



Oregon

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May 6, 2025

TO: 2025 Farm Stand Rulemaking Advisory Committee (RAC)

FROM: Hilary Foote, Farm and Forestland Specialist

CC: Barbara Boyer, LCDC Commissioner, Gordon Howard, Community Services Division Manager, Alexis Hammer, Legislative and Policy Manager, Alyssa Bonini, Legislative and Policy Analyst, Casaria Taylor, Senior Rules Coordinator, Silas Lobnibe, Grants and Periodic Review Coordinator, Donna Silverberg, DS Consulting

RE: Introduction to the 2025 Farm Stand Rulemaking

Good afternoon and thank you for your commitment to this important effort. The Department of Land Conservation and Development (DLCD) is grateful for your contributions. We are pleased that Commissioner Barbara Boyer will be our liaison to the Land Conservation and Development Commission (LCDC or commission). We will also be assisted by Donna Silverberg, DS Consulting for facilitation.

We appreciate that you are all volunteering your time to support this effort and we are hoping to be efficient. To that end, we have recorded some introductory content for you to view prior to our first meeting. These videos provide background on our charge from the commission, our operating guidelines, and describe general agency expectations for participating on a RAC. Links to those videos as well as our charge are provided below. A copy of our operating principles is attached. This document includes our charge from the commission.

While the RAC is advisory to staff and not technically subject to Oregon's Public Meetings Law, DLCD treats RAC processes as if they were. The Operating Guidelines describe these expectations. DLCD staff have prepared and recorded an orientation video to help committee members involved in various department rulemakings understand both the rulemaking process and their responsibilities as a member of the RAC. Prior to our first meeting, please watch the short orientation for RAC members video on DLCD's YouTube channel at <https://youtu.be/--q7ckHL94I>.

So that RAC members have an opportunity to review and consider key issues before we meet, we aim to provide meeting materials one week in advance of each RAC meeting. Please make your best effort to review materials prior to each meeting. Materials for our first meeting have been posted to the [rulemaking webpage](#). We have also included links to those materials below. If you have comments on the materials that you would like us to share with the RAC before the discussions, we are happy to do that. Those comments, and any public comments received, will be included in the updated meeting packets prior to the discussions.

Orientation Materials:

- General Rulemaking Advisory Committee Member Orientation Video (mentioned above): <https://youtu.be/--q7ckHL94I>
This video serves as an introduction to rulemaking advisory committees process and member guidelines. This describes the general expectations for participating on a DLCD RAC.
- 2025 Farm Stand Rulemaking RAC Orientation Video: <https://youtu.be/wlSef5SMJT4>.
This is an introduction video specifically for members of the 2025 Farm Stand Rulemaking RAC. This video provides background information on the charge and charter specific to this RAC.
- Packet for Meeting 1, May 16, 2025: All materials are posted on the rulemaking website at <https://www.oregon.gov/lcd/lar/pages/rulemaking.aspx>
 - Agenda
 - 2025 Farm Stand Rulemaking RAC Membership List
 - 2025 Farm Stand Rulemaking RAC Operating Principles
 - Farm stand background paper

Thank you for volunteering your time to support this effort!

If you have any questions or concerns about any of the posted materials, please don't hesitate to contact me.



Hilary Foote

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To provide comments to the Land Conservation and Development Commission please contact:



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Farm Stand Rulemaking Advisory Committee Operating Principles

Updated May 2, 2025

I. Charge to the Rulemaking Advisory Committee

The Land Conservation and Development Commission (LCDC) initiated rulemaking on March 20, 2025, to consider potential changes to Oregon Administrative Rules concerning farm stands. The Commissioners in charge to the Rulemaking Advisory Committee (RAC) is to explore the five topics identified during the Legislative agri-tourism work group, below:

- a) Primary Use Test (% of income on farm products)
- b) Promotional Activities Outside and Inside Farm Stand Structures
- c) Activities that Promote Sale of Farm Products, Farm Operation Itself, or Agriculture (i.e. on-farm education)
- d) Prepared Foods with a Direct Tie to the Farm Operation or the Local Agricultural Area
- e) Impacts on Neighboring Farms

II. Organizational Structure

State and commission policy requires that community members be involved in the drafting of rules. DLCD's goal in convening this RAC is to receive individual and group guidance on developing Oregon Administrative Rules.

Membership. According to the commission's charge, RAC membership includes a balance of perspectives including farm stand operators, local governments, and advocates.

RAC members are serving in an advisory role to DLCD staff, who will draft and present recommendations to the LCDC for their consideration and final decision-making. RAC members are encouraged to communicate their guidance at RAC meetings or in writing, preferably within one week following a RAC meeting.

DLCD staff. Staff will provide committee support and rules coordination. Donna Silverberg will provide facilitation. Staff commit to communicate diverging opinions on the rule language proposal in their staff report presented to LCDC for consideration.

LCDC Liaison. The LCDC Chair will appoint a commission liaison for the rulemaking process.

LCDC. At the end of the public process, LCDC will be the final decision-maker on these rules.

III. Meetings

Attendance. Members are expected to make a good faith effort to attend all meetings. Because of the collaborative nature of the meetings, it is important to have the members attend consistently for continued discussions and shared learning.

Summaries. DLCD staff will prepare draft and final meeting summaries. Staff ask RAC members to communicate any corrections within one week of receiving the draft summary. All final summaries will be posted on the [project webpage linked here](#).

Public Comment. DLCD will livestream the meetings on YouTube, take public comment, and provide meeting summaries posted to the department's rulemaking webpage. Written public comment is accepted at any time to farmforest.comment@dlcd.oregon.gov. As time allows, the facilitator will make time on the meeting agendas for verbal public comment during the RAC meetings.

Public Hearing. When the rules are published in draft for public comment, LCDC will accept written and verbal public comments at their September 25-26, 2025, meeting.

Close of Public Comment. Staff anticipate that public comment for this rulemaking will close on October 5, 2025, at 11:55 pm.

IV. Member Expectations

Collaboration. In this context, collaboration means that all members engage in a process of listening to and sharing information that is important to them and the group they represent so the group has an increased likelihood of meeting as many of the stated and shared needs as possible. To support this, RAC members agree to:

1. Approach the discussions with curiosity and a willingness to hear others' views to support joint problem solving.
2. Bring up issues and concerns for discussion at the earliest point in the process.
3. Share all relevant information that will assist RAC members in understanding the variety of needs so the RAC can achieve its goals.
4. Keep their government or organization's leadership informed of recommendations formulated by the RAC.

5. Review and comment on draft and revised rules, impact statements, and other associated strategies and documents.

Preparation. Members will make a good faith effort to review meeting materials provided by DLCD in advance of each meeting.

No Surprises. Members will make a good faith effort to notify staff in advance of actions outside the RAC which could affect the proposals, recommendations, or agreements being discussed.

Press and Public Forums. Members are asked to refer media inquiries about this process to DLCD staff. If a member does speak to the media, DLCD asks that RAC members identify that their views are their own, and not those of the RAC or DLCD.

V. Agreements

Staff and RAC members agree to apply the following:

- Listen with respect, seeking to understand each other's perspectives without interrupting.
- Allow the facilitator to balance speaking time while respecting time and agenda meeting goals. Speak again only after others who want to speak have done so.
- Address issues and questions, rather than people and organizations.
- As appropriate, discuss topics at the RAC rather than offline.
- RAC members are “blind copied” on meeting communications to avoid “meeting” on email where there is not public notice. If members have information they would like distributed to the full group, please send that to farmforest.comment@dlcd.oregon.gov.
- Silence cell phones and other devices during meetings; stay on mute unless speaking to minimize background noise.
- Please stay engaged during the full meeting. While breaks are understandable, DLCD encourages members to keep their cameras on for optimum communication.
- As needed, agree to disagree without being disagreeable.
- Once the RAC has discussed and decided an issue, it will not return to the issue without a majority of RAC members agreeing to do so.

VI. Schedule

Staff expect that the RAC will meet for three-hour meetings in May, June (2), July and September of 2025.

Staff anticipate that the proposed rules will be provided to LCDC for hearing at their September 25-26, 2025, meeting, and for adoption at their October 23-24, 2025, meeting.



2025 Farm Stand Rulemaking Rulemaking Advisory Committee Meeting #1

May 16, 2025, 1:00 p.m. – 4:00 p.m.

A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Casaria Taylor at 971-600-7699, casaria.taylor@dlcd.oregon.gov or by TTY: Oregon Relay Services (800) 735-2900

This meeting will be available for viewing at: <https://youtube.com/@OregonDLCD>

Agenda

10 min	Introductions
50 min	Process Clarity - RAC Roles, Responsibilities, and Operating Principles
20 min	Public comment (limited to 3 minutes per person)
15 min	Stretch Break
15 min	Discussion on public comment
60 min	Discussion on the primary use of a property hosting a farm stand
10 min	Next Steps and Questions
<p>Action items (to be undertaken between meetings):</p> <ul style="list-style-type: none"> - Review and comment on meeting notes and any proposed rule language revisions. - Email any additional thoughts or comments on these topics to Hilary.Foote@DLCD.Oregon.gov and nancy@dsconsult.co within the week. Please indicate if your comments are for Staff's consideration or if you wish them to be included in the next published meeting packet. 	
Upcoming Meetings	
June 3, 2025, 9:00 a.m. – noon	RAC Meeting #2
TBD	RAC Meeting #3
July 18, 2025, 9:00 a.m. – noon	RAC Meeting #4
September 25-26, 2025	Land Conservation and Development Commission Rulemaking Hearing
TBD	RAC Meeting #5
October 5th, 2025	Public Comment Period Closes

DLCD staff contacts:

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Department of Land Conservation and Development

Farm Stands Backgrounder

Updated May 5, 2025

Farm Stands

Introduction:

Land in exclusive farm use zones is mainly for farming, with only certain other uses allowed by law. One permitted use is a farm stand that sells locally grown crops or livestock. The farm stand can also sell some related retail items and host events to promote its products. However, income from events and retail sales cannot exceed 25% of the farm stand's total earnings.

The existing statutes for farm stands are ORS 215.213(1)(r)/215.283(1)(o):

“...the following uses may be established in any area zoned for exclusive farm use: ...Farm stands if:

“(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and”

“(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.”

Land protected under exclusive farm use zoning is meant to be reserved for farm operations. In addition to farming, other non-farm uses that are listed by the legislature may also be allowable. That list of uses is divided into two categories that planners refer to as “sub-1 uses,” those listed in ORS 215.283(1) and ORS 215.213(1) or “sub-2” uses, those listed in ORS 215.283(2) or ORS 215.213(2).¹ The first category, sub-1 uses, are uses that the legislature generally finds to be compatible with an agricultural environment and neighboring farm operations so long as the standards established in statute are applied.

¹ ORS 215.213 applies to Washington and Lane Counties. ORS 215.283 applies to all other counties in Oregon. The reasons for this differentiation are irrelevant to this discussion.

The second category, sub-2 uses, are uses that the legislature has found may or may not be compatible with an agricultural environment depending on the circumstances of the specific proposal. Sub-2 uses must be found to be compatible with surrounding farm and forest uses through a public review process.

Farm stands are what is what planners call a “sub-1” use – that is a use listed in ORS 215.213(1) or ORS 215.283(1). Because it is a sub-1 use, every county in Oregon must allow farm stands in their ordinance and they must apply only the standards in statute. A county may not apply additional criteria to farm stands. Because it is a sub-1 use, a county does not consider as part of its review process whether or not a farm stand may have impact on the surrounding agricultural area.

While the Land Conservation and Development Commission (LCDC) has the authority to interpret and clarify the statutory provisions copied above, it cannot revise the standards established by the legislature or contradict them.

Brief History:

- Prior to 1993, DLCD had interpreted farm stands that were simply selling farm products produced on the underlying farm to be considered a part of ‘farm use’ for which no land use permit was required, while farm stands where the majority of the products came from other farms were required to be permitted as commercial activities in conjunction with farm use subject to county review.
- Farm stands were added to the list of uses allowable in exclusive farm zones in 1993. The gross income limitation for sales of incidental and retail items at farm stands, and the limitation on structures were in the original statutory language.
- The allowance for promotional activities to be conducted at farm stands for a fee was added in 2001 (2001 HB 3924). The legislative history indicates that the addition was intended to be a minor modification to that allow fee-based activities while avoiding an unintended consequence of some other large scale commercial activity or restaurant going into a farm zone as a sub-1 use.
- In 2006 LCDC added language to administrative rules adopted by the Commission to implement Oregon’s agricultural statutes to clarify that Oregon farm products that are processed could be sold as though they were ‘farm crops’ rather than ‘incidental retail items’. LCDC clarified that processed farm products, like ciders, jellies and jams, were not subject to the 25% gross income limitation for “incidental items and fees from promotional activity.” The rulemaking record clarifies that it was not the intent of the proposed amendment to allow out-of-state crops and livestock processed in Oregon to be sold at farm stands.

- In 2024 LCDC added language to the same administrative rules to clarify that, at a minimum, counties should use an IRS tax return transcript when verifying whether a farm stand complies with the 25% income threshold. The rule language recognizes that counties will likely require additional information when verifying compliance with the statutory provision.

Interpretations:

The Court of Appeals interpreted the farm stand regulations in the Greenfield/Bella Organics case in 2013. The decisions contain more detail on the legislative history for ORS 215.213(1)(r)/215.283(1)(o) and discussions relevant to topics the RAC will be considering. Both the LUBA and the Court of Appeals decisions can be found here: https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_3585797/File/Government/County%20Departments/Public%20Works/Land%20Management%20Division/Land%20Use%20Planning%20Zoning/Lane%20Code%20Legislative/509-PA14-05054%20LCPC%20Attachment%204.pdf

2025 Farm Stand Rulemaking:

The Phase 1 Farm Stand Rulemaking will explore five topics identified by the 2025 legislative agri-tourism work group:

- **Primary Use Test:** Is farming required to be the primary activity on the property hosting a farm stand? If so, how do counties ensure that farming rather than sales and events remains the primary activity on the property?
- **Activities that Promote Sale of Farm Products, the Farm Operation Itself, or Agriculture:** What types of promotional events and activities may be authorized in conjunction with a farm stand instead of being authorized through an agritourism events permit or other process? Note that agri-tourism events not in association with a farm stand may be, and often are, permitted under the standards for ‘agri-tourism and other commercial events’ (ORS 215.213(11)/215.283(4)). This is a different use that the Legislature added to the exclusive farm use zone statutes in 2011.
- **Promotional Activities Outside and Inside Farm Stand Structures:** A farmstand may not include structures for banquets, public gatherings or public entertainment. Where on the property may promotional events occur?

- Prepared Foods with a Direct Tie to the Farm Operation or the Local Agricultural Area: To what extent may prepared foods and beverages be offered at a farm stand?
- Impacts on Neighboring Farms: Should counties consider impacts to neighboring farms or forest operations from a farm stand operation as part of the permitting review process?

Original 1993 version of the farm stand statute:

“...the following uses may be established in any area zoned for exclusive farm use: ...Farm stands if:

“(A) The structures are designed and used for the sale of farm crops or livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and”

“(B) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.”

Current version of the farm stand statute:

“...the following uses may be established in any area zoned for exclusive farm use: ...Farm stands if:

“(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and”

“(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.”

Current version of the farm stand rule:

OAR 660-033-0130(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed farm crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

(e) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

(f) At the request of a local government with land use jurisdiction over the farm stand, the farm stand operator of a farm stand approved under this section shall submit to the local government evidence of compliance with the annual sales requirement of subsection

(a). Such evidence shall consist of an IRS tax return transcript and any other information the local jurisdiction may require to document ongoing compliance with this section or any other condition of approval required by the county.

Rulemaking Advisory Committee Members

Farmstands Rulemaking Project

Department of Land Conservation and Development

May 6, 2025

Name	Affiliation from Application
1. Alice Morrison	Friends of Family Farmers
2. Austin Barnes	Marion County
3. Charles Bennett	Jackson County
4. Emily Iverson	Large farmstand operator
5. Eric Walker	Hood River County
6. Graham Fordyce	Medium farmstand operator
7. Inga Williams	Union County
8. Jim Johnson	1000 Friends of Oregon
9. Justin Throne	Klamath County
10. Lauren Lucht	Small farmstand operator
11. Lindsay Eng	Oregon Department of Agriculture
12. Lindsey Eichner	Lane County
13. Maitreyee Sinha	Washington County
14. Marc Hudson	Oregon Ag Trust
15. Matthew Lisignoli	Large farmstand operator
16. Mike McCarthy	Ag for Oregon
17. Peter Kenagy	Small farmstand operator
18. Ryan Krabill	Oregon Farm Bureau
19. Samantha Bayer	Oregon Property Owners Association
20. Sid Friedman	Friends of Yamhill County