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IN THE COUNTY COURT OF THE STATE OF OREGON

SEP 23 1 37 PM '96

IN AND FOR THE COUNTY OF WASCO

KAREN WILSON  
COUNTY CLERK

IN THE MATTER OF POST-ACKNOWLEDGMENT )  
AMENDMENTS TO THE WASCO COUNTY LAND USE ) ORDINANCE  
AND DEVELOPMENT ORDINANCE, CHAPTER 3, )  
SECTION 3.210 "A-1" EXCLUSIVE FARM USE ZONE. )

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Court being present; and

IT APPEARING TO THE COURT: That in January, 1995 , the Wasco County Agricultural Resource Group convened in a series of public workshops and meetings to develop legislative amendments to the Wasco County Land Use and Development Ordinance , Exclusive Farm Use zone provisions, to bring those documents into compliance with HB 3661, passed by the 1993 Oregon Legislature, and administered by Oregon Administrative Rule OAR 660, Division 33, that was effective March 1, 1994; and

IT FURTHER APPEARING TO THE COURT: That on May 22, 1996, the Agricultural Resource Group approved unanimously the draft ordinance amendment to the Wasco County Land Use and Development Ordinance, Chapter 3, Section 3.210, and submitted it to the Wasco County Citizen's Advisory Group for review and recommendation to the Wasco County

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Planning Commission; and then for review and recommendation by the Planning Commission to the Wasco County Court; and

IT FURTHER APPEARING TO THE COURT: That on June 11, 1996, the Agricultural Resource Group presented the draft ordinance to the general public in Maupin, Oregon; and

IT FURTHER APPEARING TO THE COURT: That the Agricultural Resource Group recommended to the Wasco County Citizens Advisory Group and Planning Commission that the Group worked and deliberated for 18 months and believes this draft ordinance achieves the best possible land use plan for the Exclusive Farm Use zone in Wasco County, given the constraints of law; and

IT FURTHER APPEARING TO THE COURT: That beyond the prescriptive language of the ordinance, the land use policy bodies of Wasco County be advised, during the course of your affairs and deliberations, that you keep in the forefront of your thinking the following four general policy statements:

1. Whenever possible, direct non-farm development toward existing Rural Service Centers and Communities including Tygh Valley, Wamic, Pine Hollow, and Pine Grove, and incorporated urban growth boundaries such as The Dalles, Maupin, Mosier, Dufur, Antelope and Shaniko (subject to the Wasco County Land Use and Development Ordinance, Section 3.210). In doing so, the development can utilize centralized services such as police, fire, water, sewer, roads and school bus service, thereby reducing the potential for overburden on services and fiscal hardship to the providers and Wasco County, as well as reduce the potential for conflicts with farming operations.

2. Closely review the division or transfer of blocks of land in the Exclusive Farm Use zone to public or non-profit entities. The Agricultural Resource Group is concerned about the diminishing private land base due to the transfer of private land to public or non-profit entities. Approval of land transfers shall be subject to a finding by the Wasco Co. Court that the transfer is in the best interest of the citizens and property owners (emphasis added) of Wasco County.

3. Staunchly stand behind the Wasco County and State of Oregon Right to Farm Ordinances.
4. Support legislative changes to provide for greater local control; and

IT FURTHER APPEARING TO THE COURT: That on Monday, July 22, 1996, at 3:00 p.m., in the Celilo Converter Station meeting room, U.S. Highway 197 south of The Dalles, Oregon, the Wasco County Citizens Advisory Group and Wasco County Planning Commission met to conduct a legally notified legislative public hearing on the above matter. Those members of the Advisory Group and Planning Commission present were determined to be qualified to hear the matter. Planning Director Jacobsen read aloud the rules of evidence. Chair Pete Kelly of the Citizen's Advisory Group opened the hearing. The Advisory Group and Planning Commission reviewed the record, and received all testimony and evidence, then closed the public hearing; and

IT FURTHER APPEARING TO THE COURT: The Citizen's Advisory Group then deliberated, and based upon the full record and evidence and testimony presented, voted 9-1-1 to recommend to the Planning Commission the approval of the proposed ordinance amendment with the additional recommendation that the Planning Commission review a possible 80-acre minimum lot size for areas with soil classes III - V; and

IT FURTHER APPEARING TO THE COURT: That the Planning Commission then deliberated, and based upon the full record and evidence and testimony presented, voted 5-0 to recommend to the County Court the approval of the proposed ordinance with four amendments, and without changing the minimum lot size to 80 acres in any portion of the Exclusive Farm Use Zone.

IT FURTHER APPEARING TO THE COURT: That at 10:00 a.m. on August 23, 1996, in the County Courtroom, Room 202, of the Wasco County Courthouse, The Dalles, Oregon, this Court met to conduct a legislative public hearing on the above matter. The members of the Court were determined to be qualified to hear the matter; and

IT FURTHER APPEARING TO THE COURT: That the Court reviewed the record of the Agricultural Resource Group, the Citizen Advisory Group, and the Planning Commission, heard the Staff Report and received testimony and evidence from the parties. The Court closed the hearing and left the record open until September 3, 1996 for submission of written testimony, and then continued the hearing to Wednesday, September 4, 1996, at 11:30 a.m.; and

IT FURTHER APPEARING TO THE COURT: That on Wednesday, September 4, 1996, the Court reviewed all testimony and evidence submitted subsequent to the August 23, 1996, hearing, then deliberated, resulting in a 3-0 vote to approve the post-acknowledgment amendments to the Wasco County Land Use and Development Ordinance, Chapter 3, Section 3.210 "A-1" Exclusive Farm Use Zone, (attached herewith) to bring those documents into compliance with HB 3661, passed by the 1993 Oregon Legislature, and administered by Oregon Administrative Rule OAR 660, Division 33, that was effective March 1, 1994. Based upon the full record and evidence and testimony presented, the Court, being fully apprised in the premises, did hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT

- 1 Proper notice was given and the hearing was held in accordance with procedural rules for legislative hearings and in conformity with said requirements as set forth in the Wasco

County Comprehensive Plan.

2. Three members of the County Court were present. The three members were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by the Court.
3. In making its decision, the Court recognizes the procedural and legal requirements of the Wasco County Comprehensive Plan and the Wasco County Land Use and Development Ordinance and weighed fully each requirement in arriving at its decision.
4. The Court also recognizes that the Agricultural Resource Group formed a representative group of farmers, ranchers and citizens living in the EFU. That this group worked and deliberated for more than 18 months to develop EFU amendments that embodied the needs of Wasco County and met state mandates.
5. The Court acknowledges and accepts the Findings of Fact in the Recommendation made by the Wasco County Planning Commission, dated August 22, 1996.

#### CONCLUSIONS OF LAW

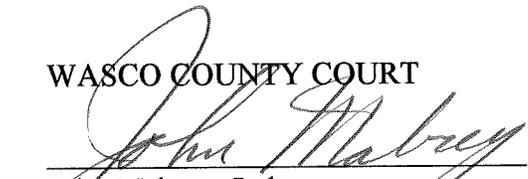
1. The Wasco County Court acknowledges and accepts all original findings and conclusions made by the Planning Commission in their August 22, 1996 Recommendation.
2. The Court concludes that evidence in the record substantially demonstrates that the proposed WCLUDO Section 3.210 - EFU Ordinance complies with Statewide Planning Goal 3 and OAR 660 Division 33.
3. The Court further concludes that Statewide Planning Goal 1 for Public Involvement was well served by the activities, meetings, workshops, and hearings conducted by the Agricultural Resource Group in arriving at a EFU ordinance recommendation.

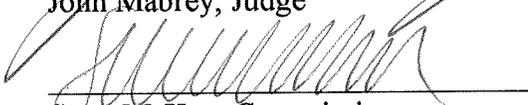
NOW, THEREFORE, IT IS HEREBY ORDERED: That the Wasco County Court adopts the Land Use and Development Ordinance for Agricultural Land - Exclusive Farm use Zone as recommended by the Agricultural Resource Group, dated May 22, 1996; with staff recommended changes dated August 19, and 25, respectively incorporated therein, and additional changes as proposed by Commissioner Ericksen as stated in the motion of approval on September 4, 1996.

Regularly passed and adopted by the County Court of the County of Wasco, State of Oregon.

DATED this 18<sup>th</sup> day of September, 1996.

WASCO COUNTY COURT

  
\_\_\_\_\_  
John Mabrey, Judge

  
\_\_\_\_\_  
Scott McKay, Commissioner

  
\_\_\_\_\_  
Absent  
\_\_\_\_\_  
Daniel W. Ericksen, Commissioner

Approved as to Form:

  
\_\_\_\_\_  
Bernard L. Smith  
Wasco County District Attorney

<6C:\word\notices-orders\Ag. Ordinance Final>

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# WASCO COUNTY

## LAND USE AND DEVELOPMENT ORDINANCE

FOR

### AGRICULTURAL LAND - EXCLUSIVE FARM USE ZONE -

ADOPTED  
SEPTEMBER 18, 1996

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**EXCLUSIVE FARM USE ORDINANCE  
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WASCO COUNTY  
EXCLUSIVE FARM USE  
LAND USE AND DEVELOPMENT ORDINANCE

This document is recommended by unanimous consent from the  
Agricultural Resource Group .  
May 22, 1996

<b>Ken Bailey</b> , Fruit and Produce League	<b>Steve Kelsey</b> , Fruit and Produce League
<b>Kathleen Cantrell</b> , Citizen, Ranch	<b>Bryce Molesworth</b> , Mosier Orchardist
<b>Dan Ericksen</b> , Planning Commission	<b>Mike Sandoz</b> , Cattle, Cherries, Hay
<b>Lowell Forman</b> , Cattle	<b>Ronald Sorensen</b> , Wheat
<b>Judee Hagen</b> , Cattleman's Association	<b>Steve Tessmer</b> , Citizen
<b>Jon Justesen</b> , Cattle and Wheat	<b>Liz Turner</b> , Cattleman
<b>Carl Kaser</b> , Farm Bureau	<b>Dan VanVactor</b> , Citizen

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**Ron Graves**, Technical Support - Soil and Water Conservation District

**Staff**

Kimberly Jacobsen, Planning Director  
Dianne Teas, Administrative Assistant  
Germaine Beveridge, RARE Assistant

**Facilitators**

Ardis Stevenson  
Arnold Cogan

Special recognition to Liz Turner for promoting the Agricultural Resources Group process  
and for her work and dedication in developing the ordinance.

The Agricultural Resource Group worked and deliberated for 18 months and believe  
this document achieves the best possible land use plan for the  
Exclusive Farm Use zone in Wasco County given the constraints of law.

SECTION 3.210      EXCLUSIVE FARM USE ZONE

*The following revised ordinance language replaces Wasco County Land Use and Development Ordinance (WCLUDO) Chapter 3 Section 3.210(A) - (I) - "A-1" Exclusive Farm Use Zone; Chapter 10 - Division of Non-Resource Land in Designated Resource Areas; Chapter 11 - Approval of A Non-Farm/Non-Forest Dwelling on Substandard Lot of Record in the A-1 Exclusive Farm Use Zone or the FF Forest Farm Zone; Chapter 12 - Application For a Farm or Forest Related Dwelling (Primary Structure) On a Non-Conforming Lot of Record in the A-1 Exclusive Farm Use or FF Forest Farm Zones. The following revised ordinance repeals the above mentioned Wasco County Land Use and Development Ordinance WCLUDO Chapters.*

A.      Purpose

The purpose of the Exclusive Farm Use Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing and future needs, including economical needs that pertain to the production of agricultural products. And to permit the establishment of only those uses that are compatible with agricultural activities.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Exclusive Farm Use zone shall comply with the following regulations:

B.      Uses Permitted Outright

At the option of the owner, the following uses and their accessory uses are permitted subject to the applicable provisions set forth by this ordinance.

- (1)      Farm use as defined by ORS 215.203, Oregon Revised Statutes, and found in Appendix A, Definitions.
- (2)      Buildings other than dwellings customarily provided in conjunction with farm use
- (3)      One single family dwelling customarily provide in conjunction with farm use, subject to WCLUDO 3.210(D).
- (4)      A single family dwelling for an agricultural operator's help (accessory farm dwelling) subject to WCLUDO 3.210(F) of this ordinance.
- (5)      Propagation and harvesting of a forest product
- (6)      Creation, restoration and enhancement of wetlands
- (7)      Creation, restoration and enhancement of wildlife habitat

Section 3.210 - Exclusive Farm Use Zone

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- (8) Climbing and passing lanes within a highway right of way existing as of July 1, 1987.
- (9) Reconstruction or modification of public roads and highways not including additional travel lanes, where no removal or displacement of structures would occur and not resulting in any new land parcels.
- (10) Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.
- (11) Minor betterment of existing public roads 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.
- (12) Alteration, restoration or replacement of a lawfully established dwelling that meets all the following criteria:
  - a. Has intact interior walls and roof structure;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring or interior lights;
  - d. Has a heating system; and
  - e. In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.
- (13) Restoration or replacement of the lawful use of any building, structure or land may be permitted when the restoration is made necessary by fire, other casualty or natural disaster, and shall meet the following:
  - a. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
  - b. Any use interrupted or abandoned by casualty or natural disaster for more than (12) months may not be resumed unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.
- (14) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as an historic property and is listed on the National Register of Historic Places.

Section 3.210 - Exclusive Farm Use Zone

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- (15) Utility and transmission towers not exceeding 200 feet in height.
- (16) Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4, and further that no such use may be authorized on high value farmland.
- (17) Churches and cemeteries in conjunction with churches except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland.
- (18) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland.
- (19) 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(1)(a) or (b).
- (20) Operations for the exploration 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. (Processing of said resources is a conditional use.)
- (21) Seasonal Farm worker housing provided for seasonal farm workers as defined, and to be occupied for no more than nine months not to exceed 273 days within any calendar year and subject to WCLUDO 3.210(H).
- (22) A winery as described in ORS 215.452.
- (23) Subdivisions and Series Partitions pursuant to ORS 92.010 - 92.190, and 92.305-92.495 are prohibited in the Exclusive Farm Use Zone.

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C. Conditional Uses

The following uses and their accessory uses may be permitted subject to demonstration of compliance with the applicable standards and provisions of this Ordinance, specifically WCLUDO Chapter 5 - Conditional Use Standards.

- (1) One single family dwelling not provided in conjunction with farm use, subject to WCLUDO 3.210(E).
  
- (2) One single family dwelling on a tract of record, meeting the following qualifications:
  - a. The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner:
    - i. Prior to January 1, 1985; or
    - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985
  - b. The tract upon which the dwelling is to be sited does not include another dwelling.
  - c. The lot or parcel upon which the dwelling is to be sited is not on high value farmland as defined in definitions section.
  - d. The lot or parcel upon which the dwelling is to be sited must comply with standards for non-farm dwelling, WCLUDO 3.210(E).
  - e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.
  - f. The director or the director's designee shall notify the county assessor of any decision to permit a dwelling under this subsection WCLUDO 3.210(C)(2).
  - g. As used in subsection (2)(a) above, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-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.
  - h. Land use approval for a single family dwelling meeting requirements of this subsection 3.210(C)(2) may be transferred one time to any other person, prior to issuance of building permit. (Result of 1995 legislative changes)

- (3) A medical hardship dwelling. A medical hardship dwelling in conformance with the following:
- a. A manufactured dwelling allowed under this provision is a temporary use for the term of hardship suffered by the existing resident or relative.
  - b. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
  - c. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
  - d. The temporary use for a medical hardship shall be in effect for a maximum of two (2) years, and may be renewed without cost if the permitted resident or relative maintains the medical hardship as authorized by a physician.
  - e. When the hardship ends, the manufactured homes shall be removed and may not be used to justify a dwelling under any other provision of this ordinance.
  - f. Oregon Department of Environmental Quality review and removal requirements shall be applied as a condition of use.
  - g. Hardship means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (4) Primary processing of forest products.
- (5) Utility facilities "necessary" for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height.  
A utility facility is deemed to be "necessary" if it must be situated in an agricultural zone in order for the distribution of power to area customers.
- (6) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to ORS 215.298 and WCLUDO Section 3.800.
- (7) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement, except that asphalt production shall not be permitted within two miles of a producing orchard, which is planted as of the date that the application for asphalt production is file, and subject to WCLUDO Section 3.800.
- (8) Operations for the production of geothermal resources as defined in ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.

- (9) Propagation, cultivation, maintenance, and harvesting of aquatic species
- (10) Residential home as defined in ORS 197.675 in an existing dwelling.
- (11) Commercial activities in conjunction with farm use.
- (12) Home occupation. Home occupations may be permitted in accordance with the following:  
On High Value lands:
  - a. Home occupations may only be authorized in existing dwelling and structures accessory to an existing dwelling.
  - b. Home occupations may not be authorized in structures accessory to resource use.
  - c. A home occupation located on high-value farmland may employ only residents of the home.On all other EFU lands:
  - a. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located;
  - b. A home occupation shall employ on the site no more than five full time or part time persons;
  - c. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses permitted in the zone in which the property is located; and
  - d. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
  - e. Construction of a structure that would not otherwise be allowed in the zone is not permitted.
- (13) Dog Kennels, except that such uses are prohibited on high value farmland.
- (14) Personal use airports (as defined) and helicopter pads, including associated hangars, maintenance and service facilities.
- (15) Parks, playgrounds or community centers owned by a governmental agency or non-profit community organization.
- (16) Golf courses except that such uses are prohibited on high value farmland.
- (17) Room and board (bed and breakfast) arrangements for a maximum of five unrelated persons in an existing residence, but may not be sited adjacent to or on

high value lands within two (2) miles of the National Scenic Area Boundary.

- (18) Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.
- (19) Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
- (20) Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.
- (21) Improvement of public roads 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.
- (22) Private parks, playgrounds, and campgrounds except that such uses are prohibited on high value farmland.
- (23) Farm ranch recreation (as defined in definitions section) in conjunction with a commercial farming operation subject to WCLUDO 3.210(K)
- (24) Homestead retention as defined and subject to WCLUDO 3.210(E).

D. Requirements for Dwellings Customarily Provided in Conjunction with Farm Use.

- (1) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
  - a. The parcel on which the dwelling will be located is at least 160 acres.
  - b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
  - c. The dwelling will be occupied by an owner or a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. If the owner is not principally engaged in the day to day farm operation, no accessory dwelling for farm help may be authorized pursuant to WCLUDO 3.210(F).

- d. There is no other dwelling on the subject tract.
  - e. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]
  - f. Meets requirements of WCLUDO 3.210(H) and (I).
- (2) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
- a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years gross annual income of at least \$40,000; and
  - b. There is no other dwelling on the subject tract; and
  - c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in WCLUDO Section 3.210(D)(2)(a) above.
  - d. In determining the gross income required by this subsection the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - e. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]
  - f. Meets requirements of WCLUDO 3.210(H) and (I).
- (3) On land identified as **high-value farmland**, a dwelling may be considered customarily provided in conjunction with farm use if:
- a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross Annual income from the sale of farm products in the last two or three of the last five years; and
  - b. There is no other dwelling on the subject tract; and

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- c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in WCLUDO 3.210(D)(3)(a).
- d. In determining the gross income required by this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- e. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]
- f. Meets requirements of WCLUDO 3.210(H) and (I).

E. Requirements for Dwellings Not Provided in Conjunction With Farm Use.

Dwellings not provided in conjunction with farm use may be authorized upon findings that:

- (1) The parcel shall not be on High Value Agricultural lands within two (2) miles of the National Scenic Area, as mapped and consistent with Section 3.210 (G)(6).
- (2) There is no other dwelling on the parcel.
- (3) 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;
- (4) The dwelling will not materially alter the stability of the overall land use pattern of the area.
- (5) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.

A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or

otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.

The term "generally unsuitable" is vague. The following criteria define and specify in clear, objective, measurable means what is generally unsuitable land for agriculture in Wasco County.

The homestead retention option [WCLUDO 3.210(C)(24)] is required to meet the non-farm dwelling and part of parcel standards, to insure essential agricultural land and services are not removed from the farming operation when retaining the homestead as a part of the operation.

(6) Criteria for "Generally Unsuitable"

A non farm dwelling may be allowed if: a) the entire parcel, or b) portion of a parcel is "generally unsuitable" as prescribed below:

- a. On parcels less than 80 acres that were created prior to January 1, 1993. **(This date was established by law and ORS 215.284(2)(c))**, and parcels created pursuant to the "Part of Parcel" and Homestead Retention provisions when the entire parcel is found to be generally unsuitable. That is, 51% of the parcel is a Class VII or poorer soil as determined by the SCS Soil Survey for Wasco County, and (one) 1 of the following:
  - i. predominantly greater than 40 % slope, or
  - ii. produces less than 25 bushels per acre wheat or cereal grains crop, or less than 1 ton per acre of alfalfa or other type of hay (per ASCS [now FSA -Farm Service Agency] registered field crop information); or
  - iii. never been cropped according to the ASCS (FSA) aerial photos and records, and requires more than 5 acres per AUM.

**and**, meets the following provisions for fire, road and recordation in deeds:

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EFU Land Use and Development Ordinance  
August 19, 1996

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- iv. located within a fire protection district; or
- v. can contract and maintain the contract with an established fire protection district; or
- vi. volunteer fire protection department that:
  - establishes boundaries
  - organizational structure establishes a contact person in case of emergency; and
  - establish the 911 contact for effectiveness

**or,**

- vii. Use a duly formed water district to provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

**and,**

- v. Shall be located on an all weather road that is maintained on a year round basis and which construction and maintenance meets County Road Department approval. (Approval will be generally based upon the standards prescribed in Figure 1, until such time as the County Road Department can commission an engineering study to update the County Road Standards.);
  - A landowner may contact the Wasco County road department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

**and,**

- vi. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]

- b. On parcels at least 80 acres but less than 160 acres that were created prior to January 1, 1993, a portion of the parcel that is identified for the dwelling site is a Class VII soil or poorer as determined by the SCS Soil Survey for Wasco County, and (one) 1 of the following:

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- i. predominantly greater than 40% slope; or
- ii. produces less than 25 bushels per acre of wheat or cereal grains, or less than 1 ton per acre alfalfa or other type of hay (per FSA registered field crop information); or
- iii. never been cropped according to the ASCS (FSA) aerial photos and records, and requires more than 5 acres per AUM.

**and,** meets the following provisions for fire, road and recordation in deeds:

- iv. located within a fire protection district; or
- v. can contract and maintain the contract with an established fire protection district; or
- vi. volunteer fire protection department that:
  - establishes boundaries
  - organizational structure establishes a contact person in case of emergency; and
  - establish the 911 contact for effectiveness

**or,**

- vii. Use a duly formed water district may provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

**and,**

- v. Shall be located on an all-weather road that is maintained on a year-round basis and which construction and maintenance meets County Road Department approval. (Approval will be generally based upon the standards prescribed in Figure 1, until such time as the County Road Department can commission an engineering study to update the County Road Standards.);
  - A landowner may contact the Wasco County road department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

**and,**

- vi. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a

claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]

**FIGURE 1. WASCO COUNTY ROAD STANDARDS**

The following standards apply for the creation of new roads or improvement of existing roads in the EFU. All ADT's (average daily trips) are determined by the Wasco County Public Works Department.

<u>AVERAGE DAILY TRIPS (ADT's)</u>	<u>UNDER 50</u>	<u>50 - 250</u>	<u>250 +</u>
Road Type:	18' gravel	24' gravel	24' paved with (2)6' shoulders

Note: Figure 1, is a modification of Wasco County's Road Standards, and will be only used as a general guideline for County Road Department approval. It does not take into consideration other factors such as type of use, terrain, and mail/bus routes, all of which must be considered in the County Road Department approval process.

(7) Criteria for forested land within the EFU zone

- a. If the parcel is unsuitable for agricultural use and is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.
- b. If a lot or parcel is under forest assessment, it is presumed unsuitable if it is composed predominantly of soils capable of producing less than 20 cubic feet of wood fiber per acre per year and may qualify for a dwelling if it can be found that:
  - i. The dwelling is compatible; and

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- ii. The dwelling does not seriously interfere with forest or farm uses on surrounding land and it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land; and
- iii. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the director or commission shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated. If the application involves the creation of a new parcel for the nonfarm dwelling, the director or commission shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.

**and,** meets the following provisions for fire, road and recordation in deeds:

- iv. located within a fire protection district; or
- v. can contract and maintain the contract with an established fire protection district; or
- vi. volunteer fire protection department that:
  - establishes boundaries
  - organizational structure establishes a contact person in case of emergency; and
  - establish the 911 contact for effectiveness

**or,**

- vii. Use a duly formed water district to provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

**and,**

- v. Shall be located on an all-weather road that is maintained on a year-round basis and which construction and maintenance meets County Road Department approval. (Approval will be generally based upon the standards prescribed in Figure 1.); and
  - A landowner may contact the Wasco County road department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

**and,**

- vi. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.]

F. Requirements for Accessory Farm Dwellings

An accessory farm dwelling may be considered customarily provided in conjunction with farm use if:

- (1) It meets all the following requirements:
  - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
  - b. The accessory dwelling will be located:
    - i. On the same lot or parcel as the dwelling of the principal farm dwelling; or
    - ii. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
    - iii. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under these rules; and

- c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
  - d. The landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [All dwelling approvals shall receive copies of the Wasco County Right to Farm Ordinance and Complaint Mediation Ordinance.] And,
- (2) In addition to the requirements in subsection (1) of this section, the principal farm dwelling to which the proposed dwelling would be accessory satisfies the following.
- a. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years, one (1) of the following:
    - i. On land not identified as high-value farmland at least \$40,000 (1994 dollars) in gross annual income from the sale of farm products.
    - ii. On land identified as high-value farmland, and produced at least \$80,000 (1994 dollars) in gross annual incomeand,
  - b. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- (3) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. These standards are for determination of applicability of an accessory dwelling, and do not justify division of land for purposes of siting a dwelling.
- a. If it is determined that an accessory farm dwelling satisfies the requirements of WCLUDO Section 3.210(D) "Dwellings in Conjunction with Farm Use", a parcel may be created consistent with the minimum parcel size requirements in WCLUDO Section 3.210(G)

- (4) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to WCLUDO Section 3.210(E).

G. Lot Size Standards

- (1) There shall be a 40 acre minimum land division for farm parcels that meet all of the following:
  - a. The original parcel must be within two (2) miles of the Columbia River Gorge National Scenic Area boundary.
  - b. The parcels to be created must be either:
    - i. Predominantly planted to perennial crops, or
    - ii. Meet the 160 acre minimum land division; and
  - c. Be adjacent to land currently in perennial crops.
- (2) There shall be a 160 acre minimum land division for all parcels that do not meet WCLUDO 3.210(G)(1) above.

**PART OF PARCEL**

- (3) Land divisions creating parcels of less than 160 acres may be permitted for non-farm uses authorized in accordance with WCLUDO Section 3.210(C) & (E).
  - a. New lots or parcels for dwellings not in conjunction with farm use may be permitted only if the dwelling has been authorized in accordance with WCLUDO 3.210(C) & (E); and
  - b. The remaining lot or parcel not containing the dwelling or other non farm use meets the 160 acre land division standard of the EFU zone; or
  - c. The remaining lot or parcel not containing the dwellings or other non farm use consolidated with an adjoining lot or parcel which together meet the 160 acre land division standard of the EFU zone; and

- d. Maximum Part of Parcel that may be created per tract are as follows:
- |      |                                      |                  |
|------|--------------------------------------|------------------|
| i.   | 162 acres - to less than 500 acres = | 1 Part of Parcel |
| ii.  | 500 acres but less than 1000 acres = | 2 Part of Parcel |
| iii. | 1000 acres and greater =             | 3 Part of Parcel |
- (5) New parcels created for a dwelling not in conjunction with farm use shall be a minimum of two (2) acres and a maximum of (20) acres.
- (6) Creation of part of parcel shall not be used on High Value Agricultural lands within (two) 2 miles of the Columbia River Gorge National Scenic Area Boundary as mapped.
- (7) Subdivisions and Series Partitions pursuant to ORS 92.010 - 92.190, and 92.305 - 92.495 are prohibited in the Exclusive Farm Use Zone.
- (8) No Part of Parcel property boundary line will divide any field covered by a water right

H. Dimensional Standards and Setbacks

Dimensional standards and setbacks are designed to protect the human population as well as the natural environment. A variance subject to WCLUDO Chapter 6, may be utilized to alleviate an exceptional or extraordinary circumstances that would otherwise preclude the parcel from being utilized. A variance to these standards is not to be used to achieve a preferential siting that could otherwise be achieved by adherence to these prescribed standards.

- (1) No structure other than a fence or sign unless otherwise prescribed in this section shall be located closer than 200 feet from any property line.
- (2) No structure other than a fence or sign shall be located closer than 40 feet from the right of way of any state highway; no structure shall be located closer than 40 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.
- (3) No dwelling, residential accessory structure, or seasonal farm worker housing shall exceed a height of 35 feet.
- (4) All new non-farm structures to be located on a parcel adjacent to lands that are designated EFU and are currently used for, or are suitable for agricultural use,

shall comply with the following setback standards. Setbacks are measured from crop line not property line:

**FIGURE 2. SETBACKS**

IF THE DWELLING IS ADJACENT TO:	THEN SETBACK WITH Open Area / Fence Must Be:	THEN SETBACK WITH Natural or Created Barrier Must be:
Orchards	200 feet	100 feet
Vineyards, Berries Row Crops, vegetables	150 feet	100 feet
Grains	200 feet	100 feet
Livestock, Grazing Pasture, Hay	200 feet	100 feet

- (5) Farm dwellings shall be setback fifty (50) feet from any cultivated field, and farm accessory dwellings and farm labor housing shall be setback 100 feet from any cultivated field.
- (6) All bottoms of foundations of permanent structures, or similar permanent fixtures (except hydroelectric or irrigation pumping facilities) shall be setback from the high water line or mark, along all streams, lakes or rivers a minimum distance of one hundred (100) feet when measured horizontally at a right angle.
- (7) All bottoms of foundations of all permanent structures shall be above the 100 year floodplain
- (8) All structures shall be setback 100 feet from the centerline of irrigation ditches, and 50 feet from the centerline of lateral irrigation ditches. Substandard setbacks must receive prior approval from the effected irrigation district.

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I. Special Agricultural Considerations

The following "Special Agricultural Considerations" including but not exclusive to the following list, are to be included with approved land use applications as information that property owners need to be aware of in the EFU. The following information is voluntary, but it is recommended that the information be recorded on deeds to insure that future property owners and successors in interest are aware of the circumstances that may effect this EFU property.

Irrigation District: \_\_\_\_\_ Contact: \_\_\_\_\_

Water Rights: \_\_\_\_\_ Contact: \_\_\_\_\_  
Prevent loss of water rights to instream use.

Weed Control: \_\_\_\_\_ Contact: \_\_\_\_\_  
Control of noxious weeds required.

Chemical Trespass \_\_\_\_\_ Contact: \_\_\_\_\_  
OSU Extension Service

Fire Protection: \_\_\_\_\_ Contact: \_\_\_\_\_  
Fire break and stand pipes required

Big Game WR: \_\_\_\_\_ Contact: \_\_\_\_\_  
Fencing recommendations provided by ODFW

Livestock Fencing \_\_\_\_\_ Contact: \_\_\_\_\_  
Open or closed range, must observe appropriate fencing standards.  
Oregon Dept. of Agriculture - Brand Inspector & OR Law  
requiring 50/50 fence upkeep.

Animal Control \_\_\_\_\_ Contact: \_\_\_\_\_  
Animals at large

J. Disqualification of Special Assessment

The Approving Authority shall not grant final approval of the building permit for a dwelling not in conjunction with farm use in the EFU Zone that is receiving special assessment under ORS 308.370, 308.765, 321.730, 321.352, or 321.815. The owner of the parcel on which the dwelling is to be located shall provide evidence to the Approving Authority that:

- (1) The County Assessor has been notified that the parcel is no longer being used as farmland; and
- (2) Request has been made to the County Assessor to disqualify the parcel for special assessment under ORS 308.370, 308.765, 321.352, 321.730, or 321.815; and
- (3) Pay any additional tax imposed upon disqualification from special assessment; and
- (4) Record on the Property Deed within 30 days of land use approval and prior to building permit approval the following: This parcel (legal description) has been disqualified from special assessment pursuant to WCLUDO Section 3.210(E) and shall not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel by meeting the minimum lot size for commercial agriculture enterprises within the area.

K. Standards for Farm Ranch Recreation

- (1) The tract or parcel is currently employed in a commercial agricultural operation as defined by ORS 215.203 and WCLUDO 3.210(D)
- (2) The "recreation" in the Farm Ranch Recreation proposal shall not be the primary enterprise of the tract, but shall be subordinate to the commercial agricultural operation in scope, scale and impact, and shall contribute "added value" to the commercial agricultural operation.
- (3) The farm management plan shall specifically quantify the size, scale, and operational characteristics of the commercial agricultural operation and the Farm Ranch Recreation proposal.
- (4) The Farm Ranch Recreation structures shall be located on land that is "generally unsuitable" as defined in WCLUDO Section 3.210(E). There shall be a two mile

radius for public notification in the application of public or private target or shooting courses.

- (5) Conflicts directed at or between a Farm Ranch Recreation Operation and an existing farming operation should use the County Ordinance developed for complaint mediation as specified in WCLUDO 3.210(M).

L. Challenging Soil Class Rating

- (1) The soil class or soil rating or other soil designation of a Lot of Record (LOR per OAR 660-33-120(3)(a)(A)-(E) 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. Submits the following:
    - i. 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
    - ii. Statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (2) (a.) of this section and finds the analysis in the report to be soundly and scientifically based.
- (2) The soil class or soil rating or other soil designation of a specific lot or parcel on lands other than Lot of Record as specified above, or High Value soils as specified by NRCS, may be changed if the property owner:
- a. Submits a report to Wasco County Planning from an accredited soils scientist, certified by ARCPACS that the soil class, soil rating or other soil designation should be changed and the rationale for the soil class change. The report will include the following technical data:
    - i. Copy of the most current National Cooperative Soil Survey map(s) for the specified area.
    - ii. Methods used by the Soil Scientist

- iii. Level of order of survey used in field survey, scale, type of maps, number of sample locations and observation points all confirming or disagreeing with the NRCS mapping units.
  - iv. Methods used for observations (backhoe, auger, shovel, etc.) and methods used for documentation.
  - v. Notation of any limitations encountered
  - vi. Results, findings and decisions
  - vii. Overview of geology, parent material, and related factors
  - viii. Description of landforms, topography, confirming relationship of landforms to soil mapping units,
  - ix. Description of on-site and adjacent hydrology, including surface and subsurface features.
  - x. Description of revised soil mapping units
- b. Acquires Wasco County Planning office administrative approval of soils class change, in conjunction with land use application request.
  - c. Request to change a soils class must be accompanied by a land use application.

M. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process

All those receiving land use approval in the EFU zone shall be advised and receive a copy of the following:

- (1) State of Oregon and Wasco County Right to Farm Ordinance. Appendix B.
- (2) Wasco County Farming and Forestry Practices Protection and Complaint Mediation Ordinance. Appendix C.

N. Follow up Audit and Review Process

- (1) The Wasco County Planning Department shall maintain an annual counter log and summary of administrative and planning commission decisions, regarding all actions in the EFU zone.
- (2) The Agricultural Resource Group (Appendix D) shall appoint a five member subcommittee to be both farmers and residents of Wasco County representing the North, Central and Southern portions of the county. The subcommittee will meet

annually the third week following the date of adoption of the revised WCLUDO 3.210 to review the summary of land use actions taken in the EFU zone for the previous year. The purpose of the review will be:

- a. To ensure that the administration of the EFU zone as evidence by administrative and quasi-judicial decisions is to:

Primarily:

- Protect private property rights of the agricultural producer.
- Keep agricultural operation viable.
- Protect farm practices and the right to farm.
- Preserve and protect farmland.

And Secondly:

- Protect private property rights, on agricultural zoned land, of the farmer and non-farmer alike; that is, the right of property is the reasonable and lawful use of the agricultural land.

- b. Identify any potential problems or issues that were not foreseen during the development of the ordinance; and
- c. Identify any changes or alterations, due to approval of land uses in the EFU zone, to the over all land use agricultural pattern of the county; and
- d. Address any new information (i.e. soils, OSU commodity productivity, new legislation, water rights, natural disasters, etc) that may effect the administration of the EFU zone and ordinance; and
- e. Prepare a summary report to be sent to the County Court and ARG members outlining the findings of the subcommittee; and
- f. If necessary, convene the entire Agricultural Resource Group to address the need to make necessary changes to the EFU map and zoning ordinance based on findings from the annual summary.
- (3) Review the concept of implementing a cost recovery program for the upgrading, expansion or new construction of Wasco County roads.
- (4) Review the concept of implementing a clustering concept for areas within rural service center boundaries, urban growth boundaries and within one mile radius of

existing urban growth boundaries or rural service center boundaries

- (5) Review farm to farm conflict and potential setbacks for new agricultural use to prevent conflict between agricultural practices.
- (6) Review farm ranch recreation and lodging concept.
- (7) Review and develop clear and objective criteria for Section 3.210(E)(4) - "The dwelling does not materially alter the stability of the overall land use pattern of the area." The intent is to better define what "materially alter" means; what is the area that must be evaluated, and what criteria determine the overall land use pattern of an area.

**APPENDIX A**

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## A-1 Exclusive Farm Use Definitions

The following definitions will be incorporated into the Wasco County Land Use and Development Ordinance Section 1.090.

### **Farm Use: ORS 215.203...**

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 and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. 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 species. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees.

### **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 subsections (D) following, 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;
- (D) 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) Land under buildings supporting accepted farm practices;
- (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(1)(e) or 321.415(5); and
  - (K) Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.

**Accepted farming practice:**

Accepted farming practice means a mode of operation that is common to farms of similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

**High Value Land: (Per OAR 660-33-020(8)(a))**

Means land in a tract composed predominantly of soils that are:

- (A) Irrigated and classified prime, unique, Class I or II; or
- (B) Not irrigated and classified prime, unique, Class I or II.

In addition to that land described above, high value farmland, if in Eastern Oregon includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa.

**Agricultural Land: (Per OAR 660-33-020(1)(a))**

Means lands classified by the US Natural Resource Conservation Service as predominantly Class I-VI in Eastern Oregon. And, land in other soil classes that is suitable for farm use as defined in ORS 215.203 taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and land in capability classes other than I - VI that is adjacent to or intermingled with lands in capability classes I - VI within a farm unit. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

**Legally Created Lot or Parcel:**

This is commonly referred to as Legal Lot of Record, but because House Bill 3661 from the 1993 Legislature established a specific definition for "Lot of Record" it is

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necessary to distinguish a "Legal lot of Record" from "Lot of Record" which follows. Prior to September 1974 a lot or parcel could be legally created by a duly recorded deed, subdivision or land partition. Subsequent to September 1974, the Wasco County Land Use and Development Ordinance (WCLUDO) established the process and conformity by which land could be legally subdivided or partitioned in Wasco County. All land in Wasco County being divided after September 1974 is required to conform to WCLUDO Chapter 21, Land Divisions. WCLUDO Chapter 1 Severability clause disallows planning officials from approving development or land use on land divided or developed in violation of the Ordinance. Remedies for persons owning illegally created lots or parcels is cited in ORS 92.018.

**Lot of Record:**

Background: Per ORS 215.700... 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.

See WCLUDO Section 3.210(C)(2) for the specific authorizations for Lot of Record as established by ORS 215.700 - 215.705.

**Seasonal farm worker:**

Means any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to, the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

**Seasonal farm-worker housing:**

Means housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than nine months a year.

**Farm ranch recreation:**

Means farm ranch recreation activities may include overnight facilities that are in conjunction with commercial farm operation(s). The recreation activities must demonstrate how they are in conjunction with the commercial farming operation via a farm management plan identifying the scope, scale and timing of activities and the farming activities. Such consideration may include, but are not limited to: fee hunting, hunting preserve, fishing, fur trapping, trap and skeet range, archery range, fly fishing and tying clinics, water activities, ranch skills, horsemanship, equine eventing, habitat improvement, wildlife viewing, outdoor schools, educational and technical tours, workshops, retreats. Farm ranch recreation and lodging is a conditionally permitted use in the EFU pursuant to WCLUDO 3.210(K).

**Hunting Preserve:**

Pursuant to ORS 497.248 Subsections (1) - (4). The Oregon Department of Fish and Wildlife Commission issues a private hunting preserve license if the preserve contains not more than 640 acres and is on one continuous tract of land owned by the applicant or leased by the applicant for a period of at least five years.

**Part of Parcel:**

Creation of a non-farm parcel (division of land) in the EFU zone, for a specified and authorized non-farm use. The non-farm parcel created may be between two (2) acres and 20 acres. The remnant parcel must meet the minimum parcel size (160 acres). The parcel must be generally unsuitable 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 shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. A lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not generally unsuitable. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. See WCLUDO Section 3.210 (G)(3) for specific application of part of parcel.

**AUM - Animal Unit Month**

Unit of measure of dry forage to graze a 900 - 1000 pound cow and calf for thirty (30) days as prescribed by the NRCS Rangeland Specialist. AUM ratings per soil type is found in Appendix E.

### **Personal Use Airport:**

Means pursuant OAR 660-33-130(7), 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 Aeronautics Division 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 Aeronautics Division.

### **All Weather Roads**

A road that has a six to eight inch gravel base, smooth surface, that a two wheel drive vehicle can use all year round. Confirmation of "all weather" to be made by the Wasco County Public Works Department.

### **Bed and Breakfast Inn**

A single family dwelling where lodging and a morning meal for guests only are offered for compensation. Having no more than five (5) sleeping rooms for this purpose. An establishment where more than one meal per day is offered shall not be deemed a bed and breakfast inn. An establishment with more than five (5) sleeping rooms shall be deemed a hotel. A bed and breakfast inn must be within the residence of the operator.

### **Homestead Retention**

The retention of the primary farm dwelling for the elderly farmer and/or spouse. When the elderly farmer wishes to retire and other family members wish to run the farm, the elderly farmer may create a separate parcel with just the homestead "dwelling" located on that parcel, and the partition is subject to WCLUDO 3.21(E)&(G) Requirements for Dwellings Not Provided in Conjunction With Farm Use, and Part of Parcel respectively. Also, the critical elements of the farming operation such as grain storage, equipment storage must not be severed from the farming unit. The intent is to protect the farming unit in the EFU zone. And while the purpose of homestead retention is to allow the elderly farmer to continue to live on the farm after retirement, the dwelling could subsequently be sold to non farmers and not act as a part of the farming unit.

**APPENDIX B**

p 960430 (87)

1995  
**OREGON  
REVISED  
STATUTES**

INCLUDING

All material affected by Acts of the 1995 regular session and  
special session of the Sixty-eighth Legislative Assembly

**Volume 1**

Containing, with some exceptions, the statute laws of Oregon of a general, public and permanent nature in effect on September 9, 1995, the normal effective date of Acts passed by the regular session of the Sixty-eighth Legislative Assembly, which adjourned on June 10, 1995, and the statute laws of Oregon of a general, public and permanent nature in effect on November 3, 1995, the normal effective date of Acts passed by the special session, July 28 to August 4, 1995

PUBLISHED PURSUANT TO ORS 171.275  
by the  
LEGISLATIVE COUNSEL COMMITTEE  
of the  
LEGISLATIVE ASSEMBLY  
of the  
STATE OF OREGON

P 960430 (87)

or entered into any contractual relations with the seller or lessor.

(3) It is the intent of the Legislative Assembly that the rule stated in subsections (1) and (2) of this section shall be construed in accordance with the Restatement (Second) of Torts sec. 402A, Comments a to m (1965). All references in these comments to sale, sell, selling or seller shall be construed to include lease, leases, leasing and lessor.

(4) Nothing in this section shall be construed to limit the rights and liabilities of sellers and lessors under principles of common law negligence or under ORS 72.1010 to 72.7250. [1979 c.866 §2]

**30.925 Punitive damages.** (1) In a product liability civil action, punitive damages shall not be recoverable except as provided in ORS 18.537.

(2) Punitive damages, if any, shall be determined and awarded based upon the following criteria:

(a) The likelihood at the time that serious harm would arise from the defendant's misconduct;

(b) The degree of the defendant's awareness of that likelihood;

(c) The profitability of the defendant's misconduct;

(d) The duration of the misconduct and any concealment of it;

(e) The attitude and conduct of the defendant upon discovery of the misconduct;

(f) The financial condition of the defendant; and

(g) The total deterrent effect of other punishment imposed upon the defendant as a result of the misconduct, including, but not limited to, punitive damage awards to persons in situations similar to the claimant's and the severity of criminal penalties to which the defendant has been or may be subjected. [1979 c.866 §3; 1995 c.688 §4]

Note: Section 5, chapter 688, Oregon Laws 1995, provides:

Sec. 5. Sections 2 and 3 of this Act [18.537 and 18.535], the amendments to ORS 18.540 and 30.925 by sections 1 and 4 of this Act, and the repeal of ORS 41.315 by section 6 of this Act, apply only to actions commenced on or after the effective date of this Act [September 9, 1995]. [1995 c.688 §5]

**30.927 When manufacturer of drug not liable for punitive damages; exceptions.** (1) Where a drug allegedly caused the plaintiff harm, the manufacturer of the drug shall not be liable for punitive damages if the drug product alleged to have caused the harm:

(a) Was manufactured and labeled in relevant and material respects in accordance

with the terms of an approval or license issued by the Federal Food and Drug Administration under the Federal Food, Drug and Cosmetic Act or the Public Health Service Act; or

(b) Is generally recognized as safe and effective pursuant to conditions established by the Federal Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) Subsection (1) of this section does not apply if the plaintiff proves, in accordance with the standard of proof set forth in ORS 30.925 (1), that the defendant, either before or after making the drug available for public use, knowingly in violation of applicable Federal Food and Drug Administration regulations withheld from or misrepresented to the agency or prescribing physician information known to be material and relevant to the harm which the plaintiff allegedly suffered.

(3) Nothing contained in this section bars an award of punitive damages where a manufacturer of a drug intentionally fails to conduct a recall required by a valid order of a federal or state agency authorized by statute to require such a recall.

(4) For the purposes of this section, the term "drug" has the meaning given to the term in section 1201 (g)(1) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §321 (g)(1). [1987 c.774 §5]

## FARMING AND FOREST PRACTICES

**30.930 Definitions for ORS 30.930 to 30.947.** As used in ORS 30.930 to 30.947:

(1) "Farm" means any facility, including the land, buildings, watercourses and appurtenances thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock products, poultry products or the propagation and raising of nursery stock.

(2) "Farming practice" means a mode of operation on a farm that:

(a) Is or may be used on a farm of a similar nature;

(b) Is a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money;

(c) Is or may become a generally accepted, reasonable and prudent method in conjunction with farm use;

(d) Complies with applicable laws; and

(e) Is done in a reasonable and prudent manner.

(3) "Forestland" means land that is used for the growing and harvesting of forest tree species.

(4) "Forest practice" means a mode of operation on forestland that:

(a) Is or may be used on forestland of similar nature;

(b) Is a generally accepted, reasonable and prudent method of complying with ORS 527.610 to 527.770 and the rules adopted pursuant thereto;

(c) Is or may become a generally accepted, reasonable and prudent method in conjunction with forestland;

(d) Complies with applicable laws;

(e) Is done in a reasonable and prudent manner; and

(f) May include, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control.

(5) "Pesticide" has the meaning given that term in ORS 634.006. [1981 c.716 §1; 1983 c.730 §1; 1993 c.792 §32; 1995 c.703 §1]

**30.931 Transport or movement of equipment, device, vehicle or livestock as farming or forest practice.** Notwithstanding ORS 30.930, if the activities are conducted in a reasonable and prudent manner, the transport or movement of any equipment, device or vehicle used in conjunction with a farming practice or a forest practice on a public road or movement of livestock on a public road is a farming or forest practice under ORS 30.930 to 30.947. [1995 c.703 §9]

**30.932 Definition of "nuisance" or "trespass."** As used in ORS 30.930 to 30.947, "nuisance" or "trespass" includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances. [1993 c.792 §33; 1995 c.703 §2]

**30.933 Legislative findings; policy.** (1) The Legislative Assembly finds that:

(a) Farming and forest practices are critical to the economic welfare of this state.

(b) The expansion of residential and urban uses on and near lands zoned or used for agriculture or production of forest products may give rise to conflicts between resource and nonresource activities.

(c) In the interest of the continued welfare of the state, farming and forest practices must be protected from legal actions that may be intended to limit, or have the effect of limiting, farming and forest practices.

(2) The Legislative Assembly declares that it is the policy of this state that:

(a) Farming practices on lands zoned for farm use must be protected.

(b) Forest practices on lands zoned for the production of forest products must be protected.

(c) Persons who locate on or near an area zoned for farm or forest use must accept the conditions commonly associated with living in that particular setting.

(d) Certain private rights of action and the authority of local governments and special districts to declare farming and forest practices to be nuisances or trespass must be limited because such claims for relief and local government ordinances are inconsistent with land use policies, including policies set forth in ORS 215.243, and have adverse effects on the continuation of farming and forest practices and the full use of the resource base of this state. [1993 c.792 §31]

**30.934 Prohibition on local laws that make forest practice a nuisance or trespass; exceptions.** (1) Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a forest practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

(2) Subsection (1) of this section does not apply to:

(a) City rules, regulations or ordinances adopted in accordance with ORS 527.722; or

(b) Any forest practice conducted in violation of a solar energy easement that complies with ORS 105.880 to 105.890. [1993 c.792 §38]

**30.935 Prohibition on local laws that make farm practice a nuisance or trespass.** Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a farm practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to that farm practice for which no action or claim is allowed under ORS 30.936 or 30.937. [1981 c.716 §2; 1985 c.565 §4; 1993 c.792 §37]

**30.936 Immunity from private action based on farming or forest practice on certain lands; exceptions.** (1) No farming or forest practice on lands zoned for farm or forest use occurring outside an urban growth boundary shall give rise to any private right of action or claim for relief based on nuisance or trespass.

(2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

(a) Damage to commercial agricultural products; or

(b) Death or serious physical injury as defined in ORS 161.015.

(3) Subsection (1) of this section applies regardless of whether the farming or forest practice has undergone any change or interruption.

(4) If the urban growth boundary is changed in such a way as to place a farming or forest practice outside its limits, subsection (1) of this section applies to that farming or forest practice after the date the urban growth boundary is changed.

(5) If the urban growth boundary is changed pursuant to ORS 197.296 in such a way as to place a farming practice inside its limits, subsection (1) of this section continues to apply to that farming practice until a change to a nonfarm use. [1993 c.792 §34; 1995 c.547 §8; 1995 c.703 §3]

**30.937 Immunity from private action based on farming or forest practice allowed as preexisting nonconforming use; exceptions.** (1) No farming or forest practice allowed as a preexisting nonconforming use shall give rise to any private right of action or claim for relief based on nuisance or trespass.

(2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

(a) Damage to commercial agricultural products; or

(b) Death or serious physical injury as defined in ORS 161.015.

(3) Subsection (1) of this section applies only where a farming or forest practice existed before the conflicting nonfarm or nonforest use of real property that gave rise to the right of action or claim for relief.

(4) Subsection (1) of this section applies only where a farming or forest practice has not significantly increased in size or intensity from November 4, 1993, or the date on which the applicable urban growth boundary is changed to include the subject farming or forest practice within its limits, whichever is later. [1993 c.792 §35; 1995 c.703 §4]

**30.938 Attorney fees and costs.** In any 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 shall be entitled to judgment for reasonable attorney fees and costs incurred at trial and on appeal. [1993 c.792 §36]

**30.939 When use of pesticide considered farming or forest practice.** (1) Notwithstanding ORS 30.930 (2), the use of a pesticide shall be considered to be a farming practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

(a) Is or may be used on a farm of a similar nature;

(b) Is a reasonable and prudent method for the operation of the farm to obtain a profit in money;

(c) Is or may become customarily utilized in conjunction with farm use;

(d) Complies with applicable laws; and

(e) Is done in a reasonable and prudent manner.

(2) Notwithstanding ORS 30.930 (4), the use of a pesticide shall be considered to be a forest practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

(a) Is or may be used on forestland of a similar nature;

(b) Is a reasonable and prudent method of complying with ORS 527.610 to 527.770;

(c) Is or may become customarily utilized in conjunction with forestland;

(d) Complies with applicable laws;

(e) Is done in a reasonable and prudent manner; and

(f) Includes, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control. [1993 c.792 §32a; 1995 c.703 §5]

**30.940 Effect on other remedies.** The provisions of ORS 30.930 to 30.947 shall not impair the right of any person or governmental body to pursue any remedy authorized by law that concerns matters other than a nuisance or trespass. [1981 c.716 §3; 1985 c.565 §5; 1993 c.792 §39]

**30.942 Authority to adopt rules.** (1) The State Department of Agriculture may adopt rules to implement the provisions of ORS 30.930 to 30.947.

(2) The State Forestry Department may adopt rules to implement the provisions of ORS 30.930 to 30.947. [1993 c.792 §41]

**30.943 Certain agencies not required to investigate complaints based on farming or forest practice.** The Department of Environmental Quality, Division of State Lands, State Department of Agriculture or State Forestry Department is not required to investigate complaints if the agency has reason to believe that the complaint is based on practices protected by ORS 30.930 or 30.947. [1995 c.703 §8]

30.945 [1981 c.716 §4; repealed by 1995 c.703 §12]

**30.947 Effect of siting of destination resorts or other nonfarm or nonforest uses.** The fact that a comprehensive plan and implementing ordinances allow the siting

of destination resorts or other nonfarm or nonforest uses as provided in ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, does not in any way affect the provisions of ORS 30.930 to 30.947. [1987 c.886 §13; 1995 c.703 §6]

### INTOXICATING LIQUOR SERVICE

**30.950 Licensee, permittee and social host liability.** No licensee, permittee or social host is liable for damages incurred or caused by intoxicated patrons or guests off the licensee, permittee or social host's premises unless:

(1) The licensee, permittee or social host has served or provided the patron alcoholic beverages to the patron or guest while the patron or guest was visibly intoxicated; and

(2) The plaintiff proves by clear and convincing evidence that the patron or guest was served alcoholic beverages while visibly intoxicated. [1979 c.801 §1; 1987 c.774 §13]

30.955 [1979 c.801 §2; repealed by 1987 c.774 §14]

**30.960 Liability for serving minors; liability for misrepresentation of age.** (1) Notwithstanding ORS 30.950 and 471.130, no licensee, permittee or social host shall be liable to third persons injured by or through persons not having reached 21 years of age who obtained alcoholic beverages from the licensee, permittee or social host unless it is demonstrated that a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

(2) A person who is under 21 but at least 18 years of age who through misrepresentation of age causes an Oregon Liquor Control Commission licensee to be fined or have a license suspended or revoked shall be civilly liable for damages sustained by the licensee. The court may award reasonable attorney fees to the prevailing party in an action under this subsection. [1979 c.801 §3; 1991 c.860 §5; 1995 c.618 §31]

### SKIING ACTIVITIES

**30.970 Definitions for ORS 30.970 to 30.990.** As used in ORS 30.970 to 30.990:

(1) "Inherent risks of skiing" includes, but is not limited to, those dangers or conditions which are an integral part of the sport, such as changing weather conditions, variations or steepness in terrain, snow or ice conditions, surface or subsurface conditions, bare spots, creeks and gullies, forest growth, rocks, stumps, lift towers and other structures and their components, collisions with other skiers and a skier's failure to ski within the skier's own ability.

(2) "Injury" means any personal injury or property damage or loss.

(3) "Skier" means any person who is in a ski area for the purpose of engaging in the sport of skiing or who rides as a passenger on any ski lift device.

(4) "Ski area" means any area designated and maintained by a ski area operator for skiing.

(5) "Ski area operator" means those persons, and their agents, officers, employees or representatives, who operate a ski area. [1979 c.665 §1]

**30.975 Skiers assume certain risks.** In accordance with ORS 18.470 and notwithstanding ORS 18.475 (2), an individual who engages in the sport of skiing, alpine or nordic, accepts and assumes the inherent risks of skiing in so far as they are reasonably obvious, expected or necessary. [1979 c.665 §2]

**30.980 Notice to ski area operator of injury to skier; injuries resulting in death; statute of limitations; informing skiers of notice requirements.** (1) A ski area operator shall be notified of any injury to a skier by registered or certified mail within 180 days after the injury or within 180 days after the skier discovers, or reasonably should have discovered, such injury.

(2) When an injury results in a skier's death, the required notice of the injury may be presented to the ski area operator by or on behalf of the personal representative of the deceased, or any person who may, under ORS 30.020, maintain an action for the wrongful death of the skier, within 180 days after the date of the death which resulted from the injury. However, if the skier whose injury resulted in death presented a notice to the ski area operator that would have been sufficient under this section had the skier lived, notice of the death to the ski area operator is not necessary.

(3) An action against a ski area operator to recover damages for injuries to a skier shall be commenced within two years of the date of the injuries. However, ORS 12.160 and 12.190 apply to such actions.

(4) Failure to give notice as required by this section bars a claim for injuries or wrongful death unless:

(a) The ski area operator had knowledge of the injury or death within the 180-day period after its occurrence;

(b) The skier or skier's beneficiaries had good cause for failure to give notice as required by this section; or

(c) The ski area operator failed to comply with subsection (5) of this section.

IN THE MATTER OF THE ADOPTION OF )  
AN ORDINANCE PROTECTING ACCEPTED )  
RESOURCE USES. )

OCT 7 2 27 PM '87  
ORDINANCE  
KAREN R. LEE  
COUNTY CLERK

THE WASCO COUNTY COURT ORDAINS AS FOLLOWS:

Section 1 SHORT TITLE. This Ordinance may be cited as the Wasco  
County Resource Use Protection Ordinance.

Section 2 PURPOSE.

(1) It is the purpose of this Ordinance to protect resource based economically productive activities of Wasco County in order to assure the continued health, safety and prosperity of its residents. Resource uses sometimes offend, annoy, interfere with or otherwise affect others located on or near resource lands. Wasco County has concluded that persons located on or near resource lands must accept the conditions commonly associated with accepted resource uses.

(2) This Ordinance is intended to limit the availability of remedies based on nuisance or trespass, complaint procedures, rights of action and claims for relief over which Wasco County has jurisdiction, when they otherwise would either have an adverse impact on resource uses which Wasco County seeks to protect, or would impair full use of the resource base within Wasco County.

Section 3 DEFINITIONS. As used in this Ordinance:

(1) "FACILITY" means any real or personal property, including appurtenances thereto and fixtures thereon, associated with a given use.

/////  
ORDINANCE

P 960430 (87)

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1 (2) "FARMING PRACTICE" means the cultivation, growing,  
2 harvesting, processing or selling of plants or animals of any  
3 kind, which lawfully may be grown, possessed and sold, including  
4 but not limited to fish, livestock, poultry, grapes, cherries,  
5 apples, pears, wheat, barley, Christmas trees and nursery stock.

6 (3) "FOREST PRACTICE" has the meaning given that term by  
7 ORS 527.620.

8 (4) "NONRESOURCE USE" means any facility, activity or other use  
9 of land which does not constitute a resource use, including but  
10 not limited to residential use.

11 (5) "RESOURCE USE" means any current or future generally  
12 accepted farming, ranching or forest practice or facility  
13 conducted in compliance with applicable Wasco County Land Use  
14 Ordinances.

15 (6) "GENERALLY ACCEPTED" means either:

16 (a) A practice or facility which is conducted or used in  
17 compliance with applicable federal and state laws; or

18 (b) If there is no applicable federal or state law, a  
19 practice or facility which an average person in Wasco County  
20 who is a grower or producer regularly involved in the same  
21 type of resource use would reasonably expect to occur or  
22 exist in a rural setting. The Wasco County Court may, as it  
23 deems necessary, establish resource user peer review boards  
24 consisting of five (5) persons who regularly are involved in.

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2 - ORDINANCE

1 a resource use within the County, three of whom regularly  
2 are involved in the same type of resource use in question,  
3 to advise the Court as to generally accepted practices or  
4 facilities with respect to that resource use.

5 (7) "RESOURCE USE" does not include:

6 (a) The willful growing or unlawful, infested, infected or  
7 diseased plants or animals.

8 (b) Trespass which involves actual physical intrusion onto  
9 the property of another by a person or by a person's animals.

10 Section 4 PROTECTING RESOURCE USES OUTSIDE URBAN GROWTH BOUNDARY.

11 (1) No resource use occurring outside an urban growth boundary  
12 (UGB) shall be declared to be a public or private nuisance or  
13 trespass, or support any complaint procedure, or give rise to a  
14 claim for relief in favor of, or to protect the interests of,  
15 nonresource uses or any persons or property associated  
16 therewith, to the extent that such right, proceeding or claim  
17 would arise under an Ordinance or the inherent authority of  
18 Wasco County.

19 (2) This section applies regardless of:

20 (a) The location of the purportedly affected nonresource  
21 use.

22 (b) Whether the nonresource use purportedly affected  
23 existed before or after the occurrence of the resource use.

24 (c) Whether the resource use or nonresource use has  
25 undergone any change or interruption.

26 //

1 (d) Whether the resource use or nonresource use is located  
2 inside or outside an area designated as secondary resource  
3 lands.

4 Section 5 PROTECTING RESOURCE USES WITHIN URBAN GROWTH BOUNDARY.

5 (1) No resource use occurring within an urban growth boundary  
6 (UGB) shall be declared to be a public or private nuisance or  
7 trespass, or support any complaint procedure, or give rise to a  
8 claim for relief in favor of, or to protect the interests of,  
9 nonresource uses or any persons or property associated  
10 therewith, to the extent that such right, proceeding or claim  
11 would arise under an Ordinance or the inherent authority of  
12 Wasco County.

13 (2) This section applies:

14 (a) Regardless of the location of the purportedly affected  
15 nonresource use.

16 (b) Only if the resource use predated the purportedly  
17 affected nonresource use.

18 (c) Only if the resource use has not significantly  
19 increased in size or intensity after (A) the effective date  
20 of this Ordinance, or (B) the date on which the applicable  
21 urban growth boundary is changed to include the subject  
22 resource use within its limits, whichever date is later.

23 However, if the change is mandated by law, this section  
24 shall apply.

25 /////

26 /////

1 Section 6 CHANGE IN URBAN GROWTH BOUNDARY. To the extent  
2 permissible under state law, if an urban growth boundary (UGB) is  
3 changed in such a way as to place a resource use either inside or  
4 outside such boundary, Section 4 of this Ordinance applies with  
5 respect to any conflict between a resource use and nonresource use.

6 Section 7 LAND USE DECISIONS. The fact that Wasco County's  
7 Comprehensive Plan, Zoning Ordinances and land use decisions may  
8 allow the siting, development or support of any particular use does  
9 not negate the provisions of this Ordinance intended to protect a  
10 resource use.

11 Section 8 COMPLAINTS BY NONRESOURCE USERS. Any persons engaged  
12 in a nonresource use are deemed on notice that Wasco County will not  
13 act on complaints involving a resource use protected under this  
14 Ordinance, wherever located, so long as such resource use complies  
15 with applicable provisions of federal and state laws and this  
16 Ordinance.

17 Section 9 SEVERABILITY CLAUSE. If any portion of this Ordinance  
18 is held invalid by a court of competent jurisdiction, such decision  
19 shall apply only with respect to the specific portion held invalid by  
20 the decision. It is the intent of Wasco County that the remaining  
21 portions of this Ordinance continue in full force and effect.

22 Section 10 EMERGENCY CLAUSE. This Ordinance being immediately  
23 necessary for the preservation of the public well being, an emergency  
24 is declared to exist and this Ordinance shall take effect immediately.

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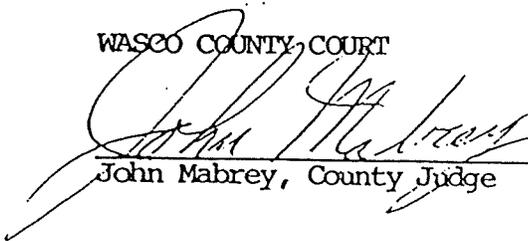
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Regularly passed and adopted by unanimous vote of all members of  
the County Court of the County of Wasco, State of Oregon, present on  
this day.

DONE AND DATED this 7th day of October, 1992.

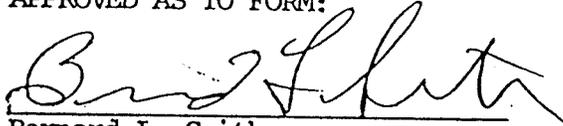
WASCO COUNTY COURT

  
John Mabrey, County Judge

Scott McKay, County Commissioner

  
C.E. Filbin, County Commissioner

APPROVED AS TO FORM:

  
Bernard L. Smith  
Wasco County District Attorney

f 960430 (87)

**APPENDIX C**

P 960430 (87)

IN THE COUNTY COURT OF THE STATE OF OREGON  
FILED WASCO COUNTY  
IN AND FOR THE COUNTY OF WASCO

1 IN THE MATTER OF THE ADOPTION OF AN ORDINANCE APR 22 2 24 PM '93  
2 PROVIDING PROTECTION FOR GENERALLY ACCEPTED ) O R D I N A N C E  
3 FARMING AND FORESTRY PRACTICES AND ESTABLISHING )  
4 A COMPLAINT MEDIATION PROCESS. ) COURT CLERK

5 THE WASCO COUNTY COURT ORDAINS AS FOLLOWS:

6 Section 1 SHORT TITLE. This Ordinance may be cited as the Wasco  
7 County Farming and Forestry Practices Protection and Complaint  
8 Mediation Ordinance.

9 Section 2 PURPOSE.

10 (1) Wasco County recognizes that complaints about farming and  
11 forestry practices will sometimes occur because these practices  
12 create odors, smoke, dust and noise and there is a close  
13 proximity of agricultural and forest lands to expanding urban  
14 and rural residential development.

15 (2) Wasco County recognizes that all resource use complaints  
16 have the potential of requiring immediate shutdowns or  
17 interruptions of farming and forestry practices which could  
18 result in significant economic consequences for resource users.

19 (3) The purpose of this Ordinance is therefore to provide a  
20 rapid complaint response and mediation process for resource use  
21 complaints by Wasco County residents in order to protect farming  
22 and forestry operations to the greatest extent possible from  
23 immediate shutdowns or interruptions.

24 Section 3 DEFINITIONS. As used in this Ordinance:

25 (1) "FACILITY" means any real or personal property, including  
26 appurtenances thereto and fixtures thereon, associated with a  
given use.

1 (2) "FARMING PRACTICE" means the cultivation, growing,  
2 harvesting, processing or selling of plants or animals of any  
3 kind, which lawfully may be grown, possessed and sold, including  
4 but not limited to fish, livestock, poultry, grapes, cherries,  
5 apples, pears, wheat, barley, Christmas trees and nursery stock.

6 (3) "FORESTRY PRACTICE" means any operation conducted on or  
7 pertaining to forest land, including but not limited to:

- 8 (a) Reforestation of forest land;
- 9 (b) Road construction and maintenance;
- 10 (c) Harvesting of forest tree species;
- 11 (d) Application of chemicals; and
- 12 (e) Disposal of slash.

13 (4) "NONRESOURCE USE" means any facility, activity or other use  
14 of land which does not constitute a resource use, including but  
15 not limited to residential use.

16 (5) "RESOURCE USE" means any current or future generally  
17 accepted farming or forestry practice or facility conducted in  
18 compliance with applicable Wasco County Ordinances and Federal  
19 and State laws.

20 (6) "RESOURCE USE NUISANCE" means any current or future  
21 generally accepted farming or forestry practice or facility  
22 conducted in compliance with applicable Wasco County Ordinances  
23 and Federal and State laws, which may be considered offensive,  
24 annoying, or interferes with or otherwise affects the urban and  
25 rural residents of Wasco County.

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1 (7) "RESOURCE USE" does not include:

2 (a) Any unlawful act;

3 (b) The willful growing of infested, infected or diseased  
4 plants or animals;

5 (c) Trespass which involves actual physical intrusion onto  
6 the property of another by a person or by a person's animals;

7 (8) "DESIGNEE" may include, but is not limited to: Wasco County  
8 Extension Agents, Field Consultants and Extension Agents from  
9 neighboring counties.

10 (9) "COMPLAINT MEDIATION COMMITTEE":

11 (a) Is a standing committee established by the Wasco County  
12 Court to provide a forum for the mediation of Wasco County  
13 residents complaints regarding farming or forestry practices  
14 or facilities, including, but not limited to: odors from  
15 domestic livestock operations; blowing smoke from heaters,  
16 smokers and slash burning; noise from machines, including  
17 those devices producing sounds designed for agricultural  
18 purposes in order to frighten predacious birds or animals  
19 away from agricultural crops; drift or contamination from  
20 chemical and fertilizer applications; hours of operation;  
21 and littering of County roads.

22 (b) Shall consist of 4 to 10 Wasco County residents.

23 One-half of the Complaint Mediation Committee shall consist  
24 of residents who are regularly involved in a resource use  
25 within the County. The other one-half of the Complaint  
26 Mediation Committee shall consist of residents who are not

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regularly involved in a resource use within the County. The Wasco County Extension Agent or Designee shall serve as an ex-officio member of the Complaint Mediation Committee.

(c) Initial duty will be to work cooperatively with the Wasco County Extension Agent to screen, select and periodically update a list of persons to serve as Designees, and to provide this list of Designee names to the Wasco County Sheriff's Office and the Wasco County Court.

(d) Shall meet with the Wasco County Extension Agent at least once per year to discuss complaints handled by the Extension Office and the implementation of this Ordinance. These informational meetings shall be called by the Chair of the Complaint Mediation Committee.

(10) "PEER REVIEW BOARD" is a Board established by the Wasco County Court to advise the Complaint Mediation Committee on whether a disputed resource use activity is a generally accepted farming or forest practice or facility. The Board shall consist of 5 persons who regularly are involved in a resource use within the County, at least 3 of whom are regularly involved in the same type of disputed resource use being heard by the Complaint Mediation Committee.

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1           Section 4 PROTECTING RESOURCE USES.

2           (1) Wasco County shall not support a resource use nuisance  
3           complaint or claim for relief by nonresource uses or any persons  
4           or property associated therewith unless the resource use  
5           complaint response and mediation procedure of Section 5 of this  
6           Ordinance has been utilized.

7           (2) This Section applies regardless of:

8           (a) The location of the purportedly affected nonresource  
9           use;

10           (b) Whether the nonresource use purportedly affected  
11           existed before or after the occurrence of the resource use;

12           (c) Whether the resource use or nonresource use has  
13           undergone any change or interruption; and

14           (d) Whether the resource use is inside or outside an urban  
15           growth boundary to the extent permissible under State law.

16           Section 5 RESOURCE USE COMPLAINT RESPONSE AND MEDIATION PROCEDURE.

17           (1) Initial resource use complaints involving farming or  
18           forestry practices or facilities shall:

19           (a) Be referred to the Wasco County Extension Office during  
20           regular operating hours or the Wasco County Sheriff's Office  
21           after hours and on weekends; and

22           (b) Be responded to as soon as possible.

23           (2) The responding Wasco County Extension Agent or Designee  
24           shall:

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1 (a) Contact the complainant, discuss the complaint, and  
2 attempt to resolve it. If unable to resolve the complaint,  
3 encourage complainant to call or meet with the resource user  
4 that is the subject of their complaint and attempt a  
5 one-on-one resolution of the complaint;

6 (b) Recontact the complainant within a reasonable amount of  
7 time to determine if the complaint has been resolved. If it  
8 has, no further action is required. If not;

9 (c) Meet with the complainant and resource user as soon as  
10 possible and document the resource use complaint if it has  
11 not been resolved or if the complainant had already  
12 contacted the resource user with no results, or if the  
13 complainant is unwilling or unable to contact the resource  
14 user;

15 (d) Provide both complainant and resource user with written  
16 documentation of the complaint, including, but not limited  
17 to the name and address of complainant, the name and address  
18 of the resource user, and a description of the nature of the  
19 complaint. Continue to work with the complainant and  
20 resource user to resolve the complaint if progress toward  
21 resolution is occurring;

22 (e) Notify the Wasco County Court about the documented  
23 complaint as soon as possible and report on the effort  
24 and/or success in resolving the complaint. If resolved, no  
25 further action required. If unable to resolve;

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1 (f) Inform the complainant and resource user of further  
2 mediation assistance available through Wasco County.

3 Describe the mediation process and encourage the complainant  
4 and resource user to seek assistance from the Wasco County  
5 Court.

6 (3) The responding Wasco County Sheriff's Officer shall:

7 (a) Contact the complainant and encourage them to call or  
8 meet with the resource user and attempt a one-on-one  
9 resolution of the complaint. If the complainant agrees to  
10 do this, inform the complainant that their complaint will be  
11 referred to the Wasco County Extension Office and that they  
12 will receive a call from the Extension Agent or Designee to  
13 determine if their complaint has been resolved. Refer the  
14 complaint to the Wasco County Extension Office and request  
15 follow-up per Section 5, 2(b). If the complainant has  
16 already contacted the resource user with no results, or if  
17 the complainant is unwilling or unable to contact the  
18 resource user;

19 (b) Document the resource use complaint;

20 (c) Provide both complainant and resource user with written  
21 documentation of the complaint, including, but not limited  
22 to the name and address of complainant, the name and address  
23 of the resource user, and a description of the nature of the  
24 complaint;

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1 (d) Advise both parties to the complaint that the Wasco  
2 County Extension Agent or a Designee shall be notified of  
3 the complaint and will make contact with both parties as  
4 soon as possible to discuss the complaint; and

5 (d) Deliver a copy of the complaint to the Wasco County  
6 Extension Agent or a Designee as soon as possible.

7 (4) For referrals of documented complaints from the Wasco County  
8 Sheriff's Office, the Wasco County Extension Agent or Designee  
9 shall:

10 (a) Meet with the complainant and resource user as soon as  
11 possible to discuss the complaint and attempt to resolve  
12 it. Continue to work with the complainant and resource user  
13 to resolve the complaint if progress toward resolution is  
14 occurring;

15 (b) Notify the Wasco County Court about the documented  
16 complaint as soon as possible and report on the effort  
17 and/or success in resolving the complaint. If resolved, no  
18 further action required. If unable to resolve;

19 (c) Inform the complainant and resource user of further  
20 mediation assistance available through Wasco County.

21 Describe the mediation process and encourage the complainant  
22 and resource user to seek assistance from the Wasco County  
23 Court.

24 (d) Notify the Wasco County Court if unable to resolve the  
25 complaint.

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1 (5) If the complainant and resource user that are principles in  
2 a documented resource use complaint within Wasco County request  
3 mediation assistance beyond that provided by the Wasco County  
4 Extension Agent or Designee, the Wasco County Court shall  
5 request the Complaint Mediation Committee to act.

6 (6) The Complaint Mediation Committee shall:

7 (a) Set a date to hear the complaint from both complainant  
8 and resource user within one week of notification by the  
9 Wasco County Court; and

10 (b) Work with both complainant and resource user in an  
11 attempt to resolve the complaint.

12 (7) The Complaint Mediation Committee may:

13 (a) Ask the Wasco County Court to set up a Peer Review Board  
14 for assistance in determining whether an activity or  
15 facility is a generally accepted farming or forestry  
16 practice or facility;

17 (b) Suggest recommendations for Peer Review Board members to  
18 the Wasco County Court; and

19 (c) Meet with the complainant and resource user any number  
20 of times if the Complaint Mediation Committee determines  
21 that progress is being made toward a resolution of the  
22 complaint.

23 (8) If the Complaint Mediation Committee is unable to resolve  
24 the complaint, the complainant and resource user shall be  
25 advised by the Complaint Mediation Committee of their additional

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1 options including, but not limited to, seeking advice from  
2 private counsel.

3 Section 6 LAND USE DECISIONS. The fact that Wasco County's  
4 Comprehensive Plan, Zoning Ordinances and land use decisions allow  
5 the siting, development or support of any particular use does not  
6 negate the provisions of this Ordinance intended to protect a  
7 resource use.

8 Section 7 EFFECT ON OTHER REMEDIES. The provisions of this  
9 Ordinance shall not impair the right of any Wasco County resident to  
10 pursue any remedy authorized by applicable Wasco County Ordinances or  
11 Federal and State laws that:

- 12 (1) Concerns matters other than a resource use nuisance;
- 13 (2) Does not expressly purport to prohibit or regulate a farming  
14 or forestry practice as a resource use nuisance; or
- 15 (3) Prohibits or regulates the use or physical condition of  
16 resource use activities or facilities that adversely affect  
17 public health or safety.

18 Section 7 SEVERABILITY CLAUSE. If any portion of this Ordinance  
19 is held invalid by a Court of competent jurisdiction, such decision  
20 shall apply only with respect to the specific portion held invalid by  
21 the decision. It is the intent of Wasco County that the remaining  
22 portions of this Ordinance continue in full force and effect.

23 Section 8 EMERGENCY CLAUSE. This Ordinance being immediately  
24 necessary for the preservation of the public well being, an emergency  
25 is declared to exist and this Ordinance shall take effect immediately  
26 upon adoption.

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Regularly passed and adopted by the unanimous vote of all members of the County Court of the County of Wasco, State of Oregon, present on this day.

DONE AND DATED this 21st day of April, 1993.

WASCO COUNTY COURT

APPROVED AS TO FORM:

Bernard L. Smith  
Bernard L. Smith  
Wasco County District Attorney

John Mabrey  
John Mabrey, County Judge

Scott McKay  
Scott McKay, County Commissioner

C. E. Filbin  
C.E. Filbin, County Commissioner

**APPENDIX D**

P 960430 (87)

**PLANNING AND ECONOMIC DEVELOPMENT OFFICE**  
**WASCO COUNTY**

2705 EAST SECOND STREET THE DALLES, OREGON 97058

KIMBERLY J. JACOBSEN, Director

PHONE: (503) 298-5169

FAX: (503) 296-2691

**WASCO COUNTY**  
**AGRICULTURAL RESOURCE GROUP**

May 22, 1996

**Ken Bailey,\*** Fruit and Produce League

**Steve Kelsey,\*** Fruit and Produce League

**Kathleen Cantrell,** Citizen, Ranch

**Bryce Molesworth,** Mosier Orchardist

**Dan Ericksen,** Planning Commission

**Mike Sandoz,** Cattle, Cherries, Hay

**Lowell Forman,** Cattle and Wheat

**Ronald Sorensen,** Wheat

**Judee Hagen,** Cattleman's Association

**Steve Tessmer,** Citizen

**Jon Justesen,\*** Cattle and Wheat

**Liz Turner,\*** Cattleman

**Carl Kaser,\*** Farm Bureau

**Dan VanVactor,\*** Citizen

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\* Indicates appointed to the Ag. Resource Group Subcommittee for 1996/97.

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**APPENDIX E**

P 960430 (87)

WASCO COUNTY SOILS  
(All)

CASE	FREQUENCY	SOIL CODE	SOIL SERIES	SOIL CLASS	SOIL (T)	SLOPE (%)	DOMINANT SPECIES (UBERS)	VALUE	REVISED VALUE	NOTES
1	48	10E	Bodell cobbly loam	7S		5-45		1	LOW	
2	4	11F	Bodell very cobbly loam	7S		45-75		1	LOW	
3	24	11F	Bodell very cobbly loam	7S		45-75		1	LOW	
4	169	12B	Cantala silt loam	2E		1-7		3	HIGH	Prime if irrigated
5	204	12C	Cantala silt loam	3E	4E	7-12		2	MU	
6	202	12D	Cantala silt loam	3E	6E	12-20		2	MU	
7	76	12E	Cantala silt loam	4E	6E	20-35		2	MU	
8	1	12b	Cantala silt loam	2E		1-7		3		
9	34	13B	Chenoweth loam	2E	2E	1-7		3	HIGH	Prime if irrigated
10	63	13C	Chenoweth loam	3E	4E	7-12		2	MU	
11	35	13D	Chenoweth loam	3E	6E	12-20		2	MU	
12	29	13E	Chenoweth loam	4E	6E	20-35		2	MU	
13	1	13E	Chenoweth loam	4E	6E	20-35		3	MU	
14	22	14B	Cherryhill silt loam	2E		1-7		3	HIGH	Prime if irrigated
15	59	14C	Cherryhill silt loam	3E	4E	7-12		2	MU	
16	51	14D	Cherryhill silt loam	4E	6E	12-20		2	MU	
17	51	14E	Cherryhill silt loam	4E	6E	20-35		2	MU	
18	25	14F	Cherryhill silt loam	6E		35-50		2	ML	
19	21	15F	Cherryhill silt loam	6E		35-50		2	ML	
20	36	16D	Cherryhill-Rock outcrop	6E		3-25		2	LOW	65/25
21	240	17B	Condon silt loam	3S	3E	1-7		3	HIGH	Prime if irrigated
22	230	17C	Condon silt loam	3E	4E	7-12		2	MU	
23	1	17D	Condon Silt Loam	6E		12-25		2	ML	
24	179	17D	Condon silt loam	6E		12-25		2	ML	
25	130	18D	Condon-Bakeoven complex	6E		2-20		2	ML	70/30
26	1	19A	Cumlic Haplaquats	4W		0-3		2	ML	
27	2	19A	Cumlic Haplaquolis	4W		0-1		2	ML	
28	23	1C	Anderly silt loam	3E	4E	7-12		2	MU	
29	80	1D	Anderly silt loam	3E		12-20		2	MU	
30	30	1E	Anderly silt loam	4E		20-35		2	ML	
31	29	20B	Duart silt loam	3S	3E	1-7		3	HIGH	Prime if irrigated
32	49	20C	Duart Silt Loam	3E		7-12		2	MU	
33	111	20D	Duart Silt Loam	4E		12-25		2	MU	
34	84	20E	Duart Silt Loam	6E		25-40		2	ML	
35	132	21E	Duart complex	6E		20-55		2	ML	
36	40	22B	Dufur silt loam	2E		1-7		3	HIGH	Prime if irrigated
37	67	22C	Dufur silt loam	3E		7-12		2	MU	

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WASCO COUNTY SOILS  
(All)

CASE	FREQUENCY	SOIL CODE	SOIL SERIES	SOIL CLASS	SOIL (fr)	SLOPE (%)	DOMINANT SPECIES (USFS)	VALUE	REVISED VALUE	NOTES
38	92	22D	Dufer silt loam	3E		12-25		2	MU	
39	70	22E	Dufer silt loam	4E		25-40		2	MU	
40	2	23	Dune Land	8S		2-25		1	LOW	
41	45	24	Endersby loam	2E	1	0-3		3	HIGH	Prime if irrigated
42	50	25E	Fraily loam	6E		3-30	6 Douglas Fir	2	ML	
43	47	25F	Fraily loam	7E		30-70	6 Douglas Fir	1	LOW	
44	23	26	Hermiston silt loam	2C	1	0-3		3	HIGH	Prime if irrigated
45	101	27F	Hessian Complex	7S		30-70		1	LOW	
46	178	28E	Hessian-Skyline Complex	7S		5-40		1	LOW	45/35
47	39	29E	Ketchly loam	6E		3-30	6 Douglas Fir	2	ML	
48	1	29F	Ketchly loam	7E		30-60	6 Douglas Fir	1	LOW	
49	30	29F	Ketchly loam	7E		30-65	6 Douglas Fir	1	LOW	
50	56	2D	Bakeoven very cobbly loam	7S		2-20		1	LOW	
51	229	30E	Licksillet very stony loam	7S		15-40		1	LOW	
52	81	31F	Licksillet extremely stony loam	7S		40-70		1	LOW	
53	238	32A	Maupin loam	2C	2E	0-5		3	HIGH	Prime if irrigated
54	17	32B	Maupin loam	3E	3E	5-12		2	MU	
55	7	33	Maupin variant loam	2C	1	2		3	HIGH	Prime if irrigated
56	185	34F	Nansene silt loam	7E		35-70		1	LOW	
57	18	35	Pedigo silt loam	3W	2W	0-3		3	HIGH	Prime if irrigated
58	11	36	Quincy loamy, fine sand	3W	3W	0-3		2	MU	
59	44	37	Riverwash	8W		(river bends)		1	LOW	
60	41	38	Rock Outcrop - Rubble Land Complex	8S		30-100		1	LOW	
61	25	39	Rock Outcrop - Xeropsamments Complex	7S		0-30		1	LOW	
62	477	3D	Bakeoven-Condon Complex	7S		2-20		1	LOW	70/30
63	20	40E	Sherar cobbly loam	6E		5-45		2	LOW	
64	7	41F	Sherar very cobbly loam	7E		45-70		1	LOW	
65	12	42B	Sinamox silt loam	3C		1-7		3	HIGH	Prime if irrigated
66	17	42C	Sinamox silt loam	3E		7-12		2	MU	
67	20	42D	Sinamox silt loam	3E		12-20		2	MU	
68	18	42E	Sinamox silt loam	6E		20-45		2	ML	
69	7	42F	Sinamox silt loam	7E		45-70		1	LOW	
70	134	43F	Skyline-Hessian Complex	7S		40-65		1	LOW	60/20
71	33	44	Tygh fine sandy loam	3W	3W	0-3		3	HIGH	Prime if irrigated
72	16	45B	Van Horn loam	2E	2E	0-8	4 Douglas Fir	3	HIGH	All areas Prime
73	23	45C	Van Horn loam	3E	4E	8-12	4 Douglas Fir	2	MU	
74	18	45D	Van Horn loam	3E	6E	12-20	4 Douglas Fir	2	MU	

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WASCO COUNTY SOILS  
(All)

CASE	FREQUENCY	SOIL CODE	SOIL SERIES	SOIL CLASS	SOIL (H)	SLOPE (%)	DOMINANT SPECIES (UBFS)	VALUE	REVISED VALUE	NOTES
75	5	45E	Van Horn loam	4E	6E	20 - 35	4 Douglas Fir		MU	
76	1	46B	Walla Walla Silt Loam	3E		3 - 7		2	HIGH	Prime if irrigated
77	100	46B	Walla Walla silt loam	3E	3E	3 - 7		3	HIGH	Prime if irrigated
78	143	46C	Walla Walla silt loam	3E	4E	7-12		2	MU	
79	2	46D	Walla Walla Silt Loam	4E	6E	12-20		2	MU	
80	204	46D	Walla Walla silt loam	4E	6E	12-20		2	MU	
81	2	46c	Walla Walla Silt Loam	3E		7 - 12		2		
82	205	47D	Walla Walla silt loam	4E	6E	12 - 20		2	MU	
83	149	47E	Walla Walla silt loam	4E		20 - 35		2	MU	
84	81	48E	Walla Walla silt loam	4E		20 - 35		2	MU	
85	5	48F	Walla Walla silt loam	7E		35 - 50		2	ML	
86	202	49B	Wamic loam	3E		1 - 5	Ponderosa Pine	3	HIGH	Prime if irrigated
87	1	49C	Wamic Loam	4E		5 - 12	Ponderosa Pine	2	MU	
88	226	49C	Wamic loam	4E		5 - 12	Ponderosa Pine	2	MU	
89	169	4C	Bakeoven-Maupin Complex	7S		0 - 12	Ponderosa Pine	1	LOW	70/30
90	219	50C	Wamic loam	4E		5 - 12	Ponderosa Pine	2	MU	
91	134	50D	Wamic loam	4E		12 - 20	Ponderosa Pine	2	MU	
92	106	50E	Wamic loam	6E		20 - 40	Ponderosa Pine	2	ML	
93	11	50F	Wamic loam	7E		40 - 70	Ponderosa Pine	1	LOW	
94	343	51D	Wamic-Skyline complex	6E		2 - 20		2	MU	60/20
95	6	52B	Wapinitia variant silt l	3E		1 - 7		3	HIGH	Prime if irrigated
96	1	53E		4E	6E	5 - 40		2	ML	
97	17	53E	Warden silt loam	4E	6E	5 - 40		2	ML	
98	397	54B	Watama-Wapinitia silt l	3S		0 - 5		3	HIGH	Prime if irrigated
99	104	54C	Watama-Wapinitia silt loams	3E	3E	5 - 12		2	MU	60/30
100	7	54D	Watama-Wapinitia silt loams	3E		12 - 20		2	MU	60/30
101	5	54E	Watama-Wapinitia silt loam	4E		20 - 35		2	ML	60/30
102	11	55B	Wato very fine, sandy loam	3C		3 - 7		2	MU	
103	21	55C	Wato very fine, sandy loam	3E		7 - 12		2	MU	
104	6	55D	Wato very fine, sandy loam	3E		12 - 20		2	MU	
105	4	55E	Wato very fine, sandy loam	3E		20 - 35		2	MU	
106	1	56B	Wind River Fine Sandy Loam	6S	3E	0 - 8	Ponderosa Pine	3	HIGH	Prime if irrigated
107	19	56B	Wind River fine sandy l	6S	3E	0 - 8	Ponderosa Pine	3	HIGH	Prime if irrigated
108	15	56C	Wind River fine, sandy loam	6E	4E	8 - 12	Ponderosa Pine	2	MU	
109	166	57F	Wrentham-Rock outcrop complex	7S		35-70		1	LOW	65/20
110	4	58B	Mutton-Gravelly Loam	6E		12 - 30		2	LOW	
111	4	58F	Mutton-Gravelly Loam	6E		30 - 55		2	LOW	

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WASCO COUNTY SOILS  
(AII)

CASE	FREQUENCY	SOIL CODE	SOIL SERIES	SOIL CLASS	SOIL (r)	SLOPE (%)	DOMINANT SPECIES (UBFS)	VALUE	REVISED VALUE	NOTES
112	7	59D	Rockly Extremely Gravely Silt Loam	7S		2-20		1	LOW	
113	126	5C	Bakeoven-Watama Complex	7S		0-12		1	LOW	70/30
114	31	6E	Bald cobbly loam	6S		5-45	6 Douglas Fir	2	LOW	
115	20	7F	Bald very cobbly loam	7S		45-75	6 Douglas Fir	1	LOW	
116	9	8F	Bald Variant cobbly loam	7S		45-75	6 Douglas Fir	1	LOW	
117	2	9E	Bindle-Bins Association	6S-6E		1-30	5 Douglas Fir	2	LOW	55/30
118	8	9E	Bindle gravelly loam, Bins gravel	6S,6E		1-30	6, 5 Douglas Fir	2	LOW	55/30
119	4	9F	Bindle-Bins Association	7S,7E		30-70	6, 5 Douglas Fir	1	LOW	45/40
120	3	GP	Gravel Pt					0		
121	191	W	Water					0		
122	1	n/a	Nothing							

Revised 3/28/96

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WASCO COUNTY SOILS  
(Shaniko Area)

FREQUENCY	SOIL CODE	SOIL SERIES	SOIL CLASS	SOIL (U)	SLOPE (%)	VALUE	REVISED VALUE	NOTES
5	AgC	Agency loam	4E	3E	1 -- 12	2	MU	
95	BaC	Bakeoven very cobbly loam	7S		2 -- 20	1	LOW	
88	BcC	Bakeoven-Condon Complex	7S		2 -- 20	1	LOW	70/30
41	CnC	Condon silt loam	3E	3E	2 -- 12	2	MU	
122	CoC	Condon -- Bakeoven Complex	4E		2 -- 20	2	ML	70/30
98	CtE	Curant and Tub silt loams	6E		8 -- 40	2	LOW	
90	CtF	Curant-Tub	7E		40 -- 70	1	LOW	
27	DaE	Day clay	6E		8 -- 40	1	LOW	
1	DeE	Degner gravelly loam	6E		12 -- 40	2	LOW	
3	DoE	Donnybrook stony loam	6E		10 -- 40	2	LOW	
8	ErB	Era loam	4E	3E	1 -- 8	2	HIGH	Prime if irrigated
18	ErE	Era soils	6E		8 -- 40	2	LOW	
1	GP	Gravel Pit				0		
128	LcE	Lickskillet very stony loam	7S		15 -- 40	1	LOW	
75	LeF	Lickskillet extremely stony loam	7S		40 -- 70	1	LOW	
2	LgE	Lithgow and Sorf soils	6E		20 -- 50	2	LOW	
6	LhF	Lithgow Variant	7S		50 -- 70	1	LOW	
13	MmC	McMeen silt loam	3E		1 -- 12	2	MU	
10	MtB	Metolius sandy loam	6C	3E	0 -- 8	2	HIGH	Prime oif irrigated
26	Mx	Mixed alluvial land	3W		0 -- 2	2	ML	
1	Pa	Playas	4W		0 -- 2	2	LOW	
8	Ra	Rail clay	4W	4W	0 -- 2	2	ML	
57	Rh	Riverwash	8W		0 -- 1	1	LOW	
48	Rr	Rock Outcrop-Rubble Land Complex	8S		NA	1	LOW	70/25
27	Ru	Rough Broken and Stony Land	6E		20 -- 70	1	LOW	
56	SiE	Simas cobbly silty clay loam	6E		10 -- 35	2		
81	SmF	Simas very stony clay loam	7S		35 -- 70	1	LOW	
74	SnE	Simas soils	6E		8 -- 40	2	LOW	
5	SoE	Sorf very stony loam	7S		5 -- 40	1	LOW	
58	TgC	Tub gravelly clay loam	3E		1 -- 12	2	MU	
82	ThE	Tub cobbly clay loam	6E		12 -- 40	2	LOW	
11	TuF	Tub very stony clay loam	7S		40 -- 70	1	LOW	
101	TvD	Tub very stony soils	6E		1 -- 20	1	ML	
6	W	Water				0		
32	Wd	Willowdale loam	4C	3C	0 -- 2	2	MU	
126	WtF	Wrentham-Rock Outcrop Complex	7S		35 -- 70	1	LOW	65/20
1	n/a	Nothing				0		

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muid:c	pmuname1	aut	ac./aum	mual:i
673042F	SINAMOX SILT LOAM, 45 TO 70% SLOPES	0.40	2.22	918
673046B	WALLA WALLA SILT LOAM, 3 TO 7% SLOPES	0.50	1.82	5197
673046C	WALLA WALLA SILT LOAM, 7 TO 12% SLOPES	0.510	1.82	9789
673046D	WALLA WALLA SILT LOAM, 12 TO 20% NORTH SLOPES	0.518	1.70	10122
673047D	WALLA WALLA SILT LOAM, 12 TO 20% SOUTH SLOPES	0.530	2.00	8168
673047E	WALLA WALLA SILT LOAM, 20 TO 35% NORTH SLOPES	0.600	1.67	4260
673048E	WALLA WALLA SILT LOAM, 20 TO 35% SOUTH SLOPES	0.640	2.00	2553
673048F	WALLA WALLA SILT LOAM, 35 TO 50% SOUTH SLOPES	0.640	2.00	235
673053E	WARDEN SILT LOAM, 5 TO 40% SLOPES	0.800	3.33	1716
673054B	WATAMA-WAPINITIA SILT LOAMS, 0 TO 5% SLOPES	0.200	4.76	16367
673054C	WATAMA-WAPINITIA SILT LOAMS, 5 TO 12% SLOPES	0.210	4.76	2581
673054D	WATAMA-WAPINITIA SILT LOAMS, 12 TO 20% SLOPES	0.210	4.76	177
673054E	WATAMA-WAPINITIA SILT LOAMS, 20 TO 35% SLOPES	0.210	4.76	414
673055B	WATO VERY FINE SANDY LOAM, 3 TO 7% SLOPES	0.400	2.50	719
673055C	WATO VERY FINE SANDY LOAM, 7 TO 12% SLOPES	0.400	2.50	1502
673055D	WATO VERY FINE SANDY LOAM, 12 TO 20% NORTH SLOPES	0.350	2.86	242
673055E	WATO VERY FINE SANDY LOAM, 20 TO 35% NORTH SLOPES	0.350	2.00	439
673057F	WRENTHAM-ROCK OUTCROP COMPLEX, 35 TO 70% SLOPES	0.358	2.80	17028

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COPY

Jefferson / Wasco Crook Counties - Survey Area 666

ac-94

Acres Per AUM

muid:c	pmname1	ac/aum	mual:i
666AGC	AGENCY LOAM, 1-12% SLOPES	2.37	4460
666BAC	BAKEOVEN VERY COBBLY LOAM, 2-20% SLOPES	6.67	47344
666BCC	BAKEOVEN-CONDON COMPLEX, 2-20% SLOPES	4.65	95147
666CNC	CONDON SILT LOAM, 2-12% SLOPES	2.00	20544
666COC	CONDON-BAKEOVEN COMPLEX, 2-20% SLOPES	2.82	38639
666CRB	COURT SANDY LOAM, 1-8% SLOPES	3.56	1364
666CTE	CURANT AND TUB SILT LOAMS, 8-40% SLOPES	2.51	48031
666CTF	CURANT AND TUB SILT LOAMS, 40-70% SLOPES	2.83	48101
666DAE	DAY CLAY, 8-40% SLOPES	3.05	4583
666DEE	DEGNER GRAVELLY LOAM, 12-40% SLOPES	1.94	3508
666DGC	DEGNER SOILS, 2-12% SLOPES	5.27	1553
666DOE	DONNYBROOK STONEY LOAM, 10-40% SLOPES	2.37	7299
666ERB	ERA SOILS, 1-8% SLOPES	3.28	3915
666ERE	ERA SOILS, 8-40% SLOPES	1.52	6539
666GGE	GINSER GRAVELLY SILT LOAM, 12-40% SLOPES	2.37	2271
666GNF	GINSER VERY STONY LOAM, 35-60% SLOPES	4.27	7076
666GPF	GINSER AND PRAG SOILS, 40-70% SLOPES	3.66	15850
666GRD	GRIBBLE COBBLY LOAM, 5-20% SLOPES	2.37	15976
666LAC	LAMONTA COBBLY LOAM, 1-12% SLOPES	2.37	9956
666LCE	LICKSKILLET VERY STONY LOAM, 15-40% SLOPES	3.05	46633
666LEF	LICKSKILLET EXTREMELY STONY LOAM, 40-70% SLOPES	3.05	68328
666LGE	LITHGOW AND SORF SOILS, 20-50% SLOPES	5.03	2976
666LHF	LITHGOW VERY SHALY LOAM, DEEP VARIANT, 50-70% SLOPES	6.10	2031
666MAC	MADRAS LOAM, 1-12% SLOPES	2.37	16423
666MBE	MADRAS SOILS, 12-40% SLOPES	2.37	4001
666MCD	MCCOIN LOAM, 5-20% SLOPES	2.37	5308
666MMC	MCMEEN SILT LOAM, 1-12% SLOPES	3.28	11580
666MTB	METOLIUS SANDY LOAM, 0-8% SLOPES	3.56	2964

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muic:c	pmuname1	ac/aum	mual:i
666PRE	PRAG COBBLY LOAM, 5-40% SLOPES	2.24	20738
666PVE	PRAG VERY STONY LOAM, 12-50% SLOPES	2.24	1502
666RA	RAIL CLAY	0.53	1962
666SEF	SEARLES VERY STONY LOAM, 35-65% SLOPES	4.27	5147
666SIE	SIMAS COBBLY SILTY CLAY LOAM, 10-35% SLOPES	3.05	76205
666SMF	SIMAS VERY STONY CLAY LOAM, 35-70% SLOPES	3.56	43920
666SNE	SIMAS SOILS, 8-40% SLOPES	2.13	15784
666SOE	SORF VERY STONY LOAM, 5-40% SLOPES	4.27	4298
666TGC	TUB GRAVELLY CLAY LOAM, 1-12% SLOPES	3.05	30347
666THE	TUB COBBLY CLAY LOAM, 12-40% SLOPES	2.67	45711
666TUF	TUB VERY STONY CLAY LOAM, 40-70% SLOPES	2.67	16337
666TVD	TUB VERY STONY SOILS, 1-20% SLOPES	3.05	23649
666UTE	UTLEY SHALY LOAM, 10-50% SLOPES	1.52	3412
666VEE	VENATOR SHALY LOAM, 10-40% SLOPES	2.67	3957
666WD	WILLOWDALE LOAM	0.74	7872
666WRF	WRENTHAM-ROCK OUTCROP COMPLEX, 35-70% SLOPES	3.23	18042

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**MINORITY REPORT  
AS SUBMITTED BY**

**KATHLEEN CANTRELL  
JUNE 5, 1996**

**APPENDIX F**

*P* 960430 (87)

and 50 feet from the centerline of lateral irrigation ditches. Substandard setbacks must receive prior approval from the effected irrigation district.

I. Special Agricultural Considerations

The following "Special Agricultural Considerations" are included with approved land use applications as information that property owners need to be aware of in the EFU. The following information is voluntary, but it is recommended that the information be recorded on deeds to insure that future property owners and successors in interest are aware of the circumstances that may effect this EFU property. *Are included but not exclusive to*

*add* \* Animals (at lg?) Control  
Irrigation District: \_\_\_\_\_ Contact: \_\_\_\_\_

\* Water Rights: \_\_\_\_\_ Contact: \_\_\_\_\_  
Prevent loss of water rights to instream use.

\* Weed Control: \_\_\_\_\_ Contact: \_\_\_\_\_  
Control of noxious weeds required.

\* Fire Protection: \_\_\_\_\_ Contact: \_\_\_\_\_  
Fire break and stand pipes required

\* Big Game WR: \_\_\_\_\_ Contact: \_\_\_\_\_  
Fencing recommendations provided.

\* Livestock Fencing \_\_\_\_\_ Contact: \_\_\_\_\_  
*u-phases*  
Open or closed range, must observe appropriate fencing standards.

Chemical Tres. Pass.

(1) ~~Approval of all non farm dwellings on parcels that are currently fenced or adjacent or contiguous to an existing agricultural operation that is fenced shall maintain adequate fences as defined in ORS 607.007 to form a continuous guard and defense against the ingress or egress of livestock into or from the lands enclosed by said fence.~~

~~(2) All landowners receiving land use approval in the EFU zone shall be provided with copies of State Weed Control regulations ORS 570.505-570.545 and made aware of the importance of weed control in an agricultural zone.~~

~~(3) All landowners receiving land use approval on lands in the EFU and Big Game Winter Range shall receive Oregon Department of Fish and Wildlife fencing recommendations and made aware of their unique location within a Big Game~~

Section 3.210 - Exclusive Farm Use Zone

Winter Range area:

J. Disqualification of Special Assessment

The Approving Authority shall not grant final approval of the building permit for a dwelling not in conjunction with farm use in the EFU Zone that is receiving special assessment under ORS 308.370, 308.765, 321.730, 321.352, or 321.815. The owner of the parcel on which the dwelling is to be located shall provide evidence to the Approving Authority that:

1. The County Assessor has been notified that the parcel is no longer being used as farmland; and
2. Request has been made to the County Assessor to disqualify the parcel for special assessment under ORS 308.370, 308.765, 321.352, 321.730, or 321.815; and

\*  
ORS 308

3. Pay any additional tax imposed upon disqualification from special assessment; and
4. Record on the Property Deed within 30 days of land use approval and prior to building permit approval the following: This parcel (legal description) has been disqualified from special assessment pursuant to WCLUDO Section 3.210(E) and shall not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel by meeting the minimum lot size for commercial agriculture enterprises within the area.

Will pay the difference between tax due (or) current tax

K. Standards for Farm Ranch Recreation

1. The tract or parcel is currently employed in a commercial agricultural operation as defined by ORS 215.203 and WCLUDO 3.210(D)(2)
- \* 2. The "recreation" in the Farm Ranch Recreation proposal shall not be the primary enterprise of the tract, but shall be subordinate to the commercial agricultural operation in scope, scale and impact.
3. The farm management plan shall specifically quantify the size, scale, and operational characteristics of the commercial agricultural operation and the Farm Ranch Recreation proposal.

\* refer to Blk's 4. law for structure

The Farm Ranch Recreation structures shall be located on land that is "generally unsuitable" as defined in WCLUDO Section 3.210(E).

Kim  
May 15, 1996

2mi ~~to~~ review radius for ~~classification~~ range - public review

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Exhibit 3 & 4

\* Farm Ranch Rec. Farm provides income \* Pay diff. on tax

Section 3.210 - Exclusive Farm Use Zone

subcommittee to be farmers and residents of Wasco County representing the North, Central and Southern portions of the county. The subcommittee will meet annually the third week following the date of adoption of the revised WCLUDO 3.210 to review the summary of land use actions taken in the EFU zone for the previous year. The purpose of the review will be:

- a. To ensure that the administration of the EFU zone as evidence by administrative and quasi-judicial decisions is to:

Primarily:

- Protect private property rights of the agricultural producer.
- Keep agricultural operation viable.
- Protect farm practices and the right to farm.
- Preserve and protect farmland.

And Secondly:

- Protect private property rights, on agricultural zoned land, of the farmer and non-farmer alike; that is, the right of property is the reasonable and lawful use of the agricultural land.

Identify any potential problems or issues that were not foreseen during the development of the ordinance; and

- c. Identify any changes or alterations, due to approval of land uses in the EFU zone, to the over all land use agricultural pattern of the county; and
- d. Address any new information (i.e. soils, OSU commodity productivity, new legislation, water rights, natural disasters, etc) that may effect the administration of the EFU zone and ordinance; and
- e. Prepare a summary report to be sent to the County Court and ARG members outlining the findings of the subcommittee; and
- f. If necessary, convene the entire Agricultural Resource Group to address the need to make necessary changes to the EFU map and zoning ordinance based on findings from the annual summary.

3. ~~Review the concept of implementing a cost recovery program for the upgrading, expansion or new construction of Wasco County roads.~~

4. Review the concept of implementing a clustering concept for areas within one mile

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EXHIBIT

user fee for road use?

in the 1950's, and he is uncomfortable with basing road improvement requirements on it. He noted, for instance, that from a road safety standpoint, the shoulder widths on the chart are insufficient. He recommended as a starting point for discussion that the requirements be changed to:

1. Up to 50 ADT would require a minimum 18' gravel surface.
2. From 50 - 250 ADT would require a minimum 24' gravel surface.
3. Over 250 ADT would require a minimum 24' paved surface with minimum 6' gravel shoulders.

He clarified these ADT's are based on actual traffic counts, not the number of dwellings.

Jacobsen asked if the Road Department would be willing, on an individual application basis, to make a determination of the degree of road improvement needed for a proposed dwelling. Boldt said yes, they would.

Regarding costs, Boldt said he feels that any new resident should share in any costs to improve their access road, but there is no mechanism to determine the percentage they would be responsible for, since the general public also uses those roads.

The group suggested either a <sup>= USEX FOR</sup> Systems Development Charge (SDC) could be established, or the new resident would be required to form a Local Improvement District (LID). Van Vector indicated he believes the SDC would create fewer objections than an LID.

Ericksen asked where the ADT's are measured, since a person at the far end of a road will have a lower ADT than someone at the beginning. Boldt replied the traffic counts are usually measured at the intersection of where there is a major change in traffic uses, and improvements are based on the ability to handle the most heavily used areas, with adjustments based on the lower usages farther out.

Van Vector asked about how areas such as Pine Hollow should be treated, where the recreational non-residents put the ADT over 250, which would require a 24' paved surface with 6' shoulders on Boldt's recommended chart.

Boldt did not have an answer, but he said the message he wants to convey is that the reality is we have a continuum of increased use, and we need to deal with how to maintain roads that are serviceable. He believes that most people could live with a requirement for a minimum of 18' wide gravel surface for those roads which do not require an all-weather surface, based on the ADT's.

Van Vector suggested this committee would not be able to determine appropriate amount to charge for a SDC, as Boldt had said earlier that would take an engineer to figure out.

will this be added condition

COST RECOVERY = LID or SDC

?  
Add Hunting season & other rec. uses ??  
agree

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Exhibit 5  
Wasco Co. Rd. Dept.

Aug. 18, 1857  
[Oregonian]

differently because of the absence of an oath from that which he would with a thousand oaths piled upon him sworn upon the Evangelists and in the presence of the great God.

For these reasons, Mr. President, I shall vote against the adoption of the resolution. It binds nobody. We can not compel men to take the oath as a condition of sitting here. Suppose a man refuses to take it, would you expel him from the floor? Some men swear not at all; some men have conscientious scruples against swearing, and for various reasons they may decline to take the oath. I simply oppose it because it is not necessary, and I think if precedent was searched after it would be found unusual.

Mr. OLNEY: This convention, as I take it, is a select committee of the people of Oregon appointed to draw up the frame-work of a constitution to be reported back for their acceptance or rejection. The act of the legislature—the organic law of this body—which is but a resolution appointing this committee, does not require that the members should be under oath. It is the people, the constituency which appointed this convention who alone can impose restrictions, or declare the qualifications of its members. That resolution of the people—that law of our organization—does not impose upon us any such necessity—the necessity of being under oath, in order that we may discharge our duties here. Then, is there anything in the nature of the business to be transacted requiring it? It is a clerical work, the preparation of a draft which is to receive vitality from the final act of the people. But when it receives the approbation of the people, even then it can not take effect. It can not then exert the power of displacing the territorial government, and become the actual government of this people, until it has passed the ordeal of congress; and that congress being under oath to see that the constitution of the United States is not violated, they will see that the constitution which we frame, and the people ratify, shall not be in conflict with that instrument. But

suppose it should contain anything conflicting with the constitution of the United States, and it should in that shape pass congress, the conflicting provision would be a nullity. The federal constitution declares that that constitution and the laws made under it, shall be the supreme law of the land, anything in the laws or constitutions of any state to the contrary notwithstanding. So that if we should, in our ignorance or our folly, insert a provision conflicting with that constitution, and it should be adopted by the people of Oregon, and should pass the ordeal of congress, it would be of no binding effect whatever.

There is no necessity then for imposing any such restraint as this resolution contemplates. But if there be anything in the nature of the business of framing a constitution, that requires the framers to be under oath; it is not the committee who draft, but the people who ratify, that should be sworn. If we adopt this rule I think we ought to put the people under oath when they vote upon the constitution. I, for one, deny the power of this convention to impose such conditions upon any of its members. What is the restraint? It is to declare that no member shall be qualified to exercise the functions of a delegate, who is not first sworn. The law of our organization does not give to this convention power to impose upon its members any other qualifications than such as the people themselves have imposed. The qualifications that shall entitle delegates to act have been prescribed by the people through their legislature, and I deny the power to impose any others.

Suppose, as has been suggested, that a delegate should decline to take that oath, where is the power to enforce it? Is he not already qualified, and if so, how can you exclude him from this body? You have the physical power to expel him from this hall; but have you the legal power to do it? I deny it. It can not be found, sir. For myself, I do not wish to be put to the necessity of deciding whether I

Aug. 18, 1857  
[Oregonian]

will submit to of power, will exist, merely and good order and maintain to act here tions than t do not desire making such ber of this will not do i

Mr. Olney say in suppo

Mr. Dryer cast a firebr to prescribe s for reasons tional reason that any se against the r from Linn ( no power to oath, [no] m members of gentleman fr endorses it. whole proced largement of night (laught an oath to th (Renewed lau

Mr. Lovejo; indefinitely p

Mr. OLNEY upon this qu

Mr. Watki that the po from Benton rect—that th in the appoin it is the very bodies. They their own p choose to den questionably l But I am op upon principl for I venture history of the this country, v tenths of then taken. In the the constitutio not been the

960430 (87) Exhibit 6  
Constitution

RECEIVED

JUN 05 1996

WASCO CO. PLAN. & ECON. DEV.

June 3, 1996

MINORITY REPORT TO BE ATTACHED TO THE MAY 22, 1996  
RECOMMENDATION OF THE WASCO COUNTY EXCLUSIVE FARM  
USE LAND USE AND DEVELOPMENT ORDINANCE AND TO BE  
ATTACHED TO THE FINAL DRAFT.

The hundreds of hours of volunteer time that the  
Agricultural Resource Committee has contributed to  
this project has been a waste of taxpayers dollars.

My dissenting vote is a reflection of strong  
personal beliefs.

I do not believe my neighbors property rights have  
been protected by the committees narrowly directed  
conclusions.

- \* #1 trade off item, 160 acre minimums to remain in open space to obtain a homesite
- \* 40 acre parcel size for perennial within two miles of scenic areas excluded the rest of Wasco County.
- \* Approving authorities for land uses
  - Oregon Dept. of Agriculture (1)
  - Oregon Dept. of Fish & Wildlife (2)
  - County Road Dept. (2)
  - Fire Districts (2)
  - Irrigation Districts (2)
  - County Weed Dept. (2)
  - State of Oregon/Water Rights (2)
  - State of Oregon/Live Stock fencing & Animals at large (2)
- \* Disqualifying farm tax status & paying tax difference 10 years back (3)
- \* Farm Ranch Recreation - prove farm is primary source of income (4)
- \* Cost recovery for road use via local Improvement Districts (LID's) or Systems Development Charge (SDC) (5)
- \* To name a few

Now that we have been through this exercise in futility it is time to back out of the forest so we can finally see the trees.

I understand this committee has been operating from the premise of a mandated agenda known as "Goal 3", The Exclusive Farm Use Zone.

The agenda is apparently designed to limit the options as to what we can do with private property. Is this what our founding fathers meant when they said we have unalienable rights to the pursuit of happiness? Have all the protection that these mandates promised to bring about, brought us happiness? Is it not real happiness to have control of our own property? Are we free? Free to do what?

- \* free to purchase a license to open and operate a private business?
- \* free to purchase a license for permission to fish or own an animal?
- \* free to buy a permit to build a shed in our backyard?
- \* free to buy a permit to build/remodel our home?
- \* free to hire a committee to decide whether one can live on ones own property?

These are some of my reasons for a dissenting vote.

My dissenting vote should remind us that we live in a REPUBLIC, endowed with our God given unalienable rights given to us by our Creator and enumerated in our BILL of RIGHTS and guaranteed by our CONSTITUTIONS.

All we have to do is read the Constitution to understand that a REPUBLIC protects the individual rights to life, liberty and the pursuit of happiness. This means we have the right to control our own property as long as we do not infringe on our neighbors rights. Does this leave room for concepts such as consensus and majority rule ? If our rights are walked upon we are promised under both constitutions of our great nation and state, that we have the opportunity to have our grievances tried by an impartial jury before a court of our peers.... a procedure known as "due process". My recommendation is for government to return to its proper role. Allow the owner of property to control and utilize his property to his benefit as long as he does not harm or injure others.

Section 3.210 - Exclusive Farm Use Zone

- 5. ~~Conflicts directed at or between a Farm Ranch Recreation Operation and an existing farming operation should use the County Ordinance developed for complaint mediation as specified in WCLUDO 3.210(M).~~

Added

L. Challenging Soil Class Rating

The soil class or soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

USDA New "approving authority"

- 1. \* 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
- 2. Submits the following:
  - \* 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) Statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (b) of this section and finds the analysis in the report to be soundly and scientifically based.

M. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process

All those receiving land use approval in the EFU zone shall be advised and receive a copy of the following:

- 1. ~~State of Oregon and Wasco County Right to Farm Ordinance. Appendix B.~~
- 2. ~~Wasco County Farming and Forestry Practices Protection and Complaint Mediation Ordinance. Appendix C.~~

Follow up Audit and Review Process

- 1. The Wasco County Planning Department shall maintain an annual counter log and summary of administrative and planning commission decisions, regarding all actions in the EFU zone.
- 2. The Agricultural Resource Group (Appendix D) shall appoint a three member

see if Rt to farm ordinance was repealed by mediation process" N. Kim

960430 (87)

Exhibit 1 \* Approving Authority

Since those who have massaged the agenda to manipulate this committee and forced us into certain parameters, we have been creating a plan that is apparently intended to control property. That has forced us into a battle, has it not? Have we not been working with limited choices? Speaking of choices -- would you prefer the guillotine or the lions den?

I recall reading that George Washington said government is like fire, in that it behaves as an obedient servant or a fearful master!

Submitted by,

*Kathleen Cantrell*  
Kathleen Cantrell

1. 1(1)18, Exclusive Farm Use Ordinance Table Of Contents attached.
2. I16 *ibid*.
3. J(3)17 *ibid*.
4. K(2)17 *ibid*.
5. N(3)19 *ibid*.  
Wasco County Agricultural Resource Group, May 1, 1996 Draft page 3
6. Addendum attached, History of the Constitution of Oregon. pg.74

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