

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** A hearings officer does not err in interpreting a code provision that allows the “preparation of land for cultivation” that is a “customarily accepted agricultural activity” without a permit in agricultural zones to require the landowner to demonstrate that a proposal to cover an existing landfill with 100,000 cubic yards of soil not only involves “preparation of land for cultivation” but is also a “customarily accepted agricultural activity.” *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Any inquiry into whether a proposal to place 100,000 cubic yards of soil on an existing landfill is a “customarily accepted agricultural activity” is necessarily a fact-specific inquiry. In answering that question, a hearings officer does not err in considering as relevant facts the absence of ongoing agricultural activity on the property and the lack of specificity in the landowner’s plans for post-fill agricultural use. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Any inquiry into what is a customarily accepted agricultural activity necessarily requires whether other similar farms have engaged in the proposed activity. A hearings officer does not err in considering the absence of evidence that other farms have placed 100,000 cubic yards of fill in a 13-acre area to prepare the land for cultivation. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Given the history of the subject property as a landfill, a hearings officer does not err in considering the lack of evidence that it is customary for farmers to charge a fee to persons to deposit soil on farm land, in determining whether a proposal to place 100,000 cubic yards of fill on farm land is a “customarily accepted agricultural activity” allowed without a permit, or something else that requires a permit. *Ehler v. Washington County*, 52 Or LUBA 663 (2006).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** The only limitations placed on uses that may be permitted as “commercial uses in conjunction with farm use” within the meaning of ORS 215.283(2)(a) are that the proposed use must: (1) enhance the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates; and (2) satisfy ORS 215.296. *Hiebenthal v. Polk County*, 45 Or LUBA 297 (2003).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Testimony from fruit growers that a fruit processing facility provides a market for their fruit and, as a result, provides incentive to those growers to continue their agricultural operations and a condition of approval that requires the operator of the fruit processing facility to grow fruit on its property that will be processed at the facility is sufficient to establish that the proposed fruit processing facility will enhance the farming enterprises of the local agricultural community. *Hiebenthal v. Polk County*, 45 Or LUBA 297 (2003).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** The fact that wineries are a permitted use in EFU zones under ORS 215.213(1) and 215.283(1) does not mean that wineries are “agricultural uses” permitted in a rural residential zone, where the code definition of “agricultural uses” does not include wineries, and wineries are not among the uses allowed in the rural residential zone. *Roth v. Jackson County*, 40 Or LUBA 531 (2001).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** ORS 197.685 imposes a legislative duty to consider non-EFU-zoned lands to provide areas that would supplement seasonal farmworker housing allowed outright on EFU-zoned land. ORS 197.685 does not require that an applicant for quasi-judicial approval for seasonal farmworker housing in EFU zones demonstrate that non-EFU-zoned lands are unavailable to provide such housing. *Durig v. Washington County*, 40 Or LUBA 1 (2001).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** ORS 197.685(3) and (4) allow local governments to adopt clear and objective approval criteria for seasonal farmworker housing that do not have the result of discouraging needed seasonal farmworker housing, but do not *require* local governments to adopt additional approval criteria, and do not make unrelated approval criteria applicable in the absence of legislation incorporating those criteria. *Durig v. Washington County*, 40 Or LUBA 1 (2001).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Nothing in the context of the term “kennel” as used in ORS 215.283(2)(m) demonstrates that the intended meaning of that term is narrower than the plain dictionary definition, which refers to establishments for the breeding and boarding of dogs. A proposal to breed and propagate dogs for sale is thus a “kennel” subject to county regulation and not a “farm use” allowed outright in an EFU zone. *Tri-River Investment Co. v. Clatsop County*, 37 Or LUBA 195 (1999).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** The definition of “farm use” in ORS 215.203(2)(a) does not include the extraction, processing and bottling of a mineral resource such as water. *DLCD v. Curry County*, 32 Or LUBA 358 (1997).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** The county's findings classifying livestock sales and shows as a “farm use” rather than as “stockyard and animal sales” are inadequate when the challenged decision does not relate the general findings to the property at issue, and therefore does not establish that the proposed use complies with the approval standards. *Collins v. Klamath County*, 32 Or LUBA 338 (1997).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Where the county determines that an apparent conflict exists between state statute and county code regarding whether livestock sales and shows are permitted on EFU land, LUBA will defer to the county's decision to clarify the nature of the use through a quasi-judicial use classification hearing. *Collins v. Klamath County*, 32 Or LUBA 338 (1997).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** The breeding and raising of one's own horses is a farm use. *Moody v. Deschutes County*, 22 Or LUBA 567 (1992).

**3.2.3 EFU Statute/Ordinances – Farm Uses – Other Uses.** Where a code separately lists "boarding of horses for profit" and "commercial activities in conjunction with farm use" as distinct conditional uses in certain exclusive farm use zones that another zone lists "commercial activities in conjunction with farm use" but does not list "boarding of horses for profit" as a conditional use, it is reasonable to infer that the latter use was not intended to be allowed in the other zone. *Moody v. Deschutes County*, 22 Or LUBA 567 (1992).