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NOV 13 2025

YAMHILL COUNTY
PLANNING DEPARTMENT

ANDREW H. STAMP

(503) 684-4111

Andrew.Stamp@vf-law.com

*Admitted to Practice in
Oregon*

November 13, 2025

P30512-001

VIA EMAIL

Yamhill County Board of Commissioners
c/o Dept. of Planning & Development
525 NE 4th Street
McMinnville, OR 97128

E: woodsl@yamhillcounty.gov; fridayk@yamhillcounty.gov

*Re: Appeal of Docket Number C-01-25
Home Occupation / Javier Ceja
Subject property: 10431 NE Equestrian Drive, McMinnville, OR 97128
Tax Lot 4401-02300
Second Open Record Submittal*

Dear Honorable Members of the Board,

As you know, this office represents Larry and Heidi Goodroe, who oppose Mr. Ceja's application for a home occupation to run a 24/7 "Loss Mitigation Business" on EFU land. This letter and accompanying exhibits represent the Goodroe family's second evidentiary submittal. This letter constitutes a "rebuttal" because Mr. Ceja admitted in his November 6, 2025 letter that he "received a [building] permit in February [2025] to construct a new barn for our business." *Id.* at p.2.

At the November 3rd hearing, Commissioner Starrett requested information pertaining to the building permit file for this case. Staff Planner Lance Woods emailed the building permit to the Board and the parties the next day. The document is entitled "Building Permit, Commercial Structure, Permit Number 979-24-004198-STR." This building permit approved the "shell" for the 6,480 s.f. commercial building, Occupancy Type "U Utility, Misc."¹

This building permit is unlawful and should never have been approved. As an initial matter, the structure at issue is unquestionably not a "barn." Barns are built to support farm uses, and are included in the definition of "Farm Use" set forth at ORS 215.203(2)(a) ("Farm use"

¹ This occupancy code is a catch-all category that applies when no other occupancy category applies. It includes agricultural buildings, sheds, garages, and similar non-commercial uses.



includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection.”). Structures such as barns are considered integral to farm use when they support accepted farming practices or are used for the storage of farm equipment and products. However, Mr. Ceja admits that the 6,480 s.f. structure is intended to be used as a commercial business, as opposed to farm use, which frankly was obvious from the size and design of the building.

Commercial structures are not allowed in the EFU zone unless they are approved via a Conditional Use Permit for a “Commercial Use in Conjunction with a Farm Use (“CACFU”), or otherwise approved via some other similar discretionary land use permit. In this case, the county issued the building permit without any required land use review. The building permit decision does not make appropriate findings required by ORS 215.283(1) or ORS 215.283(2). For this reason, we have appealed the building permit decision to LUBA.² Exhibit 14.

Non-farm uses in the EFU zone are governed by ORS 215.283(1)&(2). Since at least 1969, nonresidential “buildings customarily provided in conjunction with farm use” have been allowed in exclusive farm use (EFU) zones. See 1969 Or. Laws Ch. 258, §1, codified at ORS 215.213(6)(1969) (adding “dwellings and other buildings customarily provided in conjunction with farm use” to the list of allowed nonfarm uses allowed in the EFU zone. As applied to non-marginal lands counties such as Yamhill, this provision is found at ORS 215.283(1)(e):

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:

(e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.

However, ORS 215.283(1)(e) has never been interpreted to provide landowners with a blank check to place any dwelling or buildings on EFU land. For example, in *Elliott v. Jackson County*, 23 Or LUBA 257 (1992), LUBA held that approval of a dwelling customarily provided in conjunction with farm use requires a demonstration that the proposed dwelling is customarily provided in conjunction with the particular commercial farm use. It may not be assumed that a dwelling is customarily provided in conjunction with all commercial farm uses.

Similarly, in *Craven v. Jackson County*, 308 Or 281, 779 P2d 1011 (1989), the Oregon Supreme created a size limit on “other buildings customarily provided in conjunction with farm use.” The *Craven* court stated: “* * * if ORS 215.213(1)(f) [and ORS 215.283(1)(e)] is to provide authority for building on EFU land, the structure's size and capacity must be proportional or commensurate to the existing level of dedication of land in that immediate area to the crop for which the structure is suited.

² The building decision became final on February 27, 2025. The appeal to LUBA has been filed under ORS 197.830(3), which allows appeals to be filed after the 21-day deadline when a land use decision was made without a hearing. Petitioners were entitled to notice of the hearing and notice of the decision but did not receive actual notice of the decision until it was emailed to them on November 4, 2025 by Yamhill County Planning Staff.

ORS 215.279 provides that the Land Conservation and Development Commission (LCDC) may adopt a rule that establishes a farm income standard to determine whether a dwelling is “customarily provided in conjunction with farm use on a tract[.]” OAR 660-033-0120, Table 1, provides for a “[d]welling customarily provided in conjunction with farm use” (hereafter, farm dwellings), subject to standards at OAR 660-033-0135. LCDC has adopted administrative rules implementing ORS 215.283, setting forth the requirements for dwellings on high-value farmland. OAR 660-033-0135. LCDC has adopted rules for farms dwellings at OAR 660-033-0135.

The administrative rules set forth at OAR 660-033-0135 flesh out the statute. The goal of the administrative rule was to draw distinctions between commercial farmers operating significant “farms,” versus the hobby farmer whose “farm use” is at a level which is not a “farm” and is therefore unworthy of the right to a farm dwelling. *See* DLCD Publication, Rules for Farm Dwellings, March, 1994. Exhibit 15. This publication provides guidance on what qualifies as farm use:

To be considered a farm, a tract first must be in “farm use.” Oregon’s land use laws define that term in ORS 215.203. The definition is quite broad. It includes almost every type of crop, orchard, and livestock production.

But just because a tract is in farm use does not mean it is a farm. Consider, for example, the five-acre parcel mentioned above. Raising cattle is a farm use, but the presence of one cow does not make the five-acre parcel a farm.

In contrast, consider a 500-acre tract with rich irrigated soils, producing hundreds of thousands of dollars of crops each year. This surely is a farm. Three main attributes distinguish it from the five-acre, one-cow parcel:

1. Size: The tract is large enough to demand the attention and labors of at least one household (the occupants of a farm dwelling). It includes enough farmland to make a significant contribution to the area’s agricultural economy.
2. Capability: The tract has a combination of soils, water, and other features that makes it capable of producing significant amounts of crops or other farm products in the future.
3. Income: The tract already has produced significant amounts of agricultural products, as measured by its gross income from the sale of such products. The rules for new farm dwellings are based on these three attributes. They enable planners to get a clear, objective answer to the question: "Is this a farm, or is it merely land that is being farmed?"

In this case, the land is being farmed but the size, capacity, and income is insufficient to qualify for a farm dwelling or any sort of “other building customarily provided in conjunction with farm use.”

Remarkably, none of required analysis set forth above took place in this case prior to issuance of a building permit. Rather, the county wrongly approved a behemoth 6,480 s.f. commercial building without undertaking the required analysis required by ORS 215.283(1)(e). *See Dykeman v. State*, 39 Or App 629, 593 P.2d 1183 (1979) (acknowledging the tort of negligent issuance of a building permit). The correct analysis would have posed the following questions:

1. Does a “farm use” exist on the subject property?
2. If a farm use does exist, is the requested building of the type, size, and design that is “customarily provided” in conjunction with the particular type of farm use at issue?
3. If the answer to the second question is yes, then is the structure's size and capacity proportional or commensurate to the existing level of dedication of land in that immediate area to the crop for which the structure is suited?
4. Is the authorization of a commercial building in this case consistent with the state’s agricultural land use policy of protecting farmland, as stated in ORS 215.243.

In this case, the answer to all four of these inquiries is a resounding “no.”

It is also important to note that Mr. Ceja states that they are “not currently operating [their] business out of the barn at [their] property.” However, we have submitted photographs showing that vehicles marked with the “J&S” business logo are coming and going from the property. Thus, there is no substantial evidence in the record to determine precisely the number of trips associated with the business. Mr. Ceja estimates “3-4 round trips” associated with the business upper limit would be “10 round trips” per day (which traffic engineers would define as “20 trips.” If approved, a condition of approval setting the maximum trip count at 20 trips per day is appropriate.

Mr. Ceja reports that there are two vehicles associated with the business. Heidi Goodroe informed me that there was a third vehicle with the J&S logo, but she has not observed that vehicle recently. The record is unclear as to whether Mr. Ceja still own that vehicle.

Thank you for time and attention to this matter.

Sincerely,

VF LAW

/s/ Andrew H. Stamp

Andrew H. Stamp

ASTA\pada
cc: client

Exhibit List.

Exhibit 14: Notice of Intent to Appeal.

Exhibit 15: DLCD Publication, Rules for Farm Dwellings, March, 1994.

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BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

LARRY GOODROE, HEIDI
GOODROE, VERNON L. BRUCK
AND PENNY L. BRUCK

LUBA No. 2025-_____

Petitioners,

v.

YAMHILL COUNTY,
Respondent.

NOTICE OF INTENT TO APPEAL

I.

NOTICE IS HEREBY GIVEN that Petitioners intend to appeal a land use decision of Respondent, Yamhill County, by and through its Building Official. The decision being appealed is entitled "Building Permit, Commercial Structure, Permit Number 979-24-004198-STR." This decision involves the issuance of a building permit for a 6,480 s.f. commercial building, Occupancy Type "U Utility, Misc" on land located at 10431 NE Equestrian Drive McMinnville, OR 97128. The subject property is zoned "EFU" and is therefore subject to ORS 215.283(1) & (2). Commercial Structures are not allowed in the EFU zone unless they are in conjunction with a farm use or approved via some

NOTICE OF INTENT TO APPEAL

P30512-001

VF LAW
6000 Meadows Rd, Suite 500
Lake Oswego, OR 97035
Phone: 503-684-4111
Fax: 503-598-7798

1 other similar discretionary land use permit. The decision does not make
2 appropriate findings required by ORS 215.283(1) & (2). This decision became
3 final on February 27, 2025. This appeal is being filed under ORS 197.830(3)
4 because the Building Permit constitutes a “land use decision” which was made
5 without a hearing. Petitioners were entitled to notice of the hearing and notice
6 of the decision. Petitioners Goodroe received actual notice of the decision
7 when it was emailed to them on November 4, 2025 by Yamhill County
8 Planning Staff. Petitioners Bruck never received an actual copy of the decision
9 but formed an attorney-client relationship with VF-Law on November 11, 2025.
10 A copy of the decision being appealed is attached as Exhibit A.

11 II.

12 Petitioners Larry and Heidi Goodroe’s address, email address, and phone
13 number are as follows:

14 10450 NE Equestrian Drive
15 McMinnville OR. 97128
16 Heidi Goodroe: hgoodroe@gmail.com
Larry Goodroe: lgoodroe@gmail.com
(360) 536-5075

17 Petitioners Vernon and Penny Bruck’s address and phone number are as
18 follows:

19 10331 NE Equestrian Drive
20 McMinnville OR. 97128
(503) 919-9868

NOTICE OF INTENT TO APPEAL

P30512-001

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6000 Meadows Rd. Suite 500
Lake Oswego, OR 97035
Phone: 503-684-4111
Fax: 503-598-7798

1 Petitioners are represented by:

2 Andrew H. Stamp, OSB No. 974050
3 VF Law
4 6000 Meadows Road, Suite 500
5 Lake Oswego, OR 97035
6 Telephone: 503.684.4111
7 Facsimile: 503.598.7758
8 Andrew.Stamp@vf-law.com

6 **III.**

7 Respondent's Governing Body has his mailing address and telephone
8 number as:

9 Yamhill County Board of Commissioners
10 535 NE 5th Street
11 McMinnville, OR 97128
12 Phone: 503-434-7501

13 Respondent, Tim Codiga, Building Official, has his mailing address and
14 telephone number as:

15 Yamhill County Building Department
16 400 NE Baker Street
17 McMinnville, OR 97128

18 Respondent, Ken Friday, Planning Director, has his mailing address and
19 telephone number as:

20 Yamhill County Planning & Development
400 NE Baker Street
McMinnville, OR 97128
fridayk@yamhillcounty.gov

1 Respondent's attorney, Christian Boenisch, has his mailing address and
2 telephone number as:

3 Yamhill County Counsel
4 535 NE Fifth Street
5 McMinnville, OR 97128
6 boenischc@co.yamhill.or.us

7 The applicant, M & H Oregon Construction, LLC, lists their address and
8 telephone number as:

9 1524 SE Essex Street
10 McMinnville, OR 97128

11 IV.

12 Other persons who *may* have been mailed written notice of the land use
13 decision by Yamhill County include the landowner:

14 Isidro Javier Ceja
15 Sara Herrrea Contraras
16 10431 NE Equestrian Drive
17 McMinnville, OR 97128

18 A courtesy copy of this NITA has been sent to the landowner's attorney,
19 Merissa A. Moeller, has her mailing address and telephone number as:

20 Stoel Rives, LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
503.294.9455
merissa.moeller@stoel.com

NOTICE: Anyone designated in Paragraph IV of this notice who desires

1 to participate as a party in this case before the Land Use Board of Appeals must
2 file with the Board a motion to intervene in this proceeding as required by OAR
3 661-010-0050 and pay the appropriate appearance fee.

4

5 DATED this 12th day of November, 2025.

6

VF LAW

7

8 By: Andrew H. Stamp
Andrew H. Stamp, OSB #974050
VF Law
6000 Meadows Road, Suite 500
Lake Oswego, OR 97035
T: (503) 684-4111
E: Andrew.Stamp@vf-law.com
Of Attorneys for Petitioners

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CERTIFICATE OF FILING

I hereby certify that I filed the original of this **NOTICE OF INTENT TO APPEAL** and one true copy thereof and a filing fee of \$300.00, with the Land Use Board of Appeals, 201 High St SE, Unit 600, Salem, OR 97301 on November 12, 2025, by mailing to them by certified, return receipt mail, postage prepaid, addressed to the Board at the above address.

VF LAW

By: 
Andrew H. Stamp, OSB No. 974050
Of Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2025, I served a true and correct copy of this **NOTICE OF INTENT TO APPEAL** on all persons listed in Paragraph III and IV of this Notice, pursuant to OAR 661-010-0015(2), by first class mail.

VF LAW

By: 
Andrew H. Stamp, OSB No. 974050
Of Attorneys for Petitioners

NOTICE OF INTENT TO APPEAL

P30512-001

VF LAW
6000 Meadows Rd. Suite 500
Lako Oswego, OR 97035
Phone: 503-684-4111
Fax: 503-598-7798

Andrew Stamp

From: Lance Woods <woods@yamhillcounty.gov>
Sent: Tuesday, November 4, 2025 4:12 PM
To: Larry Goodroe; Andrew Stamp
Cc: Ken Friday
Subject: [EXTERNAL] Yamhill County Planning | Open Record Submissions for Docket C-01-25
Attachments: C-01-25.PLANNING & DEVELOPMENT.01.pdf

Hello Larry and Andrew,

I have attached the building permit information that Commissioner Starrett requested be added to the record for this request, regarding building permit history on the subject parcel since the Applicant took ownership.

Thank you and best regards,

Lance Woods
Senior Planner & GIS Analyst
Yamhill County Planning & Development

Telephone: +1 503 434 7516 | Fax: +1 503 434 7544
WoodsL@yamhillcounty.gov | www.yamhillcounty.gov
400 NE Baker Street, McMinnville, OR 97128, USA

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YAMHILL COUNTY
PLANNING DEPARTMENT



Yamhill County Building Department

400 NE Baker Street

McMinnville, OR 97128

503-434-7516

Fax: 503-434-7544

planning@yamhillcounty.gov

Website:

<https://www.yamhillcounty.gov/283/Planning-Development>

Building Permit

Commercial Structural

Permit Number: 979-24-004198-STR

Application Date: December 27, 2024

Permit Issued: February 27, 2025

Project: Javler Ceja

TYPE OF WORK

Structural Specialty Code Edition: 2022

Category of Construction: Commercial

Type of Work: New

Calculated Job Value: \$415,951.20

Description of Work: Storage building for special equipment used for mitigation (Shell Only, new application and plans will be needed for TI.)

JOB SITE INFORMATION

Worksite Address

10431 NE EQUESTRIAN DR
MCMINNVILLE OR 97128

Parcel

R4401 02300

Owner: CEJA ISIDRO J

Address: 10431 NE EQUESTRIAN DR
MCMINNVILLE, OR 97128

Owner: CONTRERAS SARA H

Address: 10431 NE EQUESTRIAN DR
MCMINNVILLE, OR 97128

LICENSED PROFESSIONAL INFORMATION

Business Name

M & H OREGON CONSTRUCTION
LLC - Primary

License

CCB

License Number

236562

Phone

503-857-5224

PENDING INSPECTIONS

Inspection	Inspection Group	Inspection Status
1999 Final Building	Struct Com	Pending
1400 Perimeter Slab Insulation	Struct Com	Pending
1430 Insulation Wall	Struct Com	Pending
1440 Insulation Ceiling	Struct Com	Pending
1260 Framing	Struct Com	Pending

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

Per R105.7 and R 106.3.1, a copy of the building permit and one set of approved construction documents shall be available for review at the work site.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

Ways to Schedule Inspections

Oregon ePermitting App

Search the iOS or Android app store for 'epermitting' or by scanning the QR code below to get instant inspection results.



Oregon ePermitting Website

Schedule or track inspections online at BuildingPermits.Oregon.gov.



Easy Scheduling Website

Start by visiting BuildingPermits.Oregon.gov > click on Schedule > click on Easy Inspection Scheduling or by scanning the QR code below.



For agencies that offer same-day inspection scheduling, the cut off is 7:00 AM.

PERMIT FEES

Fee Description	Quantity	Fee Amount
Agency Review - County Only	1	\$98.00
Fire life safety plan review		\$808.78
Structural plan review fee		\$1,314.27
Structural building permit fee		\$2,021.95
State of Oregon Surcharge - Bldg (12% of applicable fees)		\$242.63
CET - MCMINNVILLE SD 40 - Admin Fee - Com Use		\$202.18
CET - MCMINNVILLE SD 40 - Com Use		\$4,852.22
Total Fees:		\$9,540.03

Note: This may not include all the fees required for this project.

VALUATION INFORMATION

Construction Type	Occupancy Type	Unit Amount	Unit	Unit Cost	Job Value
VB	U Utility, misc.	6,480.00	Sq Ft	\$64.19	\$415,951.20
Total Job Value:					\$415,951.20

Record Number	Record Type	Project Name	Description	Number	Dir	Street Name	Street Type	Parcel #	Status	Opened
979-25-000881-PLNG	Planning Tracking	C-01-25 Appeal	Appeal of C-01-25 Commercial home occupation	10431	NE	EQUESTRIAN	DR	R4401 02300	App Submitted	9/29/2025
979-25-002744-MECH	Commercial Mechanical	Shop Gas line	Run a new main gas line from gas tank to shop building	10431	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	9/9/2025
979-25-002382-ELEC	Commercial Electrical	Wire shop	Storage building for special equipment used for mitigation (Shell Only, new application and plans will be needed for TL.) Goes with structural permit 979-24-004198-STR	10431	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	8/8/2025
979-25-000050-PRMIT	Onsite Permit	R4401-2300 Ceja	New standard system for hardship	10431	NE	EQUESTRIAN	DR	R4401 02300	Finald	7/23/2025
979-25-000050-EVAL	Onsite Site Evaluation	R4401-2300 Ceja	Site evaluation for future hardship and commercial use for business	10431	NE	EQUESTRIAN	DR	R4401 02300	Site Evaluation Approved	7/3/2025
979-25-001411-STR	Residential Structural	Javier Ceja	Conversion of accessory building to studio/Rec room for hardship with 1 full bath and kitchen.	10435	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	5/14/2025
979-25-001411-PLM-01	Residential Plumbing	Javier Ceja	Conversion of accessory building to studio/Rec room for hardship with 1 full bath and kitchen.	10435	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	5/14/2025
979-25-001411-MECH-01	Residential Mechanical	Javier Ceja	Conversion of accessory building to studio/Rec room for hardship with 1 full bath and kitchen.	10435	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	5/14/2025
979-25-001076-PLM	Commercial Plumbing	Javier Shop	UNDERSLAB PERMIT ONLY. Adding two bathrooms, a laundry area with sink, a mechanical area with hub drain, mop sink, and water heater, and a breakroom with sink. Adding 3 hose bibs.	10431	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	4/17/2025
979-25-000631-ELEC	Residential Electrical		Refeed house and main service to feed commercial building.	10431	NE	EQUESTRIAN	DR	R4401 02300	Permit Issued	3/5/2025

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WASHBURN COUNTY
PLANNING DEPARTMENT

979-25-000125-PLNG	Planning Tracking	C-01-25	Home occupation for commercial	10431	NE	EQUESTRIAN	DR	R4401	02300	Decision/Permit Issued	1/24/2025
979-25-000050-AUTH	Onsite Authorization	Javier Ceja	Authorization for hardship and commercial use for business	10431	NE	EQUESTRIAN	DR	R4401	02300	Denied	1/24/2025
979-25-000048-PLNG	Planning Tracking	CTS-01-25	CEJA TEMPORARY HARDSHIP	10431	NE	EQUESTRIAN	DR	R4401	02300	Decision/Permit Issued	1/9/2025
979-24-004198-STR	Commercial Structural	Javier Ceja	Storage building for special equipment used for mitigation (Shell Only, new application and plans will be needed for TI.)	10431	NE	EQUESTRIAN	DR	R4401	02300	Under Insp/Revisions Needed	12/27/2024
979-24-004081-ELEC	Residential Electrical		Remodel - Existing accessory building being converted to Hardship	10435	NE	EQUESTRIAN	DR	R4401	02300	Permit Issued	12/16/2024

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VAUGHN COUNTY
PLANNING DEPARTMENT



Smith

Barn 1,980sqft estimate

03008

Bruck

Old Barn 3,422 sqft estimate

02400

Gaeja

2024 6,480sqft

02300

03500

North East Eriksen Drive

05100

03200

03800

Gaudins

2025 3,800sqft

Winkelman

15837 2,000sqft estimate

03400

Northeast Matley Lane

RULES FOR NEW FARM DWELLINGS

March 1994

On February 18, 1994, Oregon's Land Conservation and Development Commission (LCDC) made some important revisions to its administrative rules for "farm dwellings." Those revisions took effect on March 1, 1994.

This summary describes the revised rules. Their complete text appears in Oregon Administrative Rules (OAR) 660-33-135.

What is the purpose of the farm dwelling rules?

The rules for new farm dwellings are designed to protect agricultural land in areas zoned Exclusive Farm Use (EFU). The rules serve as a kind of filter. They allow new homes for people who will operate commercial farms and ranches, but they screen out other types of housing that conflict with commercial agriculture.

What is a farm dwelling?

A farm dwelling is a house or manufactured home located on a farm (or ranch) and occupied by a farmer — a person who is "principally engaged" in activities such as planting crops or raising livestock. State law (ORS Chapter 215) refers to such houses as "dwellings customarily provided in conjunction with a farm use."

A farm dwelling is *not* just any dwelling that happens to be in an EFU zone. Rather, it is one among several types of dwellings allowed in EFU zones.

The key to distinguishing farm dwellings from other types lies in the phrase "customarily provided." For example, a farm dwelling would not customarily be built on a dry five-acre parcel that provides just enough forage for one cow. Such a parcel doesn't demand the care and attention of a resident manager. It also could not support a farm household. In other words, it is not a farm — and without a farm, there can be

no "farm dwelling." Therefore, the main issue with any request to approve a new farm dwelling is likely to be this: "Is the tract of land on which the dwelling will be placed a farm?"

What is a farm?

To be considered a farm, a tract first must be in "farm use." Oregon's land use laws define that term in ORS 215.203. The definition is quite broad. It includes almost every type of crop, orchard, and livestock production.

But just because a tract is in farm use does not mean it's a farm. Consider, for example, the five-acre parcel mentioned above. Raising cattle is a farm use, but the presence of one cow does not make the five-acre parcel a farm.

In contrast, consider a 500-acre tract with rich irrigated soils, producing hundreds of thousands of dollars of crops each year. This surely is a farm. Three main attributes distinguish it from the five-acre parcel that is not:

1. **Size** — The tract is large enough to demand the attention and labors of at least one household (the occupants of a farm dwelling). It includes enough farmland to make a significant contribution to the area's agricultural economy.
2. **Capability** — The tract has a combination of soils, water, and other features that makes it capable of producing significant amounts of crops or other farm products in the future.
3. **Income** — The tract already has produced significant amounts of agricultural products, as measured by its gross income from the sale of such products.

The rules for new farm dwellings are based on these three attributes. They enable planners to get a clear, objective answer to the question "Is this a farm, or is it merely land that is being farmed?" The table on the next page outlines the key standards and shows where they apply.

Department of Land Conservation and Development (DLCD)
1175 Court Street NE, Salem OR 97310 ☎ 503 373-0050

How do the rules work?

The state's rules for farm dwellings are applied through county land-use plans and ordinances. A person who wants to build a farm dwelling thus should contact the county planning department. The planners there will explain the rules and specify which standards apply to the tract where the dwelling is proposed.

The main issue in deciding which standards to apply is the quality of the tract's soil. If the tract is "high-value farmland," then it must satisfy the \$80,000 test. That is, a farm dwelling can be approved only if the tract has produced at least \$80,000 from gross sales of agricultural products in recent years. If the tract is not high-value farmland, then the proposal must satisfy any one of three different tests, as shown in the table below.

All counties must conform to the state's rules on farm dwellings, but they also may adopt special local provisions. The procedures and standards for farm dwellings thus vary somewhat from one county to another.

What is high-value farmland?

High-value farmland is land with exceptionally good soils. That includes soils rated as *prime*, *unique*, *Class I*, or *Class II* by the Soil Conservation Service (SCS). It also includes certain other soils listed in OAR 660-33-020(8). Most

high-value farmland is in the Willamette Valley.

To find whether a certain tract of farmland is high-value, a county planner uses data from the SCS. If a majority of land in the tract has the top-quality soils just described, then the tract is classified as high-value. A planner usually can perform the soils analysis at the permit counter, while the applicant waits.

What about other dwellings?

Farm dwellings are not the only type of houses allowed in EFU zones. For example, Oregon's planning laws have long provided for "nonfarm dwellings" in farm zones. With House Bill 3661, the 1993 Legislature added provisions for dwellings on "lots of record." LCDC's recent revisions to the rules for farm dwellings do not alter or eliminate any provisions from House Bill 3661 or for other types of dwellings.

For more information . . .

For more information about farm dwelling permits and procedures, contact your county planning department. For general information on Oregon's rules for planning and zoning farmland, contact DLCD's Salem office at the address shown on the preceding page. Or call your nearest DLCD field representative, in Bend (388-6424), Newport (265-8869), or Portland (731-4065). ■

STANDARDS FOR NEW FARM DWELLINGS IN EFU ZONES			
TYPE OF TEST	TYPE OF FARMLAND		
	High-Value Farmland (All Counties)	Farmland That Is Not High-Value	
		In Most Counties	In "Marginal Land" Counties
<i>Parcel Size</i>	—	At least <u>160</u> acres (320 for rangeland)	—
<i>Production Capability</i>	—	Can produce gross sales \geq median of commercial farms	—
<i>Income</i>	\$80,000	<u>40,000</u> or median of commercial farms	\$20,000