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Building Inspection Policy
& Procedure
No. 114

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POLICY REGARDING AGRICULTURAL BUILDINGS AND EQUINE FACILITIES EXEMPT FROM PERMITS

Background & Discussion:

This policy is being updated in order to consolidate the current policies within the Community Services Division and to clarify when an application is required to make alterations to existing exempt structures.

Oregon Revised Statute (ORS) 455.315, reproduced below, exempts certain agricultural building and equine facilities from permits.

455.315 Exemption of agricultural buildings, agricultural grading and equine facilities. (1) The provisions of this chapter do not authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.

(2) As used in this section:

(a) "Agricultural building" means a structure located on a farm or forest operation and used for:

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

(b) "Agricultural building" does not mean:

- (A) A dwelling;
- (B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
- (D) A structure used by the public; or
- (E) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated

thereunder.

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

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

- (A) Stabling or training equines; or
- (B) Riding lessons and training clinics.

(e) “Equine facility” does not mean:

- (A) A dwelling;
- (B) A structure in which more than 10 persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or
- (D) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

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

ORS 455.315 requires that for an equine facility to be exempt from the provisions of the state structural specialty code it must be located on a farm. An exempt agricultural building must be located on a farm or forest operation. In July of 2008 the State of Oregon Building Codes Division (BCD) issued formal interpretations regarding agricultural exempt structures and equine facilities. In both interpretations the state ruled that the determination for what constitutes a farm is vested with the local planning department in conjunction with adopted zoning ordinances. Shortly after this ruling the Marion County Planning Director issued a memo determining what according to definitions in the Marion County Zoning Ordinances constitutes a farm. These definitions have been incorporated into this policy. Since 2008 additional interpretations regarding other subjects related to exempt structures have been issued by BCD and published on their website.

It is important to note that exempt structures are only exempt from the requirements of the structural specialty codes. All other work, such as electrical, plumbing, mechanical, septic requires a permit and must be done in conformance with the appropriate specialty code or in the case of septic work, Oregon Administrative Rule chapter 340, divisions 71 and 73.

There have been situations where a new property owner has unknowingly begun using an exempt structure for uses not allowed by statute. In order to help inform future (or potential future) owners of the limitations of an exempt structure, a declaratory statement has been developed for the owner to record with the Marion County Clerk.

In the county there are a large number of agricultural buildings that were constructed when permits were not required, or prior to Marion County having a formalized application process for approving exempt structures. Many of these structures are utilized as agricultural buildings or equine facilities. In those cases when alterations are being made, that would typically require a permit and there is no evidence that the structure is not being used in a manner that is inconsistent with ORS 455.315, it is not the intent of the county to require an agricultural building/equine facility application be submitted for approval.

Policy:

1. In order to determine whether a new structure is exempt under ORS 455.315 an application and a complete site plan must be submitted and reviewed.
2. In order to qualify for an agricultural building exemption the applicant must state that the structure will be used as part of the farm business, some portion of the property shall be receiving farm deferral, and the zone in which the property is located must permit farm use.
3. In order to qualify for an equine facility exemption some portion of the property shall be receiving a farm deferral and the zone in which the property is located must permit farm use.
4. A declaratory statement (Agricultural Building/Equine Facility) must be recorded.
5. When an owner is proposing to make structural alterations to an existing agricultural/equine facility on a farm that does not change the footprint of the structure, and there is no evidence that the structure's use is inconsistent with ORS 455.315, an exemption application is not required.