

Attachment 2 – to the 2022 PC Work Program

List of amendments related to EFU/CFU zones

Table C: EFU/CFU Legislation

Unlikely to be advanced in 2022 given existing resources. Can be considered for advancement to a future Work Program during future annual work program discussions –

There are three new items relating to 2021 legislation affecting EFU lands – Items C12 through C14.

	Project Name & Year Either Added to Work Program or Identified	Brief Summary	Status	Year Added	Source
C1	Defines 'center of tract' as it relates to approval of certain forest dwellings; 2019	HB 2225 (2019) Bill summary: Defines "center of the subject tract" as the mathematical centroid of the tract for siting certain permissible forest dwellings. Adds the following requirements for a prospective proposed dwelling: (1) the lot or parcel on which the dwelling will be sited was lawfully established; (2) any property line adjustment complied with property line adjustment provisions in replatting statutes; (3) any property line adjustment after January 1, 2019 did not have the effect of qualifying the lot or parcel for a dwelling under this Act; and [this may change dates in existing code – However county likely able to retain existing earlier date thresholds that are more restrictive] (4) if the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.	Not yet begun.	2019	HB 2225

		Becomes operative on November 1, 2023 in Multnomah County (different dates apply for various counties). Prohibits counties from implementing these provisions until on or after the specified operative date for that county (this is only an issue relating to the effective date for any County ordinance). Because of the late effective date work on this ordinance need not be taken up during the 2022 work program.			
C2	Replacement dwellings in EFU; 2013 (PC-2013-3193)	<p>In order to qualify for replacement dwelling in the EFU zone, a dwelling must have intact walls, a roof, electricity, plumbing, and a heating system.</p> <p>However, structures that were once dwellings but have since been converted to other uses, are dilapidated, or have long been removed from the property do not qualify for replacement under current law.</p> <p>Under HB 2746 (2013) structures that were once dwellings but have become dilapidated, converted to other uses (like ag buildings), or have been removed from the property may be used to qualify a property for a replacement dwelling. The effect of this bill is to allow dwellings on EFU zoned properties that would otherwise not qualify for a dwelling.</p> <p>Note: Law sunsets in 2024.</p> <p>Note: There is now case law on this (See Oregon Supreme Court: Landwatch Lane County v. Lane County, 364 Or 724 (2019), Apr 25, 2019 (reversed and remanded)) – see notes from Legal Issues 2019...</p>	Project has been scoped. Multnomah County has authority to apply statute directly until such time amendments are approved. Expanded replacement dwelling regulations sunset in 2024.	2013	HB 2746
C3	Solar facilities on high value EFU land in Willamette Valley; 2016 (PC-2019-11629)	New rules (OAR 660-033-0130(38)) limit, but do not prohibit, solar development on high-value farmland located in EFU zones the Willamette Valley.	Not yet begun.	2016	OAR
C4	Property line adjustments in EFU and CFU zones; 2017	HB 3055 (2017) clarifies current law that restricts the use of property line adjustments on high-value farm and forest lands or within a ground water restricted area where land unit is the result of a subdivision or partition authorized by a waiver. For two-acre land units,	Not yet begun.	2017	HB 3055

		requires that unit before the adjustment is two acres in size or smaller. For five-acre land units, requires that unit before the adjustment is five acres or smaller.			
C5	Remanded land use decisions affecting EFU and CFU zones; 2018	HB 4124 (2018) relates to remanded land use decisions; and declaring an emergency. Allows county governing body, upon remand of matter from Land Use Board of Appeals to county, to have planning commission or hearings officer conduct hearing and make decision regarding lands designated under statewide planning goal addressing agricultural lands or forestlands. Requires county governing body to review planning commission or hearings officer decision and take one of three specified actions on decision.	Not yet begun.	2018	HB 4124
N/A	Replacement Dwellings in EFU; 2019 Note: This will be rolled into above project.	HB 3024 (2019) – Modifies 2013 Bill (HB 2746) listed above. Prohibits county from considering property tax classification of dwellings that were previously removed, destroyed, demolished or converted to nonresidential uses when reviewing application for replacement dwelling on lands zoned for exclusive farm use. Summary: Bill modifies requirements for a lawfully established dwelling in an exclusive farm use zone to be altered, restored, or replaced based on status of the dwelling as follows: (1) for a dwelling that was removed, destroyed, or demolished: dwelling tax lot does not have an ad valorem tax lien and the removal, destruction, or demolition occurred on or after January 1, 1973; (2) for a dwelling in state of disrepair so as to be unsafe or constitute an attractive nuisance: dwelling tax lot does not have an ad valorem tax lien; (3) for any other dwelling: dwelling was assessed as a dwelling for purpose of ad valorem taxation for either the previous five property tax years or from the time it was erected or affixed to the land and became subject to taxation.	Not yet begun.	2019	HB 3024
C6	Cider Business and Breweries on EFU. SB 677 (2017) SB 287 (2019)	Cider Businesses and Breweries are now allowed in ORS 215.283 (1)(y) and (z). Add to code as review use similar to winery code.	Not yet begun.	2017	SB 677 and SB 287

		<p>Cider Business: SB 677 (2017) - 215.451</p> <p>Brewery: SB 287 (2019) – Now ORS 215.449</p> <p>Staff will review recently adopted winery code for consistency when preparing draft code.</p>			
C7	<p>Facilities that are less than 2,500 square feet for the purpose of processing farm products in the EFU zone; 2019</p>	<p>HB 2844 (2019)</p> <p>Authorizes counties to allow farm product processing facilities with processing areas smaller than 2,500 square feet to be a permitted use on lands zoned for exclusive farm use (EFU) notwithstanding siting standards. Reorganizes statute.</p> <p>Removes provision excepting marijuana farm processing facilities from authorization to county to allow farm product processing facilities using less than 2,500 square feet for a processing area in exclusive farm use zones notwithstanding siting standards.</p> <p>Background: Counties have been authorized by the legislature to allow farm product processing facilities with processing areas smaller than 10,000 square feet that are in compliance with applicable siting standards to be a permitted use on EFU-zoned lands under ORS 215.283. A processing facility is defined in statute. Counties are prohibited from applying siting standards in a manner that would prohibit the siting of these farm product processing facilities. HB 2844 authorizes counties to allow farm product processing facilities with processing areas smaller than 2,500 square feet to be a permitted use on EFU-zoned lands without regard to siting standards.</p> <p>Staff will need to research a little further. It appears from the Bill that siting standards cannot be used to prohibit processing facilities less than 2,500 on EFU land - except those expressly listed in rule (floodplains, geologic hazards, beach and dune hazards, airport safety, tsunamic hazards and fire siting standards.</p>	<p>Not yet begun.</p> <p>See ORS 215.255</p> <p>ORS 215.283 (1)(r)</p>	2019	HB 2844
C8	<p>Nonconforming Schools in EFU zones;</p>	<p>HB 3384 (2019) limits reasons counties may deny expansion of certain schools on EFU land.</p>	<p>Not yet begun.</p>	2019	HB 3384

	<p>2019</p>	<p>ORS 215.135 Expansion of nonconforming school in exclusive farm use zone. (1) Notwithstanding ORS 215.130, 215.213 or 215.283 or any local zoning ordinance or regulation, a public or private school, including all buildings essential to the operation of the school, formerly allowed pursuant to ORS 215.213 (1)(a) or 215.283 (1)(a), as in effect before January 1, 2010, may be expanded provided:</p> <p>(a) The expansion complies with ORS 215.296;</p> <p>(b) The school was established on or before January 1, 2009;</p> <p>(c) The expansion occurs on a tax lot:</p> <p>(A) On which the school was established; or</p> <p>(B) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and</p> <p>(d) The school is a public or private school for kindergarten through grade 12.</p> <p>(2) A county may not deny an expansion under this section upon any rule or condition establishing:</p> <p>(a) A maximum capacity of people in the structure or group of structures;</p> <p>(b) A minimum distance between structures; or</p> <p>(c) A maximum density of structures per acre. [2009 c.850 §14; 2019 c.416 §1]</p>			
C9	Biosolid pre-treatment; 2018	<p>HB 2179 (2017) Permits onsite treatment of septage prior to application of biosolid on exclusive farm use land using treatment facilities that are portable, temporary and transportable by truck trailer during authorized period of time.</p> <p>ORS 215.283(1) (v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695,</p>	Not yet begun.	2017	HB 2179

		459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.			
C10	Solar facilities on high value EFU land in Willamette Valley; 2019 (PC-2019-11629)	New rules (OAR 660-033-0130(38)) limit, but do not prohibit, solar development on high-value farmland located in EFU zones the Willamette Valley. Also See HB 2109 (2021): Modifies definition of "renewable energy facility" for purposes of county permitting process for certain energy facilities. HB 2329 (2019) fix Defines acreage limits on farm land based on soil type and other factors. Chapter 60, (2021 Laws). https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB2109	Not yet begun.	2019	OAR
C11	Land Divisions in EFU for siting utilities	SB 408 (2019) Allows county to approve certain divisions of land zoned for exclusive farm use for purposes of siting utility facilities necessary for public service. ORS 215.263 (3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (1)(c) or (2) or 215.283 (1)(c) or (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.	Not yet begun.	2019	SB 408

		<p>Land that is divided under this subsection pursuant to ORS 215.213 (1)(c) or 215.283 (1)(c) may not later be rezoned by the county for retail, commercial, industrial or other nonresource use, except as provided under the statewide land use planning goals or under ORS 197.732.</p> <p>For Reference:</p> <p>ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules. (1) The following uses may be established in any area zoned for exclusive farm use:</p> <p>***</p> <p>(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:</p> <p>(A) ORS 215.275; or</p> <p>(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.</p> <p>***</p> <p>(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296: ...</p>			
C12	Building permits / agricultural buildings	(4) An agricultural building may be used for uses in addition to the uses listed in subsection (2)(a) of this section if the additional uses: (a) Are incidental and accessory to the uses listed in subsection (2)(a) of this section; (b) Are personal to the farm owner and the farm owner’s immediate family or household; and (c) Do not pose a greater hazard to persons or property than the uses listed in subsection (2)(a) of this section.	Not yet begun.	2021	HB 2611

C13	Childcare Facilities in EFU	Limits certain restrictions by local governments on use of property for child care facilities. Allows development of certain uses for children as conditional use on lands zoned for exclusive farm use. Chapter 369, (2021 Laws): Effective date January 1, 2022. https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB3109	Not yet begun	2021	HB 3109
C14	Dog Training Facilities on EFU land	Exempts dog training facilities from state structural specialty codes. https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB3318	Not yet begun	2021	HB 3318