

# Agri-tourism, Entertainment Activities and other Recreational Activities on Agricultural Lands

*Oregon Board of Agriculture  
August 15-17, 2023  
Tillamook, Oregon*



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DEPARTMENT OF  
AGRICULTURE**

# Today's Agenda

- Board Resolution #310
- Site and Situation, Hillary Foote, Farm Forest Specialist, DLCD
- Focus on the Exclusive Farm Use zone
- Issues
- Discussion/questions



# Board of Agriculture Resolution #310

## Siting of Agri-tourism, Entertainment Activities and associated activities on Agricultural Lands

- Compatibility/conflicts with agriculture
- Impacts to rural infrastructure/services
- Uneven application
- Can benefit agriculture
- Even with legislation, still many issues (uneven application, definitions, context, etc.)
- See resolution





**DLCD**




# Oregon's Statewide Planning Program

**Agri-Tourism**

August 17, 2023

**Hilary Foote  
Farm Forest Specialist**



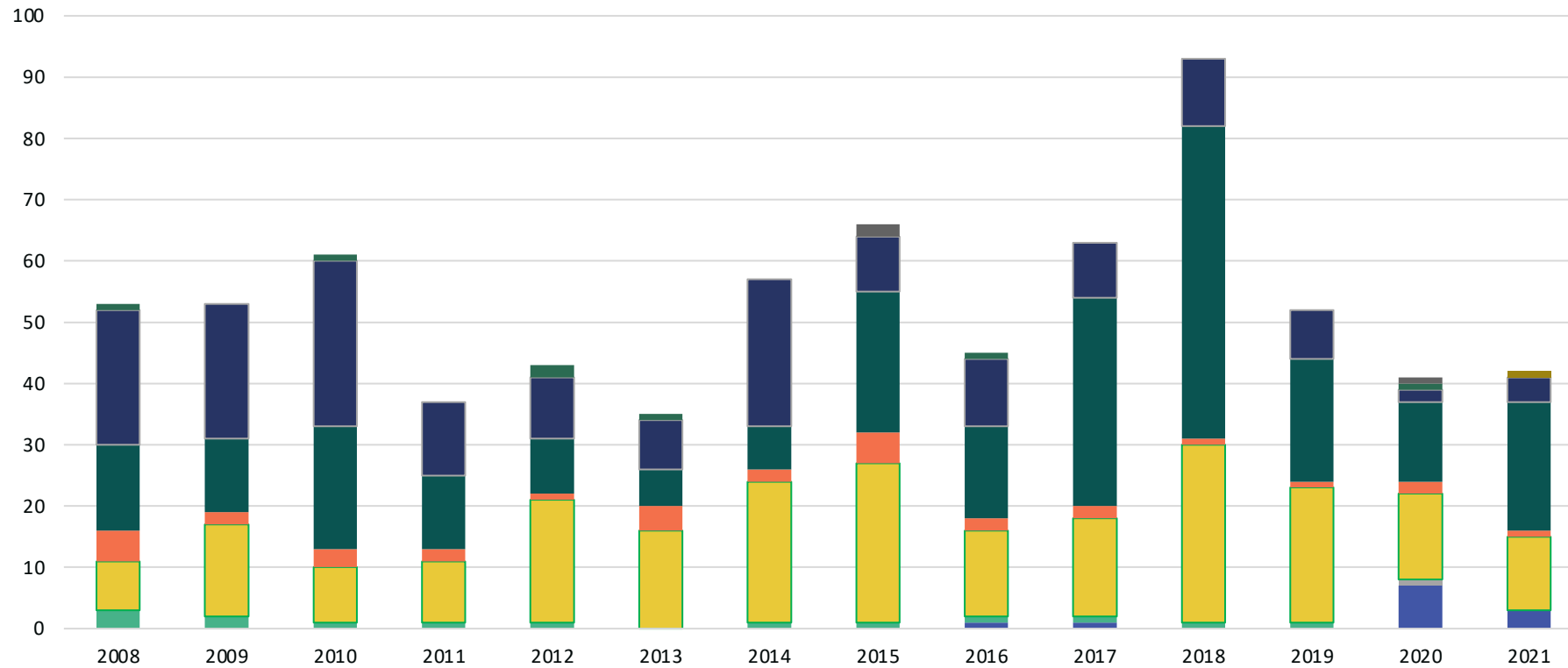
**There is no  
definition in  
statute or rule  
for  
'agri-tourism'.**

USDA reports \$16M in 2017 revenue earned from Oregon agri-tourism and recreational services (hunting, fishing, farm or wine tours, hayrides, etc.)

This represents an increase of 51 percent over 2012 revenues (\$10.6M).

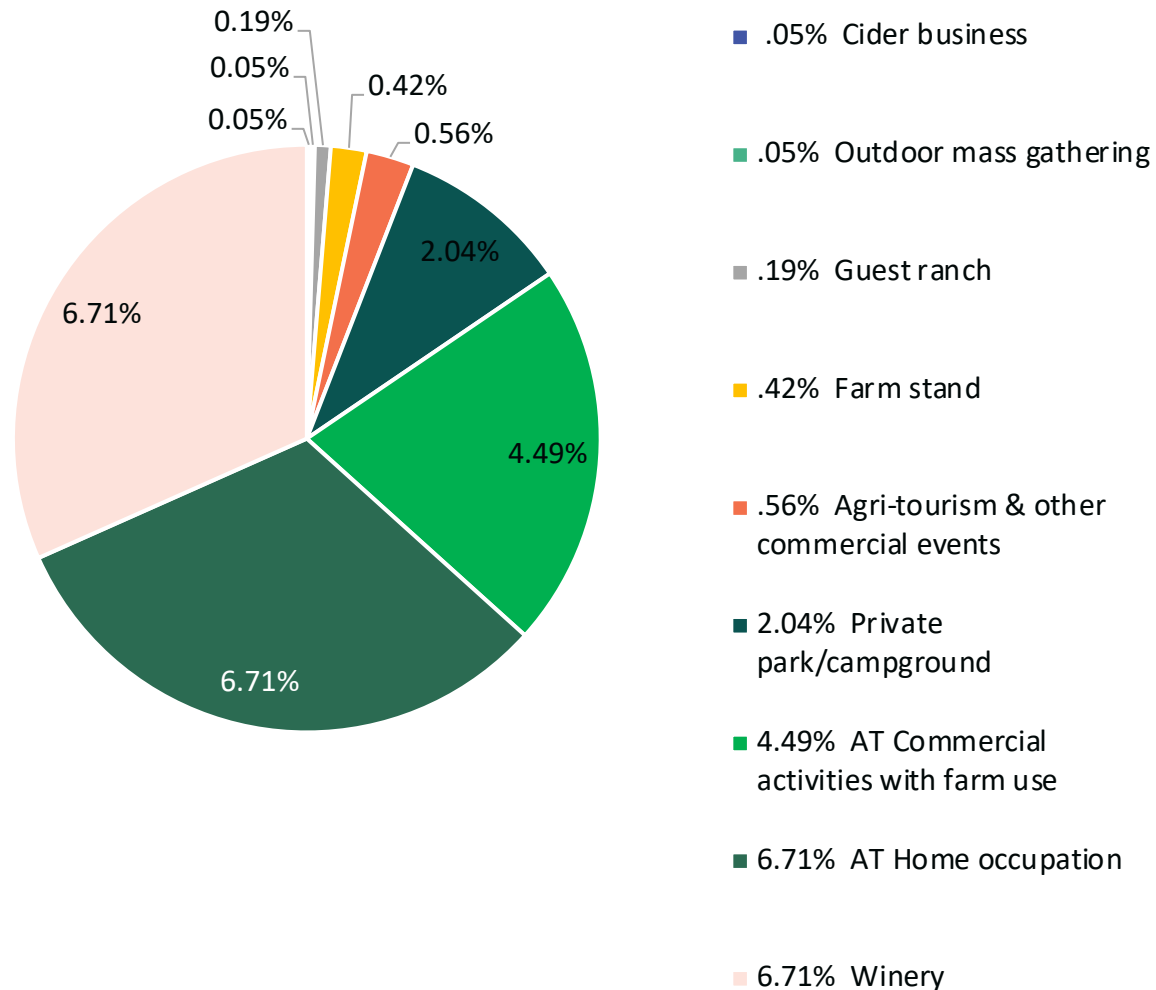
# Use approvals on farmland

Top 5 nonfarm, nonresidential approvals on EFU, 2008-2021



- Agri-tourism & other commercial events
- Church/cemetery with church
- Cider business
- Commercial activities with farm use
- Commercial dog boarding kennel
- Commercial power generating facilities
- Communication facilities
- Community Center
- Composting facility
- County fairgrounds expansion

# Agri-tourism and recreational approvals, by year, 2008-2021

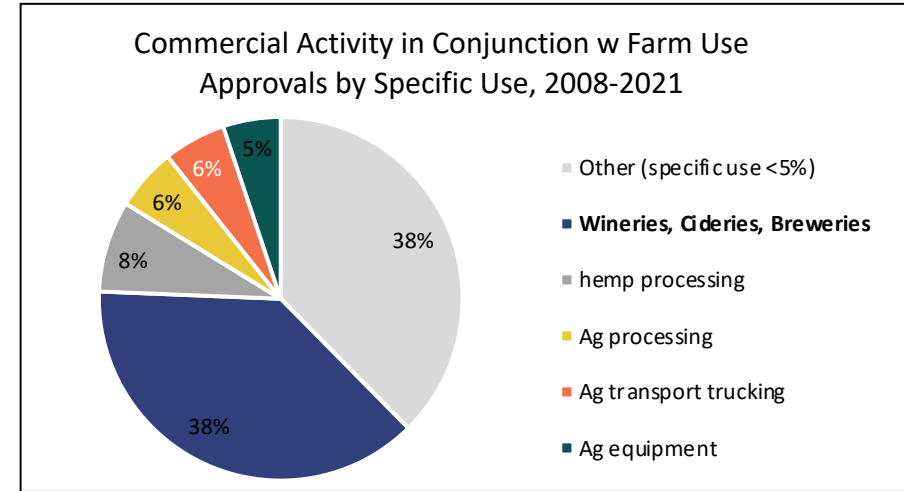
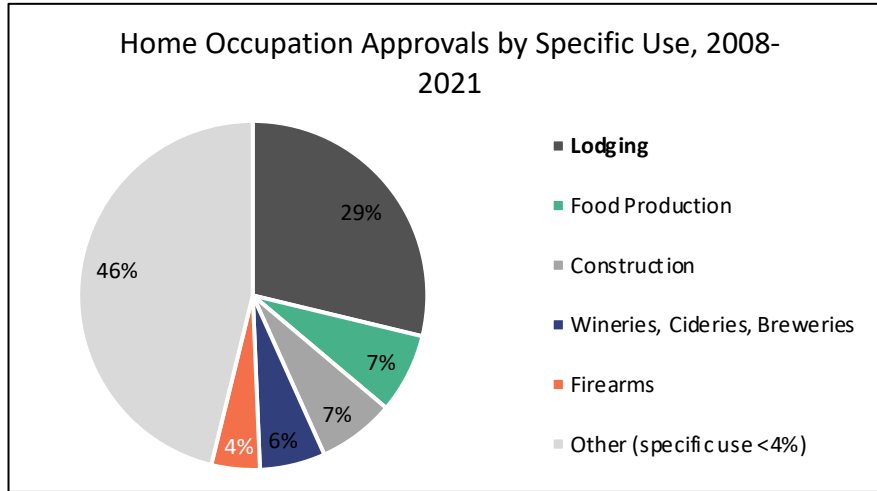


Since 2008, tourism related approvals account for ~21% of all non-resource use approvals on land zoned EFU.

Roughly a third of tourism-related approvals are permitted as Home Occupations.

Just under a quarter of tourism-related approvals are permitted as CACFUs.

# Home Occupations, Commercial Activities in Conjunction w Farm Use (CACFU), Processing



Home Occupations and CACFUs are very broadly defined in statute. A wide variety of specific uses are permitted in these categories.

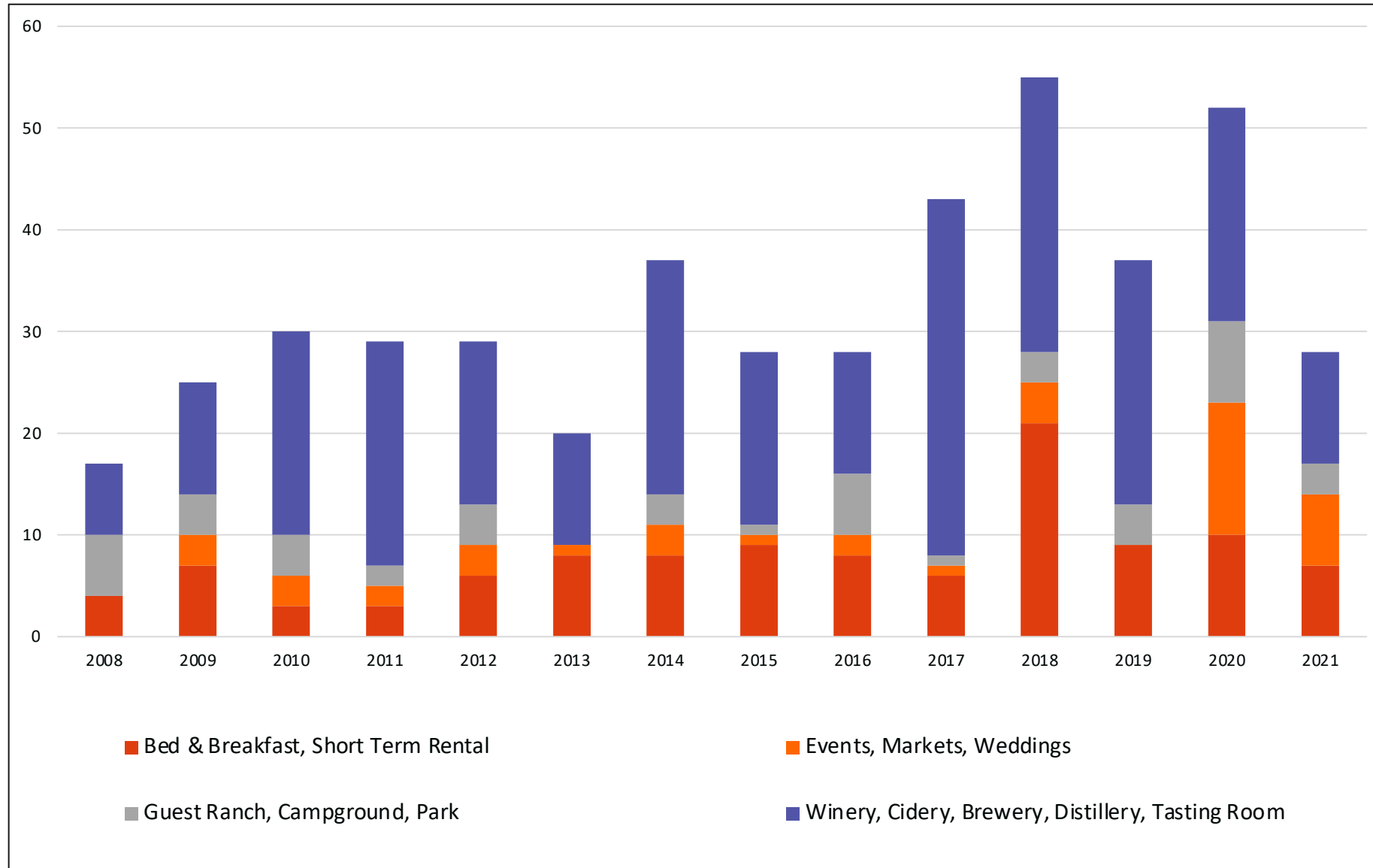
## Examples of use approvals through various permitting paths in EFU zones

Use Type	Chapter 215 (Specific Provisions)	Commercial Activity in Conjunction with Farm Use (CACFU)	Home Occupation
Wineries	145	63	9
Cideries	1	5	1
Breweries	0	7	6
Farm Product Processing	174	35	30
Events*	19	9	13

\*Does not include events permitted at wineries, cideries, breweries, does include farm stands, OMGs and Agri-tourism and other commercial events.



# Agri-tourism and recreational approvals, by year, 2008-2021





**Thank you!**



**DLCD**

Department of  
Land Conservation  
& Development

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# EFU 101, Land Uses

- Farm Use
- Sub(1) Land Uses ORS 215.283(1)
- Sub(2) Land Uses ORS.215.283(2)



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# ORS 215.296 The “farm impacts test”

- A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:
  - (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.



# “Agri-tourism” Land Use “Categories”

- Farm Use
- Farm stands (1)
- Wineries, cider businesses and farm breweries (1)
- Lodging
- Agri-tourism and other commercial events or activities
- Commercial activities in conjunction with farm use
- Home Occupations
- Mass Gatherings



# Farm Use

## ORS 215.203(2)(a)

“Farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3).



# Farm Use

## ORS 215.203(2)(a)

- Includes direct, non-developed sales and preparation
- U-Picks, self-serve, etc.
- Not farm stands



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# Farm Stands

- Sale of crops, livestock and processed products
- Products from the subject farm, regional farms
- May include incidental items and related fee-based events up to 25% of total generated income
- Cannot include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock. Cannot include structures designed for public events, banquets, etc.
- No marijuana



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## Wineries

- Processing and agri-tourism elements
- Must meet acreage and production minimums
  - Less than 50,000 gallons and 15-acres in size
  - At least 50,000 gallons and 40 acres or more

# Wineries- Agri-tourism Activities

- Sale of wine produced at winery
- Wine club activities
- Winemaker luncheons and activities
- Winery and vineyard tours
- Open house promotions
- Similar activities w/ primary purpose of promoting wine produced on-site
- Marketing and sale of incidental items related to promotion and sale of wine, including food and beverages (no menu options)
- Incidental sales may not exceed 25% of total sales
- Up to 18-days of agri-tourism events licensed by local government
- Bed and breakfast may be approved as HO



# Wineries- Agri-tourism Activities

- Agritourism is defined (for wineries) to include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.



# “Large” Winery

- Tract of 80-acres or more, at 50-acres in vineyard
- Ownership of an additional 80-acres in Oregon
- Produced 150,000 gallons or more in 3 of the last 5 years
- Tourism
  - All activities previously discussed
  - 25 events
  - Restaurant
    - Farm Impacts Test
    - Incidental and subordinate to sale of wine
    - Not materially alter the stability of the land use pattern of the area
  - Outdoor concerts, facility rentals and celebratory events for admission if the winery was approved before 8/2/2011



# Wineries

- May also be authorized as a commercial activity in conjunction with farm use if the proposal does not meet previously discussed standards.



# Cider businesses and farm breweries

- Cider: Less than 100,000 gallons and 15-acres of orchard or 100,000+ gallons and 40-acres of orchard
- Farm brewery: Less than 15,000 barrels and 15-acres of hops
- Agri-tourism the same as wineries except for the “large” winery additional land uses



# Lodging

- Room and Board for up to 5-unrelated persons
- Campgrounds, hunting and fishing preserves
- Farm Impacts test and any applicable local criteria
  - Destination Resorts
  - Eastern Oregon dude ranch
  - Short Term Rentals (STRs)



# Agri-tourism and other commercial events or activities

ORS 215.283(4)

- Not defined
- Must be related to and supportive of agriculture
- Optional
- Four types:
  1. Single event or activity in a calendar year
  2. Expedited, single event license
  3. Multiple events or activities (up to 6) in a calendar year
  4. Events/activities that are outside of the limits of the above



# Agri-tourism and other commercial events or activities ORS 215.283(4)

- All agri-tourism events must be determined to be “**Necessary to support**” the commercial farm uses in the area
- *The county must find that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.*

*Friends of Yamhill County v. Yamhill County*, \_\_ Or LUBA \_\_ (LUBA No. 2018-144, August 2, 2019)

Related: *Friends of Marion County v. Marion County (Seasons at Red Oak)*, LUBA No. 2021-089

# Agri-tourism and other commercial events or activities ORS 215.283(4)

ORS 215.283(4)(d) allows a county to authorize certain agri-tourism events if they are “**necessary to support** the commercial farm uses or the commercial agricultural enterprises in the area” and are found to be “**incidental and subordinate** to the existing commercial farm use of the tract.”

- **“Incidental and subordinate”** to the existing commercial farm use of the tract
  - *Means more than that the accessory use occurs less frequently than the primary use.*
  - *Reflects a conclusion about the predominant use in light of many relevant factors, including the nature, intensity, and economic value of the respective use.*

*Friends of Yamhill County v. Yamhill County, 301 Or App 726 (2020)*



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# Single event or activity in a calendar year

- Personal to applicant, not transferable
- Meets any applicable local standards
- Must be **incidental and subordinate** to existing farm use on tract
- Cannot exceed 72 consecutive hours
- Cannot exceed 500 people
- Cannot exceed 250 vehicles
- Consistent with the Farm Impacts Test (ORS 215.296)
- Occurs outdoors, temporary structures, or existing permitted structures
- Complies with conditions established relating to health, fire and life safety
- Hours of operation, access, egress and parking, sanitation and solid waste



# “Incidental and Subordinate”

- Means more than the accessory use occurs less frequently than the primary use. The phrase reflects the relationship between the predominant (agricultural) use and the subordinate uses (events), considering factors such as the comparative “nature, intensity, and economic value” of the respective uses.
- The tail doesn’t wag the dog



# Expedited, Single-Event License

- Personal to applicant, not transferable
- Must be incidental and subordinate to existing farm use
- 6AM to 10PM
- No more than 100 persons or 50 vehicles
- No amplified music before 8AM and after 10PM
- No require new permanent structures
- Tract must be at least 10-acres in size, unless consent from neighbors obtained
- Health fire and life conditions



# Multiple events/activities in a single year

- Up to six (6)
- May not individually exceed 72 consecutive hours
- Not require new permanent structures
- Farm Impacts Test
- In combination with our agri-tourism activities in area, will not materially alter the stability of the land use pattern of the area
- Conditions related to type of activities, hours of operation attendance numbers, traffic management, sanitation, use of structures, etc.



# Events/activities outside of limitations of other types

- Must be incidental and subordinate to existing farm use
- Comply with “Up to six events” requirements
- Parcel meets minimum parcel size of zone
- Not exceed 18 events or activities in a calendar year
- Review every 4-years



# Outdoor Mass Gatherings

- Assembly of more than 3,000 persons
- More than 24 consecutive hours, but less than 120 hours within 3-month period
- Held primarily in open spaces and not in any permanent structure
- County permit after public hearing; must find:
  - Is compatible with existing land uses
  - Does not materially alter the stability of the overall land use pattern of the area
  - Complies with applicable permits; health, safety and welfare





# Home Occupations

- Must be operated by a resident or employee of the property
- No more than 5 full-time or part-time employees
- Must be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district
- Cannot reasonably interfere with other land use permitted in the zoning district
- In the EFU zone, Farm Impacts Test
- Not well defined; can be used as a “catch all venue”



# Commercial Activity In Conjunction with Farm Use (CACFU)

- Farm Impacts Test
- “Must provide products and services that are essential to the practice of agriculture”
- “Exclusively or primarily a customer or supplier of farm use.”
- “Must be a direct connection between the proposed land use and area agriculture...”



# Issues

- Definitions, context
- Venue shopping
- Uneven application
- Enforcement





**Questions?**

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