of FRSP based on initial inventory and stewardship goals long term.

<i>harvest unit</i>	<i>approx. operational acres</i>	<i>treatment description</i>	<i>harvest volume (MBF)</i>
west	11	first-entry thin on 8 acres of young forest, group selection or thinning on 3 acres of mature forest	45
central	7	thinning and group selection on 7 acres of mature forest	81
east	14	Extremely high quality and high value timber; group and individual tree selection on 14 acres of mature forest; requires ~1,200' of road construction and some replanting of group selection or patch cut areas; spotted owl activity center on adjacent BLM lands requires seasonal restrictions (winter operation) and higher road costs	280
PCT	15	pre-commercial thinning of one stand	-
<i>total</i>			<i>406</i>



McBee Campground Rehabilitation- Site Layout



Sponsor:



3/20/24

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information



Timber Revenue and Management Cost Assessment for the McBee Property

For the Benton County Board of Commissioners

By

Matt Fehrenbacher, Trout Mountain Forestry

November 7, 2023

Summary

The McBee property is a highly productive forest site with a range of age classes and conditions. The combination of these two factors, high site and complexity in age and structure, result in a forest that has potential to generate significant ecological values, recreational opportunities and periodic income from timber harvest, both in the near term and long term.

The 2021 Benton County Natural Areas, Parks & Events (BCNAPE) Department Forest Resource Stewardship Plan (FRSP) identifies nine primary ownership objectives (see Appendix 1 below) for the forest properties owned by the County. Eight of these are relevant for the McBee property, and in my opinion, achievable under a management approach similar to that described in the 2021 FRSP.

Approach and Assumptions

The purpose of this assessment is to identify forest management needs and opportunities related to ownership of the McBee property. Specifically, identification of costs and potential income sources. This is a preliminary assessment, accomplished by using coarse, summary data on timber volumes and acres provided by the seller, along with field reconnaissance, remote sensing analysis and reliance on professional experience and opinion. Forest stand boundaries and acres provided by the seller were verified and used as the basis for timber value calculations. No quantitative sampling of the timber was conducted as part of this assessment, and the seller provided stand-level inventory data for the east portion of the property only.

This assessment does not consider the condition of bridges, major road needs or other infrastructure, but rather the timber resources, harvest opportunities and forest stand management needs based on BCNAPE's current approach.

Operational costs and log prices are conservative estimates that would be expected given the nature of the forest, potential operational parameters, and assumed approach. Values are based on assumed treatments. Treatments described are feasible and implementable, but additional reconnaissance, analysis and determination of goals and objectives will be required prior to actual implementation. Net operational acres are determined by approximating what would be appropriate in practice considering the ownership objectives.



Timber Resources and Forest Types

The Douglas-fir forests of McBee can be broken into three major age categories; mature (over 50 years old), young (25-49 yrs) and pre-merchantable (<25 yrs). The mature and young types both have opportunities for commercial harvest, while the pre-merchantable are too young to have immediate income potential, but may have management needs that require investment.

There are also mixed conifer/hardwood stands that are largely non-merchantable or in riparian buffers, and merchantable hardwood dominated stands that may provide commercial value under the right market conditions.

The Oregon Forest Practices Rules (OFPR)¹ restricts harvest within buffer zones along fish bearing streams therefore these areas are excluded from consideration. Finally, there are several areas where harvest would not be likely to occur due to recreational infrastructure.

Figures 1 and 2 below show imagery of the forest and approximate allocation of forest types.

The table below illustrates approximate acres² by forest type.

<i>stand type</i>	<i>gross acres</i>	<i>% total</i>
mature	37.7	33%
young	13.5	12%
pre-merchantable	20.8	18%
merchantable hardwood	7.3	6%
mixed hardwood/conifer	22.8	20%
riparian buffer	12.3	11%
<i>total</i>	<i>114.3</i>	<i>100%</i>

Opportunities and Needs

Young stands have opportunities for commercial thinning. These treatments would focus on removal of the smallest and most suppressed trees with a goal of reallocating sunlight, water and growing space resources to fewer trees. This promotes growth and vigor of the remaining trees and leads to a more resilient and stable forest over time. Young stand thinning is generally relatively high cost and generates modest amounts of low-value logs, but it is appropriate, necessary and financially viable on approximately 8 acres.

¹ New rules will be adopted in January 2024 and are the basis for this assessment

² GIS acres used here may not match tax lot acres. Refinement to mapping accuracy will be necessary during management planning



Mature stands provide opportunities for harvesting high value timber using thinning, group selection and small openings (i.e.: patch cuts, <5 acres). These harvests can be designed to maintain the ecological and aesthetic value of the stand while enhancing stand structure and generating income. Intensity of harvest can be adjusted to meet financial needs while still following guidelines of the FRSP. The harvest approach in these stands defined here is on the conservative end of the spectrum. Approximately 24 acres of mature stands provide near-term harvest opportunities.

One 15-acre pre-merchantable stand would benefit from a precommercial thinning. This involves cutting small trees and leaving them on the forest floor to decompose, as they are too small to be marketable as logs. This expense is a long-term investment in the growth and vitality of the stand and should be scheduled within the next 3 years.

Tree removal for safety around camp infrastructure may produce modest income or at a minimum cover cost, based on sale of logs removed.



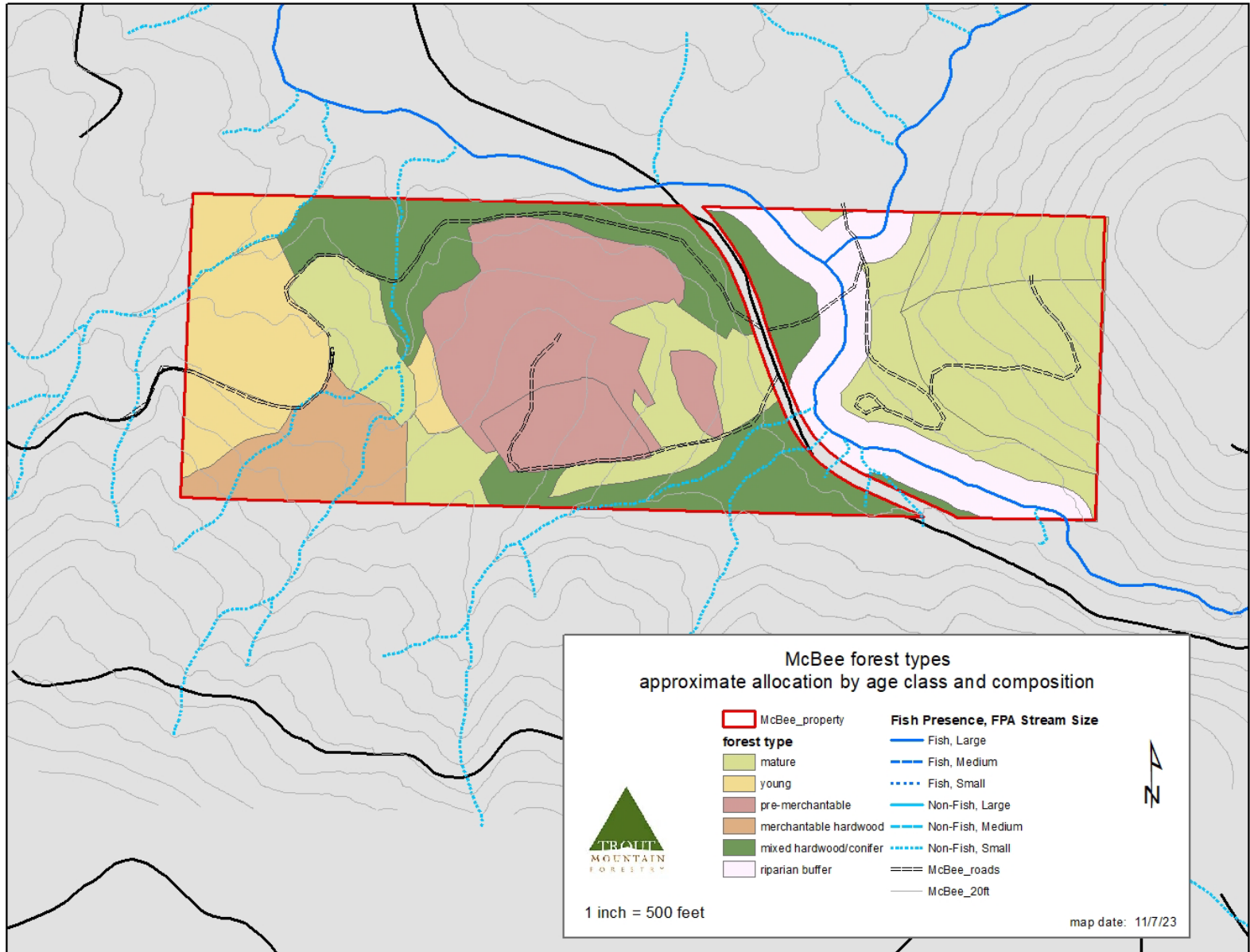


Figure 1: Aerial Imagery





Figure 2: Approximate location of forest types



Cost and Revenues

The table below illustrates potential scenarios for three separate harvest operations and one precommercial thin. Each operation is a conservative approach in line with the BCNAPE ownership objectives outlined in the current FRSP.

Revenue is based on log sales under assumed volumes and log values at local mills. Income is net of all assumed costs associated with the operation, including logging and hauling, road work necessary for access, harvest taxes, harvest administration, and any reforestation required. Costs associated with BCNAPE administration or staff time is not included.

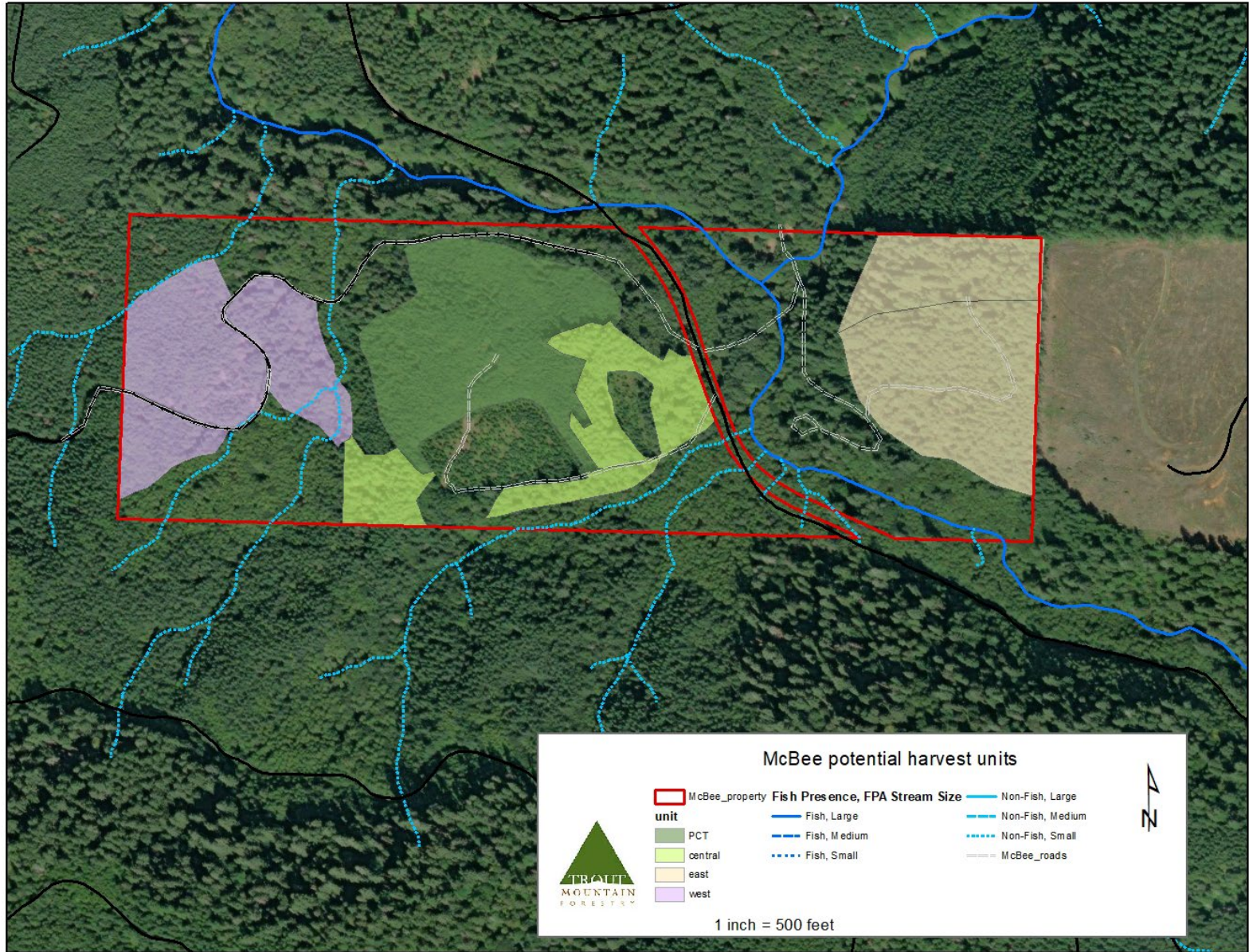
<i>harvest unit</i>	<i>approx. operational acres</i>	<i>treatment description</i>	<i>harvest volume (MBF)</i>	<i>net income</i>
west	11	first-entry thin on 8 acres of young forest, group selection or thinning on 3 acres of mature forest	45	\$2,000
central	7	thinning and group selection on 7 acres of mature forest	81	\$16,000
east	14	Extremely high quality and high value timber; group and individual tree selection on 14 acres of mature forest; requires ~1,200' of road construction and some replanting of group selection or patch cut areas; spotted owl activity center on adjacent BLM lands requires seasonal restrictions (winter operation) and higher road costs	280	\$50,200
PCT	15	pre-commercial thinning of one stand	-	(\$8,000)
<i>total</i>			<i>406</i>	<i>\$60,200</i>

Maps of three proposed harvests (West, Central and East) are shown in Figure 3 below. Images of stand conditions for the harvest area and other stands types are in Appendix 2.





Figure 3: Potential harvest units



Conclusion

The McBee property provides immediate and long-term opportunities to meet objectives defined in the current FRSP. A conservative approach to harvest operations can generate about \$60,000 of net revenue in the near term. If there are significant financial needs, harvest intensity could be increased, but additional assessment of harvest opportunities in the context of the FRSP and overarching ownership objectives would be required to ensure an appropriate balance of the resource values.



Appendix 1: Ownership Objectives

Overarching Ownership Objectives as identified in the 2021 BCFRSP

1. Conserve populations and habitats for prairie species³
2. Provide opportunities for public enjoyment and appreciation
3. Promote diverse wildlife habitats to support native biodiversity
4. Promote environmental education and research
5. Demonstrate environmentally sensitive forest management and harvest techniques
6. Reverse trends of habitat loss; restore degraded habitats
7. Continue conservative harvesting to provide ongoing park funding
8. Prevent wildfires
9. Plan for climate adaptation and carbon capture

³ N/a for McBee property



Appendix 2: Stand conditions



Figure 1: Young stand. A candidate for commercial thinning in the West Unit



Figure 2: Merchantable hardwood stand. No immediate needs, but may present commercial harvest opportunities based on market conditions.



Figure 3: Mature stand. Candidate for harvest in the West Unit.



Figure 4: A pre-merchantable stand. A candidate for precommercial thinning.



Figure 5: Mature stand. A candidate for harvest in the Central Unit.



Figure 6: A pre-merchantable stand.



Figure 6: Mature stand. A candidate for harvest in the Central Unit.



Figure 7: Mature stand. A candidate for harvest in the East Unit.

NEW BUSINESS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Juvenile

Contact Name * Matt Wetherell

Phone Extension * 6064

Meeting Attendee Name * Matt Wetherell

Agenda Item Details 

Item Title * Approval of Contract between Oregon Youth Authority and Linn and Benton Counties, Agreement No. 14550

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 10

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

Page 282 of 344

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues*

Agreement between Oregon Youth Authority (OYA) and the counties over the use of the detention center located in Linn County. This is a renewal of a contract that has been in place and has expired.

Options*

n/a

Fiscal Impact*

- Yes
 No

2040 Thriving Communities Initiative

Mandated Service?* Yes
 No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values*

Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections*

While this contract is not a mandated service, it does support the core value of supportive people and resources as it allows us to continue operations of the detention center.

Focus Areas and Vision*

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection*

When a youth is housed in a detention center, it is because they have been accused of breaking a law. We want to ensure that everyone is safe in the community. This includes any victims and the youth being detained.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Staff recommends that this contract be approved and signed as it allows the continuation of the agreement between OYA and the counties.

Meeting Motions * I move to ...
approve the contract between the Oregon Youth Authority and Linn/Benton Counties to operate the detention center.

Meeting Motion

I move to approve the contract between the Oregon Youth Authority and Linn/Benton Counties to operate the detention center.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Comments (optional)

The contract is going before the Linn County Board the week of June 17. After it is signed the Juvenile Director will send the signed copy for Benton County signatures.

If you have any questions, please call ext.6800

**Department
Approver**

MATT WETHERELL

1.

Department Approval

Comments

Signature

Amanda Makepeace

2.

Counsel Approval

Comments

Signature

Vance H. Croney

3.

County Administrator Approval

Comments

Signature

Rachel L McEneny

4.

BOC Final Approval

Comments

Signature

Amanda Makepeace

**INTERGOVERNMENTAL AGREEMENT
OREGON YOUTH AUTHORITY AND LINN COUNTY
Linn-Benton Juvenile Detention Center Operation at OCYCF
Agreement No. 14550**

This Agreement is between the State of Oregon acting by and through its **Oregon Youth Authority** (“Agency” or “OYA”) and **Linn County Board of Commissioners (“Linn County”)** and **Benton County Board of Commissioners (“Benton County”)** with both counties collectively referred to as (“Local Government”), both herein referred to individually “Party” and, together, as the “Parties.”

SECTION 1: AUTHORITY

By the authority granted in Oregon Revised Statutes (“ORS”) ORS 190.110 and 420A.010, OYA may enter into cooperative agreements with county governments to administer and implement the juvenile justice system and programs and services.

SECTION 2: BACKGROUND AND PURPOSE

Agency currently operates a juvenile correctional facility at the Oak Creek Youth Correctional Facility (OCYCF) located at 4400 Lochner Road SE, Albany, OR 97321. In 2003, Agency and Linn County entered into an Agreement (Agreement No 5264) permitting Linn and Benton Counties to use a portion of OCYCF to operate a county funded juvenile detention unit (“Detention Unit Program”) within OCYCF. The 2003 Agreement set forth each party’s role, provided framework for communication and cooperation, specified conflict resolution processes, and established a methodology for calculating operating expenses and reconciliation, in relation to that operation.

The Parties now desire to enter into a new agreement that will supersede and replace Agreement No 5264 in its entirety upon execution of this new agreement. This new Agreement will set forth the Parties current understanding of their roles, rights and obligations with respect to Local Government’s continued use of OCYCF for its Detention Unit Program.

SECTION 3: USE OF OCYCF FACILITIES

3.1 DETENTION UNIT. Agency hereby authorizes Linn County in its operation of the detention center to use a portion of OCYCF and depicted on Exhibit C (hereafter referred to as the “Detention Unit”) for the purpose of operating a short term secure program for the detention of youth and adjudicated youth.

3.2 OCYCF PREMISES. Under the limited circumstances described below, Linn County, in operation of the detention center, may use other areas within the OCYCF that are not within the boundaries of the Detention Unit and are expressly identified in Exhibit C of this Agreement (hereafter referred to as the “OCYCF Premises”). No other use of OCYCF is permitted.

3.2.1 COMMON AREAS. Common Areas are shown in Exhibit C.

3.2.2 OBSERVATION ROOMS. Linn County shall not use the OYA observation rooms adjacent to the central control room and as identified on Exhibit C except under all the following conditions:

3.2.2.1 Linn County asserts that an emergency exists and the use of the room(s) has been approved by Oak Creek OYA management staff at the Treatment Manager level or above and OYA does not need use of the room(s); and

3.2.3.1 Linn County has at least one of its staff in the central control room observing and responsible for any Detention Unit Program youth as long as the youth is in one of the observation rooms.

3.2.3 INTAKE ROOMS. Linn County may use the (OYA intake rooms) as identified on Exhibit C in accordance with the following conditions:

3.2.3.1 Linn County will have Linn County staff observing youth at all times that the intake room(s) are in use with Linn, Benton, or any other county juvenile department youth.

3.2.3.2 Linn County will not board youth overnight in intake rooms.

If OYA has a need to use the intake room(s), OYA will request this of Linn County prior to using. Linn County shall not unreasonably deny OYA's request to use the intake room(s). OYA will have OYA staff observing youth at all times that the intake rooms are in use by OYA youth.

3.2.4 PARKING. The Linn County Juvenile Director and the OYA Superintendent will work together to accommodate on-site parking for both Linn County Detention usage and OYA usage.

3.2.5 BENTON COUNTY: Linn County may enter into an agreement permitting Benton County to use a portion of the Detention Unit and OCYCF Premises.

SECTION 4: EFFECTIVE DATE AND DURATION

Upon receipt of all required approvals and execution by all parties, this Agreement shall be effective **January 1, 2024** (the "Effective Date"). Unless extended or terminated earlier in accordance with its terms, this Contract terminates on **June 30, 2044**.

SECTION 5: AUTHORIZED REPRESENTATIVES

5.1. Agency's Authorized Representative is:

Denessa Martin
Chief of Operations, Facility Services
530 Center Street NE, Suite 500, Salem, OR 97301
Phone: 503-801-2074
Email: Denessa.Martin@oya.oregon.gov

5.2. Local Government's Authorized Representative is:

Torri Lynn
Linn County Juvenile Department Director
Phone: 541-967-3853 x2168
Email: tlynn@co.linn.or.us

5.3. A Party may designate a new Authorized Representative by written notice to the other Party without the need for formal amendment.

SECTION 6: RESPONSIBILITIES OF EACH PARTY

6.1. The Parties will follow the Statement of Rights and Responsibilities attached as Exhibit A.

SECTION 7: PAYMENTS

7.1. Payments made for the use and services described in this Agreement will be made in accordance with methodology, schedule and requirements set forth in Exhibits A and B.

SECTION 8: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

- 8.1. Linn County is a political subdivision of the State of Oregon duly organized and validly existing. Linn County has the power and authority to enter into and perform this Agreement;
- 8.2. The making and performance by Linn County of this Agreement (a) has been duly authorized by Linn County, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Linn County's charter or other organizational document and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Linn County is party or by which Linn County may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Linn County of this Agreement, other than those that have already been obtained;
- 8.3. This Agreement has been duly executed and delivered by Linn County and constitutes a legal, valid and binding obligation of Linn County enforceable in accordance with its terms;
- 8.4 Linn County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.
- 8.5 The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Linn County.

SECTION 9: MISCELLANEOUS PROVISIONS

- 9.1. Media Disclosure: Linn County shall not provide information to the media regarding this Agreement without first consulting the Agency. Linn County shall make immediate contact with the Agency's Communications Office when media contact occurs. The Agency's Communications Office will assist Linn County with an appropriate follow-up response for the media.
- 9.2 Client Records: Linn County shall appropriately secure all records and files to prevent access by unauthorized persons. Linn County shall, and shall require its employees and subcontractors to, comply with all appropriate federal and state laws, rules, and regulations regarding confidentiality of client records.

SECTION 10: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Linn County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. In no event shall a a

Claim be brought in a federal forum. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. LINN COUNTY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 11: CAUSALTY DAMAGE AND SUBROGATION

Effect of Damage on Agreement Obligations.

- 11.1 If the Detention Unit of the Facility is damaged by fire or other casualty to such a degree that the Detention Unit is unsuitable for the purpose agreed to, and if repairs cannot reasonably be made within 180 days, either OYA or Linn County may elect to terminate this agreement; provided that if the fire or other casualty was the result of negligent or intentional acts or omissions of Linn County or its officers, agents, employees, detained youth and guests, Linn County may not elect to terminate this agreement.
- 11.2 In all cases of damage, OYA shall promptly notify Linn County of the estimated time required to complete the necessary repairs or reconstruction. If OYA's estimated time for completion of the repairs or reconstruction is greater than 180 days, then each party shall have 30 days following OYA's giving of notice of the estimated time for repairs or reconstruction to elect to terminate this agreement, which election shall be made by such party giving written notice of termination to the other. Such termination shall be effective immediately upon the giving of such notice of termination. In all cases where repairs or reconstruction are performed, OYA shall have exclusive control over such repairs or reconstruction.
- 11.3 Following any damage, and during the period of any repair or reconstruction, Linn County's rental obligation shall be reduced to the extent the Detention Unit or common areas cannot reasonably be used by it, unless the damage was the result of the negligent or intentional acts or omissions of the County or its officers, employees, agents, detained youth or guests.
- 11.4 Waiver of Subrogation. Neither Linn County nor OYA shall be liable to the other for loss arising out of damage to or destruction of the Detention Unit or the Facility or the contents thereof, when such loss is caused by any of the perils which are included within a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All claims of one party against the other for any and all such loss are hereby waived. Such absence of liability shall exist whether or not the damage is caused by the negligence of either Linn County or OYA or by any of their respective officers, employees, agents, detained youth or guests. OYA shall provide property damage insurance for the Facility, and Linn County at its sole expense shall provide property damage insurance with respect to Linn County's personal property located at the Detention Unit, and each party shall look solely to its respective insurance carriers for reimbursement of any such loss, and further, the insurance carriers involved shall not be entitled to subrogation under any circumstance.

SECTION 12: SUBCONTRACT WITH BENTON COUNTY

Linn County may, as part of its authority under this Agreement, permit Benton County to use all or part of the Detention Unit for a use consistent with Linn County's use under this Agreement contingent on the following:

- 12.1. Linn County and Benton County enter into a subcontract for the use of all or a portion of the Detention Unit ("County Subcontract"). The County Subcontract shall be subject to Agency's written approval and shall limit Benton County to the uses permitted under this Agreement by Linn County of the Detention Unit and OCYCF Facilities.
- 12.2. Linn County may subcontract its right to receive the services provided by Agency as set forth in Exhibit A and B to Benton County. However, any such agreement between Linn County and Benton County shall not alter, reduce, amend or otherwise modify Linn County's obligations, including payment and services, owed to the Agency as set forth in Exhibits A and B.
- 12.3 Linn County shall require Benton County to indemnify, defend, save and hold harmless the State of Oregon, Agency and its members, officers, employees and agents, including attorney's fees from a tort as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Benton County or any of its officers, agents, employees or subcontractors of Benton County ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for acts arising solely from the negligent or willful acts or omissions of the State, be indemnified by Benton County from and against any and all Claims.
- 12.4 Any such indemnification shall also provide that Benton County shall not defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Benton County is prohibited from defending the State of Oregon, or that Benton County is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Benton County if the State of Oregon elects to assume its own defense.
- 12.5 Local Government shall, in addition to and consistent with its obligations under Section 34 below (indemnification), also indemnify, defend, save and hold harmless the State of Oregon, including Agency, against any liability for personal injury or damage to life or property arising from Benton County's use of OCYCF, subject to the limitations and restrictions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution Article XI, section 10. The County shall not be required to indemnify or defend the State of Oregon or OYA for any liability arising out of the wrongful acts of the State of Oregon, OYA, or their officers, employees or agents.
- 12.6. Linn County's subcontract to Benton County shall not be construed as an assignment, delegation, assumption, or novation of its rights, obligations and duties under this Agreement.

SECTION 13: LINN COUNTY DEFAULT

Linn County will be in default under this Agreement if Linn County fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;

SECTION 14: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 15: REMEDIES

In the event Linn County is in default under Section 13, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 18, (b) reducing or withholding payment for work or Work Product that Linn County has failed to deliver within any scheduled completion dates or has

performed inadequately or defectively, (c) requiring Linn County to perform, at Linn County's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) at Linn County's cost and expense, Agency may perform Linn County's unperformed obligations that gave rise to the default and charge all such costs and expenses to Linn County pursuant to this Agreement, which Linn County shall pay within (30) days after Agency delivers an invoice therefor, together with reasonable documentation supporting of such costs and expenses. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

SECTION 16: INTEREST IN PREMISES

This Agreement grants only a right to use the Detention Unit and OCYCF Facilities for the purposes described in this Agreement and in no way conveys a property interest such as an easement or leasehold of any kind. Agency reserves the right to enter into any area of OCYCF for any reason without prior notice or approval by Linn County.

SECTION 17: RESERVED

SECTION 18: TERMINATION

- 18.1 This agreement may be terminated at any time by the mutual consent of all parties.
- 18.2 OYA may terminate this agreement 180 days following delivery of written notice to Linn County. Linn County may terminate this agreement 90 days following delivery of written notice to OYA.
- 18.3 State may terminate this Agreement effective upon delivery of written notice to Linn County, or at such later date as may be established by State, under any of the following conditions:
 - 18.3.1 If Linn County fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Agency fails to correct such failures within ten (10) days or such longer period as Agency may authorize.
 - 18.3.2 If Linn County fails to provide payment in accordance with this Agreement.
 - 18.3.3 If Agency fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue the operation of the OCYCF Facility for any fiscal period or portion thereof (a "State Non-Appropriation Event"), this Agreement shall terminate at the end of the period for which funds have been appropriated. OYA shall give Linn County written notice of the any State Non-Appropriation Event as soon as is reasonably practicable, but in no event more than 30 days after OYA receives notice of such an event. OYA will discuss options for Local Government's continued operation of the Detention Unit at OCYCF in OYA's absence. OYA will assist with developing a mutually agreeable Agreement to clarify the potential continued operation at OYCF including the logistics related to Local Government assuming responsibility of operations and central control of the facility, assuming all costs and risks incurred for its operation.
 - 18.3.4 If federal or state laws, regulations or guidelines are modified or interpreted in such a way that the work under this Agreement is prohibited.
- 18.4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

18.5 Surrender. In the event of a termination, Linn County shall promptly surrender the Detention Unit to Agency broom clean and in good condition, ordinary wear and tear excepted. Thereafter, neither party shall have any obligation to the other under this agreement, except with respect to such obligations, if any, that were outstanding immediately prior to the notice of termination.

SECTION 19: INSURANCE

19.1 Both Linn County and OYA shall at all times keep in effect comprehensive liability insurance and property damage insurance covering each respective party's own acts and omissions under the agreement. Linn County may satisfy these requirements in any manner allowed by ORS 30.282. OYA shall satisfy this requirement through the Liability Fund established under ORS 278.100. Such liability insurance, whatever the form, shall be in an amount not less than the limits of public body tort liability specified in ORS 30.270.

19.2 The parties agree that each is a subject employer under Oregon Workers Compensation Law and each shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Linn County shall require and ensure that each of its Subcontractors, if any, complies with these requirements.

SECTION 20: RESERVED

SECTION 21: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties unless otherwise expressly provided within this Agreement.

SECTION 22: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 23: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 10, 11, 12, 16, 17, and 23 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 24: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will

not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 25: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 26: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state, and local law.

SECTION 27: INDEPENDENT CONTRACTORS

27.1 The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

27.2 The parties agree that their respective employees are not agents, employees or officials of the other and are not entitled to participate in any benefits programs provided by the other. Each party's employees shall remain under its direct supervision and control.

SECTION 28: INTENDED BENEFICIARIES

Agency, Linn County and Benton County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 29: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 30: ASSIGNMENT AND SUCCESSORS IN INTEREST

Linn County may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Linn to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Linn County's assignment or transfer of its interest in this Agreement will not relieve Linn County of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 31: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, all of which make up the entirety of this Agreement and are of equal precedence.

This Agreement less all exhibits;
Exhibit A – Statement of Work;
Exhibit B – Basis of Rent; and
Exhibit C—Detention Unit Layout

SECTION 32: INDEMNIFICATION

- 32.1 Linn County understands, acknowledges and agrees that its use of the Detention Unit and OCYCF Facility under this Agreement shall be at its own risk.
- 32.2 Linn County shall indemnify, save, defend and hold harmless the State of Oregon, including Agency, against any liability for personal injury or damage to life or property arising from the County's activity under this Agreement, subject to the limitations and restrictions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution Article XI, section 10. The County shall not be required to indemnify or defend the State of Oregon or OYA for any liability arising out of the wrongful acts of the State of Oregon, OYA, or their officers, employees or agents.
- 32.3 Except as stated in Paragraph 32.4, the State of Oregon shall indemnify the County against any liability for personal injury or damage to life or property arising from the State's negligent activity under this Agreement, subject to the limitations and restrictions of the Oregon Tort Claims Act, ORS 30.260 through ORS 30.300, and the Oregon Constitution Article XI, Section 7. The State of Oregon and OYA will not be required to indemnify or defend the County for any liability arising out of the acts of Linn County, its officers, employees or agents.
- 32.4 Notwithstanding the foregoing defense obligations under the paragraph above, neither Party nor any attorney engaged by either Party shall defend any claim in the name of the other Party or any agency/department/division of such other Party, nor purport to act as legal representative of the other Party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other party. Each Party may, at any time at its election assume its own defense and settlement in the event that it determines that the other Party is prohibited from defending it, or that other Party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the Party to do so. Each Party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
- 32.5 Agency shall not be liable to Linn County, its members, employees or agents for any liability for personal injury or damage to life or property arising from or relating to the use and functionality of Agency's video audio monitoring systems.

SECTION 33: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 34: RECORDS MAINTENANCE AND ACCESS

Linn County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Linn County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Linn County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Linn County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Linn County, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Linn County acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Linn County shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Linn County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 35: HEADINGS

The headings and captions to Sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 36: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

SIGNATURE OF LINN COUNTY'S AUTHORIZED REPRESENTATIVE

Authorized Signature:  Date: 6/6/24

By (Insert Name and Title): Torri Lynn, Director Juvenile Department

SIGNATURE OF LINN COUNTY'S AUTHORIZED REPRESENTATIVE

Authorized Signature: _____ Date: _____

By (Insert Name and Title): _____

SIGNATURE OF BENTON COUNTY'S AUTHORIZED REPRESENTATIVE

Authorized Signature: _____ Date: _____

By (Insert Name and Title): _____

Signatures continued on following page

SIGNATURE OF BENTON COUNTY'S AUTHORIZED REPRESENTATIVE

Authorized Signature: _____ Date: _____

By (Insert Name and Title): _____

SIGNATURE OF STATE'S AUTHORIZED REPRESENTATIVE

AGENCY: STATE OF OREGON, acting by and through its Oregon Youth Authority

By: _____ Date: _____

ATTORNEY GENERAL: Approved for Legal Sufficiency

By: _____ Date: _____

Name:

PROCUREMENT UNIT: Reviewed by Contract Specialist

By: _____ Date: _____

Name:

AGREEMENT ADMINISTRATOR: Reviewed and Approved

By: Approved via email 05242024 _____ Date: _____

Name: Denessa Martin

**EXHIBIT A
RIGHTS AND RESPONSIBILITIES**

1. LINN COUNTY

1.1. Limitation on Use:

- 1.1.1. Linn County may use the Detention Unit, solely for a secure correctional program for the detention of youth as defined in ORS Chapter 419A and in accordance with this Agreement, and for no other purpose.
- 1.1.2. Linn County shall comply with all building use policies that may be promulgated by OYA from time to time as well as all applicable state and federal laws, ordinances, rules and regulations of any governmental authority. OYA shall provide written building use policies to Linn County. Changes in building use policies shall be provided in writing;
- 1.1.3. Linn County shall not annoy, obstruct or interfere with the rights of other tenants or occupants of OCYCF or cause or permit any of the same to occur.
- 1.1.4. Linn County shall not create any nuisance or allow any objectionable fumes, noise or vibrations to be emitted from the Detention Unit;
- 1.1.5. Shall not exceed single occupancy in any cell and shall not exceed the current design capacity of the unit which equals twenty (20) single-bed cells; and
- 1.1.6. Linn County may rent the use of beds to other counties for us as detention beds as long as those beds are being used in compliance with applicable statute and the daily cost of the bed does not exceed the actual daily cost.

1.2. Maintenance of Detention Unit

- 1.2.1. Linn County will be responsible for the replacement and/or repair of all expendable property and supplies in the Detention Unit as needed to maintain the condition at the unit start-up. (See Attachment B for a list of expendable property and supplies furnished by OYA at start-up).
- 1.2.2. Linn County will be responsible for the cost of all office supplies for the Detention Unit, including its telephone, fax, postage, and copier costs.
- 1.2.3. Linn County will furnish to the Detention Unit, or cause to be furnished to the Detention Unit, interior window washing, and janitorial services. Linn County shall maintain the facility grounds, driveway and parking areas, using supplies and equipment furnished and maintained by OYA as specified in Section 3.4. Linn County will maintain detention rooms and railings by performing routine painting with paint supplied by OYA. Linn County will maintain the floors in the Detention Unit Premises and intake area by washing and waxing; cleaning window shades and blinds; and general cleaning and upkeep.

1.3. Operation of Detention Unit

- 1.3.1 Linn County will be responsible for the development and delivery of the entire Detention Unit Program for the maintenance of youth offenders in accordance with all applicable statutes, the most recently accepted edition of the Oregon Juvenile Detention Facility Guidelines, and sound detention practices. Linn County will be responsible for the staffing of the Detention Unit and all personal service, training, and staff related service and supply costs associated with it.
- 1.3.2 Linn County will ensure that Criminal Justice Information Services (CJIS) and Oregon Department of Human Services (ODHS) background checks are done on all staff, practicum students, contractors, and volunteers, hereafter called "agents", before such persons work at the Detention Unit.

- 1.3.3 Linn County will be responsible for the performance of Detention Unit staff and agents in the areas of youth offender interaction, safety, and discipline shall comply with all Oregon Administrative Rules regarding safety and security and shall meet or exceed the standards in the most recently accepted edition of the Oregon Juvenile Detention Facility Guidelines. Failure to meet such guidelines will be corrected by Linn County within a reasonable time period.
- 1.3.4 Linn County will notify the OYA Superintendent of the Facility or designee of any Facility or equipment needs or deficiencies relating to safety, security, or general use of the Facility. OYA shall respond to minor requests within 10 business days. Minor requests include changing light bulbs or addressing basic repairs that can be fixed with tools and materials already on site and with less than 2 hours of labor. For major requests OYA will respond to Linn County to acknowledge receipt of request. Linn County and OYA will then determine together a mutually agreed upon timeline for the repairs.
Linn County will, within the dictates of applicable statutes and regulations and if having knowledge, notify OYA of any potential employee or current employee who will be or is assigned responsibility in the Detention Unit who is the subject of a criminal investigation, or who has a criminal record, or who is a current or past client of OYA's, or who is the parent of a youth assigned to the Facility. OYA retains the right to limit access to the Facility to certain individuals.
- 1.3.5 Linn County shall be responsible for keeping the OYA informed with regard to the number of youth in the Detention Unit three times each day.
- 1.3.6 Linn County will provide security inside the Detention Unit. The level of security provided by Linn County at the Detention Unit shall be equal to or greater than that which is necessary to be in compliance with the most recently accepted edition of the Oregon Juvenile Detention Facility Guidelines.

2. OYA

2.1 Property Ownership and Maintenance of Detention Unit and OCYCF Facilities

- 2.1.1 OYA will maintain ownership and responsibility for all real property and the Facility and may enter upon the any portion of the OCYCF Facilities and the Detention Unit without prior permission or approval by Linn County. As part of that responsibility and in accordance with its rules, policies and procedures, OYA will provide maintenance, basic utilities, and other expenses as specified below for the care of youth in the Facility within budget. Maintenance provided by OYA will include and not be limited to repair of the HVAC system; general painting for normal wear; replacement of floor and ceiling tiles; maintaining lighting; sprinkler and fire systems including extinguishers; electrical hard wiring needs; and plumbing needs including sinks and toilets. OYA maintenance does not include maintenance needs due to Linn County, guests or youth misuse or abuse. OYA will provide and maintain a chemical dispenser and sanitizer for the kitchen.
- 2.1.2 Building maintenance to the Facility will be provided by OYA on the basis of need.
- 2.1.3 OYA will provide water, sewer, garbage, electricity, and gas service to the Detention Unit.
- 2.1.4 OYA will not replace worn out or broken expendable property in the Detention Unit

2.2 Safety and Security

- 2.2.1 OYA retains final authority for setting minimum safety and security standards for all Facility and Detention Unit operations in accordance with the current Oregon Juvenile Detention Guidelines.

- 2.2.2 OYA will maintain a mutually agreed upon reservation scheduling system for the use of jointly used areas maintaining the sight and sound separation of the youth populations.

3. JOINT RESPONSIBILITIES.

3.1 Maintenance

- 3.1.1 The Detention Unit will be part of all safety, security and health inspections conducted at the OCYCF Facility by OYA. OYA inspections may include the State Fire Marshal Inspection; State Health Inspection; Fire Alarm Inspection; Fire Extinguisher Inspection; and any other mandated inspection which addresses a system or systems which cover the Facility as a whole. OYA will coordinate OYA inspections with Linn County Detention Manager or designee. In addition, Linn County may complete their own inspections. Linn County will assure all inspections required by statute are completed and records of such inspections are made available to OYA upon request.

3.2 Safety and Security

- 3.2.1 In the event of a disturbance that threatens the safety and security of the Facility, Linn County will immediately notify OYA and/or OYA will immediately notify Linn County. OYA reserves sole discretion to decide whether or when law enforcement personnel will be given access to the state-operated portion of the Facility.
- 3.2.2 The OYA Superintendent and the Manager of the Detention Unit shall identify detention and joint use facilities. OYA and Linn County staff will not enter the other's living or detention units nor give access to others to enter without the other's permission. All tours of the state-operated units will be arranged solely through the Superintendent of the Facility. All tours of the Detention Unit will be arranged solely through the Juvenile Department Director or Detention Unit Manager.
- 3.2.3 The level of security backup provided to the Detention Unit by the OYA and to OYA by the Detention Unit and the procedure for implementing backup will be mutually agreed upon by the OYA Superintendent and the Linn County Juvenile Department Director. However, OYA reserves the right to take any action necessary to ensure the safety and security of all youth offenders and staff in the Facility.
- 3.2.4 The OYA Superintendent and the Manager of the Detention Unit will develop mutually agreed upon written procedures to address issues such as visitation, intake, and emergency backup.
- 3.2.5 In the event that there is imminent risk of life and the entire Facility requires evacuation, Detention Unit youth and Detention staff will be a part of that emergency evacuation. In such an event, OYA Superintendent or Designee will make the order to evacuate the Facility and follow established communication protocols for informing the entire Facility of the evacuation, including the notification of the Linn County Juvenile Department Director and Detention Manager or Designee. The OYA Superintendent and the Linn County Detention Manager will develop respective emergency Facility evacuation plans including the determination of specific evacuation sites and ensuring coordination with one another, as needed.

4. SERVICES AND PAYMENTS

4.1. DETENTION UNIT OPERATING COSTS.

- 4.1.1. Linn County shall pay for a proportionate share of electricity, natural gas, water and sewer usage in accordance with methodology set forth in this Agreement. Linn County's share of these costs are determined based on the percentage of the total facility area that is occupied by Linn County ("Defined Percentage") as listed in Exhibit B and as

updated from time to time according to the review process outlined in Exhibit B. Linn County will pay the Defined Percentage of actual utility costs according to the payment process outlined in Section 2.7, minus any reductions for services as listed in Section 2.4.

- 4.1.2. Linn County agrees to detain youth in the legal or physical custody of OYA at no cost, when the youth home county is Linn County or Benton County, unless otherwise agreed upon, except in accordance with Oregon Revised Statutes that assign OYA responsibility for costs of medical care above and beyond the normal medical care provided for any other youth within the detention unit. For youth where their home county is not Linn or Benton County, OYA will submit a request to Linn or Benton County asking their ability to detain a youth in the detention facility.

4.2. DETENTION UNIT FOOD SERVICE.

- 4.2.1. Apart from the payment in Section 2.1, Linn County may purchase daily meals from OYA for youth and staff at the Detention Unit.
- 4.2.2. Linn County shall pay a fair and reasonable rate based on the cost for meals provided to the Detention Unit. As of the date of this Agreement the rate charged will be \$10.41 per day, per person. This amount is the daily rate which includes (3) meals and one (1) snack. This rate may be revised in January of each year based upon OYA's review of the actual costs, without need for formal amendment. If the rate is adjusted, the new rate will go into effect the following July 1st of each year. Linn County may claim any USDA allowances. If the rate is adjusted, OYA will provide Linn County with written notice of the rate change.
- 4.2.3. Each day, Linn County will request the number of meals to be prepared and served the following day. OYA will provide the requested number of portions and bill Linn County for the number of meals served. OYA and Linn County may use a once-a-day automated count for billing purposes such as the Custody Summary Report of youth days to determine the number of youth per day. Because the number of staff on shift at the Detention Unit may vary from day-to-day, Linn County will provide OYA with a staff count by noon, each day.
- 4.2.4. Notwithstanding any other provisions of this agreement to the contrary, Linn County may opt out of the foregoing provisions of Section 2.2.1 by giving two weeks advance notice as provided in Section 22 of this agreement. Linn County may request to opt back into the provisions of Section 2.2.1 by giving two weeks advance notice as provided in Section 22 of this agreement. Restoration of food services shall be at the sole discretion of OYA and shall not be unreasonably denied.

4.3. GREEN HOUSE.

Linn County will continue to facilitate the New Beginnings Garden program by use of the two green houses, garden area within the fence and the native nursery garden outside the YWTP. Linn County will work with OYA to make sure educational opportunities are available for OYA youth at separate times from detention youth. Linn county and OYA will work together to facilitate projects and determine shared costs for such projects agreed upon by the OYA Superintendent and the Juvenile department director. OYA and Linn county may also partner with the contracted education provider under separate agreements.

4.4. MAINTENANCE SERVICES OF OCYCF .

- 4.4.1. Linn County shall provide general Facility grounds' maintenance of the OYA Facility ("Maintenance Services") using supplies and equipment furnished and maintained by OYA.
- 4.4.2. In exchange for these Maintenance Services, OYA will reduce each monthly bill by an agreed upon dollar amount ("Maintenance Reduction"). As of the date of this agreement the Maintenance Reduction will be \$500.00 per month. If necessary, this Maintenance Reduction may be revised following the process listed below, without need for a formal amendment:
- 4.4.3. In January of every odd-year, Linn-Benton shall review the actual costs of providing Maintenance Services.
- 4.4.4. During the review, if Linn determines that an increase in the Maintenance Reduction is necessary, Linn will complete the following:
- Send OYA a written notice requesting an increase to the Maintenance Reduction.
 - Provide OYA with documentation necessary for OYA to evaluate the requested Maintenance Reduction increase (e.g. cost-analysis, budget documentation, etc.).
 - Limit the increase to not more than 20 percent of the current rate. If a requested increase exceeds 20 percent of the current rate, and OYA wishes to accept this increase in the Maintenance Reduction, (a formal amendment will be required.
- 4.4.5. When OYA receives a written notice requesting an increase to the Maintenance Reduction, OYA will:
- Review the request and determine whether or not OYA is able to accept the proposed change.
 - Send Linn County written notice of the acceptance of the request, revisions to the request, or denial of the request.

4.5. DETENTION UNIT OTHER SERVICES.

Linn County and OYA may agree to purchase other services from each other, as mutually agreed to. Additional services will be added in via formal amendment.

4.6. PAYMENT TERMS.

All payments are due and payable upon receipt of monthly billings. The bills for the first 11 months of the County's fiscal year may be based upon reasonable estimates. The bill for the last month will take into account any reimbursements due Linn County under Section 2.1.3 and will reconcile the estimated costs reflected in the prior billings with the actual costs and will be due to Linn County within 90 days of the county fiscal year ending June 30th. Detention Unit operating costs in Section 2.1.1 of this agreement are not reimbursable costs. Should service provision or termination occur at other than the first of the month, costs will be prorated for the month based on the month's total calendar days. Any payment by Linn County or acceptance by OYA of a lesser amount than what is due shall be treated as a payment on account. The acceptance by OYA of a check for a lesser amount with an endorsement or statement thereon or upon any letter accompanying such check that such lesser amount is payment in full shall have no force or effect, and OYA may accept such check without prejudice to any other rights or remedies which it may have against Linn County.

5. PROGRAM COORDINATION AND DISPUTE RESOLUTION

5.1. PROGRAM COORDINATION.

- 5.1.1. OYA Superintendent and the Detention Manager will work together to review and discuss proposed program changes.
- 5.1.2. OYA and Detention Unit personnel will mutually support and respect the complementary missions of safety, security, and treatment of the youth offenders in their care and custody.
- 5.1.3. OYA and Linn County will carry out these responsibilities in accordance with any applicable collective bargaining agreements.
- 5.1.4. OYA and Linn County mutually agree not to create any cost shifts to the other party through unilateral collective bargaining agreements.

5.2. DISPUTE RESOLUTION.

- 5.2.1. OYA and Linn County encourage their respective staff to resolve disputes through honest and open communication between the individuals having the dispute. In the event that resolution between the affected individuals is not forthcoming, the dispute should be brought by parties through the following levels of management:
- 5.2.2. The issues shall be brought before the OYA Superintendent and the Manager of the Detention Unit. If resolution is not reached;
- 5.2.3. The issue shall be brought before the OYA Assistant Director and the Linn County Juvenile Department Director. If resolution is not reached;
- 5.2.4. The issue shall be brought before the OYA Deputy Director and Chairperson of the Linn County Commissioners or their designee. If resolution is not reached;
- 5.2.5. OYA and Linn County will secure the services of a mediator to assist in resolution of the issue. The cost of such mediation shall be split equally by OYA and Linn County.

EXHIBIT B— UTILITIES AND DEFINED PERCENTAGE

The Detention Unit’s share of costs will be determined based on the percentage of the total Facility area that is occupied by Linn County.

1. The defined percentage is based on a prorata square footage basis, as follows:

	Detention Percen	Total Square Feet	Detention Share
Detention Unit	100%	6,395	6,395
Intake	100%	755	755
Gym	15%	3,905	586
Large Conf. Room	15%	192	29
		Total Detention Sq. Ft.	7,765
		Total Facility Sq. Ft.	56,104
		Detention Utility Share	13.84%

Detention Utility Share Table B.1

2. OYA will complete a *Detention Utility Share* review every five (5) years to determine if changes to the Detention Utility Share are necessary. OYA will review any changes in the overall square footage of the Facility, changes in the areas of the Facility that are occupied by Linn County, etc. OYA will complete that work internally in coordination with the OYA Physical Plant Office (PPO).

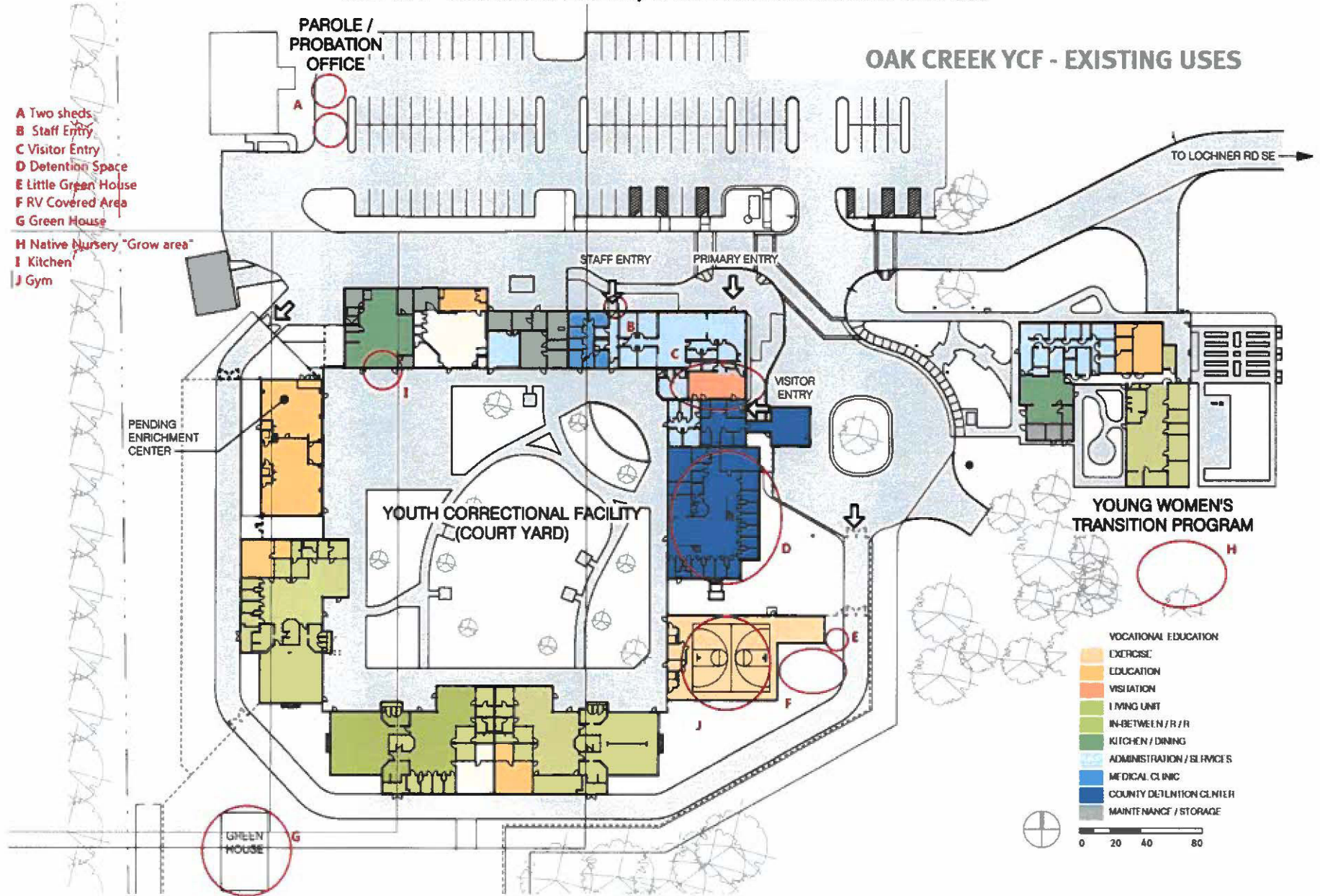
2.1 Once this review is complete OYA will send a written notice to Linn County notifying them of the review results. If the review results in a change to the Detention Utility Share listed in Section 1 of this Exhibit, OYA will send Linn County an updated *Detention Utility Share Table B.1* listing changes in square feet and updated calculations.

2.2 Disputes. If Linn County disputes the updated calculations, Linn County shall provide written notice to OYA of such a dispute (“Dispute Notice”) within fifteen (15) days of receipt of updated calculations. The Parties shall attempt in good faith to resolve the dispute over the updated calculations within thirty (30) days of OYA’s receipt of Linn County’s Dispute Notice.

2.3 If the Parties do not timely resolve the dispute over the updated calculations, they shall select an independent Appraiser to perform measurements of the total square footage.

2.4 Any changes to Detention Utility Share shall be effective for the upcoming County fiscal year.

EXHIBIT C—DETENTION LAYOUT/ LINN-BENTON DETENTION UNIT USE



BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Petra Schuetz

Phone Extension * 3556

Meeting Attendee Name * James Wright, Inga Williams, Petra Schuetz, Jesse Ott

Agenda Item Details

Item Title * Approval to Apply for Transportation Growth Management Program Grants in the Natural Area, Parks and Events Department and the Community Development Department, Resolutions R2024-020 and R2024-021

Item Involves *

- Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 40 minutes

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

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Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

The Community Development Department is requesting approval to apply for a grant for an Evacuation Route Assessment. The Natural Areas, Parks, and Events (NAPE) Department is requesting approval to apply for grant for a Master Trails Plan update. The grant that will be used for both projects is the Transportation Growth Management (TGM) Program grant. Specifically, the grant is for "Integrated Land Use and Transportation Planning, to promote communities that meet the needs of all Oregonians to live, work, and move about."

Options *

- 1) Approve both resolutions
- 2) Approve one resolution
- 3) Deny both resolutions

Fiscal Impact *

- Yes
 No

Fiscal Impact Description *

The TGM program requires a local grant match of 10.27% of the total project costs, approximately 11.5% of the TGM funds. Grantees typically provide match in the form of:

- Payment of non-federal funds when the intergovernmental agreement (IGA) is signed or
- documenting direct project costs incurred after the IGA is executed. Eligible costs include salary of local government employees assigned to the project, postage, travel, supplies, and printing. Grantees being paid will be reimbursed at a percentage to capture the required match amount.

Local expenses for persons or firms who contract with a local government to provide planning or other services are not eligible for reimbursement but may be counted as match. Time of volunteers, such as project committee members, may also be counted as match.

Both the Community Development Department and NAPE intend to match the grant funds with salaries from county staff and volunteer time.

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

- Core Values*** Select all that apply.
- Vibrant, Livable Communities
 - Supportive People Resources
 - High Quality Environment and Access
 - Diverse Economy that Fits
 - Community Resilience
 - Equity for Everyone
 - Health in All Actions
 - N/A

Explain Core Values Selections* An Evacuation Route Assessment will identify needed and possible interconnections and upgrades to roadway infrastructure. This will contribute to the county's ability to program funds and apply for grants for improvements. Improvements in infrastructure will support all of the core values checked above. Similarly, the update of the Master Trail Plan will integrate county plans with partner agencies and adjoining jurisdictions to create a web of recreational access throughout the county, also supporting the core values checked above.

- Focus Areas and Vision*** Select all that apply.
- Community Safety
 - Emergency Preparedness
 - Outdoor Recreation
 - Prosperous Economy
 - Environment and Natural Resources
 - Mobility and Transportation
 - Housing and Growth
 - Arts, Entertainment, Culture, and History
 - Food and Agriculture
 - Lifelong Learning and Education
 - N/A

Explain Focus Areas and Vision Selection* The Evacuation Route Assessment is one of the top five highest priority strategies in the Community Wildfire Protection Plan, which is created to increase community safety and emergency preparedness. The assessment will provide insight into safe mobility and transportation improvement options. The Master Trails Plan update will outline how to increase access to outdoor recreation while protecting natural resources. Communities with access to natural resources and recreational opportunities are healthier places to live and attractive locations for housing.

Recommendations and Motions

Item Recommendations and Motions

Staff Staff recommends approval of both resolutions.

Recommendations *

Meeting Motions * I move to allow the Natural Areas, Parks, and Events Department and the Community Development Department to each submit an application for a Transportation Growth Management Program grant, Resolution Nos. R2024-020 and R2024-021, respectively.

Meeting Motion

I move to allow the Natural Areas, Parks, and Events Department and the Community Development Department to each submit an application for a Transportation Growth Management Program grant, Resolution Nos. R2024-020 and R2024-021, respectively.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.






3. TGM 2024 Application Packet.pdf	710.33KB
2- Evacuation Route Assessment - Resolution.pdf	491.43KB
1-Master Trails Plan Update - Resolution.pdf	448.66KB

Comments (optional)

If you have any questions, please call ext.6800

**Department
Approver**

AMANDA MAKEPEACE

<p>1. Dept Approval</p> <hr/> <p>Department Approval</p> <hr/> <p>Comments</p> <p>Signature </p>	<p>5.</p> <hr/> <p>BOC Final Approval</p> <hr/> <p>Comments</p> <p>Signature </p>
<p>2.</p> <hr/> <p>Counsel Approval</p> <hr/> <p>Comments</p> <p>Signature </p>	
<p>3.</p> <hr/> <p>Finance Approval</p> <hr/> <p>Comments</p> <p>Signature </p>	
<p>4.</p> <hr/> <p>County Administrator Approval</p> <hr/> <p>Comments</p> <p>Signature </p>	

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON

In the Matter of Authorizing the Benton County Natural Areas, Parks and Events Department to apply to the Oregon Transportation and Growth Management (TGM) Program for Master Trails Plan funding)
)
) **RESOLUTION #R2024-020**
)
)

WHEREAS, the Master Trails Plan proposed project clearly and effectively addresses a local transportation-related land use need and opportunity and will achieve one or more of the TGM Objectives; and

Benton County can locally match the funding to fulfill its 11.5% share of obligation related to this grant application, which includes in-kind-eligible match, should the grant funds be awarded; and

Currently, Benton County's outdoor recreation and trail systems are fragmented, with inconsistent connectivity between various segments, and this disjointed infrastructure limits accessibility and reduces the overall usability and safety of the network; and

Outdoor recreation and trail plans have not been fully integrated into comprehensive transportation and land use planning documents, and this lack of integration leads to missed opportunities for enhancing multi-modal transportation options and optimizing interconnections between counties and communities.

THEREFORE, BE IT RESOLVED, that:

- 1) The Benton County Board of Commissioners does hereby demonstrate its support for the submittal of a grant application to the Transportation Management Program, managed by the Oregon Department of Transportation and the Department of Land Conservation, for development of a Master Trails Plan; and
- 2) does hereby authorize the Natural Areas, Parks, and Events Department to apply for approximately \$200,000 for planning assistance.

Adopted this 2nd day of July, 2024.

Signed this 2nd day of July, 2024.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Approved as to form:

Nancy Wyse, Vice Chair

Vance M. Croney
County Counsel

Pat Malone, Commissioner

**In the Matter of Authorizing the Benton)
County Community Development)
Department to apply to the Oregon) RESOLUTION #R2024-021
Transportation and Growth Management)
Program for Evacuation Route Assessment funding)**

WHEREAS, the Evacuation Route Assessment project is one of five top priority strategies listed in the 2023-2028 Community Wildfire Protection Plan and is consistent with the goals of the TGM program and a priority; and

Benton County can locally match the funding to fulfill its 11.5% share of obligation related to this grant application, which includes in-kind-eligible match, should the grant funds be awarded; and

Benton County will adopt the Evacuation Route Assessment as an appendix to the Comprehensive Plan, and the Emergency Operations Center will utilize the Assessment to plan ways to support evacuation events, and the Public Works Department will utilize the Assessment to schedule improvements to the road network to support better evacuation strategies.

THEREFORE, BE IT RESOLVED, that:

- 1) The Benton County Board of Commissioners does hereby demonstrate its support for the submittal of a grant application to the Transportation Management Program, managed by the Oregon Department of Transportation and the Department of Land Conservation, for development of an Evacuation Route Assessment; and
- 2) does hereby authorize the Community Development Department to apply for approximately \$200,000 for planning assistance.

Adopted this 2nd day of July, 2024.

Signed this 2nd day of July, 2024.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Vice Chair

Pat Malone, Commissioner

Transportation and Growth Management Program

2024 APPLICATION PACKET

JOINT PROGRAM OF THE OREGON DEPARTMENT OF
TRANSPORTATION AND THE OREGON DEPARTMENT OF
LAND CONSERVATION AND DEVELOPMENT



Better Ways To Better Places
Since 1993

TGM BY THE NUMBERS

- Over 2.5 million dollars available this year
- Over 800 planning grants funded since 1993
- In the last 10 years, TGM has awarded 136 grants to:
 - 71 cities
 - 13 counties
 - 3 tribal governments
 - 15 districts

TGM MISSION

Oregon's Transportation and Growth Management Program supports community efforts to expand transportation choices.

By linking land use and transportation planning, TGM works in partnership with local governments to create vibrant, livable places in which people can walk, bike, take transit, or drive where they want to go.

www.oregon.gov/LCD/TGM

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Application and Selection Overview

Application Deadline

11:59 p.m. PDT on Wednesday, July 31, 2024

Application Portal

TGM uses an [online form](#).

Application Scoring and Ranking

Projects are selected on a competitive basis within each of the five ODOT regions. The regional allocation - funds available for projects - is based on a formula that considers the number of cities and the population within a region. Award amounts generally range between \$150,000 and \$300,000.

Projects are selected primarily on the points scored under the grant award criteria. TGM also considers the amounts requested, the estimated amounts TGM believes may be required to complete a project, the amount available for award within a geographic region, the balance between Category 1 and Category 2 projects, and a fair distribution of funds to smaller or economically distressed communities. TGM also consults with other state agencies to gain insights into proposed projects.

Award Announcements

Late September 2024

Assistance

For general questions about the application process and eligibility, contact [Elizabeth Ledet](#) at 503-986-3205 or [Bill Holmstrom](#) at 971-375-5975.

For advice on preparing an application for your specific project, contact our lead TGM planners, listed below.

Region 1 Clackamas, Hood River, Multnomah, and eastern Washington counties	Glen Bolen	503-539-8454
Region 2 Clatsop, Columbia, Tillamook, Yamhill, Polk, Marion, Lincoln, Linn, Benton, Lane, and western Washington counties	David Helton	541-726-2545
Region 3 Douglas, Curry, Coos, Josephine, and Jackson counties	Virginia Elandt	541-957-3635
Region 4 Wasco, Sherman, Gilliam, Jefferson, Wheeler, Crook, Deschutes, Lake, and Klamath counties	Devin Hearing	541-480-7532
Region 5 Morrow, Umatilla, Union, Wallowa, Baker, Grant, Harney, and Malheur counties	Cheryl Jarvis-Smith	541-963-1574

Application Basics

Eligible Applicants

Eligible applicants include cities, counties, councils of government on behalf of a city or county, and tribal governments. Certain special districts are eligible, such as transportation districts, metropolitan planning organizations, ports, mass transit districts, parks and recreation districts, and metropolitan service districts.

School districts, and public colleges and universities, may be eligible as part of a joint application with a local government for an otherwise eligible project. Eligible applicants may partner to propose a project, such as a multi-county TSP or multi-city or city-county corridor plan.

Eligible Projects

There are two categories of grants: Transportation System Planning (Category 1) and Integrated Land Use and Transportation Planning (Category 2).

Category 1- Transportation System Planning

Purpose

To help local governments develop and update transportation system plans (TSPs) and implementing measures that implement the Transportation Planning Rules (OAR 660-012-0045); implement the Oregon Transportation Plan and other statewide modal and topic plans; increase opportunities for walking, biking, and transit; or reduce reliance on the state highway for local travel needs.

Eligible Uses

Projects in this category will result in a transportation decision. Projects will plan for transportation facilities inside Urban Growth Boundaries (UGB's), in urban unincorporated communities, and along rural highway corridors. Projects proposed for areas being considered in a UGB amendment process may be eligible, but must demonstrate they are timely and reasonably achievable. Category 1 projects typically include preparation and adoption of:

- TSPs and TSP updates, in whole or part, to address transportation needs for all users, comply with new state or federal regulations, maintain consistency with a regional transportation plan, plan for areas newly brought into the UGB, reduce greenhouse gas emissions, or make the transportation system more resilient to the impacts of natural hazards. TSP implementation, such as streetscape plans, cost estimate refinement, capital improvement and other funding plans, and land use regulations required by the Transportation Planning Rules.
- TSP refinement, such as corridor plans, multimodal safety plans, interchange area management plans, or other planning to implement Oregon statewide modal and topic plans.

Projects that primarily do research or outreach, study an issue, compile data, or inventory information are generally not eligible for grant funding. TGM grants also cannot fund preliminary engineering, surveying, or construction work. If in doubt, discuss with your [Region TGM planner](#) about whether your proposed work is eligible.

- Transit Development Plans that provide long term vision and policy for existing and future transit service.
- Other innovative transportation-related planning projects that are consistent with TGM Objectives.

Category 2- Integrated Land Use and Transportation Planning

Purpose

To help local governments develop integrated land use and transportation plans and implementing measures that encourage livable, affordable, and accessible communities for all ages and incomes; promote compact, mixed-use, walkable development to increase walking, biking, and transit; or support physical, social, and economic needs.

Eligible Uses

Projects in this category will result in a land use decision. Projects will combine land use planning with supportive transportation facility planning inside UGBs, urban unincorporated communities, and urban reserve areas. Category 2 projects typically include preparation and adoption of:

- Specific area plans for land uses in a downtown, main street, commercial or employment area, neighborhood, corridor, or interchange area.
- Land use and transportation concept plans for areas brought in to a UGB.
- Transportation-efficient land use plans for an entire urban area, such as location efficiency of housing and employment or reducing greenhouse gas emissions from transportation.
- Implementing measures, such as code amendments, infill and redevelopment strategies, and intergovernmental agreements.
- Other innovative land use and transportation-related planning projects that are consistent with TGM Objectives.

Housing

TGM is emphasizing projects that reduce barriers to a broader range of housing types and prices and increase accessibility.

See page 19 for more information.



Eligible Applications

Applications are reviewed on a pass/fail basis on each of the following three criteria. Applications found to not meet each of these requirements will not be scored against the award criteria and will not be awarded a grant.

1) Clear Transportation Relationship

A proposed project must have a clear transportation relationship and produce transportation benefits. A project must address a transportation problem, need, opportunity, or issue of local or regional importance.

2) Adoption of Products to Meet Project Objectives

A proposed project must include preparation of an adoption-ready product or products that lead to a local policy decision and that directly address the project objectives, such as a transportation system plan, comprehensive plan amendment, land use plan, code amendment, implementation program, or intergovernmental agreement. Projects are expected to include adoption hearings (or equivalent) by the governing body or to prepare products which will be adopted as part of a larger project.

3) Support of Local Officials

A proposed project must clearly demonstrate that local officials, both the primary applicant and any co-applicants, understand the purpose of the grant application and support the project objectives. Application must include from the governing body of all applicants either 1) a resolution of support or 2) an authorized letter with associated meeting minutes.

Advice

Please schedule your governing body meeting well in advance of the application deadline.

Grant Basics

The grant award is not final until the Intergovernmental Agreement (IGA) between ODOT and local grantee is signed by all parties. Grantees must meet a number of state and federal requirements.

Grant Timeline

Grants generally have three years after award to be negotiated, conducted, and completed; projects that will take longer than four years from award to completion are not suitable for TGM grant funds. Project extensions are subject to available funding and continued project eligibility.

February - March 2025

Certified Local Public Agencies -
Supplemental Project Agreement executed.

OR

All others - Have an agreed upon statement of work sufficiently detailed to select a consultant or to prepare an IGA if no consultant will be used.

Mid-Late 2025

Projects underway.

June 2027

Expected 2024 TGM project completion.

May 31, 2028

All 2024 TGM Projects must be completed for TGM to meet its obligations.

Grantee Obligations

Match

TGM requires a local grant match of 10.27% of the total project costs, approximately 11.5% of the TGM funds. Grantees typically provide match in the form of:

- Payment of non-federal funds when the IGA is signed or
- documenting direct project costs incurred after the IGA is executed. Eligible costs include salary of local government employees assigned to the project, postage, travel, supplies, and printing. Grantees being paid will be reimbursed at a percentage to capture the required match amount.

Local expenses for persons or firms who contract with a local government to provide planning or other services are *not* eligible for reimbursement but may be counted as match. Time of volunteers, such as project committee members may also be counted as match.

If awarded, communities defined as "distressed" by the Oregon Business Development Department may request a partial match waiver, typically 50% of the full match requirement. Match waiver requests will be reviewed by TGM managers when the IGA is prepared; match waiver approval is *not* guaranteed.

Project Management

Local commitment is key to a successful project. Grantees must provide a project manager who has the time and the capability to oversee project work from beginning to end.

Note: As an award condition, grantees with unmet project obligations from earlier TGM projects must fulfill their obligations within three weeks of notice of new grant award, or TGM will withdraw the award. Obligations include but are not limited to: interim match reports, completion of final project documentation, or payment of the balance of unmet final match obligations.

Title VI/Environmental Justice/Americans with Disabilities

Awarded projects are expected to abide by [Title VI](#) and related authorities including [Executive Order 12898 \(Environmental justice\)](#) which prohibit discrimination on the basis of race, color, national origin, or income, and other demographic characteristics. They are intended to make planning and decision-making more inclusive and to more equitably share the impacts and benefits of projects that receive federal funding. The public involvement program must include specific steps to provide opportunities for participation by federal Title VI communities. In addition, grants that include planning for pedestrians must consider [Americans with Disabilities Act requirements](#).

Use of Consultants

ODOT will contract with consultants for most projects using ODOT policies and procedures that meet state and federal requirements. TGM staff will work with grantees to select the project consultant that best fits the specific planning services needed.

[Certified Local Public Agencies](#) will prepare the solicitation and contract themselves.

The Application

Instructions

Required information is presented on the left and instructions are on the right; instructions are not provided for all required information.

Applicants are encouraged to familiarize themselves with the [online form](#) well in advance of the deadline.

You can begin your application and save your progress by clicking the "Save" button at the bottom of the form; you will receive a link to return to your form to complete your submission.

Documents to upload as part of application

Required

- A resolution of support or authorized letter from the governing body of all applicants (e.g. City Council, Board of Commissioners, or Transit Board) for Eligibility Criterion 3
- [Title VI: Racial & Ethnic Impact Statement](#)

Recommended

- Project Area Map
- Letters of Support for Award Criterion 4

More online resources

[Developing a Project Approach and Budget](#)

General questions about the application process

[Elizabeth Ledet](#) at 503-986-3205 or [Bill Holmstrom](#) at 971-375-5975

Assistance with filling out the [online form](#)

Contact [Rachael Levasseur](#) at 503-986-4155

TGM is hosting a webinar to answer your questions about changes to the application, how to fill out the online form, and what are common mistakes.

Webinar Date: June 11, 2024 from 10:30 AM to 12:00 PM Pacific Time

[Register in advance here.](#) Contact [Kathy Kleczek](#) if you have problems registering.

Applicant Information

Primary applicant jurisdiction

Mailing address

Website (optional)

Contact person name

Contact person title (optional)

Contact phone

Contact email

The contact person is the primary contact during the application phase and typically the proposed project manager.

Name of person empowered to sign the agreement with ODOT, if different from the applicant contact (optional)

Title of above named person (optional)

Phone (optional)

Email (optional)

The person who is authorized to make decisions and sign a funding agreement with ODOT should your project be chosen for funding. This is usually a department head, City or County Administrator, or the Mayor or County Commission Chair.

List co-applicants if a joint project (optional) Providing match?

List other jurisdictions if a joint project. You do not need to list jurisdictions who are only in a review or advisory role.

Upload your resolution or authorized letter with associated meeting minutes from the governing body of applying jurisdiction(s) here

A resolution of support, or authorized letter from the governing body of all applicants (e.g. City Council, Board of Commissioners, or Transit Board).

This document corresponds to Eligibility Criterion #3: Support of Local Officials on page 5.

Project Information

Project title

The project name should be brief and often matches the name of the final document. The name you provide will be used in summary reports, ODOT web pages, and other published materials.

Project area

Either attach a map of the project area or describe the area your project is located in. *Maps must be pdfs only, 1 file maximum, 2mb file size limit.*

ODOT region (1-5)

Refer to the [region map](#) if you are unsure.

Type of grant

Category 1 will result in a transportation decision. **Category 2** will result in a land use decision. See pages 3 and 4 for more detail

Summary description of project

Provide a brief description of the proposed project to be used in summary reports, ODOT web pages, and other published materials. The summary should describe the purpose of your project and how the expected outcomes will address a transportation problem, need, opportunity, or issue.
(Maximum characters: 750)

Project Cost Table

TGM funds requested

Consultant
Local reimbursement
Total TGM funds requested (calculated)

See [Developing a Project Approach and Budget](#) and the Advice on page 12 for more assistance in preparing your funds request.

Local match (calculated)

TGM requires a local grant match of 10.27% of the total project amount, approximately 11.5% of the TGM funds. See the Advice on page 12 for more on match.

Match to be provided

Labor, supplies and services during project
Payment when Intergovernmental
Agreement is signed

If applicant is providing a cash match, it will be applied to the consultant amount so be certain to account for that after developing your cost estimate and while entering your request above. See Advice on page 12.

Advice

How to find your perfect match (and funds request)

How can the 10.27% match requirement be fulfilled?

- Funds provided to ODOT at IGA signing for the full match amount or for a portion of the match with the remainder provided through match reports,
- Quarterly match reports, or
- If being paid, reimbursement requests for direct costs eligible for reimbursement; ODOT will reimburse the grantee at a percentage to capture the required match amount.

What counts as eligible direct costs?

- *Direct Costs Eligible for both Match and Reimbursement* - Most direct project costs incurred by the local government are eligible for use as match or for reimbursement. This includes Labor Costs for public employees actively engaged in direct project-related activities. Supplies and Services that are purchased and used entirely as part of the project are also eligible.
- *Direct Costs Eligible Only for Match* - Contract staff, the direct project costs of local governments which are not party to the IGA, and monetized volunteer hours can be counted towards the match requirement.

Examples please!

Consultant Contract of \$220,000, No Local Reimbursement

1. Cash Match: \$22,600 cash match (ODOT funds request is \$197,400)
2. Direct costs during project: \$25,180 of costs eligible for match or reimbursement. (ODOT funds request is \$220,000)
3. Combo: \$15,000 cash match + \$8,465 costs eligible for match or reimbursement. (ODOT funds request is \$205,000)

No Consultant, Local Reimbursed \$220,000

4. Grantee incurs \$245,180 of costs eligible for reimbursement and is reimbursed at 89.73% to meet the \$25,180 match. (ODOT funds request is \$205,000)

Consultant Contract of \$200,000, Local Reimbursed \$20,000

5. Grantee incurs \$56,885 of costs eligible for reimbursement and is reimbursed at 44.3% to meet the \$25,180 match. (ODOT funds request is \$220,000) *Note: Applicants are strongly urged to contact [Elizabeth Ledet](#) if considering this option.*

Award Criterion 1

Proposed Project Addresses a Need and Supports TGM Objectives (up to 40 points)

The application demonstrates the proposed project clearly and effectively addresses a local or regional transportation or transportation-related land use issue, problem, need, or opportunity and will achieve one or more of the TGM Objectives.

Prompts

What is the transportation or transportation-related land use issue, problem, need, or opportunity the proposed project will address?

Describe the issues the proposed project will address.

Provide context for the proposed project and the issues. This can include the history of the problem, the regulatory context, or other initiatives or events that affect the project area or need to be coordinated with, as well as constraints or controversies.
(Maximum characters: 3,000)

What are the proposed Project Objectives? How will the Project Objectives achieve one or more of the TGM Objectives?

Describe what the proposed project is hoping to achieve and how the desired outcomes correspond to larger goals of the community. Describe specific, measurable deliverables and strategies and how they will address the issue, problem, need, or opportunity. Identify the related TGM Objectives.
(Maximum characters: 3,000)



TGM Objectives

The TGM Program works in partnership with local governments and other stakeholders to accomplish the following interrelated goals and objectives:

- 1 **Provide transportation choices** to support communities with the balanced and interconnected transportation networks necessary for mobility, equity, and economic growth.
 - 1.1 A balanced, interconnected, and safe transportation system that provides a variety of transportation options and supports land uses.
 - 1.2 Appropriately sited, designed, and managed local, regional, and state transportation facilities and services that support the movement of goods and provide for services.
 - 1.3 Mobility choices for underserved communities and those with limited options.
 - 1.4 Safe and convenient walking, biking, and public transportation opportunities to support a healthy, active lifestyle.

- 2 **Create communities** composed of vibrant neighborhoods and lively centers linked by accessible transportation.
 - 2.1 Livable towns and cities with a mix of housing types, work places, shops, schools, and parks for people of all ages, incomes and abilities.
 - 2.2 Well-located activity centers, including schools and other government services, which are accessible to pedestrians, bicyclists, and transit users.
 - 2.3 A safe and appealing physical environment supportive of the social, cultural, and health needs of all the community residents.

- 3 **Support economic vitality and growth** by planning for land uses and the movement of people and goods.
 - 3.1 Thriving existing neighborhoods and centers and well-planned new growth that accommodate existing and future residents, businesses, and services.
 - 3.2 Well-located and accessible industrial and employment centers.
 - 3.3 Housing with access to education, jobs, and services.

- 4 **Save public and private costs** with compact land uses and well-connected transportation patterns.
 - 4.1 Urban growth accommodated within existing communities, thus minimizing, delaying, or providing an alternative to an urban growth boundary expansion.
 - 4.2 Future transportation needs accommodated within the existing or improved system, thus minimizing, delaying, or providing an alternative to constructing additional major infrastructure projects.

- 5 **Promote environmental stewardship** through sustainable land use and transportation planning.
 - 5.1 Transportation systems and land use patterns that protect valuable natural resources, promote energy efficiency, and reduce emissions of air pollution and greenhouse gases.

Award Criterion 2

Proposed Project is Timely and Urgent (up to 25 points)

The application demonstrates timeliness and urgency. The project is needed now to:

- address pressing local transportation and land use issues;
- make amendments to local plans or regulations necessitated by changes in local conditions or in federal regulations, state requirements, or regional plans;
- build on, complement, or take a necessary step toward completing or implementing other high priority community initiatives, including supporting a Governor’s Regional Solutions Team priority; or
- resolve transportation- or land use-related issues affecting the project readiness of local, regional, or state transportation projects for which funding is expected to be obligated within the near future.

Prompts

Why it is important to do the proposed project in this grant cycle?

This response will necessarily relate to the need identified in Award Criterion #1. *(Maximum characters: 2,500)*

What local actions are needed to move the proposed project forward? Have these actions been taken and if so, when? If those efforts are underway, when will they be completed?

Examples of local actions include adopting an urban growth boundary amendment or completing a buildable lands inventory. *(Maximum characters: 1,000)*

How does the proposed project relate to other planning efforts, developments, or initiatives? Which of those are completed, underway, or waiting on the completion of this project?

Examples of related efforts include the development or update of a regional plan, a corridor scheduled for construction in 10 years, or private development interest in an area. *(Maximum characters: 1,000)*

Advice

Keep in mind that most TGM planning grants will start in mid to late 2025 and end two to three years later.

Award Criterion 3

Proposed Project Approach Supports Policy Decision (up to 20 points)

The application demonstrates a clear approach to achieving the expected outcome and includes consideration for adoption. Where substantial coordination with other local, regional, and state planning efforts will need to occur, the mechanisms and responsibilities for the coordination are clear.

Prompts

For each project task, describe the major deliverables and who is responsible for its preparation, decisions to be made, and expected timeline. Clearly identify which local plans or regulations the final document(s) will create, amend or update and which entity or entities will need to take action to adopt them.

See [Developing a Project Approach and Budget](#) and Advice box below.
(Maximum characters: 750 per task)

How will the project approach support investment decisions for Safe Systems, Climate Action, and Equitable Outcomes?

Explain how the work described in the tasks furthers the goals of the Oregon Transportation Plan and the Transportation Planning Rules.
(Maximum characters: 1,000)

If adoption hearings will be held as part of a larger project, when will that be and as part of what project? (optional)

Explain how the governing body will accept the proposed project's final document(s) and how the proposed project's findings and recommendations fit into the larger planning effort.
(Maximum characters: 500)

Advice

Clearly identify which tasks or deliverables will be done by the applicant and which by the consultant (if one is used). Where local reimbursement is requested, identify specific deliverables developed by the applicant that support the development of the final document(s) and the adoption decision.

Award Criterion 4

Proposed Project has Community Support (up to 5 points)

The application demonstrates that there is local support for the project objectives, a commitment to participate, and a desire to implement the expected outcome.

Prompt

Upload letters of support here

Letters of support should demonstrate a clear understanding of the proposed project and support for its objectives and outcomes. A letter of support will score higher if it shows willingness of the signer to participate in project processes.

A single combined .pdf of the letters is highly appreciated.

Advice

Request letters of support well in advance of the application deadline.

Applicants who score well for community support have typically submitted letters from:

- A diverse range of interest groups such as community institutions and groups, businesses, and especially community-based organizations that serve historically and currently underserved communities, and
- Partner jurisdictions and key agencies with a clear interest in the project.

In all cases, the letters should be specific to the writer's interest in the proposed project.

The resolution or authorized letter of the governing body does not count as a letter of support for Award Criterion 4.

Letters of support should be addressed (but not sent) to the [Region Lead](#).

Award Criterion 5

Proposed Project Sponsor is Ready and Capable (up to 10 points)

The application demonstrates that the local government is ready and able to begin the project within the TGM timetable and that there is local commitment and capability to manage and complete the project. The application demonstrates, if applicable, successful performance on previous TGM projects.

Prompts

Describe the experience and availability of key staff.

Describe the applicant's project manager capabilities and experience relative to the complexity of the proposed project.
(Maximum characters: 1,500)

Explain how the applicant has the capacity to scope the proposed project during the next 15 months and manage it to completion within 3 years

Describe the availability of the applicant's project manager and other staff to scope the proposed project and participate in tasks.
(Maximum characters: 1,500)

If applicable, list applicant's TGM projects within last 10 years and their status

Search the list of [TGM grant projects](#) and address the status of any projects between 2012 and 2021 that involved the applicant.
(Maximum characters: 300)

Bonus Points

Up to 10 bonus points may be awarded if the project addresses barriers to a broad range of housing types and affordability or works to link the location of future workforce housing to walkable/bikeable areas with good transit. Examples of this could include:

- Policies and strategies to repurpose or redevelop remnant lands owned by governmental entities and to increase infill and redevelopment of privately owned lands.
- Reassessment of development requirements such as lot size, setbacks, and parking mandates.
- Plans to improve transportation choices through identification of site-specific multimodal needs in existing residential areas.

Prompt

How will the adoption of the final document(s) address barriers to a broad range of housing types and affordability or work to link the location of future workforce housing to walkable/bikeable areas with good transit? (optional)

List the specific elements of the final document(s) that will address barriers or plan for linkages. Estimate the additional dwelling units that could be developed/redeveloped or that would have better accessibility.
(Maximum characters: 500)

Required Forms

Title VI: Racial & Ethnic Impact Statement form

Upload your form here. *pdfs only*

Certifications

Eligibility Criteria

1. This application demonstrates a clear transportation relationship

A proposed project must have a clear transportation relationship and produce transportation benefits. A project must address a transportation problem, need, opportunity, or issue of local or regional importance.

Check the box if met.

2. This application demonstrates adoption of products to meet project objectives

A proposed project must include preparation of an adoption-ready product or products that lead to a local policy decision and that directly address the project objectives, such as a transportation system plan, comprehensive plan amendment, land use plan, code amendment, implementation program, or intergovernmental agreement. Projects are expected to include adoption hearings (or equivalent) by the governing body or to prepare products which will be adopted as part of a larger project.

Check the box if met.

3. This application demonstrates support of local officials

A proposed project must clearly demonstrate that local officials, both the primary applicant and any co-applicants, understand the purpose of the grant application and support the project objectives. Application must include from the governing body of all applicants either 1) a resolution of support or 2) an authorized letter with associated meeting minutes.

Check the box if met.

Preparation of Application

- This application was prepared by staff of the primary applicant or staff of one of the involved jurisdictions
- This application was prepared by the following COMPENSATED consultant (indicate below):
- This application was prepared by the following UNCOMPENSATED consultant (indicate below):

Check the appropriate box. Enter information if prepared by consultant.

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/02/24

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * County Counsel

Contact Name * Vance Croney

Phone Extension * 6890

Meeting Attendee Name * Vance Croney

Agenda Item Details



Item Title * Delegation of Solid Waste Advisory Council Duties to the Environment and Natural Resources Advisory Committee, Order D 2024-048

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 5 minutes

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

With the dissolution of the Solid Waste Advisory Council (SWAC), there are specific duties assigned to SWAC that may be re-delegated. In particular, Benton County Code ch. 77.305 gives SWAC authority to review a conditional use application to expand the Coffin Butte Landfill.

In order to fulfill a review and recommendation role for the benefit of the Planning Commission, it is desirable to reassign SWAC's BCC ch. 77 role to another county advisory committee. The Environment and Natural Resources Advisory Committee (ENRAC) shares similar, albeit not identical, purposes and membership interests as SWAC.

BCC ch. 77 calls for landfill land use expansion applications to be reviewed by SWAC, which will "make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative." This review and recommendations by an advisory body whose interest and focus is environmental and natural resources issues provides the planning commission with a valuable perspective to include in its review of the application.

ENRAC has considered and discussed assumption of the BCC 77.305 duties and has agreed to accept the delegation if the BOC so chooses.

Options *

1. Delegate SWAC's BCC ch. 77.305 review and recommendation authority to ENRAC.
2. Decline to reassign the review authority in BCC 77.305, thereby removing the review and recommendation step outlined in BCC 77.305.

Fiscal Impact *

- Yes
 No

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

- Core Values*** Select all that apply.
- Vibrant, Livable Communities
 - Supportive People Resources
 - High Quality Environment and Access
 - Diverse Economy that Fits
 - Community Resilience
 - Equity for Everyone
 - Health in All Actions
 - N/A

Explain Core Values Selections* The review and recommendation role, while discretionary to Benton County, allows a group of citizen board members to offer insights and recommendations on a land use application through the lens of environmental and natural resource issues.

- Focus Areas and Vision*** Select all that apply.
- Community Safety
 - Emergency Preparedness
 - Outdoor Recreation
 - Prosperous Economy
 - Environment and Natural Resources
 - Mobility and Transportation
 - Housing and Growth
 - Arts, Entertainment, Culture, and History
 - Food and Agriculture
 - Lifelong Learning and Education
 - N/A

Explain Focus Areas and Vision Selection* This delegation to ENRAC enhances the planning commission's ability to assess the environmental and natural resource impacts of a landfill expansion through the expertise of the ENRAC members.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations * Delegate the review and recommendation duties described in Benton County Code chapter 77.305 to the Environment and Natural Resources Advisory Committee.

Meeting Motions * I move to ...
...adopt Order Number D2024-048 delegating the review and recommendation duties described in Benton County Code chapter 77.305 from the Solid Waste Advisory Council to the Environment and Natural Resources Advisory Committee.

Meeting Motion

I move to adopt Order Number D2024-048 delegating the review and recommendation duties described in Benton County Code chapter 77.305 from the Solid Waste Advisory Council to the Environment and Natural Resources Advisory Committee.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Delegation of BCC 77 duties from SWAC to ENRAC
Order.docx 16.2KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver VANCE CRONEY

1.

Department Approval

Comments

Signature

Vance M. Caskey

2.

County Administrator Approval

Comments

Signature

Rachel L McEneny

3.

BOC Final Approval

Comments

Signature

Amanda Makepeace

4.

BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON

In the Matter of Delegating Duties and) ORDER #D2024-048
Responsibilities of SWAC to ENRAC)

On October 4, 2022, the Benton County Board of Commissioners voted to discontinue the Solid Waste Advisory Council (SWAC) until the Benton County Talks Trash (BCTT) process had produced a substantial document or information suitable for review by SWAC.

At that same meeting, the Board Chair clarified that “the Board will cancel SWAC/DSAC meetings until further notice.”

The Board of Commissioners has determined SWAC will remain on hold until the county completes its Solid Materials Management Plan (SMMP) which will provide guidance for how to assess, plan for and manage solid waste streams flowing to Coffin Butte Landfill and Benton County.

During the time when SWAC is not active and meeting, there are some duties and responsibilities which the Board desires to be carried out. Specifically, Benton County Code chs. 23 and 77.305 describes those duties and responsibilities.

The Environment & Natural Resources Advisory Committee (ENRAC) was formed to “provide input * * * in areas related to Benton County’s 2040 Vision Statement on Environment & Natural Resources.” While solid waste is not specifically described within ENRAC’s functions, the impacts of the landfill on the environment and natural resources implicates ENRAC. As a result, some of the SWAC functions can be performed by ENRAC until such time as a reconstituted SWAC can be formed in alignment with the SMMP.

NOW THEREFORE IT IS HEREBY ORDERED, the Environment & Natural Resources Advisory Committee is delegated the duties and responsibilities formerly assigned to SWAC in BCC 77.305 without further action by the Board. This delegation is limited to “review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Map Plan and narrative.”

IT IS FURTHER ORDERED that ENRAC shall not carry out SWAC duties described in BCC ch. 23 without approval of the County Administrator. This order does not revoke the Board’s direction that SWAC, shall not meet until further notice.

IT IS FURTHER ORDERED the Board authorizes ENRAC to determine how to carry out its BCC ch. 77.305 responsibilities, with the exception that its review of a land use application shall not be a public hearing.

Adopted this 2nd day of July, 2024.

Signed this this 2nd day of July, 2024.

BENTON COUNTY BOARD OF COMMISSIONERS

Xanthippe Augerot, Chair

Nancy Wyse, Vice Chair

Pat Malone, Commissioner