

## ***Agricultural Land, Farm Use and Right to Farm***



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## ***Agricultural Land Goal 3 and OAR 660-033-0020(1)***

### **Definition of “Agricultural Land”:**

- Key reliance upon NRCS Soil Capability Classification System
- Clear and objective
- Already mapped
- Soils important but....

## Not the only component...

- Existing land use patterns, including the land use of the subject land!
- Technological and energy inputs required
- Suitability for grazing
- Climatic conditions
- Existing and future availability of water for irrigation
- Lands necessary to permit farming practices on adjacent or nearby lands
- Not located within UGBs or exception areas

## Agricultural Land

- Not just about HVF
- Capability and suitability
- More detailed soils data
- *Urban growth should be separated from agricultural lands by buffer or transitional areas of open space.*

*Goal 3 Guidelines A.1*



## ***Farm Use means:***

- The current employment of land
- Current employment includes:
  - Farm related programs
  - Land lying fallow for one year (“normal and regular”)
  - Orchards, other perennials, prior to maturity
  - Wasteland
  - Water impoundments
  - Woodlots not to exceed 20-acres

## ***Farm Use means:***

- The current employment of land
- For the primary purpose of obtaining a profit in money
- By raising, harvesting and selling of crops or the breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and 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.
- Includes but is not limited to the cleaning, treatment, sorting or packaging of products and by-products. See OAR 660-033-0020(7)(b)(A)
- Raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from farm use of the land. See OAR 660-033-0020(7)(b)(B)
- Preparation is not processing

## ***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***

- A 1995 amendment to the ORS 215.203(2)(a) definition of “farm use” clarified that “riding lessons, training clinics and schooling shows” are activities commonly associated with facilities for “stabling or training equines.” However, the legislature did not intend that such activities be properly viewed as “farm uses” in themselves, in isolation from “stabling or training equines.”  
*Oregon Natural Desert Assoc. v. Harney County*, 42 Or LUBA 149.

## ***Farm Use***

- **Also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by rules adopted by the State Fish and Wildlife Commission**
- **ORS 215.283(2)(p) Propagation, cultivation, maintenance and harvesting of aquatic or insect species**

## ***Farm Use***

- Includes the on-site construction and maintenance of equipment and facilities used for the activities described.
- Is determining “farm use” a land use decision?
- Farm use v. farming practice

## **Oregon's Right to Farm Law** **ORS 30.933**

Two major protection components:

- Immunity from private action
- Prohibition against regulation by local governments

## Right to Farm

No farming or forest practice on lands zoned for farm or forest use shall give rise to any private right of action or claim for relief based on nuisance or trespass.

ORS 30.936(1)



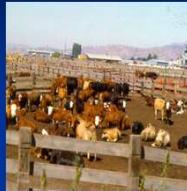
## Right to Farm

- Protects qualified farming practices from private nuisance/trespass actions
- Does not deal with other compatibility issues.



## Nuisance

- Odors
- Noise
- Dust
- Chemical use
- Smoke
- Bees
- Irrigation mist



## Compatibility

- Animal control
- Refuse and litter
- Alteration of farming practices
- Human trespass
- Theft and vandalism
- Traffic
- Competition for resources
- Nonfarm chemical use
- Hosts for pests
- Air drainage and flow





## **Oregon's Right to Farm Law Qualifying Components**

- Lands zoned for farm use
- Commercial production of crops, nursery stock, livestock, poultry products or the propagation and raising of nursery stock
- Is or may become a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money

## **Oregon's Right to Farm Law Qualifying Components**

- Complies with applicable laws
- Regardless of change or interruption of use.
- Except if damage to commercial ag products, death or serious injury is involved.



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