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Attachment 2 – to the 2020 PC Work Program

Summary of projects for possible inclusion in an EFU/CFU Omnibus Ordinance Updated November 13, 2019

A number of recent bills affect EFU and CFU zones. Staff may combine some or all of these resource land projects for efficiency under a resource lands omnibus ordinance. Below is a list of the individual Bills relating to the project.

Table C: EFU/CFU Legislation

Unlikely to be advanced in 2020 given existing resources. Can be considered for advancement to a future Work Program during future annual work program discussions

	Project Name & Year Either Added to Work Program or Identified	Brief Summary	Status
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,	Not yet begun.

		<p>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.</p> <p>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 2020 work program.</p>	
C2	<p>Replacement dwellings in EFU; 2013 (PC-2013-3193)</p>	<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>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.</p>
C3	<p>Solar facilities on high value EFU land in Willamette Valley; 2016 (PC-2019-11629)</p>	<p>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.</p>	<p>Not yet begun.</p>
C4	<p>Equine and equine-affiliated therapeutic and counseling activities in EFU; 2019</p>	<p>SB 1533 (2018) adds new use under ORS 215.283(1):</p> <p>(bb) Equine and equine-affiliated therapeutic and counseling activities, provided: (A) The activities are conducted in existing buildings that were lawfully constructed on the property before the effective date of this 2018 Act or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and</p>	<p>Not yet begun.</p>

		(B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.	
C5	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, 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.	Not yet begun.
C6	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.
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;	Not yet begun.

		(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.	
C7	Cider Business and Breweries on EFU. SB 677 (2017) SB 287 (2019)	Cider Businesses and Breweries are now allowed under ORS 215.203. Add to code as review use similar to winery code. Cider Business: SB 677 (2017) Brewery: SB 287 (2019) . Staff will review recently adopted winery code for consistency when preparing draft code.	Not yet begun.
C8	Facilities that are less than 2,500 square feet for the purpose of processing farm products in the EFU zone; 2019	HB 2844 (2019) 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. 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. 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. 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. However,	Not yet begun.

		standards that prohibit or limit siting in areas such as mapped flood plain, wetlands are likely not considered 'siting standards' because these standards are mandated by the Feds and the State and relate to meant to protect against property damage and environmental harm.	
C9	Nonconforming Schools in EFU zones; 2019	<p>HB 3384 (2019) limits reasons counties may deny expansion of certain schools on EFU land.</p> <p>Summary: Revises statute allowing the expansion of a nonconforming school use in exclusive farm use zone. Allows the expansion of a public or private school that was established on or before January 1, 2009 on the tax lot on which the school was established, or on a tax lot contiguous to and under the same ownership on January 1, 2015 as the tax lot on which the school was established. Limits schools for possible expansion on EFU lands to kindergarten through grade 12 schools. Specifies that a county cannot deny a public or private school expansion on land zoned for exclusive farm use (EFU) based on a rule or condition that establishes: a maximum capacity of people in the structure or group of structures, a minimum distance between structures, or a maximum density of structures per acre.</p>	Not yet begun.
C10	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>	Not yet begun.
C11	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.	Not yet begun.