

# Memorandum



May 6, 2015

**To:** Community Advisory Committee

**Cc:** Project Team

**From:** Rithy Khut, Assistant Planner

**Re:** Comparison of Deschutes County and Yamhill County Agri-Tourism Provisions with ORS 215.283(4)

## INTRODUCTION

During discussion of the agri-tourism policy at the CAC's April 22 meeting, some committee members expressed a desire to know what the code language on agri-tourism might look like before deciding on a policy. This memorandum looks at the regulations adopted by Deschutes County and Yamhill County as examples of what other counties have done and what Multnomah County could do in allowing agri-tourism as authorized by SB 960

## DESCHUTES COUNTY

### 18.04.030. Definitions

- "Agri-tourism" means a commercial enterprise at a working farm or ranch that is incidental and subordinate to the existing farm use of the tract that promotes successful agriculture, generates supplemental income for the owner and complies with Oregon Statue and Rule. Any assembly of persons shall be for the purpose of taking part in agriculturally based operations or activities such as animal or crop care, picking fruits or vegetables, cooking or cleaning farm products, tasting farm products; or learning about farm or ranch operations. Agri-tourism does not include "commercial events or activities." Celebratory gatherings, weddings, parties, or similar uses are not agri-tourism.
- "Commercial event or activity" means any meeting, celebratory gathering, wedding, party, or similar uses consisting of any assembly of persons and the sale of goods or services. It does not include agri-tourism. In DCC 18.16.042, a commercial event or activity shall be related to and supportive of agriculture.

<b>Deschutes County Code (DCC) 18.16.042 - Agri-Tourism and other Commercial Events or Activities Limited Use Permit</b>	<b>Oregon Revised Statute 215.283(4)</b>
A. Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.	
B. Application. The application shall include the following.	

1. The General Provisions information required in DCC 22.08.010.	
2. A written description of:	
a. The proposal.	
b. The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.	Matches ORS 215.283(4)(c)(F)(i)
c. The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.	Matches ORS 215.283(4)(c)(F)(ii)
3. A traffic management plan that:	Matches ORS 215.283(4)(c)(F)(iv)
a. Identifies the projected number of vehicles and any anticipated use of public roads;	Matches ORS 215.283(4)(c)(F)(iv)
b. Provides an assurance that one traffic control person shall be provided for each 250 persons expected or reasonably expected to be in attendance at any time during the agri-tourism and other commercial event or activity. The traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.	ORS 215.283(4) does not require traffic control person(s) based on the expected attendance
c. Demonstrates that the parcel, lot or tract has direct access such that the lot, parcel or tract on which commercial events will occur:	ORS 215.283(4) does not require direct access on a public road or access by easement/private road
i. Fronts on a public road; or	
ii. Is accessed by an access easement or private road, and all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.	
4. Inspection of Event Premises Authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.	ORS 215.283(4) does not require inspection provisions
C. Approval Criteria.	

1. Type 1. Up to six (6) agri-tourism events in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:	ORS 215.283(4) allows for an expedited single event license whereas Deschutes allows up to six events by permit
a. Criteria set forth in 18.16.042(C)(2)(d-j).	
b. May not, individually, exceed one calendar day.	ORS 215.283(4)(b) does not contain provisions for duration for expedited event licenses, however it can be assumed that single events are limited to one day
c. Commercial events or activities are not permitted.	ORS 215.283(4) allows for expedited event licenses for commercial events
d. Minimum lot or parcel size: 5 acres.	ORS 215.283(4)(b)(F) - Must be located on a tract of at least 10 acres
e. Comply with DCC Chapter 8.08 Noise Control at all times. Sound amplification and sound producing devices are prohibited.	ORS 215.283(4)(b) allows for amplified music/voices between 8 am - 8 pm
f. The maximum attendance is 30 at any one time for all non-residents of the tract.	ORS 215.283(4)(b) allows for 100 attendees or 50 vehicles
g. Where there is a conflict between this section and DCC 18.16.042(C)(4-12), the more restrictive criteria shall apply.	
2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:	Matches ORS 215.283(4)(c)
a. Minimum lot or parcel size: 10 acres.	ORS 215.283(4)(c) does not have a minimum lot or parcel size

b. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.	Matches ORS 215.283(4)(c)
c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.	215.283(4)(c) does not differentiate between Agri-tourism and Commercial Events
d. Must be incidental and subordinate to existing farm use of the tract, and shall be related to and supportive of agriculture.	Matches ORS 215.283(4)(c)
e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one business day after the agri-tourism and other commercial events or activities between 7:00 a.m. and 10:00 p.m.	215.283(4)(c) has no provisions concerning set-up and take down
f. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities.	Matches ORS 215.283(4)(c)
g. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.	Matches ORS 215.283(4)(c)(E)
h. Must comply with ORS 215.296.	Matches ORS 215.283(4)(c)
i. Limited Use Permits approved under this section expire two years from the date of approval.	Matches ORS 215.283(6)(b)
j. Limited Permits may be renewed for an additional two years subject to:	
i. An application for renewal; and	
ii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.	Matches ORS 215.283(4)(c)
3. Type 3. Agri-tourism or other commercial events or activities may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, more frequently or for a longer period than allowed under 18.16.042(C)(1) and (2) if the agri-tourism or other commercial events or activities is in compliance with:	Matches ORS 215.283(4)(d)
a. Criteria set forth in 18.16.042(C)(2)(d)(e)(f)(g) and (h).	
b. Must be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.	Matches ORS 215.283(4)(d)(A)

c. Minimum lot or parcel size: 160 acres.	ORS 215.283(4)(c) does not have a minimum lot or parcel size
d. Do not exceed 18 commercial events or activities in a calendar year.	Matches ORS 215.283(4)(d)
e. Commercial events or activities may not, individually, exceed a duration of 24 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 24 consecutive hours.	ORS 215.283(4)(c) allows events for a duration of 72 consecutive hours
f. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.	Matches ORS 215.283(4)(c)
g. No more than two commercial events or activities may occur in one month.	ORS 215.283(4)(c) does not limit events to occur once a month
h. Limited Use Permits approved under this section expire four years from the date of approval.	ORS 215.283(6) allows for 2 year permits whereas Deschutes County allows four year permits
i. Limited Use Permits may be renewed at four year intervals subject to:	
i. An application for renewal;	
ii. Public notice and public comment as part of the review process.	Matches ORS 215.283(5)(a)
iii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.	Matches ORS 215.283(5)(b)
4. The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.	ORS 215.283(4) does not have setback provisions
5. Notification of agri-tourism and other commercial events or activities.	
a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.	Partially matches ORS 215.283(4)(c)(F)(i); ORS does not require notification of Sheriff's Office and property owners within 500 feet

<p>b. The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.</p> <p>c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.</p> <p>d. The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.</p>	<p>ORS 215.283(4) does not specify notification requirements including amendments, method, and contact persons</p>
<p>6. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.</p>	<p>ORS 215.283(4) requires but does not specify sanitation facilities type or minimums</p>
<p>7. Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.</p>	<p>ORS 215.283(4) only limits hours of operation for expedited event licenses – 6:00 am to 10:00 pm</p>
<p>8. Overnight camping is not allowed.</p>	<p>ORS 215.283(4) does not address camping</p>
<p>9. Noise Control</p>	
<p>a. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.</p>	<p>ORS 215.283(4) does not specify type of noise and a requirement to meet applicable state regulations</p>
<p>b. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.</p>	<p>ORS 215.283(4) does not specify noise standards</p>
<p>10. Transportation Management.</p>	
<p>a. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.</p> <p>b. Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.</p>	<p>ORS 215.283(4) requires a transportation management plan but does not specify standards</p>

c. The parcel, lot or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).	
d. Adequate traffic control must be provided by the property owner to address the following:	
i. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.	
ii. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.	
11. Health and Safety Compliance	
a. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.	ORS 215.283(4)(b) only requires health and safety compliance for expedited event licenses
b. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.	
12. The maximum number of people shall not exceed 500 per calendar day.	Matches ORS 215.283(4)(a)(C)
13. Agri-Tourism and other Commercial Events or Activities shall not be allowed:	
a. Within the County adopted big game winter ranges during the months of December through March.	ORS 215.283(4) does not prohibit events during big game winter ranges, migrations or sensitive bird/mammal habitat areas
b. Within the County adopted big game migration corridors during the month of April and during the months of October and November.	
c. Within the County adopted sensitive bird and mammal habitat areas as defined in DCC 18.90.020, unless a site has had no nesting attempt or the nest has failed, as determined by a professional wildlife biologist in May of the calendar year in which the application is approved unless a site has had no nesting attempt or the nest has failed which could be determined in May by a professional wildlife biologist.	

## YAMHILL COUNTY

Yamhill County elected to adopt SB 960 (ORS 215.283(4)) almost in its entirety. However, Yamhill County added some additional regulations:

- No artificial amplification of music is allowed for expedited agri-tourism and other commercial events (SB 960 is silent about amplified music)
- For a single event or a six event permit, a one-time use of artificial amplification of voice or music is allowed from 8 a.m. to 10 p.m. (SB 960 is silent about amplified voice or music)

- For a single event, six events, and 18 events permit, overnight camping is allowed for the duration of the one yearly activity or event. For example, if 18 events are permitted for the year, only one of those 18 events can have overnight camping. (SB 960 is silent about camping)
- If camping is proposed, a 15-day public notice is required (SB 960 only requires notice for 18 event permits)
- For all events, permits expire one year from the date of initial approval but may be renewed at the end of the first year for four-year periods (SB 960 has two and four year expiration periods)