



**STAFF REPORT TO THE PLANNING COMMISSION  
FOR THE WORK SESSION ON APRIL 7, 2014**

**AMEND COMMERCIAL FOREST ZONES TO ALLOW AGRICULTURAL TYPE BUILDINGS  
FOR FOREST PRACTICES  
CASE FILE # PC-2014-3250**

**SECTION 1. INTRODUCTION**

Staff is seeking Planning Commission feedback on proposed code amendments to exempt permanent structures associated with forest practices from requiring land use and building permits. The proposed amendments will make Multnomah County's code consistent with recent amendments to the Oregon revised Statutes (ORS) Section 215 which became effective January 2014. This project was identified as a priority on the Planning Commission's 2014 Work program.

Previously, the ORS Section 215 only allowed exempt agricultural buildings on established farms. House Bill (HB) 2441 was passed in May 2013 which amended ORS Section 215 to also apply the exception to buildings on forest land associated with valid/documented forest practices (Exhibit A.1).

As mentioned above, agricultural buildings constructed outside of a special overlay zone on properties with a verified farming practice are currently permitted outright without requiring land use or building permits. However, permanent forest practice buildings which provide similar functions as agricultural buildings in the CFU zones are not allowed uses listed in current county code. The code amendment will allow the same approach for forest practice buildings necessary for valid forest practices in the CFU zones.

Permanent forest practice buildings in the CFU zone will allow for year round maintenance and storage of maintenance equipment and forest practice materials, making it easier for property owners to maintain their forest practices. With these amendments, permanent structures will be allowed to facilitate year round storage or processing of forest equipment and materials.

Similar to agricultural buildings, in order to be eligible for an exempt forest practice building the property owner must demonstrate:

- A valid forest practice
- Compliance with setbacks, access requirements, and maximum height limitations
- Compliance with overlay zone requirements such as environmental concern, hillside development, etc.

Agricultural buildings proposed outside of an overlay zone typically are reviewed and signed off at the front counter. Forest practice buildings would be reviewed through the same process as agricultural buildings. Agriculture and forest buildings can only be used exclusively for the operation of the farm and forest practice. Some examples of agriculture and forest building uses include:

- Storage, maintenance, or repair of farm and forest machinery and equipment.
- Raising, harvesting or selling of crops or forest products.
- Feeding, breeding, management and sale of any other agricultural use, forestry or horticultural use or animal husbandry.
- The preparation and storage of the produce raised on the farm for human use and animal use.
- The preparation storage of forest products and the disposal by marketing or otherwise, of farm produce or forest products.

The following structures cannot qualify as agricultural or forest buildings:

- Dwellings
- Structures accessory to a dwelling
- Structures where more than 10 persons will be present
- Structures used by the public
- Structures subject to Floodplain regulations.

It is anticipated that the proposed changes will not create significant additional responsibilities for County staff. Staff currently verifies that agricultural buildings meet the minimum development standards (discussed above) at the front counter. Staff will need to update forms and handouts to accommodate the addition of the forest buildings (Exhibits A.2 and A.3). In addition to verifying agricultural buildings on farm lands, staff will also need to verify similar buildings on forest lands.

Proposed code amendments are provided in the following section.

## **SECTION 2. PROPOSED AMENDMENTS**

Please note the following formatting styles used within this section:

**Bold** = Existing Code Language

Double Underline = Proposed new language

~~Strikethrough~~ – Language proposed for removal

## SECTION 2A.1:

### Definitions in sections:

33.0005

34.0005

35.0005

36.0005

**Agricultural Building** – Pursuant to ORS 455.315(2)[2005] and any amendments made thereto, means a structure located on a farm and used in the operation of the farm for:

- a. Storage, maintenance, or repair of farm or forest machinery and equipment;
- b. The raising, harvesting and selling of crops or forest products;
- c. The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur bearing animals, or honeybees;
- d. Dairying and the sale of dairy products; or
- e. Any other agricultural, forestry or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal by marketing or otherwise, of farm produce or forest products.
- f. Agricultural and forest practice buildings does not include a dwelling, a structure used for a purpose other than growing plants in which 10 or more persons are present at any one time, a structure regulated by the State Fire Marshal pursuant to ORS Chapter 476, a structure subject to sections 4001 to 4127, title 42, United States Code (the national Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

**Forest Practice Building** – See **Agricultural Building**.

## SECTION 2A.2:

### Definitions in sections:

11.15.0010

Agricultural Building – Pursuant to ORS 455.315 and any amendments made thereto, means a structure located on a farm and used in the operation of the farm for:

- a. Storage, maintenance, or repair of farm or forest machinery and equipment;
- b. The raising, harvesting and selling of crops or forest products;
- c. The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur bearing animals, or honeybees;
- d. Dairying and the sale of dairy products; or
- e. Any other agricultural, forestry or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal by marketing or otherwise, of farm produce or forest products.

- f. Agricultural and forest practice buildings do not include a dwelling, a structure used for a purpose other than growing plants in which 10 or more persons are present at any one time, a structure regulated by the State Fire Marshal pursuant to ORS Chapter 476, a structure subject to sections 4001 to 4127, title 42, United States Code (the national Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

Forest Practice Building – See Agricultural Building.

## **SECTION 2B:**

**33.2020(A)(2) Allowed Uses – Relates to the CFU-1 Zone**

**33.2220(A)(2) Allowed Uses - Relates to the CFU-2 Zone**

**33.2420(A)(2) Allowed Uses - Relates to the CFU-5 Zone**

**35.2020(A)(2) Allowed Uses - Relates to the CFU-3 Zone**

**35.2220(A)(2) Allowed Uses - Relates to the CFU-4 Zone**

**36.2020(A) Allowed Uses - Relates to the CFU Zone**

**11.15.2048(A)(2) Uses Permitted Outright - Relates to the CFU Zone**

**(A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:**

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

**(2) Temporary or permanent on site structures which are auxiliary to and used during ~~the term of~~ a particular forest operation per ORS 215 and 455.315. Conversion of these structures is subject to land use and building permit review procedures; or**

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

**(B) A temporary portable facility for the primary processing of forest products.**

**(C) Farm use, as defined in ORS 215.203.**

## **SECTION 2 C:**

**MCC 29.604 - Exemption from development standards.**

**The following are exempt:**

**(\* \* \*)**

**(C) Forest practices approved under the Forest Practices Act are not regulated by this subchapter.** Forest practice buildings exempt from state building code per ORS Chapter 215 are subject to Flood Hazard Regulations of this subchapter in the same manner as agricultural buildings.

### **SECTION 3. EXHIBITS**

The attachments listed below are part of this staff report:

Exhibit A.1	House Bill 2441
Exhibit A.2	Exempt Agricultural Building FAQ Form
Exhibit A.3	Farm Agricultural Building Form

**Enrolled**  
**House Bill 2441**

Sponsored by Representative JOHNSON; Representatives BOONE, CLEM, ESQUIVEL, JENSON,  
Senators GIROD, ROBLAN (at the request of Oregon Small Woodlands Association) (Presession  
filed.)

CHAPTER .....

AN ACT

Relating to use of agricultural building; creating new provisions; and amending ORS 455.315.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2013 Act is added to and made a part of ORS 215.700 to 215.780.

**SECTION 2.** (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.

**SECTION 3.** ORS 455.315 is amended to read:

455.315. (1) *[Nothing in this chapter is intended to]* **The provisions of this chapter do not** authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.

(2) As used in this section:

(a) "Agricultural building" means a structure located on a farm **or forest operation** and used *[in the operation of the farm]* for:

(A) Storage, maintenance or repair of farm **or forestry** machinery and equipment;

(B) The raising, harvesting and selling of crops **or forest products**;

(C) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;

(D) Dairying and the sale of dairy products; or

(E) Any other agricultural, **forestry** or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, **the preparation and storage of forest products** and **the** disposal, by marketing or otherwise, **of farm produce or forest products**.

(b) "Agricultural building" does not mean:

(A) A dwelling;

(B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;

(C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;

(D) A structure used by the public; or

(E) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(c) "Agricultural grading" means grading related to a farming practice as defined in ORS 30.930.

(d) "Equine facility" means a building located on a farm and used by the farm owner or the public for:

(A) Stabling or training equines; or

(B) Riding lessons and training clinics.

(e) "Equine facility" does not mean:

(A) A dwelling;

(B) A structure in which more than 10 persons are present at any one time;

(C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or

(D) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(3) Notwithstanding the provisions of subsection (1) of this section, incorporated cities may regulate agricultural buildings and equine facilities within their boundaries pursuant to this chapter.

**Passed by House February 28, 2013**

**Received by Governor:**

.....M.,....., 2013

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Ramona J. Line, Chief Clerk of House

**Approved:**

.....M.,....., 2013

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Tina Kotek, Speaker of House

**Passed by Senate April 30, 2013**

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John Kitzhaber, Governor

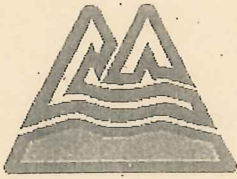
**Filed in Office of Secretary of State:**

.....  
Peter Courtney, President of Senate

.....M.,....., 2013

.....  
Kate Brown, Secretary of State





**MULTNOMAH COUNTY**  
LAND USE AND TRANSPORTATION PROGRAM  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

## **Exempt Agricultural Building Frequently Asked Questions (FAQ)**

### **1. What is an "Exempt Agricultural Building"?**

The phrase is used for agricultural buildings and equine (horse) facilities that are exempt from State Structural Building Codes under Oregon law.

### **2. Do Exempt Agricultural Buildings have to comply with zoning requirements?**

Yes. Buildings have to meet local zoning requirements. Zoning rules vary depending upon where a property is located; however, typical standards include building setbacks from property lines, maximum height limitations, and vehicle access requirements. Equine facilities are specifically regulated in most zone districts and may require a land use permit. Please speak with our staff if you have questions about the zoning of your property.

### **3. Are electrical, plumbing, or mechanical building permits required?**

Yes. If the building is wired for electricity, plumbed, or includes mechanical systems for heating or ventilation the appropriate specialty building permits must be obtained.

### **4. Must Exempt Agricultural Buildings be located on a farm?**

Yes. The structural code exemption requires agricultural buildings be located on a farm.

### **5. What is a farm?**

The term "farm" means the current employment of land for the primary purpose of obtaining a profit. It includes raising, harvesting and selling crops or the feeding, breeding, management and sale 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.

### **6. Are there limitations on how I can use an Exempt Agricultural Building?**

Yes. An exempt agricultural building must be exclusively used in the operation of the farm. Typical uses include:

- Storage, maintenance or repair of farm machinery and equipment;
- The raising, harvesting, and selling of crops;
- The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees; or
- Dairying and the sale of dairy products.



Also, the following structures cannot qualify as an exempt agricultural building:

- Dwellings;
- Structures accessory to a dwelling, such as shop buildings or enclosures for storage of non-farm vehicles or goods;
- Structures, other than those used for growing plants, within which more than 10 persons are present at any given time;
- Structures regulated by the State Fire Marshal pursuant to ORS Chapter 476 (e.g. occupied structures where people sleep or congregate);
- Structures used by the general public;
- Structures subject to the National Flood Insurance Act of 1968, as amended (e.g. construction within the 100 year floodplain of a watercourse).

**7. Is an equine facility different than an agricultural building?**

Yes. An equine facility is a building located on a farm that is used by the farm owner or the public for:

- Stabling or training equines; or
- Riding lessons and training clinics.

**8. Are the rules for equine facilities the same as those for agricultural buildings?**

No. The exemption in the State Structural code distinguishes between agricultural buildings and equine facilities. In 2006 the State Building Codes Division issued a code interpretation clarifying the equine facilities exemption. The interpretation notes that equine facilities located on a farm need not be used as part of the farm business in order to qualify for the exemption.

Also, an equine facility may be occupied by members of the general public, provided no more than 10 people are present at any given time. Agricultural buildings cannot be occupied by the general public.

**9. What will I need to do in the future if I want to change the use of the building?**

A change in use must meet local zoning requirements. Building permits may also be required for a change of occupancy and for alterations needed to make the structure suitable for the new use.

**10. What other requirements might I be subject to if I construct an exempt building?**

Fire and life safety codes for fuel reduction (i.e. fire breaks), access, and water flow for fire suppression; State or County permits to construct a new approach onto a public road; erosion control for earthwork that is not related to a farm practice; flood hazard review; and rules requiring storm run-off be managed for new impervious surfaces are common requirements that may apply.

Note: For information about agricultural practices in your area please contact your local soil and water conservation district at 503-238-4775, <http://www.westmultconserv.org> (West County) or 503-222-SOIL, <http://www.emswcd.org> (East County).



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**FARM AGRICULTURAL BUILDING / EQUINE FACILITY**  
**EXEMPTION TO STATE STRUCTURAL BUILDING CODES**  
[AS SPECIFIED IN ORS 455.315]

Farm agricultural buildings and equine facilities located on a farm are exempt from the State of Oregon Structural Specialty Code. The following definitions are relevant to whether or not your project qualifies for this exemption:

**FARM** 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 AGRICULTURAL BUILDING** is a structure located on a farm and used in the operation of such farm for all the uses listed above and for the storage, maintenance or repair of farm machinery and equipment.

**NON-FARM AGRICULTURAL BUILDING** is a structure which by use or character of its occupancy is similar to a farm agricultural building but is not located on a farm. A non-farm building is required to obtain a building permit.

**EQUINE (HORSE) FACILITY** is a building located on a farm that is used by the farm owner or the public for stabling or training equines, or riding lessons and training clinics.

**To qualify for this exemption the property must be enrolled in the Farm Deferral program with the County Assessor.**

A Farm Agricultural Building must be used in the operation of the farm. The following structures cannot qualify as an exempt farm agricultural building:

- Dwellings, or structures accessory to dwellings including shop buildings or enclosures for storage of non-farm vehicles or goods;
- Structures, other than those used for growing plants, within which more than 10 persons are present at any given time;
- Structures regulated by the State Fire Marshal pursuant to ORS Chapter 476 (e.g. occupied structures where people sleep or congregate);
- Structures used by the public;
- Structures subject to the National Flood Insurance Act of 1968, as amended.

Equine facilities are subject to the same limitations; however, they need not be used as part of the farm business in order to qualify for the exemption. Also, an equine facility may be occupied by members of the public, provided no more than 10 people are present at any given time. Agricultural buildings cannot be occupied by the general public.

Address: \_\_\_\_\_

Alt Acct #: R \_\_\_\_\_ Map Tax Lot#: \_\_\_\_\_

Existing  
Farm Use: \_\_\_\_\_ Proposed Use of Structure: \_\_\_\_\_

In addition to this form, a scaled site plan with accurate dimensions is required showing: the property lines, proposed location and setbacks of the Farm Agricultural Building or Equine Facility, general topographical features of the property, all existing structures, septic system, well, utility lines and the driveway. If you will need to use mechanized equipment to grade the site in order to construct the Farm Agricultural Building or Equine Facility then a Grading and Erosion Control or Hillside Development permit may be required.

I have read the above and declare that the proposed Farm Agricultural Building or Equine Facility conforms to the definitions and limitations listed above and is therefore exempt from structural building codes. Electrical, plumbing or mechanical permits will be obtained, if applicable. The structure will also satisfy the land use setbacks of the zoning district in which the property is located. Lastly, I understand that I will need to obtain applicable land use and building permits if I convert the use of the structure to a non-farm use in the future.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**\*GREEN CARD SHALL BE POSTED ON PROPERTY DURING CONSTRUCTION  
AND PLACED IN THE STRUCTURE WHEN COMPLETED.**

Staff Use Only	
Zoning District(s): _____	
Approved By: _____	Date: _____