

3.5 EFU Statute/Ordinances – Statutory Policy. While a local government’s authority to regulate land use and development is generally broad under Oregon law, a local government’s authority to regulate land use on exclusive farm use (EFU)-zoned land is governed by state law. Land that is planned and zoned for exclusive farm use must be used exclusively for defined farm uses or limited listed exceptions provided by state law. Production of marijuana is an outright permitted farm use on land zoned EFU. While state law controls permitted uses on farm land and the regulation of marijuana production, local governments may adopt reasonable “time, place, and manner” regulations for marijuana production. *MJAI Oregon 5, LLC v. Linn County*, 78 Or LUBA 366 (2018).

3.5 EFU Statute/Ordinances – Statutory Policy. A county’s decision is “outside the range of discretion allowed the local government under its comprehensive plan and implementing ordinances,” pursuant to ORS 197.835(10)(a)(A), where petitioner’s application for marijuana production meets a county’s clear and objective standards for marijuana production on EFU-zoned land, no evidence was submitted that contradicted petitioner’s assertion that it could and would meet the county’s marijuana production standards, and the county relied upon factors and considerations in denying petitioner’s application that are not contained in the applicable approval criteria. Accordingly, the proper disposition of the county’s denial is reversal with an order instructing the county to grant approval of the application. *MJAI Oregon 5, LLC v. Linn County*, 78 Or LUBA 366 (2018).

3.5 EFU Statute/Ordinances – Statutory Policy. Interpreting ORS 215.283(2)(L), which authorizes a temporary hardship dwelling “in conjunction with” an existing dwelling, to require that the temporary hardship dwelling be sited in close proximity to the existing dwelling, so as to minimize the need for new supporting residential infrastructure, is consistent with the overriding legislative policy of preventing “agricultural land from being diverted to non-agricultural use.” *Holmberg v. Deschutes County*, 77 Or LUBA 109 (2018).

3.5 EFU Statute/Ordinances – Statutory Policy. In adopting ORS 215.275, the legislature struck a particular balance between the siting of utility facilities in EFU zones and the statutory policy to preserve farmland for farm uses. Once that balance is struck, however, the county’s task is to apply the terms of the statute. Nothing in ORS 215.275 requires direct consideration of agricultural land preservation policies, external to the statute, in applying its terms, or “balancing” the technical difficulty of alternatives against farmland preservation. *Sprint PCS v. Washington County*, 42 Or LUBA 512 (2002).

3.5 EFU Statute/Ordinances – Statutory Policy. The legislative intent of ORS 215.705 lot-of-record provisions is to allow property owners who acquired property prior to 1985 to subsequently transfer the lot to designated family members or entities without losing the right to build a dwelling on that property. *DLCD v. Yamhill County*, 33 Or LUBA 362 (1997).

3.5 EFU Statute/Ordinances – Statutory Policy. Even if a proposed use does not significantly interfere with accepted farming practices on adjacent agricultural lands or materially alter the stability of the overall land use pattern of the area, it may nevertheless be incompatible with farm uses and inconsistent with the intent and purpose of ORS 215.243. *DLCD v. Crook County*, 26 Or LUBA 478 (1994).

3.5 EFU Statute/Ordinances – Statutory Policy. ORS 215.243(2), relating to the preservation of agricultural land in large blocks, does not prohibit all divisions of agricultural land. *Dobson v. Polk County*, 22 Or LUBA 701 (1992).

3.5 EFU Statute/Ordinances – Statutory Policy. The legislative policy of ORS 215.243(2) to preserve agricultural land in large blocks is not correctly interpreted to preclude *any* division of an existing farm parcel. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.5 EFU Statute/Ordinances – Statutory Policy. County interpretation of its plan agricultural land policy to allow it to balance the applicant’s need for additional acreage for a golf course, against the county policy favoring retention of EFU-zoned land in large blocks for agricultural use, is a correct interpretation of the county policy. *Douglas v. Multnomah County*, 18 Or LUBA 607 (1990).