

Public Comment received for the  
2025 Farm Stands Rulemaking  
March 21, 2025 through May 23, 2025

All public comment received for this rulemaking may be viewed at:  
<https://www.oregon.gov/lcd/lar/pages/rulemaking.aspx>



May 20, 2025

Via email:

Department of Land Conservation and Development  
farmforest.comment@dlcd.oregon.gov

Dear DLCD,

Thank you for the opportunity to provide input on administrative rule language for farm stands. These comments are being offered for both DLCD staff for the Rule Making Advisory Committee (RAC), and for the LCDC.

The RAC was tasked with five topics. The first topic, discussed at the May 16 meeting, was the 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?

A farm stand is a non-farm use, a commercial use that should be limited consistent with the philosophy of Oregon's land use system. The courts have emphasized that farm-use-related commercial activity should not subvert the policy of preserving land for productive agriculture, and that incidental and secondary activities should not be allowed to dominate and overshadow farm use.

Currently, OAR 660-033-0130(23) allows farm stands 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...
- (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.

Almost any product can be exempt from the 25% limit because it is grown somewhere in Oregon or adjacent counties, and virtually any event can be said to promote them. The legislature never intended such as expansive definition.

We suggest changing OAR 660-033-0130(23)(d) to read as follows.

*As used in this section, "local agricultural area" includes farm operations located within a 60-mile radius of the farm stand. ~~Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.~~*

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The legislature intended the local agricultural area to be less than statewide. The relevant exchange between Senator Cease and Art Schlack of the Association of Oregon Counties during the May 10, 1993 hearing on SB 675, which created the farm stand statute, is quoted below (*emphasis added*).

- Senator Cease: Would it would it serve a purpose to say grown on the farms, grown on their own farms and in the immediate immediate area or something of that kind.
- Art Schlack, AOC: The county planning directors, when they reviewed Senate Bill 675, had two major issues. One had to do with the intensity or scale of the activity, and two had to do with the fact that the *farm stands should be basically selling produce, livestock, agricultural related activities that are grown either on the site or in the immediate vicinity*. And we we look at, you know, how do you define immediate vicinity? Some some jurisdictions look at within the county or within the local geographic area. *I believe that the reference here to state goes too far. Certainly it should be much more localized.*
- Senator Cease: *If you were to on paren sub paren a. indicate "on site and or within the county". And then b., I don't know what the percent say, make it 20 or 25%. You've tightened it up substantially. Would it in effect give the local farmer some real opportunity that he or she doesn't currently have?*
- Art Schlack, AOC: Senator Cease, *I think that that would probably clarify the the law in a way which would be beneficial to farmers, even in that even in that narrow more narrow definition. I would, I would say that your language "in the surrounding area or the region" is probably preferable to, if we're going to take out state, to to the county language there, because you might be right on the edge of the county border and you run into that. I think the other thing to -*
- Senator Cease: *On site or the local agricultural area?*
- Art Schlack, AOC: *That's correct.*

Thereafter in the 1993 hearings, whenever the entire state was posited as potentially being the relevant area, farm operations selling from that broader area were assumed to continue requiring CACFU permits, rather than to be authorized as farm stands under SB 675.

In sum, the legislature intended the "local agricultural area" to be a geographic area that could include part of an adjacent county, but did not encompass the entire state.

The proposed language uses miles from the farm stand rather than the county in which it is located because counties vary greatly in size. Hood River County encompasses 533 square miles and a single distinct agricultural climate; Lane County is 4,620 and includes the Willamette Valley and coastal climates. Using miles also allows a farm stand located near a county line to draw from adjacent counties. Fifty miles is a judgement call. It could be increased somewhat, though anything much more than that defeats the purpose of localizing the agricultural area and the express legislative intent.

Thank you again for all the work you do to protect the irreplaceable farm and forest lands that make Oregon what it is today and for the future.

Respectfully,



Chris Robuck  
Co-President, Thrive Hood River



1000 Friends of Oregon  
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503-497-1000

**TO:** 2025 LCDC Farm Stand RAC  
**FROM:** 1000 Friends of Oregon  
**DATE:** May 19, 2025  
**RE:** Farm Stand Rulemaking Proposal

**VIA EMAIL**

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### **RECOMMENDED RULEMAKING ON FARM STANDS**

We are concerned that ambiguities in the current farm stand rules allow many Oregon farm stands to become boutique grocery stores, restaurants, and destination entertainment venues only incidentally related to agricultural products grown by the farm stand operator and their neighbors. We recommend that LCDC amend the current Goal 3 rule provisions for farm stands to distinguish between the uses allowed at farm stands under OAR 660-033-0120, OAR 660-033-0130(23) and ORS 215.283(1)(o), and the uses allowed as “agritourism and other commercial events or activities” under OAR 660-033-0120, OAR 660-033-0130(5) and ORS 215.283(4).

### **BACKGROUND**

Before 1993, farm stands in Oregon were considered a farm use. Farm stands are a long-standing method for farmers to market their fresh produce and other agricultural products directly to the public. These direct sales benefit the farmer and the public who enjoys fresh products right off the farm.

In 1993, the legislature responded to small farmers who testified about the lack of consistency among counties in determining what was allowed at farm stands. The legislature wanted farmers to be able to sell their neighbors’ agricultural products, as well as their own, without having to qualify as a “commercial activity in conjunction with farm use.” The legislature was clear, however, that it did not want farm stands to be “small grocery stores” competing with those in town. Specifically, it did not want farm stands to be able to sell products that were not from the local agricultural area. The legislature rejected a proposal for the “local agricultural area” to include the entire state.

The discussions regarding “incidental items” that could be sold at farm stands revolved around product-themed items, such as berry-themed aprons and shopping bags or pumpkin-shaped earrings that promoted the products produced on the farm. Incidental items did not include imported housewares, décor, or high-end kitchenware produced outside of Oregon. It also did not include grocery store staples such as out-of-season produce and frozen foods from outside of Oregon, or highly processed items with, at most, a tenuous connection to locally grown farm crops and livestock.

*Since our founding in 1974, we have worked with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural areas.*

## **PROPOSAL**

We have attached as Exhibit A proposed clarifications to the current Goal 3 rule. These proposed amendments address the following five topics identified by the 2025 legislative agri-tourism work group:

### **1. Primary Use Test**

The proposed amendment to OAR 660-033-0130(23)(c) would clarify that at least 75% of the farm crops and livestock sold at a farm stand must be grown on the farm operation where the farm stand is located.

The proposed amendment to OAR 660-033-0130(23)(f) clarifies that “incidental items” are farm-product themed merchandise designed specifically to promote local agricultural products that are sold at the farm stand.

### **2. Promotional Activities Outside and Inside Farm Stand Structures**

The proposed amendment to OAR 660-033-0130(23)(e) would clarify that fee-based promotional activities at farm stands do not include activities or events that are already authorized under other provisions of the Goal 3 rule, such as agritourism and other commercial events and activities authorized under OAR 660-033-0120, OAR 660-033-0130(5) and ORS 215.283(4).

### **3. Activities that Promote Sale of Farm Products, the Farm Operation Itself, or Agriculture**

The proposed amendment to OAR 660-033-0130(23)(d) would clarify that "local agricultural area" includes agricultural operations within a 50-mile radius of the farm stand and not statewide, consistent with the legislative history of ORS 215.283(1)(d).

The proposed amendment to OAR 660-033-0130(23)(e) would clarify that fee-based promotional activities at farm stands do not include activities or events that are already authorized under other provisions of the Goal 3 rule, such as agritourism and other commercial events and activities authorized under OAR 660-033-0120, OAR 660-033-0130(5) and ORS 215.283(4).

### **4. Prepared Foods with a Direct Tie to the Farm Operation or the Local Agricultural Area**

The proposed amendment to OAR 660-033-0130(23)(c) provides a definition of “prepared food items,” which the statute does not allow to be sold at a farm stand. Specifically, “prepared food items” are defined as foods prepared on-site for immediate consumption by cooking, chopping, slicing, mixing, squeezing, or other preparation. Prepared food items include such items as hotdogs, hamburgers, sandwiches, charcuterie boards, hot soup, salads, lemonade, shakes, smoothies, coffee and hot chocolate. Prepared food items do not include fresh produce provided for consumption without preparation or packaging.

## **5. Impacts on Neighboring Farms**

The proposed amendment to OAR 660-033-0130(23)(e) would clarify that fee-based promotional activities at farm stands do not include activities or events that are already authorized under other provisions of the Goal 3 rule, such as agritourism and other commercial events and activities authorized under OAR 660-033-0120, OAR 660-033-0130(5) and ORS 215.283(4). These activities and events are subject to rule and statutory criteria requiring the consideration of impacts on neighboring farms.

The proposed amendment to OAR 660-033-0130(23)(i) would require the biannual review of farm stand permits to ensure the continuing compliance with the requirements of OAR 660-033-0130(23).

## EXHIBIT A – PROPOSED AMENDMENTS TO LCDC FARM STAND RULE\*

LCDC's table of uses allowed on agricultural land at OAR 660-033-0120 lists farm stands as "A23," meaning it is an allowed use, subject to provisions of OAR 660-033-0130(23). OAR 660-033-0130(23) provides that 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, **though at least 75% of farm crops and livestock sold at the farm stand must be grown on the farm operation where the farm stand is located.** 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. **As used in this section, "prepared food items" are foods prepared for immediate consumption by cooking, chopping, slicing, mixing, freezing, squeezing, or other preparation. Prepared food items include such items as hotdogs, hamburgers, sandwiches, charcuterie boards, hot soup, salads, and open and/or single-serve beverages like lemonade, coffee and hot chocolate.***

*(d) As used in this section, "local agricultural area" includes **agricultural operations within a 50-mile radius of the farm stand** ~~Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.~~*

*(e) **As used in this section, a "fee-based activity to promote the sale of farm crops or livestock" does not include any activity or event authorized under OAR 660-033-0120, such as playgrounds and campgrounds, and agritourism and other commercial events and activities allowed under OAR 660-033-0120, OAR 660-033-0130(5) and ORS 215.283(4).***

*(f) **As used in this section "incidental items" are farm-product themed merchandise designed specifically to promote local agricultural products that are sold at the farm stand.***

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

*(f h) 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.*

**(i) DLCD shall review all farm stand permits biannually to ensure ongoing compliance with the terms of the farm stand permit, including the 25 percent limitation on the sale of incidental items and promotional activities as a portion of annual farm stand revenue. If DLCD's review reveals any permit violation, the Department may either revoke the permit for noncompliance with this rule, or issue an order of noncompliance detailing the actions that must be taken within 60 days to bring the farm stand into compliance under ORS 197.319-.335 and ORS 197.646.**

\* Language in *italicized black font* is existing rule and statutory language. Proposed additions are noted in **red bold language** and deletions are noted in ~~red strike through~~.



**From:** [FOOTE Hilary \\* DLCD](#)  
**To:** [graham.fordyce](#)  
**Cc:** [TAYLOR Casaria \\* DLCD](#); [LOBNIBE Silas \\* DLCD](#)  
**Subject:** RE: Thoughts from last meeting.  
**Date:** Friday, May 23, 2025 8:15:27 AM

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Thank you Graham. Your comments will be added to the record and included in the next meeting packet.

Have a great weekend!

Hilary Foote

Farm Forest Specialist | Community Services Division

Pronouns: She/Her

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**From:** graham.fordyce <fordycegraham@yahoo.com>  
**Sent:** Thursday, May 22, 2025 9:45 PM  
**To:** FOOTE Hilary \* DLCD <hilary.foote@dlcd.oregon.gov>  
**Subject:** Thoughts from last meeting.

Hello! Here's a couple of things I've been mulling over on rules and definitions to farm stands. Please feel free to share this.

Roadside table- A table or a table with a cover over the top that it is not a building.

Roadside stand- A building that people in buy produce directly grown on the farm.

Farm store- sells produce both grown on the farm and local produce. I don't think a certain percentage of products sold as to be grown on the farm. These places serve very good produce that typically is better quality then can be found at most grocery stores.

Local- this really depends on the location of the stand. It's really hard to get any local produce in the Midwest or other parts of the country. And so almost needs to be considered different by every region. Maybe grown in your state?

One other thing that Occurred to me. Someone mentioned in our last meeting how the addition of a farm store or walk in cooler raises the price of a property considerably and makes it difficult for first time farmers.

This is certainly true but when you go to get a loan to buy a property the bank looks at

what's already there and is more likely to give you a loan if these things already exist versus something that the buyer plans to do. We had this exact experience when buying a new farm a couple of years ago with a preexisting farm stand, walk in cooler and customer lists. This made it possible for us to buy the farm.

That's all I've got! Thanks so much for all you do! I've really enjoyed Being on this RAC.

Graham Fordyce  
Fordyce farm Inc

[Sent from Yahoo Mail for iPhone](#)

May 23, 2025

## Comments for Rulemaking Advisory Committee on Farmstands

Mike McCarthy PhD, Ag for Oregon

### Introduction

Ag for Oregon is a group of farmers, ranchers and forestland owners from across the state that support better protections and conservation of our agricultural, forest and natural lands for current and future uses.

Around the state, we see farmstands losing the connection to the farm products grown on the farm operation where they are located or nearby farms. This means that the primary use of the farm may not even be commercial crop production or producing crops for the farmstand. It is possible now to have a farmstand and produce little or nothing from the farm. Why have these stores on farm land, when the farm is not producing what they sell?

Much of the educational experience of traveling to farms is lost when visitors cannot see the crops in the field, observe production practices, and in cases pick their own. We are creating a false narrative that farms are a recreational destination with no education about the sweat and toil that goes into food production.

### Needed clarification

Farm stands may have structures “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.” The local agricultural area is defined in OAR 660-033-0130(23)(d) as all of Oregon and adjacent out-of-state counties.

We propose the following change in OAR 660-033-0130(23)(d).

As used in this section, "local agricultural area" includes adjacent and nearby farms. “Nearby” farms are those that are closer to the farm stand than a local store, distributor, or farmer’s market where the neighboring farm could sell their product. ~~Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located. HRCZO limits "local agricultural area" to Oregon or an adjacent county in Washington.~~

“Adjacent and nearby” is consistent with the definitions for Goal 3 in OAR 660-033-0020. Moreover, the proposal reflects legislative intent. During the 1993 legislative hearings which created the farm stand statute, it was suggested at times that only crops grown on the site where the farm stand was located should be unlimited; that is, not subject to the 25% cap. Ultimately, it was accepted that crops grown in the local area should also be unlimited. The local area was described by various speakers as:

- neighboring farms
- the immediate vicinity
- the immediate area
- the region in which they are located

- the local geographic area
- nearby
- the surrounding local area

The local agricultural area was expressly not the entire state, as quoted in the exchange below.

### Summary

We believe DLCD and LCDC should restore the original intent of the farmstand legislation: to give the public an educational agricultural experience on farms and at farmstands where the crops are grown.

### QUOTATION FROM 1993 LEGISLATIVE HEARINGS ON SB 675 between Senator Cease and Art Schlack, Association of Oregon Counties (*emphasis added*)

Senator Cease: Is that the intent with most of these farmers that they can sell farm produce from all over or are most of them simply trying to sell their own produce?

Art Schlack: Senator Cease, my understanding is that primarily they're selling their own produce and also items from the from the region in which they are located.

Senator Cease: Would it would it serve a purpose to say grown on the farms, grown on their own farms and in the immediate area or something of that kind.

Art Schlack: Senator Cease, members of the committee. I would like to say that this language that's here today is it's much better than what we saw last week. The county planning directors, when they reviewed Senate Bill 675, had two major issues. One had to do with the intensity or scale of the activity, and two had to do with the fact that the farm stands should be basically selling produce, livestock, agricultural related activities that are grown either on the site or *in the immediate vicinity*. And we look at, you know, *how do you define immediate vicinity? Some jurisdictions look at within the county or within the local geographic area. I believe that the reference here to state goes too far. Certainly it should be much more localized. I would agree that the chair's language about either on the site or the surrounding local area would be would be better, or a reference to the county, although I've recognized that some farm stands might be in the corner of a county and might again, the local area might be a little bit better, give a little more flexibility.*

**TO:** Hilary Foote and Farm Stand RAC  
**FROM:** Sid Friedman, Friends of Yamhill County  
**DATE:** May 23, 2025  
**RE:** Next Steps and Questions from May 16 meeting summary

The summary of the May 16 Farm Stand RAC meeting included several “Next Steps and Questions” (p. 9). This memo addresses the following:

- Proposals for adjustments to the definition of “local agricultural area” and expressions of support for the current definition.
- Additional clarifications that would make compliance and enforcement easier for farm stand business owners and counties.
- Proposals for language clarifying that retail items sold should also promote farm crops and livestock or expressions of support for maintaining a broader definition for this category of products sold at a farm stand (subject to the income limitation).

#### 1) Definition of the local area

When the farm stand statute was adopted, the legislature considered and rejected as overly broad, a definition of “local area that included the entire State of Oregon.”<sup>1</sup> Consistent with the legislative intent we propose the following definition:

*(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~~ the county in which the farm stand is located or an adjacent county in Oregon, Washington, Idaho, Nevada or California that borders the county in which the farm stand is located.*

In fact, during the May 16 RAC meeting, several county planners indicated that their county had used the above definition, or a similar one, prior to the adoption of the more relaxed standard.

#### 2) Compliance and Enforcement

As noted in the meeting summary, “[s]everal planners on the RAC shared that enforcement of farm stand standards is complaint driven but there might be other approaches, such as annual farm plan reviews, that might be feasible.” We propose the following amendment to the current rule:

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<sup>1</sup> See pp. 22-23 of the 1993 SB 675 Committee Hearing Transcripts

*(f) ~~At the request of a local government with land use jurisdiction over the farm stand,~~ Upon completion of the first year of operation and every two years thereafter, the farm stand operator of a farm stand approved under this section shall submit to the local government **and the Department of and Conservation and Development**, evidence of compliance with the annual sales requirement of subsection (a). Such evidence shall consist of an IRS tax return transcript, **a written statement prepared by a certified public accountant**, 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.*

### 3) Incidental Retail Items

At the May 16 RAC meeting, several members expressed concern over the wide range of retail products sold at some farm stands.

By law, a farm stand can only sell retail items that “promote the sale of farm crops or livestock sold at the farm stand.” The sale of other retail items is illegal. Nonetheless, some farm stands now sell retail items that seemingly have no relationship to the farm crops or livestock sold at the farm stand.

There is a vast difference between selling vases to promote the sale of cut flowers and tins of tea from Great Britain or packages of Italian pasta. The first one promotes the sale of farm crops sold at the farm stand; the latter two do not.

We propose the following clarification to the rule:

***(#) Incidental retail items to promote the sale of farm crops or livestock sold at the farm include only items with a direct connection or relationship to the farm crops or livestock. They do not include unrelated retail items or unrelated food products.***