Introduction
Thank you for agreeing to participate in DLCD’s Multi County Code Update Project and on your Regional Project Team. As you know, the Multi-County Code Update project is developing model exclusive farm use (EFU) and forest resource zones in two phases:

- Drafting “non-discretionary” code sections for those uses where statutory and rule requirements are prescriptive; and
- Drafting “discretionary” code sections, which include those where local jurisdictions have some flexibility or discretion (e.g., review criteria for conditional uses and design or siting criteria, and purpose statements)

For our first Project Team meeting, we’d like to introduce you to the format and content of the non-discretionary code sections and discuss as a group how counties incorporate and regulate uses on resource land through local zoning and land use ordinances. We’d then like to discuss the discretionary code sections related to regulating uses in resource zones, including:

A. Zone purpose statements
B. Definitions
C. Review process
D. Authorized Uses
E. Siting and design standards
F. Conditional Use review standards

We know that some of these code sections represent areas that have presented challenges to counties in the past due to the lack of guidance or ambiguity in state requirements. The goal of this project is to develop model code language and guidance for each of the sections listed above. To assist in this endeavor, and in preparation for a substantive conversation at our first meeting, we’d like you to use this workbook as a guide to explore and record your experience and understanding of existing practices for these areas where counties have some discretion in the uses permitted in resource zones and the local review criteria. The workbook includes objectives for the model code, some background on each element and a series of questions to consider and answer prior to the first Project Team meeting. The workbook is formatted in Microsoft Word to allow you to record your responses directly in the document. We have also left room after the “question” sections to allow you to jot down your thoughts in a printed version.
A. Zone Purpose Statements

Model Code Objective
Ensure resource zone purpose statements reflect statewide planning goals, statutes and associated rules and comprehensive plan policy. Develop model language that reflects state objectives and identifies specific types of local objectives for farm, forest and mixed farm/forest zones that could be articulated in the purpose statements.

Background
In most cases, the purpose statements for resource zones echo the statewide planning goals:  Goal 3 language (preserve and maintain agricultural lands) and Goal 4 (conserve forest lands). In addition to reflecting the state-articulated objectives for EFU and forest lands and applicable comprehensive plan designations or policies, zone purpose statements can be tailored to a jurisdiction’s individual resource zone, especially where there is more than one EFU or forest zone in the code or where a mixed farm/forest zone is designated. Local resource zone purpose statements can reflect community-specific values and highlight the jurisdiction’s commitment to protecting land features and economies specific to that zone.

Section A Questions
Does your county have, or know of, exemplary purpose statement language? Cite language and/or include code section citation below.

Click here to enter text.
What specific features of resource lands do you highlight in purpose statements in your adopted code? *Identify examples below.*

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B. Definitions

Model Code Objective
Develop model code definitions that include terms that are defined in ORS Chapter 215 and OAR 660, Divisions 6 and 33 (and included in the model code), as well as other key terms.

Background
A number of uses and terms used in statute or rule are either undefined or are not sufficiently defined to allow for clear application in the local permitting process. Counties often define these uses and terms, but definitions can vary widely. The following table lists uses and terms that have presented challenges to counties, indicates their applicability to EFU or forest zones, and notes whether they are defined in rule.

Table A: Status of certain definitions

<table>
<thead>
<tr>
<th>Use/Term</th>
<th>EFU</th>
<th>Forest</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Use</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33, but not defined.</td>
</tr>
<tr>
<td>Agri-tourism</td>
<td>X</td>
<td></td>
<td>Term used in Division 33, but not specifically defined.</td>
</tr>
<tr>
<td>Bed and Breakfast Facility</td>
<td>X</td>
<td></td>
<td>Term not used in Division 33, but interpreted as allowed under a home occupation or room and board.</td>
</tr>
<tr>
<td>Commercial Activities in Conjunction with Farm Use</td>
<td>X</td>
<td></td>
<td>Term used in Division 33, but not defined; case law applies.</td>
</tr>
<tr>
<td>Commercial Farm</td>
<td>X</td>
<td></td>
<td>Commercial agricultural enterprise is defined in Division 33.</td>
</tr>
<tr>
<td>Utility Facility</td>
<td>X</td>
<td></td>
<td>Term used in Division 33, but not specifically defined.</td>
</tr>
<tr>
<td>Farm Operator</td>
<td>X</td>
<td></td>
<td>Term used in Division 33, but defined only in one instance.</td>
</tr>
<tr>
<td>Farm Unit</td>
<td>X</td>
<td></td>
<td>Term used in Division 33, but not defined.</td>
</tr>
<tr>
<td>Farm stand</td>
<td>X</td>
<td></td>
<td>Term defined in Division 33 &amp; clarified in case law.</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33, but not well-defined.</td>
</tr>
<tr>
<td>Commercial Power Generating Facility</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33, but not defined.</td>
</tr>
<tr>
<td>Public Park</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33 with cross-reference to unclear standards in Division 34.</td>
</tr>
<tr>
<td>Private Park</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33, but not defined; case law applies.</td>
</tr>
<tr>
<td>Temporary Use</td>
<td>X</td>
<td>X</td>
<td>Term used in Divisions 6 &amp; 33, but not defined.</td>
</tr>
</tbody>
</table>
Some general observations regarding resource-related definitions:

- Accurate and precise definitions are particularly important for resource-related terms because how a term is defined is associated with regulatory requirements and permitting procedures.
- Some undefined terms have been subject to extensive litigation (e.g. commercial activities in conjunction with farm use; private park) that has provided some clarification.
- Local definitions do not uniformly include terms defined in ORS Chapter 215 or OAR 660, Division 33 or Division 6.
- In local codes, resource-related definitions may be found in general provisions and/or under the respective EFU, forest or mixed farm/forest zones.
- The list of resource-related definitions includes terms or uses that are not exclusive to resource lands (e.g. “accessory use”, “park”). If included in the general provisions, resource-related definitions may have unintended impacts on non-resource zone code sections.
- Terms included and defined in general provisions of a code may be defined in ways that are more narrowly defined in rule.

Section B Questions

How are resource zone-related definitions codified (statute or rule definitions directly applied, in general provisions, or under the respective EFU, forest or mixed farm/forest zones)? Explain and include applicable code citation below, if appropriate.

Click here to enter text.
Are your resource zone definitions consistent with statute and rule definitions? How do your code definitions differ? Refer to the definitions in the model zones; cite specific local examples below.

Click here to enter text.

What other terms are currently used in your codes that require definitions or for which you would like to develop new definitions? Explain and list below.

Click here to enter text.
C. Review Process

Model Code Objective:
Develop a model approach and template for updating/codifying review procedures applicable to resource land.

Background:
The draft of the model zones categorizes uses as “permitted,” “subject to standards” or “conditional.” Permitted uses may be reviewed in a ministerial or administrative review process. Uses “subject to standards” may be reviewed by any mechanism a county chooses to employ – an administrative review or hearings officer or planning commission hearing – as long as it complies with relevant statutes. While the draft model zone does not indicate the need for notice and review for permitted uses, a county may nevertheless choose to require them for its own purposes, such as for a site design review required by another section of the ordinance. Conditional uses are reviewed through a quasi-judicial process by a planning director, hearings officer or planning commission. Decisions on all uses that are subject to discretionary review criteria require notice, whereas uses subject to clear and objective review criteria do not.

Section C Questions
How are your adopted code procedures currently organized? Have they been standardized into general Type I – IV categories (e.g., Ministerial, Administrative, Quasi-Judicial, Legislative)? Explain and include code citation below, if appropriate.

Click here to enter text.
What procedures do you currently apply to uses in resource zones? How are relevant procedures broken down for permitted, subject to standards and conditional uses? *List examples and include code citation below, if appropriate.*

Click here to enter text.

Are there desired changes to an existing review process for any particular uses? *List examples and include code citation below, if appropriate.*

Click here to enter text.
D. Authorized Uses

Model Code Objective
Clarify in model code uses that must be allowed in resources zones and identify those uses that the counties have discretion to include or not include.

Background:
Counties must allow and include in their codes (or directly apply) all ORS 215.283(1) uses. These are permitted “A” uses and some “R” uses in Division 33 Table 1. Most are listed as “A” uses in the model code, but when they are “R” in Table 1, they are listed as “subject to standards” (STS) in the model code.

Counties may allow, but are not required to allow, uses listed at ORS 215.283(2) “after required review” for compatibility on farmland (“R5” uses in Division 33 Table 1); all of these are listed as conditional uses in model code, although some have additional state standards that apply.

For forest lands, counties must allow and include in their codes all OAR 660-006-0025 Section (2) and (3) uses, and may allow uses listed under section (4). All section (4) uses are conditional and subject to state compatibility review standards and some have additional state standards that apply.

Any or all authorized uses in resource zones may be subject to local base zone siting and design standards. Table B shows the applicable state and local review criteria based on the type of authorized use.

Table B: Applicable Review Criteria

<table>
<thead>
<tr>
<th>Uses</th>
<th>State Review Criteria</th>
<th>Local Review Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Compatibility</td>
<td>Standards</td>
</tr>
<tr>
<td>Permitted (A)</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Permitted w/ standards (STS)</td>
<td>--</td>
<td>X</td>
</tr>
<tr>
<td>Conditional w/ compatibility (C)</td>
<td>X</td>
<td>--</td>
</tr>
<tr>
<td>Conditional w/ compatibility &amp;</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>standards (C + STS)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

¹Additional clear and objective siting and design criteria that are related to the type of use, such as landscape buffers or hours of operation, may be required by the local jurisdiction as long as applying the criteria does not result in denial of the use. Substantive review criteria in addition to any required by statute or rule may not be applied.

²A local government can add discretionary criteria for A and STS uses as long as they don’t result in actual or effective denial of the use.
Section D Question

How consistent are the authorized uses and applicable review criteria in your resource zones with Table B and the applicable use lists and tables in the model (non-discretionary) zones? List examples and include code citation(s) below, if appropriate.

Click here to enter text.
E. Conditional Use Review Standards

Model Code Objective
Identify which ORS 215.283(2) uses should include local review criteria and specify what these criteria should address. Include in model code appropriate and measurable requirements to include in the analysis of significant adverse impacts that should be addressed as part of the conditional use approval process.

Background
Counties may choose whether to list conditional uses in their EFU and forest zones. If a use is not listed, counties may not allow that use. The uses listed in the “Conditional Uses” section of the EFU model zone are from ORS 215.283(2). Criteria for approval in ORS 215.296 (and OAR 660-033-0130(5)) require that the applicant demonstrate that:

- The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Conditional use criteria for forest lands applicable to uses listed at OAR 660-006-0025(4) include:

- The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations.

These review criteria are intended to ensure compatibility of proposed uses with nearby farming and forestry activities. In addition, many conditional uses are subject to other state review standards. Beyond these and local siting and design standards, counties may require that other standards be met or place conditions of approval on the proposed use. Examples of uses for which counties often adopt specific review criteria of their own include:

- Commercial activities in conjunction with farm use
- Composting operations and facilities
- Home occupations
- Public parks
- Private parks
- Farm stands
- Solid waste disposal facilities
Unlike uses that are permitted outright, a conditional use is not presumed to be allowed in every situation, on every site. Counties may approve or deny conditional use applications, or approve them subject to conditions. Counties regulate conditional uses to minimize impacts to farm/forest operations and conflicts with neighboring uses, and apply conditions to minimize potential detrimental effects of the proposed use.

### Section E Questions

What conditional uses in resource zones currently have local standards in your code? *List examples and include code citation(s) below, if appropriate.*

Click here to enter text.

What uses have been traditionally difficult to regulate, and where would additional/specific requirements be particularly helpful? *List examples and include code citation(s) below, if appropriate.*

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F. Siting and Design Standards

Model Code Objective
Develop appropriate model siting and design standards and recommend associated review processes.

Background
Counties may subject both permitted and conditional uses in resource zones to local siting and design standards (Table B “base zone” local review criteria). Examples of such standards include minimum parcel frontage and building setbacks. Such standards may be applied across the board to all authorized uses in code.

For forest lands, counties are required to have siting and design standards that implement the state Siting Standards for Dwellings and Structures (OAR 660-006-0029) to promote compatibility with forest and farm practices and minimize risks associated with wildfire. Counties have some discretion in what specific standards they set. Pursuant to the rule, standards can include setbacks from adjoining properties, clustering near or among existing structures, siting dwellings and structures close to existing roads, and siting on that portion of the parcel least suited for growing trees.

Counties may also have siting and design standards that are generally applicable for development on resource land as well as non-resource land. Examples include standards for vision clearance, signs, off-street parking and access (Table B “objective” local review criteria).

Local siting and design standards may be either clear and objective or discretionary. Depending on the use, adequate standards may already be in the adopted code, or may need to be revised or developed and adopted into the code.

Other, more detailed siting standards may be applied to specific uses, for instance, those uses that are anticipated to generate significant traffic, including agri-tourism, wineries, farm stands, outdoor and mass gatherings.

Agri-tourism is an example of a use where standards found in ORS 215 prescribe limitations to the use, but where the local jurisdiction logically should identify the appropriate review procedure and require conformance with standards that mitigate health and safety issues associated with the use such as with traffic management and hours of operation.

Counties could also have local siting and design standards for farm stands, such as standards related to off-street parking (amount, location, paving materials), site circulation, vision clearance, lighting, and signage. In addition, recent case law has clarified the types and extent of promotional activities that may be part of a farm stand. Expansion of existing composting operations and facilities is an example of a use that could reasonably be subject to additional local “nuisance” standards, such as those related to access, traffic impacts, hours of operation and noise, vibration and odor.
Section F Questions

How do you currently apply local siting and design standards? Do they apply to all uses? *List examples and include code citation(s) below, if appropriate.*

Click here to enter text.

Do you have, or know of, exemplary siting or design standards? *List examples and include code citation(s) below, if appropriate.*

Click here to enter text.
Where would additional/specific requirements be particularly helpful? *List examples and include code citation(s) below, if appropriate.*

Click here to enter text.