

IN THE COUNTY COURT OF THE STATE OF OREGON **FILED**  
WASCO COUNTY

IN AND FOR THE COUNTY OF WASCO 2003 SEP 12 P 3:15

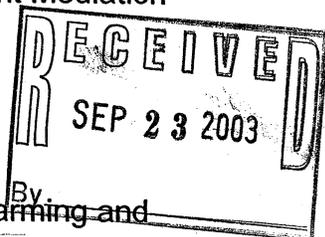
IN THE MATTER OF THE ADOPTION OF )  
AN AMENDED ORDINANCE PROVIDING )  
PROTECTION FOR GENERALLY ACCEPTED )  
FARMING AND FORESTRY PRACTICES AND )  
ESTABLISHING A COMPLAINT MEDIATION )  
PROCESS. )

MAREN LEBRETON COATS  
COUNTY CLERK  
AMENDED  
ORDINANCE

THE WASCO COUNTY COURT ORDAINS AS FOLLOWS

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

Section 2. PURPOSE.



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

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

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

1            Section 3. DEFINITIONS. As used in this Ordinance:

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

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

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

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

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

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

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

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

5 (a) Any unlawful act;

6 (b) The willful growing of infested, infected or diseased  
7 plants or animals;

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

10 (8) "DESIGNEE" means a Case Developer, appointed by the Six  
11 Rivers Community Mediation Services Director.

12 (9) "COMPLAINT MEDIATION PROCESS"

13 (a) Means a procedure established by the Wasco County Court  
14 to provide a forum for the mediation of Wasco County residents  
15 complaints regarding farming or forestry practices or facilities,  
16 including, but not limited to: odors from domestic livestock  
17 operations; blowing smoke from heaters, smokers and slash  
18 burning; noise from machines, including those devices  
19 producing sounds designed for agricultural purposes in order to  
20 frighten predacious birds or animals away from agricultural  
21 crops; drift or contamination from chemical and fertilizer  
22 applications; hours of operation; and littering of County roads;  
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1 (b) Shall consist of at least two (2) mediators, working  
2 cooperatively in a co-mediation role. Both mediators shall  
3 maintain a neutrality and confidentiality throughout and beyond  
4 the process. The Six Rivers Community Mediation Services  
5 Director or Designee shall serve as a consultant to the  
6 Complaint Mediation Process. Consultation may come prior to,  
7 during or after the actual mediation, as appropriate.  
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9 (10) "PEER REVIEW BOARD" is a Board appointed, as needed, by  
10 the Wasco County Court to advise the Six Rivers Community Mediation  
11 Services on whether a disputed resource use activity is a generally accepted  
12 farming or forest practice or facility. The Board shall consist of 5 persons who  
13 regularly are involved in a resource use within the County, at least 3 of whom  
14 are regularly involved in the same type of disputed resource use being heard  
15 through the Complaint Mediation Process.  
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17 Section 4. PROTECTING RESOURCE USES.

18 (1) Wasco County shall not support a resource use nuisance  
19 complaint or claim for relief by nonresource uses or any persons or property  
20 associated therewith unless the resource use complaint response and  
21 mediation procedure of Section 5 of this Ordinance has been utilized.  
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23 (2) This Section applies regardless of:

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

25 (b) Whether the nonresource use purportedly affected

26 existed before or after the occurrence of the resource use;

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- (c) Whether the resource use or nonresource use has undergone any change or interruption; and
- (d) Whether the resource use is inside or outside an urban growth boundary to the extent permissible under State law.

Section 5. RESOURCE USE COMPLAINT RESPONSE AND MEDIATION PROCEDURE.

- (1) Initial resource use complaints involving farming or forestry practices or facilities shall:
  - (a) Be referred to the Six Rivers Community Mediation Services during regular operating hours or the Wasco County Sheriff's Office after hours and on weekends; and
  - (b) Be responded to as soon as possible.
- (2) The responding Six Rivers Community Mediation Services Agent or Designee shall:
  - (a) Use Six Rivers Community Mediation Services' procedures to respond to a complaint;
  - (b) Notify the Wasco County Court about the documented complaint as soon as possible and report on the effort and/or success in resolving the complaint.
- (3) If the initial contact is through the Wasco County Sheriff's Department, or any other law enforcement agency, the responding officer should:

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- (a) Contact the complainant and document the complaint; and
- (b) Encourage the complainant to call or meet with the resource user and attempt a one-on-one resolution of the complaint; and
- (c) Provide both complainant and resource user with written documentation of the complaint, including, but not limited to the name and address of complainant, the name and address of the resource user, and a description of the nature of the complaint; and
- (d) Inform both parties that the complaint will be referred to Six Rivers Community Mediation Services and that they will be contacted by that agency; and
- (e) Deliver a copy of the complaint to the Six Rivers Community Mediation Services as soon as possible.

(4) If the complainant and resource user that are principles in a documented resource use complaint within Wasco County request assistance beyond that provided by the Case Developer, the Case Developer shall implement the Complaint Mediation Process.

- (5) The Complaint Mediation Process shall:
- (a) Set a date to hear the complaint from both complainant and resource user within a reasonable amount of time; and
  - (b) Work with both complainant and resource user in an attempt to resolve the complaint.

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(6) The Complaint Mediation Process may:

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

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

(c) Meet with the complainant and resource user any number of times if the Mediators determine that progress is being made toward a resolution of the complaint.

(7) If the Complaint Mediation Process is unable to resolve the complaint, the complainant and resource user shall be advised by the Six Rivers Community Mediation Services of their additional options including, but not limited to, seeking advice from private counsel.

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

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

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

Section 8. SEVERABILITY CLAUSE. If any portion of this Ordinance is held invalid by a Court of competent jurisdiction, such decision shall apply only with respect to the specific portion held invalid by the decision. It is the intent of Wasco County that the remaining portions of this Ordinance continue in full force and effect.

Section 9. EMERGENCY CLAUSE. This Ordinance being immediately necessary for the preservation of the public well being, an emergency is declared to exist and this Ordinance shall take effect immediately upon adoption.

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.

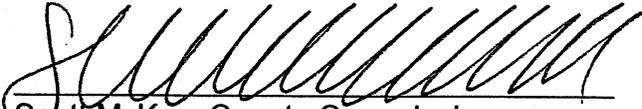
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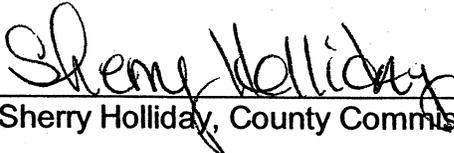
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DONE AND DATED this 3rd day of September, 2003

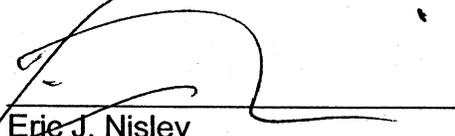
WASCO COUNTY COURT

  
\_\_\_\_\_  
Dan Ericksen, County Judge

  
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Scott McKay, County Commissioner

  
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Sherry Holliday, County Commissioner

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric J. Nisley  
Wasco County District Attorney