

31.3.19 Permits – Particular Uses – Farm Stands. The ORS 215.283(1)(o) authorization for farm stands authorizes structures that are designed and used for the sale of farm products and livestock, and also authorizes those structures to be used for “sale of retail incidental items and fee-based activity to promote sale of farm crops or livestock.” The EFU statute is correctly interpreted also to authorize farm stand activities to be conducted outside the authorized structures. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. A farm stand permit that authorizes up to 22 al fresco dinners for up to 75 diners each year is inconsistent with the express prohibition in ORS 215.283(1)(o) and OAR 660-033-0130(23) against farm stand structures for banquets. Although the statute and rule are expressly directed at “structures for banquets,” the prohibition extends to such large and frequent al fresco dinners, which fall within the meaning of “banquets,” as that term is used in the statute and rule, and the prohibition extends to outdoor banquets. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. ORS 215.283(1)(o) and OAR 660-033-0130(23) authorize the “sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock” inside structures that are “designed and used for sale of farm crops and livestock,” but they do not authorize structures that are specifically designed and used for retail sales and fee-based promotional activity. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. A county’s condition of approval that farm stand “wholesale sales” be separately accounted and not included in applying the ORS 215.283(1)(o) requirement that “sale of retail incidental items and fee-based activity to promote sale of farm crops or livestock” not exceed “25 percent of the total annual sales of the farm stand,” while an imperfect way to ensure that farm stand sales are not inflated with nonfarm stand sales to inflate the permissible sales from retail and fee-based activity, is a permissible condition under the statute. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. Where a county has authority to impose conditions of approval, a condition that requires a sworn annual report that demonstrates that a farm stand complied with the 25 percent limit on the percentage of sales from a farm stand that are attributable to retail and promotional activity, and that records be kept that confirm the accuracy of the report, is permissible under ORS 215.283(1)(o) and OAR 660-033-0130(23). *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. A farm stand permit that (1) authorizes “small-scale gatherings such as birthdays, picnics, and similar activities” and (2) requires that such gatherings “shall promote the farm stand and contemporaneous crops sold in the farm stand” does not exceed the ORS 215.283(1)(o) and OAR 660-033-0130(23) authority for farm stands. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. A farm stand permit that authorizes multiple food carts to sell a variety of prepared food at up to 24 events per year cannot be characterized as

“incidental retail sales,” and exceeds the authority granted by ORS 215.283(1)(o) and OAR 660-033-0130(23). *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. ORS 215.283(1)(o) and OAR 660-033-0130(23) do not categorically prohibit food carts in all circumstances. If a permit authorizing a farm stand appropriately limited food carts so that they could be characterized as “incidental retail sales,” they could be authorized at a farm stand. *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. ORS 215.283(1)(o) and OAR 660-033-0130(23) do not prohibit all concessions at farm stands. The statute and rule only prohibit “large concessions.” *Greenfield v. Multnomah County*, 67 Or LUBA 407 (2013).

31.3.19 Permits – Particular Uses – Farm Stands. A decision whether to approve an application for a “farm stand” necessarily requires the exercise of discretion to determine whether a proposed use is a “farm stand,” i.e. a structure designed and used for the sale of agricultural products grown on the farm operation, including the sale of retail incidental items and “fee-based activities” to promote the sale of agricultural products sold at the stand and to determine whether the proposed use does not include structures designed for activity other than the sale of agricultural products. *Keith v. Washington County*, 66 Or LUBA 80 (2012).