PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION
CHARLES D. CAMERON PUBLIC SERVICES BUILDING (AUDITORIUM)
155 N FIRST AVENUE, HILLSBORO, OR 97124

WEDNESDAY, AUGUST 17, 2016  PUBLIC MEETING  6:30 PM

Prior to scheduled public hearing items, the Planning Commission schedules time to receive briefings from county staff as work session items. These briefings provide the Planning Commission an opportunity to conduct informal communications with each other, review the agenda, and identify questions they may ask before taking action on the agenda items during the public meeting. No public testimony is taken on work session items.

Following work session briefings, the Planning Commission considers items published in their agenda, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearing portions of the meeting. The public may also speak on any item not on the agenda during the Oral Communications section of the agenda.

Upon request, the county will endeavor to arrange provision of the following services:
- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. If you need a sign language interpreter, assistive listening device, or a language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) by 5:00 p.m. on the Monday preceding the meeting date.

[Signature]
Andy Back
Planning and Development Services Division Manager
The Planning Commission welcomes your attendance at the Public Meeting. If you wish to speak on a public hearing agenda item or during Oral Communications, please feel free to do so. Time is generally limited to five minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust the actual time limits. However, in fairness to others, we respectfully ask your cooperation on the following:

Please follow sign-in procedures located on the table by the entrance to the auditorium.

- When your name is announced, please be seated at the table in front and state your name and home or business address for the record.

- Groups or organizations wishing to make a presentation are asked to designate one spokesperson in the interest of time and to avoid repetition.

- When more than one citizen is heard on any matter, please avoid repetition in your comments. Careful attention to the previous speakers’ remarks will be helpful in this regard.

- If you plan to present written testimony at the hearing, please bring 15 copies for distribution to Commission members and staff.

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**PUBLIC MEETING DATES**

**BOARD OF COMMISSIONERS WORK SESSIONS**

- 8:30 a.m. 1st and 3rd Tuesdays
- 2:00 p.m. 4th Tuesday

**BOARD OF COMMISSIONERS MEETINGS**

- 10 a.m. 1st and 3rd Tuesdays
- 6:30 p.m. 4th Tuesday

**PLANNING COMMISSION MEETINGS**

- 1:30 p.m. 1st Wednesday
- 6:30 p.m. 3rd Wednesday

*Note: Occasionally it may be necessary to cancel or add a meeting date.*
PUBLIC MEETINGS BEFORE THE PLANNING COMMISSION
CHARLES D. CAMERON PUBLIC SERVICES BUILDING

WEDNESDAY AUGUST 17, 2016 6:30 PM

AGENDA

CHAIR: A. RICHARD VIAL
VICE-CHAIR: LILES GARCIA
COMMISSIONERS: ED BARTHOLEMY, TEGAN ENLOE, MARY MANSEAU,
                    ANTHONY MILLS, JEFF PETRILLO, ERIC URSTADT, MATT WELLNER

PUBLIC MEETING (AUDITORIUM)

1. CALL TO ORDER – 6:30 PM

2. ROLL CALL

3. DIRECTOR’S REPORT

4. WORK SESSION
   None

5. ORAL COMMUNICATIONS
   None

6. CONSIDERATION OF MINUTES
   b. July 6, 2016
   c. July 20, 2016
7. PUBLIC HEARING

a. Ordinance Hearing
   • Ordinance No. 815 - An Ordinance Amending the Community Development Code
     Related to Wineries Legislation

8. ADJOURN
WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, JUNE 15, 2016

ALL PUBLIC MEETINGS ARE RECORDED

1. CALL TO ORDER: 6:31 P.M. Public Services Building Auditorium

The meeting was called to order by Chair Vial.

2. ROLL CALL


Staff present: Andy Back, Theresa Cherniak, Stephen Shane, Steve Kelley, John Floyd, and Susan Aguilar, Long Range Planning (LRP); Jacqulyn Saito-Moore, County Counsel.

3. DIRECTOR’S REPORT

Andy Back, Manager for the Planning and Development Services Division of Land Use and Transportation (LUT), provided the PC with updates:

- The Rural Tourism Study report has been distributed. The public can provide comments online until September 30, 2016.
- Staffing update - Erin Wardell is the new Transportation Principal Planner
- PC hearing dates are scheduled for the following ordinances:
  - July 6 – Ordinance No. 811 – Flood Plain Maps update.
  - July 20 – Ordinance No. 813 – Housekeeping
  - August 3 – Ordinance No. 814 – Transportation System Plan (TSP) and the Catlin Gabel Plan Amendment

4. PUBLIC HEARING

Chair Vial moved to switch the public hearing and the work session to accommodate members of the public in attendance. Hearing no objection from other commissioners, Chair Vial proceeded with Agenda Item 7 (Public Hearing) ahead of agenda item 4 (Work Session).

a. Ordinance No. 810 – Marijuana regulation

Stephen Shane, Senior Planner from the Community Planning section of LRP, provided a PowerPoint presentation on Ordinance No. 810. Staff provided background on state law, existing county regulations, and future implementation of recreational marijuana applications, Oregon Liquor Control Commission (OLCC) requirements. Also discussed were issues and options, proposed ordinance amendments, and concerns of specific Washington County cities. Staff Recommendation
Staff recommended engrossment of Ordinance No. 810 to the Board of County Commissioners (Board) to include the following amendments:

- Add ordinance language that would prohibit any recreational marijuana business activity in the Future Development Districts (FD-10 and FD-20)
- Add the term “marijuana” to the existing ordinance language specific to farm stand activity

Oral Testimony regarding Ordinance No. 810

- Stephen Holmes- 5557 SW Hewett Blvd, Portland – Had questions regarding annexing into the City of Hillsboro and asked that the county allow commercial recreational marijuana growing in FD-20 District. Mr. Holmes was referred to the City of Hillsboro for annexation issues.
- Ryan Wells, Community Development Director - City of Cornelius, 1300 S Kodiak Cir, Cornelius – Expressed concerns regarding the potential effects that the County’s allowance of marijuana production facilities within the FD Districts may have on existing land uses and the future annexation and redevelopment potential of properties adjacent to the City boundary.

Testimony/Documents submitted regarding Ordinance No. 810

- Letter in support of staff recommendation received on May 12, 2016 from Pat Garrett, Washington County Sheriff – Washington County Sheriff’s Office, 215 S Adams Ave, Hillsboro, OR
- Letter received on May 24, 2016 from Debbie Raber, Senior Project Manager – City of Hillsboro Planning Department 150 E Main St, 4th Floor, Hillsboro, OR – regarding potential allowance of recreational marijuana production operations on FD-10 and FD-20.
- Letter in opposition received on May 26, 2016 from Mary Timmerman.
- Letter received on May 27, 2016 from Mark Clemons, Director of Economic Development – City of Hillsboro, 150 E Main St, 4th Floor, Hillsboro, OR – Addressing concerns regarding potential allowance of recreational marijuana production operations on FD-10 and FD-20.
- Letter received on June 2, 2016 from Jon Holan, Community Development Director – City of Forest Grove, 1924 Council St, Forest Grove, OR – Concerns regarding the allowance of recreational marijuana activities with FD Districts.
- Letter received on June 6, 2016 from Ryan Wells, Community Development Director – City of Cornelius, 1355 North Barlow St, Cornelius, OR – Concerns regarding the allowance of recreational marijuana activities within FD Districts.
- Letter received on June 8, 2016 from Colin Cooper, Planning Director – City of Hillsboro Planning Department, 150 E Main St, 4th Floor, Hillsboro, OR – Concerns regarding potential allowance of recreational marijuana activities on FD-10 and FD-20.
- Letters received on June 13 and 14, 2016 from Walt and Marilyn Wittke – 19820 SW Gassner Rd, Beaverton OR – Letters addressed prohibition of all recreational marijuana use in Washington County.
- Letter received on June 15, 2016 from Stephen Holmes – 5557 SW Hewett Blvd, Portland – Addressed concerns regarding FD-20 zoning, and landowner right to build.

Planning Commission discussion included

- The four plant personal limitation.
- Indoor and outdoor marijuana grow, lighting, and fencing requirements.
- OLCC requirements
- Having landowners sign a consent form that would require future annexation by the property owner.
- The prohibition of marijuana home occupation approvals in urban residential zones.
Commissioner Enloe stated she would be recusing herself due to her employment with the City of Hillsboro, and was concerned about a perceived conflict of interest as the city was a testifying party.

Commissioner Mills moved to recommend approval of Ordinance No. 810 to the Board of County Commissioners (Board), with the added term of marijuana to the existing ordinance language that addresses farm stand activity. No second was received. **Motion failed for lack of a second.**

Commissioner Garcia moved to recommend adoption of Ordinance No. 810 to the Board with the two amendments recommended by staff. Commissioner Mills seconded. **No vote was taken at this point in time. This motion was later withdrawn.**

Chair Vial proposed that each PC member provide up to three issues they would like addressed differently in the ordinance, to be addressed by staff at a future meeting. Six issues were ultimately identified by the PC:

- Commercial Recreational Marijuana in the Future Development Districts and Urban Reserves.
- Commercial Recreational Marijuana and Multiple Licenses on One Taxlot (‘Condo Grow’ Operations).
- Commercial Recreational Marijuana Activities and Home Occupations.
- Buffers for Commercial Recreational Marijuana Growing Operations.
- Odor Control and Air Filtration.
- Commercial Recreational Marijuana Activities and Neighborhood Meetings.

Commissioner Mills moved to continue the hearing on Ordinance No. 810 to the next meeting. Commissioner Wellner seconded. **Vote: 8-0-1 (Commissioner Enloe abstained). Motion passed.**

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**Next steps**
- The PC continued the hearing for Ordinance No. 810 to July 6, 2016.
- A hearing is scheduled for July 19, 2016 with the Board.

5. **ORAL COMMUNICATIONS**

None

6. **CONSIDERATION OF MINUTES**

None
7. **WORK SESSION**

a. Proposed Ordinance No. 811 – Flood Plan Maps
Theresa Cherniak, Principal Planner and Stephen Shane, Senior Planner from the Community Planning section of LRP, gave a PowerPoint presentation on proposed Ordinance No. 811. Staff provided background, public outreach information, and proposed Community Development Code (CDC) amendments.

**Staff recommendations**
- Need for engrossment. County was informed of FEMA’s (Federal Emergency Management Agency) required adoption language for Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) update after Ordinance No. 811 was filed on May 27, 2016.
- Minor formatting and clarifying language to existing ordinance language.

**Next steps**
- The first PC hearing is scheduled for July 7, 2016.
- The first Board hearing is scheduled for August 2, 2016.

b. Transportation System Plan (TSP) update
Steve Kelley, Senior Planner for the Transportation Planning section of LRP provided an overview and a handout regarding the proposed amendments in Ordinance No. 814. Staff indicated the ordinance is a minor update to the TSP and discussed changes under the following exhibits. Exhibit one, includes housekeeping changes to the Rural/Natural Resources Plan. Exhibit two, includes housekeeping changes to the Comprehensive Framework Plan for the Urban Area. Exhibit three, includes several changes to the TSP, and exhibit four include changes to several sections of the CDC.

**Next steps**
- Proposed Ordinance No. 814 will be filed by June 24, 2016
- A PC hearing is scheduled for August 3, 2016
- A Board hearing is scheduled for September 6, 2016

8. **ADJOURN: 9:36 P.M.**

There being no further business to come before the Planning Commission, the meeting was adjourned.

A. Richard Vial __________________________ Andrew Singelakis
   Chairman, Washington County          Secretary, Washington County
   Planning Commission                    Planning Commission

Minutes approved this __________ day of ______________________________, 2016

Submitted by Long Range Planning
WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, JULY 6, 2016

ALL PUBLIC MEETINGS ARE RECORDED

1. CALL TO ORDER:  1:32 P.M. Public Services Building Auditorium

The meeting was called to order by Chair Vial.

2. ROLL CALL


Staff present: Andy Back, Theresa Cherniak, Stephen Shane, John Floyd, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.

3. DIRECTOR’S REPORT

Andy Back, Manager for the Planning and Development Services (PDS), provided the PC with updates:

- The PDS division has submitted a request for proposal (RFP) to hire a consultant for the Aloha Town Center and the Tualatin Valley (TV) Highway Transit project.
- Mike Dahlstrom has been hired as the new Communication Engagement Manager. He will oversee the continuum of the transition for the Citizen Participation Organization program. Mike Dahlstrom has worked as a Senior Planner for the Community Planning section of LRP for several years. He will start his new position July 22, 2016.
- There will be a PC hearing scheduled for July 20, 2016 for Proposed Ordinance No. 813 – Housekeeping.
- There will be a PC hearing scheduled for August 3, 2016 for Proposed Ordinance No. 814 – Transportation System Plan, and a hearing on the Catlin Gabel Plan Amendment, and an ordinance briefing on Proposed Ordinance No. 815 - Wineries

4. WORK SESSION

None

5. ORAL COMMUNICATIONS

None
6. Consideration of Minutes

- June 1, 2016

Commissioner Mills moved to approve the minutes based on the revised draft; which includes Chair Vial’s hand-written revision. Commissioner Garcia seconded. Vote: 7-0 (both Commissioners Petrillo and Urstadt were absent). Motion passes.

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6. PUBLIC HEARING

a. Ordinance No. 810

Theresa Cherniak, Principal Planner, and Stephen Shane, Senior Planner from the Community Planning section of LRP provided a PowerPoint presentation on Ordinance No. 810. Staff discussed amendments to the Community Development Code (CDC), and prior testimony submitted. Staff addressed concerns by the PC members from the June 15, 2016 public hearing and provided recommendation options.

Next step
The first Board hearing is scheduled for July 19, 2016

Oral/Written Testimony regarding Ordinance No. 810

- Letter received on June 2, 2016 from Jon Holan, Community Development Director – City of Forest Grove, 1924 Council Street, Forest Grove, OR – Letter and oral testimony expressed concern regarding the allowance of commercial recreational marijuana facilities within the FD (Future Development) Districts adjacent to the city. Mr. Holan also discussed Urban Reserves adjacent to Forest Grove in response to PC questions.
- Letter received on June 8, 2016 from Colin Cooper, Planning Director – City of Hillsboro Planning Department, 150 E Main St, 4th Floor, Hillsboro, OR – Letter and oral testimony expressed concern regarding the allowance of commercial recreational marijuana facilities within FD Districts. Mr. Cooper also discussed Urban Reserves adjacent to Hillsboro in response to PC questions.
- Barbara Glidewell – 4070 SW 109th Ave, Beaverton, OR – Provided oral testimony regarding awareness and neighborhood impacts from recreational marijuana establishments in urban residential areas.
PC Statements/Concerns / Recommendations
Commissioner Enloe reaffirmed her statements from June 15, and said she would be recusing herself because of her employment with the City of Hillsboro, and was concerned about a perceived conflict of interest.

PC members discussed concerns from the June 15, 2016 meeting and voted on various options listed in the staff report, as follows:

a. Whether to allow or prohibit commercial recreational marijuana activity in the County’s Future Development Districts and in Urban Reserves.

Commissioner Manseau moved to amend filed Ordinance No. 810 to include a prohibition of all commercial marijuana establishments in both FD Districts (FD-10 and FD-20) and to require a temporary use permit for a five year period with a one-year annual renewal after for commercial recreational marijuana activity in the Urban Reserve areas. Commissioner Wellner seconded. Vote: 4-2-1. Motion passes.

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b. Whether to limit the existing state allowance to have multiple marijuana production licenses on one tax lot ('condo grows').

Commissioner Wellner moved to recommend Option C of the staff report restricting the number of marijuana businesses to one per tax lot for both indoor and outdoor production. Commissioner Manseau seconded. Vote: 4-2-1. Motion passes.

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c. Whether to allow commercial recreational marijuana activity under the County’s home occupation provisions.

Commissioner Manseau moved to recommend Option C of the staff report to prohibit commercial marijuana activity as a home occupation in all land use districts in both urban and rural areas. No second was received. **Motion failed for lack of a second.**

Commissioner Wellner moved to recommend Option A of the staff report to not restrict existing potential to conduct commercial marijuana activity as a home occupation as filed and recommended by staff. Commissioner Mills seconded. **Vote: 4-2-1. Motion passes.**

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d. Whether to apply increased setbacks between commercial recreational marijuana activities and adjacent uses and whether to require an air filtration unit for all indoor growing and processing activity.

Commissioner Mills moved to recommend Option A of the staff report to rely on existing land use district setbacks and not require air filtration for indoor grows and processing as recommended by staff. Commissioner Garcia seconded. **Vote: 3-3-1. Motion failed.**

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Commissioner Wellner moved to recommend Option B of the staff report to establish additional setbacks from the property line for commercial recreational marijuana production uses: 100 feet from the property line for outdoor grow operations and not require air filtration for all indoor growing and processing as recommended by staff. Commissioner Manseau seconded. **No vote was taken at this point in time.**

Commissioner Wellner amended motion to recommend Option B of the staff report to establish additional setbacks from the property line for commercial recreational marijuana production as follows: 50 feet for indoor grow operations and 100 feet for outdoor grow operations and processing in the rural area and not require air filtration for indoor grow and processing. **Vote: 4-2-1. Motion passes.**

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**e. Whether to require a neighborhood meeting for commercial recreational marijuana activities**

Commissioner Manseau moved to recommend Option A of the staff report to not require a neighborhood meeting for commercial recreational marijuana activities with an additional provision that staff will seek Board direction on whether to require posting of new recreational marijuana businesses inside the Urban Growth Boundary. Commissioner Wellner seconded. **Vote: 6-0-1. Motion passes.**

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Final Vote
Commissioner Manseau moved to recommend approval of Ordinance No. 810 to the Board to include minor text changes for clarity and to direct staff to develop language to address the proposed additional amendments voted on by the PC for Board consideration. Commissioner Mills seconded.

**Vote: 6-0-1. Motion passes.**

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b. Ordinance No. 811

Theresa Cheriak, Principal Planner, and Stephen Shane, Senior Planner from the Community Planning section of LRP provided a PowerPoint presentation on Ordinance No. 811. Staff provided ordinance background, information on proposed updates regarding county flood plain maps and amendments to the Community Development Code (CDC) in response to new Federal Emergency Management Agency (FEMA) requirements.

**Oral Testimony regarding Ordinance No. 811**
- Barbara Glidewell – 4070 SW 109th Ave, Beaverton, OR – Expressed concern and wanted to provide awareness to area landowners regarding an increase in flood insurance cost due to FEMA’s update of floodplain and maps.
- Larry Sullivan – 6089 NW Jackson School Rd, Hillsboro, OR – Requested ordinance clarification regarding non-dwelling structures, dwelling structures as it pertains to flood insurance.
- Bob Roblas – 11105 SW Hazelbrook Rd, Tualatin, OR – Expressed the need for more detail in maps in meeting schedule.
- Rick Jones – 2756 SW Golf Course Rd, OR – Wondered about the flood level for his parcel.

**PC Discussion**
- Questioned whether this was just a response to FEMA map changes or whether other staff initiated changes were made. Staff noted that there were some minor changes made to better align with FEMA requirements.
- Noted that some areas don’t show on the map (e.g., Bonny Slope West) and requested information on this. Staff noted that not all flood plain areas in the county have been updated as part of this mapping effort and will look further into mapping of the Bonny Slope West area.
Final Vote
Commissioner Wellner moved to recommend approval of Ordinance No. 811 to the Board to include proposed amendments as shown in Attachment A as well as engrossment proposed by Commissioner Manseau and those minor text amendments necessary to address the FEMA requirements. Commissioner Garcia seconded.

Commissioner Wellner moved to amend previous motion directing staff to investigate if Bonnie Slope - the portion of the county that was recently annexed from Multnomah County - is included in FEMA map. Commissioner Garcia seconded. **Vote: 7 – 0 (Commissioners Petrillo and Urstadt were absent).** Motion passes.

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10. **ADJOURN: 3:55 P.M.**

There being no further business to come before the Planning Commission, the meeting was adjourned.

______________________________  ______________________________
A. Richard Vial               Andrew Singelakis
Chairman, Washington County  Secretary, Washington County
Planning Commission          Planning Commission

Minutes approved this __________ day of ______________________________, 2016

Submitted by Long Range Planning staff
WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, JULY 20, 2016

ALL PUBLIC MEETINGS ARE RECORDED

1. CALL TO ORDER: 6:30 P.M. Public Services Building Auditorium

The meeting was called to order by Chair Vial.

2. ROLL CALL


Staff present: Andy Back, Anne Kelly and Susan Aguilar, Long Range Planning (LRP); Rick Sanai, County Counsel.

3. DIRECTOR’S REPORT

Andy Back, Manager for the Planning and Development Services, provided the PC with updates:

- County staff are having ongoing discussions with the 13 cities regarding amendments to existing Urban Planning Area Agreements (UPAA); most UPAAAs were established in the 1980s. Discussions could result in changes to maps to reflect expansion of the Urban Growth Boundary (UGB), new requirements by Metro and other changes.
- There was a Board hearing on Ordinance No. 810 – Marijuana update. The Board took testimony from the public. The Board directed staff to provide specific information on Urban Reserves and air filtration systems and continued the public hearing to August 2, 2016.
- There will be a PC hearing on August 3, 2016 regarding Ordinance No. 814 – Transportation System Plan (TSP) update, and a plan amendment submitted by Catlin Gabel to change zoning from institutional to residential, as well as an ordinance briefing on Ordinance No. 815 – Wineries.
- There will be a PC hearing on August 17 on Ordinance No. 815 – Wineries.

4. WORK SESSION

None
5. **ORAL COMMUNICATIONS**

None

6. **PUBLIC HEARING**

Chair Vial switched the Consideration of Minutes agenda item previously No. 6 with the Public hearing agenda item previously No. 7.

- **Ordinance No. 813**

  Anne Kelly, Associate Planner for the Community Planning section of LRP, provided a PowerPoint presentation on Ordinance No. 813. This ordinance proposes amendments minor housekeeping changes to the Rural/Natural Resource Plan, the Comprehensive Framework Plan for the Urban Area, and the Community Development Code (CDC).

  **Staff recommendation**
  - Recommend adoption of Ordinance No. 813 as proposed, to the Board of Commissioners (Board).

  **Oral/Written Testimony regarding Ordinance No. 813**
  - Staff responded on July 18, 2016 to comments received on July 8, 2016 from Commissioner Manseau.

  **Discussion topics**
  - Discussion regarding what qualifies as a Housekeeping versus Omnibus ordinance.

  **Final Vote**
  Commissioner Manseau moved to recommend adoption of Ordinance No. 813 to the Board. Commissioner Urstadt seconded motion. *Vote: 6 – 0 (Commissioners Bartholemy, Mills and Wellner were absent). Motion passes.*

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7. CONSIDERATION OF MINUTES

Chair Vial switched the Public hearing agenda item previously No. 7 with the Consideration of Minutes agenda item previously No. 6.

- June 15, 2016

Chair Vial deferred the consideration of the June 15, 2016 PC minutes to the August 3, 2016 PC meeting. Commissioner Enloe will connect with staff regarding revising the June 15, 2016 PC minutes to reflect her reason for abstention to Ordinance No. 810.

8. ADJOURN: 7:01 P.M.

There being no further business to come before the PC, the meeting was adjourned.

A. Richard Vial
Chairman, Washington County Planning Commission

Andrew Singelakis
Secretary, Washington County Planning Commission

Minutes approved this ______ day of ______________________________, 2016

Submitted by Long Range Planning Staff
To: Washington County Planning Commission

From: Andy Back, Manager
Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 815 - An Ordinance Amending the Community Development Code Relating to Winery Standards

STAFF REPORT

For the August 17, 2016 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 pm)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 815 to the Board of Commissioners (Board), with minor amendments as shown in this report and reflected in Attachment A.

II. OVERVIEW

Ordinance No. 815 proposes amendments to the Community Development Code (CDC) to include standards that the County must implement for wineries in exclusive farm use districts (EFU/AF-20) pursuant to state legislation. Ordinance No. 815 also proposes minor amendments to winery standards for other rural districts.

Consistent with and as required by Oregon Revised Statute (ORS) 215.452, .453, .454, and .456, CDC amendments affecting wineries in exclusive farm use areas would:

- Allow qualification of certain wineries under a new category, “Large Winery,” with broader allowances for events/activities than permitted at Standard Wineries (subject to evidence that qualifications have been met for at least three years prior);
- Incorporate “agritourism” standards that apply specifically to winery tracts pursuant to Senate Bill 841 (different than agritourism provisions of SB 960 for non-winery farmlands, which counties are not required to implement);
- Clarify other wine-related events and activities that can be conducted on winery tracts;
- Incorporate qualifying criteria and standards for operation of restaurants on winery tracts;
Allow establishment of a bed and breakfast facility as a home occupation on a winery tract (as an alternative to existing CDC standards that call for review as room and board arrangements);
- Clarify when wineries/winery activities may be reviewed as commercial activities in conjunction with farm use;
- Incorporate provisions for nonconforming continuation of winery-related structures, uses, activities, and events predating state enactment of above noted standards.

CDC amendments to winery standards for rural districts other than exclusive farm use areas are for clarity and are primarily format related.

III. BACKGROUND
Within the County’s recently released Rural Tourism Study, residents, business and farm operators point to wineries as important to the agricultural mix that gives rural Washington County its unique identity and appeal. Serving as economic incubators beyond the scope of wine sales, wineries and the activities they host appear to draw visitors from nearby urban areas to explore the County’s farms, farm stands, natural amenities, rural recreational opportunities and more.

Vineyards and wine production in Washington County date back to the late 1800s, and today about 30 wineries operate here. In just the 15-year stretch between 1998 and 2013, 22 wineries appear to have been established. By far the most are sited on farmlands that the state refers to as “exclusive farm use” areas, while a relative few operate from smaller properties that are more residential in nature (in AF-5, AF-10, and RR-5 districts). The median size is about 30 acres, but they range from less than one acre to almost 187. Based on available records, with a few exceptions it appears that the County has approved a winery or two almost every year since 1998. 2004 topped the other years, bringing in three new wineries, including two of the largest.

For many years, state and local winery regulations left a great deal of gray area, especially in terms of related activities that grew in frequency and popularity along with the winery count. In the interest of clarity on legitimate allowances and restrictions, winery associations throughout Oregon were active in advancing recent changes to state law. These have not yet been translated into County code.

Prior to 1990, Washington County Community Development Code (CDC) language addressing rural wineries included only the existing introductory description of “Winery,” and existing standards for districts not designated exclusive farm use (AF-10, AF-5, RR-5, Rural Commercial, Rural Industrial and MAE). Current CDC standards that apply to exclusive farm use areas (EFU and AF-20) primarily represent amendments enacted October 23, 1990, via Ordinance No. 380, which made wineries allowable in eight of the County’s nine rural land use districts. Besides minor housekeeping amendments, CDC standards for wineries have not been updated since.

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1 Conducted by both County staff and independent consultants, with funding contributions from the Washington County Visitors Association: http://www.co.washington.or.us/ruraltourismstudy
2 Washington County Visitors Association
3 1998 was chosen as a starting point based on consistent accessibility of electronic file information
Ordinance No. 815 proposes updates to winery standards in the CDC, primarily to incorporate current state mandated provisions in Oregon Revised Statutes (ORS), adopted by the state over a number of years. State requirements are highly prescriptive and leave little room for counties to alter specified restrictions, allowances, and conditions. The bulk of proposed changes come from House Bill 3280 (passed in 2011) and Senate Bill 841 (2013).

HB 3280 significantly updated rules that had been in place since 1989, establishing and clarifying rules for winery-related activities and uses on exclusive farm use lands (EFU/AF-20). The house bill provided allowances for tasting rooms, wine marketing events, agritourism and commercial events at wineries, and restrictions on income from incidental activities. HB 3280 also created qualifying criteria for a new winery category, Large Winery, with a unique set of allowances and rules for events and associated uses, including restaurants.

Provisions of HB 3280 for wineries other than Large Wineries were originally intended to expire on January 1, 2014, but for the most part Senate Bill 841 (2013) retained and honed related rules.

SB 841 was sponsored by the Committee on Rural Communities and Economic Development, at the request of Oregon Winegrowers Association, Willamette Valley Wineries Association, Southern Oregon Winery Association, and Winegrowers Association of Central Oregon. It confirmed that wineries on exclusive farm use lands (EFU/AF-20), meeting provisions of ORS 215.452 or .453, have the right to host certain on-site activities or events. Details about statute and how it translates to County code are included in the Analysis section of this report.

Staff worked with the Oregon Department of Land Conservation and Development Farm/Forest Lands Specialist, providing draft versions of proposed CDC standards prior to filing Ordinance No. 815. DLCD has been very helpful in answering a number of questions to help ensure that the state’s winery provisions, as they apply in Washington County, are accurately reflected in the CDC via Ordinance No. 815. Staff also shared the ordinance with the larger group of Washington County’s Long Range Planning and Current Planning Services Planners during the drafting process, especially to help ensure that appropriate review procedures are presented in a manner consistent with both statutory requirements and County protocol. Exhibit 1 of the ordinance presents proposed standards as refined through these discussions.

**Ordinance Notification**

Ordinance No. 815 and an accompanying summary were mailed to citizen participation organizations (CPOs) and interested parties on July 22, 2016. A display advertisement regarding the proposed ordinance was published in the *Hillsboro Argus* and *The Oregonian* newspapers on July 27 and July 29, 2016 respectively. Individual Notice 2016-07 describing proposed Ordinance No. 815 was mailed to 314 people on the General Notification List on August 3, 2016. A copy of this notice was also mailed to the Planning Commission at that time.
V. ANALYSIS

This analysis is divided into two main parts, first addressing wineries in exclusive farm use districts; and later addressing rural wineries outside of such districts. Following is an outline of the Analysis section:

Wineries in Exclusive Farm Use Districts
- Establishment of a Winery as a Permitted Use on Exclusive Farm Use Land
  - Establishment of a Standard Winery
  - Establishment of a Large Winery
  - Additional Criteria for Establishment of All Standard and Large Wineries
- Allowed Uses/Activities
  - Uses/Activities Allowed through Winery Establishment (Standard or Large Winery)
  - Winery-Specific Agritourism or Other Commercial Events
    - Agritourism or Other Commercial Events at Standard Wineries
    - Agritourism or Other Commercial Events at Large Wineries
  - Kitchen Facilities and Restaurants
    - Kitchens at Standard Wineries
    - Restaurants at Large Wineries
  - Bed and Breakfast Operations on Winery Tracts
- Wineries and Associated Uses/Activities not Meeting Standard or Large Winery Criteria
- Existing Wineries, Related Uses and Structures
- Summary Table: Activities/Uses Allowed at Wineries on Exclusive Farm Use Land

Rural Wineries Outside Of Exclusive Farm Use Areas

WINERIES IN EXCLUSIVE FARM USE DISTRICTS

As noted above, Ordinance No. 815 proposes to update the Washington County Community Development Code (CDC), primarily to reflect provisions of state law that the County is required to implement for wineries in exclusive farm use districts (EFU/AF-20). The majority of updates come from Oregon Revised Statute 215.452 and .453, but other ORS sections also apply.

Establishment of a Winery as a Permitted Use on Exclusive Farm Use Land
State law categorizes wineries in exclusive farm use areas based on different scales of operation. The state refers to one category as a Large Winery, the other we have termed a Standard Winery. Wineries must meet the following criteria for establishment under one or the other.

Establishment of a Standard Winery
ORS 215.452, Winery; conditions; permissible products and services; local government findings and criteria; fees, applies to wineries in exclusive farm use areas that:
1. Produce less than 50,000 gallons of wine annually; and
   (a) Own at least 15 acres of on-site or contiguous planted vineyards;
   (b) Have a long-term contract for purchase of grapes from at least 15 acres of a contiguous vineyard; or
   (c) Obtain grapes from any combination of these;
   or
2. Produce at least 50,000 gallons of wine annually; and
   (a) Own at least 40 acres of on-site or contiguous planted vineyards;
   (b) Have a long-term contract for purchase of grapes from at least 40 acres of a contiguous
       vineyard;
   (c) Own an on-site vineyard of at least 15 acres on a tract of at least 40 acres and at least 40
       additional acres of planted vineyards in Oregon within 15 miles of the winery; or
   (d) Obtain grapes from any combination of these.

The CDC has generally included the above winery criteria since 1990, with the exception of
those provisions shown under 2(c), which Ordinance No. 815 proposes to add for consistency
with the ORS.

While the criteria above differ, state legislation refers to a winery described under either
scenario simply as a “winery,” and allows the same set of uses and activities for a winery
approved under either. For simplicity’s sake, Ordinance No. 815 therefore refers to a winery
established under criteria of either (1) or (2) as a Standard Winery, and that term will be used
throughout this report. This is to more clearly distinguish it from the new winery category
created and named under HB 3280 in 2011, Large Winery, which the state affords a broader set
of allowances.

Establishment of a Large Winery
ORS 215.453, Large Winery; conditions; products and services; local government findings and
criteria, reflects legislation that the state has enacted for a new category of wineries in exclusive
farm use areas, Large Winery. Establishment under this classification requires evidence that a
winery:
   Has produced at least 150,000 gallons of wine annually, in at least three of the five years
   prior to establishment as a Large Winery; and
   (a) Owns and is sited on a tract of at least 80 acres, that includes a planted vineyard of at
       least 50 acres; and
   (b) Owns at least 80 additional acres of planted vineyards in Oregon, that need not be
       contiguous to the above described acreage.

While the median size of existing wineries in Washington County is 30 acres, it appears that at
least one could potentially meet Large Winery criteria considering its overall acreage and years
in operation. For establishment under this category, however, an applicant would need to
provide proof of the required vineyard acreage (not just site acreage), evidence that production
levels have met the above noted threshold for the required three-year period, and information
demonstrating compliance with additional criteria below.

The CDC does not currently include any standards that address a Large Winery. Ordinance
No. 815 proposes updates to incorporate them for consistency with state law.

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4 Criteria shown come from ORS 215.452 (1) (a) and (b).
Additional Criteria for Establishment of All Standard and Large Wineries Described Above

The state applies an additional set of criteria for establishment of both Standard and Large Wineries on exclusive farm use lands, to address:

- Setbacks to buildings and gathering spaces;
- Traffic access and circulation;
- Parking;
- When applicable, flood plains, significant natural resources, geological concerns, solar access, airport safety, open spaces, historic or scenic areas; and
- General public health and safety.

The first four criteria are fundamentally the same as standards found under existing CDC Section 430-145.1 E. Proposed Ordinance No. 815 adds the state provision calling for compliance with public health and safety requirements, and makes the full set of standards applicable to establishment of both Standard and Large Wineries per state law. While the ORS reflects that the above standards are intended to limit demonstrated conflicts with accepted farming or forest practices on adjacent lands, applicants are not specifically required to address impact test requirements of ORS 215.296 for establishment of a Standard or Large Winery. Applicants must formally address impact test requirements, however, as part of permit requirements for certain allowable uses or activities in conjunction with wineries (addressed later in this report).

Allowed Uses/Activities (see also, summary table on page 13)

Existing CDC Section 430-145 limits activities associated with wineries, other than producing and distributing wine, to the sale of:

- Wines produced in conjunction with the winery; and
- Items directly related to wine, the sales of which are incidental to retail sale of wine on-site, including items served by a limited service restaurant as defined in ORS 624.010 (one that serves only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverages).

Ordinance No. 815 proposes replacement of these CDC restrictions with current provisions of ORS 215.452 and .453 that expand, clarify, and provide associated rules for uses allowed at wineries. These amendments account for the majority of changes to CDC Section 430-145. A table summarizing allowed uses and comparing allowances for Standard and Large Wineries is presented on page 13 of this report.

Uses/Activities Allowed through Winery Establishment (Standard or Large Winery)

In most cases, activities centered around wine promotion are allowed via establishment of the winery as a permitted use that meets qualifying criteria under the ORS. Examples include wine tastings and tours, wine club activities, open house wine promotions, dinners with the winemaker, and similar activities where wine promotion is the focus. Other uses and activities at wineries require a separate review and five-year license or permit, which may be subject to conditions to ensure that activities are subordinate to production/sale of wine and don’t significantly impact surrounding land uses. Generally, conditions of these permits may address attendee numbers, noise management, hours of operation, access, parking, traffic management, and sanitation/solid waste.
Under current statute, by virtue of establishment as a permitted use under 215.452 or .453, a Standard or Large Winery is allowed to conduct any of the activities in the list below:

1. Market and sell wine produced in conjunction with the winery;
2. Conduct operations, unlimited in number, directly related to sale or marketing of wine produced in conjunction with the winery, including:
   (a) Wine tastings in a tasting room or other location on the winery premises;
   (b) Wine club activities;
   (c) Winemaker luncheons and dinners;
   (d) Winery and vineyard tours;
   (e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine industry members;
   (f) Winery staff activities;
   (g) Open house promotions of wine produced in conjunction with the winery; and
   (h) Similar activities for the primary purpose of promoting wine produced in conjunction with the winery; and
3. Provided that the gross income of the winery from sale of incidental items or services listed below does not exceed 25 percent of gross income from on-site retail sale of wine produced in conjunction with the winery:
   (a) Host charitable activities for which the winery charges no facility rental fee;
   (b) Market and sell items directly related to sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages that are:
      • Required to be made available in conjunction with consumption of wine on the premises by the Liquor Control Act or rules adopted under it; or
      • Served in conjunction with activities described above (under 1 through 3(a) of this list), or in conjunction with certain activities/uses listed below that require a separate license/permit.

Ordinance No. 815 proposes standards incorporating the above allowances. For the most part, the state allows Counties little or no discretion in application of the winery provisions. Staff notes, however, that the standard reflected under 2(h) appears to leave the County some say in which “similar activities” may be allowable through winery approval versus a separate license or permit (discussed below).

Winery-Specific Agritourism or Other Commercial Events
The County is required to allow agritourism or other commercial events on an exclusive farm use tract occupied by a winery, subject to provisions of ORS 215.452 and .453. A description of赢ery-specific agritourism or other commercial events, as found in the ORS and proposed for inclusion within CDC Section 430-145, is as follows:

"Agritourism or other commercial events" includes 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.
It is important to note that ORS 215.213 (11), via SB 960, includes different standards for agritourism or other commercial events in conjunction with non-winery farm uses, which counties are not required to adopt. Unlike the state’s provisions for winery-specific agritourism or other commercial events, non-winery standards afford counties that adopt them a fair amount of discretion in terms of how permissive or restrictive to be in their application.

State law allows Standard Wineries to utilize either the non-winery agritourism or other commercial events standards (in counties that adopt them) or the winery-specific standards, but not both. State law does not specifically preclude Large Wineries from taking advantage of both winery-specific and non-winery provisions for agritourism or other commercial events in counties where the latter have been adopted. **Washington County, however, has not adopted non-winery agritourism provisions of ORS 215.213 (11), and Ordinance No. 815 does not address their potential adoption.**

Text distinguishing winery-specific agritourism or other commercial events from the state’s non-winery provisions is proposed within Ordinance No. 815 for inclusion under CDC Section 430-145.

The state applies different requirements for authorization of agritourism or other commercial events at Standard versus Large Wineries. State law is quite prescriptive on what is allowed and on parameters that apply. Staff has followed state law closely in developing the proposed CDC standards, and believes that little flexibility or interpretation is possible relative to what is allowed. Allowances and related rules are addressed below.

**A. Agritourism or Other Commercial Events at Standard Wineries**

For Standard Winery tracts, state law allows up to 18 days of winery-related agritourism or other commercial events per calendar year, directly related to and incidental to sale or promotion of wine produced in conjunction with the winery, subject to the following:

- May not also conduct non-winery agritourism or other commercial events addressed under ORS 215.213 (11) (per 215.237);
- Gross income from agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items in conjunction with these, must not exceed 25 percent of gross income from on-site retail sale of wine produced in conjunction with the winery;
- Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied;
- For events on the first six days, a renewable five-year license from the County (not a land use decision per ORS 197.015) is required;
- For events on days seven through 18, a renewable five-year land use permit is required.

Provisions consistent with the above are reflected within proposed Ordinance No. 815, Exhibit 1. Specific to the license required for events on days one through six, the requirement is reflected within proposed CDC language, but since it is not considered a land use permit, further discussion may be needed as to the appropriate review department and where to best reflect any further review specifics if desired (Washington County Code versus Community Development Code for example).
B. Agritourism or Other Commercial Events at Large Wineries

For Large Winery tracts, state law allows winery-related agritourism or other commercial events somewhat differently. For example, per ORS 215.453(11), if the County issued permits to wineries before August 2, 2011, to host outdoor concerts for which admission is charged, facility rentals, or celebratory gatherings, the County may now permit Large Wineries to host these activities through current provisions for agritourism or other commercial events. Otherwise, it may not. Between permitting histories of both Land Use & Transportation and the Department of Health & Human Services, the County appears to have issued some permits to wineries for these activities prior to that date. Discussions with DLCD indicate that the County should therefore approve such permits if approval criteria can be met. Interestingly, the above distinction does not apply to Standard Wineries, which are allowed to host such activities via agritourism or other commercial event provisions regardless.

For Large Winery tracts, state law allows winery-related agritourism or other commercial events, subject to the following:

- Authorization to conduct these events on 25 days or fewer per calendar year occurs through land use approval of the Large Winery itself. The events must feature the winery’s wine and be directly related and incidental to production and on-site sales of wine. Income restrictions and provisions for parking apply. Discussions with DLCD suggest that application of conditions regarding attendee numbers, hours, access, and management of traffic, noise, sanitation and solid waste (as applied to Standard Winery events) would be reasonable here as well. These conditions are therefore included within proposed standards. Staff notes that such conditions appear consistent with those required for winery approval, which in this case would be the mechanism for event approval (see Additional Criteria for Establishment of All Standard and Large Wineries, above).

- For events on more than 25 days per calendar year, a separate land use permit is required. If the County approves such a permit, the County must review it at least every five years and may renew it if appropriate. The ORS states that “in addition to any other requirements,” approval is subject to findings that the authorized activity:
  - Is incidental and subordinate to retail sale of wine produced in conjunction with the winery;
  - Meets farm and forest impact test requirements of ORS 215.296 (includes requirements that the proposed use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands); and
  - Does not materially alter the stability of the land use pattern in the area.

Within Ordinance No. 815, Exhibit 1 proposes standards under CDC Section 430-145.6 reflecting the above provisions, and standard conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste.

Proposed CDC Section 430-145.6, however, includes an error, showing only a Type II land use review requirement for agritourism or other commercial events within a Large Winery tract on more than 25 days per year. A Type III review has been determined necessary for
this permit, as reflected within proposed changes to CDC Sections 340-5 and 344-5 (EFU and AF-20 district standards: Uses Which May be Permitted Through a Type III Procedure).

The required finding that a use will “not materially alter the stability of the land use pattern in the area” is a standard requirement for Type III land uses in exclusive farm use districts. Existing AF-20 and EFU district standards of the CDC therefore require a Type III review for any use subject to that finding. While Type II reviews generally entail uses that can be approved with limited discretion, subject to conditions that ensure their compliance with requirements; Type III reviews apply to uses that call for a higher level of judgement and public involvement. Type III uses may or may not be approved, depending on evidence sufficient to indicate that compliance with more discretionary requirements can be met. Engrossment of Ordinance No. 815 is recommended to reflect a Type III review requirement under proposed Section 430-145.6, instead of a Type II, consistent with the above.

**Kitchen Facilities and Restaurants**

**A. Kitchens at Standard Wineries**

ORS 215.452 allows a Standard Winery to include on-site kitchen facilities, licensed by the Oregon Health Authority under ORS 624.010 to 624.121, for preparation of food and beverages that are made available on-site in conjunction with:

- Wine consumption, per requirements of the Liquor Control Act or its rules;
- Authorized operations directly related to the sale or marketing of wine produced in conjunction with the winery; or
- Charitable activities for which the winery charges no facility rental fee.

The statute prohibits these from “utilizing menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.”

In addition to the above noted licensing requirements, development review as part of winery land use approval would apply.

**B. Restaurants at Large Wineries**

ORS 215.453 allows a Large Winery to operate a restaurant as defined in ORS 624.010, where food is prepared for consumption on the winery premises, subject to the following:

- Authorization to operate the restaurant on 25 days or fewer per calendar year occurs through land use approval of the Large Winery itself. The restaurant must feature the winery’s wine, and marketing and sale of food and beverages in conjunction with the restaurant must be directly related and incidental to production and on-site sales of the wine. Income restrictions and provisions for parking apply.

Discussions with DLCD suggest that application of conditions regarding attendee numbers, hours, access, and management of traffic, noise, sanitation and solid waste (as applied to Standard Winery events) would be reasonable here as well. Staff notes that such conditions appear consistent with those required for winery approval, which in this case would be the mechanism for event approval (see Additional Criteria for Establishment of All Standard and Large Wineries, above).
For winery operation of a restaurant that is open to the public on more than 25 days per calendar year, a separate land use permit is required. If the County approves the permit, the County must review it at least every five years and may renew it if appropriate. The ORS states that “in addition to any other requirements,” approval is subject to the following:

- A person may not have a substantial ownership interest in more than one winery in Oregon operating a restaurant under ORS 215.453; and the authorized activity:
  - Is incidental and subordinate to retail sale of wine produced in conjunction with the winery;
  - Meets farm and forest impact test requirements of ORS 215.296 (includes requirements that the proposed use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands); and
  - Does not materially alter the stability of the land use pattern in the area.

Ordinance No. 815 proposes standards under CDC Section 430-145.7 B, reflecting the above provisions, and standard conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste.

Exhibit 1 of the ordinance currently repeats an earlier noted error, showing a Type II land use review requirement for operation of a restaurant that is open to the public on more than 25 days per calendar year. A Type III review has been determined necessary for this permit, as reflected within proposed changes to CDC Sections 340-5 and 344-5 (EFU and AF-20 district standards: Uses Which May be Permitted Through a Type III Procedure). Please see reasoning under above findings for agritourism and other commercial events hosted at a Large Winery for more than 25 days. **Engrossment of Ordinance No. 815 is recommended to reflect a Type III review requirement under proposed Section 430-145.7, instead of a Type II, consistent with the above.**

**Bed and Breakfast Operations on Winery Tracts**

The CDC already allows bed and breakfast facilities on exclusive farm use land through Type II room and board provisions, but the state now provides wineries an alternative review process for this use. ORS 215.452 and .453 now allow bed and breakfast facilities on both Standard and Large Winery tracts in exclusive farm use districts as home occupations (which would occur via standards of CDC Section 430-63). The existing state-mandated five guest limit for room and board arrangements in exclusive farm use areas, and the existing CDC specification requiring Type II review of home occupation permits in exclusive farm use districts appear to remain unaffected.

While differences in procedure and associated allowances do not appear substantial, provisions of ORS 215.452 and .453 that allow review as a home occupation provide flexibility as to meal service, allowing it either at the bed and breakfast facility or at the winery on the same tract.

Ordinance No. 815 proposes minimal related amendments to existing Type II EFU and AF-20 district standards, and to CDC Section 430-63 (Home Occupations) consistent with the above.
**Wineries and Associated Uses/Activities not Meeting Standard or Large Winery Criteria**

ORS 215.456, *Siting winery as commercial activity in exclusive farm use zone*, reflects state legislation regarding authorization of “commercial activities in conjunction with farm use” specific to wineries or associated activities/uses that do not meet 215.452 or .453 criteria (including production, acreage, or event criteria such as maximum days). Over the years, the County has approved a number of wineries via review as commercial activities in conjunction with farm use.

Currently, CDC Section 430-145.1 G states simply that a winery not meeting criteria of Section 430-145 may be reviewed as a commercial activity in conjunction with farm use under CDC Section 430-33. Ordinance No. 815 replaces that standard, continuing to reference CDC Section 430-33, but adding the new winery-specific provisions of ORS 215.456, including:

- Restriction limiting income from activities other than production or sale of wine to 25 percent of gross income from on-site wine sales; and
- Ability to apply conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste.

**Existing Wineries, Related Uses and Structures**

ORS 215.454, *Lawful continuation of certain winery-related uses or structures*, specifically addresses continuation of existing nonconforming uses and structures that predate 2011 and 2013 winery legislation, when located on winery tracts in exclusive farm use districts. It also exempts certain atypical wineries from commercial use in conjunction with farm use permit requirements based on 2010 wine production in gallons. ORS 215.454 allows expansion of a winery that produced more than 250,000 gallons in 2010, but all other lawfully existing uses and structures may only be continued, altered, restored or replaced -- not expanded (except potentially through a new winery review or a request for modification to an earlier land use decision).

Generally uses and structures related to the above can be reviewed under existing County standards for Nonconforming Uses (CDC Section 440), however these CDC standards do not provide winery-specific criteria. Ordinance No. 815 proposes updates to incorporate provisions of ORS 215.454 into winery standards of CDC Section 430-145, and a new cross-reference under existing CDC Section 440, to clarify criteria specific to continuation of winery-related uses and structures as allowed by the state.

A revision to proposed standards of CDC Section 430-145.10, regarding lawful continuation of certain winery-related uses or structures in the EFU or AF-20 district, is recommended. It would replace a single reference to “small winery” with the term “standard winery” for consistency with proposed terminology otherwise used throughout Exhibit 1.

Following is a summary table of activities and uses allowed at wineries on exclusive farm use lands per state law.
<table>
<thead>
<tr>
<th><strong>ACTIVITY/USE</strong></th>
<th><strong>AUTHORIZED VIA</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AT</strong></td>
<td><strong>Standard Winery</strong></td>
</tr>
<tr>
<td><strong>Marketing and sale of the winery’s wine</strong></td>
<td>✓</td>
</tr>
<tr>
<td>(a)</td>
<td>Wine tastings on the winery premises</td>
</tr>
<tr>
<td>(b)</td>
<td>Wine club activities</td>
</tr>
<tr>
<td>(c)</td>
<td>Winemaker luncheons/dinners</td>
</tr>
<tr>
<td>(d)</td>
<td>Winery/vineyard tours</td>
</tr>
<tr>
<td>(e)</td>
<td>Business activities with winery suppliers, distributors, wholesale customers and wine-industry members</td>
</tr>
<tr>
<td>(f)</td>
<td>Winery staff activities</td>
</tr>
<tr>
<td>(g)</td>
<td>Open house promotions of the winery’s wine</td>
</tr>
<tr>
<td>(h)</td>
<td>Similar activities conducted for the primary purpose of promoting the winery’s wine</td>
</tr>
<tr>
<td><strong>Charitable events</strong> for which the winery charges no facility rental fee, subject to income restrictions</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Marketing and sale of items directly related to the winery’s wine</strong></td>
<td>✓</td>
</tr>
<tr>
<td>(a)</td>
<td>1 to 6 days of events per year</td>
</tr>
<tr>
<td>(b)</td>
<td>Days 7 to 18 (max) of events per year</td>
</tr>
<tr>
<td>(c)</td>
<td>25 days or fewer per year</td>
</tr>
<tr>
<td>(d)</td>
<td>More than 25 days per year</td>
</tr>
<tr>
<td><strong>Winery-specific agritourism/other commercial events where promotion of the winery’s wine is a secondary purpose, as follows:</strong></td>
<td>✓</td>
</tr>
<tr>
<td>(a)</td>
<td>1 to 6 days of events per year</td>
</tr>
<tr>
<td>(b)</td>
<td>Days 7 to 18 (max) of events per year</td>
</tr>
<tr>
<td>(c)</td>
<td>25 days or fewer per year</td>
</tr>
<tr>
<td>(d)</td>
<td>More than 25 days per year</td>
</tr>
<tr>
<td><strong>Food service as follows:</strong></td>
<td>✓</td>
</tr>
<tr>
<td>(a)</td>
<td>Kitchen facilities (not as cafés open to the public) for food service - wine consumption (Liquor Control Act); operations directly related to sale/marketing of the winery’s wine; or charitable activities for which the winery charges no facility fee</td>
</tr>
<tr>
<td>(b)</td>
<td>Restaurant, incidental and subordinate to on-site retail sale of the winery’s wine:</td>
</tr>
<tr>
<td>i.</td>
<td>Operating 25 days or fewer per year</td>
</tr>
<tr>
<td>ii.</td>
<td>Open more than 25 days per year, subject to farm/forest impact test requirements and must not materially alter the stability of the land use pattern in the area.</td>
</tr>
<tr>
<td><strong>Bed and Breakfast as Home Occupation (alternative to Room and Board permit option)</strong></td>
<td>✓</td>
</tr>
<tr>
<td><strong>Commercial Activity in Conjunction with Farm Use</strong> permit for winery or associated uses/activities not meeting ORS 215.452/.453 (including production, acreage, or event criteria such as max days), subject to income restrictions on activities besides wine production/sale</td>
<td>✓</td>
</tr>
</tbody>
</table>
RURAL WINERIES OUTSIDE OF EXCLUSIVE FARM USE AREAS

Changes to CDC Sections affecting rural wineries that are not in exclusive farm use districts do not affect existing allowances. Changes largely involve text reformatting for clarity. As part of this, the existing introductory paragraph of CDC Section 430-145 describing “Wineries” is amended. The change is needed to clarify that an existing reference to “processing of fruits or produce other than grapes” within the winery description applies only to wineries outside of exclusive farm use districts. In exclusive farm use districts, the state requires qualification of wineries based processing of grapes in particular, and on vineyards (which are specific to grapes).

Summary of Proposed Changes

Ordinance No. 815 proposes updates to the Washington County Community Development Code for consistency with current state standards of ORS 215 that the County must implement for wineries in exclusive farm use districts (EFU/AF-20). As described in more detail under Section II, above, revisions would incorporate the state’s related allowances and rules for: winery-specific agritourism, other events and activities, restaurants, and bed and breakfast facilities (as home occupations) on a winery tract; qualification of a Large Winery and associated event/activity provisions, review of certain wineries/ winery activities as commercial activities in conjunction with farm use; and continuation of nonconforming winery-related structures, uses, activities, and events. Ordinance No. 815 also proposes minor formatting amendments to standards for six land use districts that are not designated for exclusive farm use and are not tied to updates in state law.

Proposed amendments primarily affect CDC Section 430-145, Special Use Standards – Winery. Most amendments within this section are proposed for conformance with current standards of ORS 215 that apply in exclusive farm use districts.

CDC amendments are also proposed within Sections that outline district standards. These Sections are amended primarily for conformance with above noted updates to Special Use standards of 430-145. District standards reflect wineries as allowed uses, required review type, and Special Use standards (of CDC Section 430-145) that are applicable by reference.

Affected district standards:
- 340 (Exclusive Farm Use - EFU);
- 344 (Agriculture and Forest 20 - AF-20);
- 346 (Agriculture and Forest 10 - AF-10);
- 348 (Agriculture and Forest 5 - AF-5);
- 350 (Rural Residential - RR-5);
- 352 (Rural commercial - R-COM);
- 354 (Rural Industrial - R-IND);
- 356 (Land Extensive Industrial - MAE).
Additional amendments are proposed within CDC Sections 430-33 (Commercial Activities in Conjunction with Farm Use), 430-63 (Home Occupations), and 440 (Nonconforming Uses and Structures) to cross-reference related amendments in Section 430-145.

Engrossment is recommended to revise proposed CDC Sections 430-145.6 B and 430-145.7 B, which address Large Winery provisions for agritourism and commercial events operated for more than 25 days per year, and restaurants open to the public for more than 25 days per year. The revision is suggested to reflect a required Type III review (as opposed to Type II) due to a review criterion that prescribes a high level of discretion. Proposed EFU (Exclusive Farm Use) and AF-20 (Agriculture and Forest) district standards reflect the Type III requirement, but the change was missed within proposed Special Use standards of Section 430-145. Engrossment is also recommended to replace a reference to “small winery” within proposed CDC Section 430-145.10 B, with “standard winery” for consistency.

List of Attachments
The following attachment identified in this staff report is provided:

Attachment A: Proposed Amendments to Ordinance No. 815
Section 430-145 (Wineries) and related sections of the COMMUNITY DEVELOPMENT CODE relating to wineries, are amended to reflect the following:

1. **SECTION 340 – EXCLUSIVE FARM USE DISTRICT (EFU)**

340-4 Uses Permitted Through a Type II Procedure

***

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

***

T. Winery - Section 430-145.1.

***

Y. Agritourism events on seven (7) to eighteen (18) days per calendar year at a standard winery described under 430-145.1 (Section 430-145.5 C).

340-4.2 Permitted Uses which are subject to Section 340-4.3:

A. Commercial Activities in Conjunction with Farm Use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or as described in Section 340-4.1 D. - Section 430-33. Commercial activities in conjunction with farm use are not allowed in conjunction with a marijuana crop. See Section 430-145.9 regarding wineries that are processed under Section 430-33 as commercial activities in conjunction with farm use.

***

F. Home Occupation - Section 430-63. Applications to renew a home occupation do not have to address Section 340-4.3 if that section was addressed in a prior application. A home occupation on high-value farmland shall be operated in the dwelling or other buildings normally associated with uses permitted in the district. A home occupation shall not unreasonably interfere with other uses permitted on surrounding land in the EFU, EFC and AF-20 Districts. A bed and breakfast facility at a winery described under 430-145.1 or 430-145.2 may be processed as a home occupation subject to Section 430-63 (Section 430-145.4 D).
340-4.3 Required Findings:

The proposed use will not:

A. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

B. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

340-5 Uses Which May be Permitted Through a Type III Procedure

***

340-5.2 Uses which may be allowed subject to Section 340-5.3:

***

N. Agritourism events on more than twenty-five (25) days per calendar year at a large winery described under 430-145.2 (Section 430-145.6 B).

O. Restaurant open to the public for more than twenty-five (25) days per calendar year at a large winery described under 430-145.2 (Section 430-145.7 B).

340-5.3 Required Findings:

A. The proposed use is compatible with farm uses described in Oregon Revised Statutes, Chapter 215;

B. The proposed use does not interfere seriously with "accepted farming practices" as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm use;

C. The proposed use does not materially alter the stability of the overall land use pattern of the area; and

D. The proposed use will not:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.
2. SECTION 344 – AGRICULTURE AND FOREST DISTRICT (AF-20)

344-4 Uses Permitted Through a Type II Procedure

***

344-4.1 Permitted Uses which are exempt from Section 344-4.3:

***

T. Winery - Section 430-145.4.

***

Y. Agritourism events on seven (7) to eighteen (18) days per calendar year at a standard winery described under 430-145.1 (Section 430-145.5 C).

344-4.2 Permitted Uses which are subject to Section 344-4.3:

A. Commercial Activities in Conjunction with Farm Use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or as described in Section 344-4.1 D. - Section 430-33. Commercial activities in conjunction with farm use are not allowed in conjunction with a marijuana crop. See Section 430-145.9 regarding wineries that are processed under Section 430-33 as commercial activities in conjunction with farm use.

***

F. Home Occupation - Section 430-63. Applications to renew a home occupation do not have to address Section 344-4.3 if that section was addressed in a prior application. A home occupation on high-value farmland shall be operated in the dwelling or other buildings normally associated with uses permitted in the district. A home occupation shall not unreasonably interfere with other uses permitted on surrounding land in the EFU, EFC and AF-20 Districts. A bed and breakfast facility at a winery described under 430-145.1 or 430-145.2 may be processed as a home occupation subject to Section 430-63 (Section 430-145.4 D).

***

344-5 Uses Which May be Permitted Through a Type III Procedure

***
344-5.2 Uses which may be allowed subject to Section 344-5.3:

***

N. Agritourism events on more than twenty-five (25) days per calendar year at a large winery described under 430-145.2 (Section 430-145.6 B).

O. Restaurant open to the public for more than twenty-five (25) days per calendar year at a large winery described under 430-145.2 (Section 430-145.7 B).

344-5.3 Required findings:

A. The proposed use is compatible with farm uses described in Oregon Revised Statutes, Chapter 215;

B. The proposed use does not interfere seriously with "accepted farming practices" as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm use;

C. The proposed use does not materially alter the stability of the overall land use pattern of the area; and

D. The proposed use will not:

   (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

   (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

***

3. SECTION 346 – AGRICULTURE AND FOREST DISTRICT (AF-10)

346-4 Uses Which May be Permitted Through a Type III Procedure

***

346-4.1 Uses which may be allowed:

***

S. Winery - May include accessory tasting room and incidental sales - Section 430-145.82.
4. SECTION 348 – AGRICULTURE AND FOREST DISTRICT (AF-5)

348-4 Uses Which May be Permitted Through a Type III Procedure

***

348-4.1 Uses which may be allowed:

***

R. Winery - May include accessory tasting room and incidental sales - Section 430-145.82.

***

5. SECTION 350 – RURAL RESIDENTIAL FIVE ACRE MINIMUM DISTRICT (RR-5)

350-4 Uses Which May be Permitted Through a Type III Procedure

350-4.1 Uses which may be allowed:

***

O. Winery - May include accessory tasting room and incidental sales – Section 430-145.82.

***

6. SECTION 352 – RURAL COMMERCIAL DISTRICT (R-COM)

352-3 Uses Which May Be Permitted Through a Type II Procedure

***

352-3.1 Permitted Uses:

***

Y. Winery, including a tasting room and sales - Section 430-145.82.

***

7. SECTION 354 – RURAL INDUSTRIAL DISTRICT (R-IND)

354-3 Uses Permitted Through a Type II Procedure

***
354-3.1 Permitted Uses:

***

Q. Winery, including an accessory tasting room and incidental sales - Section 430-145.82.

***

8. SECTION 356 – LAND EXTENSIVE INDUSTRIAL DISTRICT (MAE)

356-3 Uses Permitted Through a Type II Procedure

356-3.1 The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the intent and purpose and the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for each permitted use.

***

R. Winery - May include accessory tasting room and incidental sales - Section 430-145.82.

***

9. SECTION 430 – SPECIAL USE STANDARDS

In addition to the requirements of Sections 400 through 425, the following special use standards are provided for specific uses. Additional or amended special use standards that are applicable in the North Bethany Subarea of the Bethany Community Plan are located in Section 390, North Bethany Subarea Overlay District.

430-33 Commercial Activities in Conjunction with Farm Use

Commercial activities are limited to providing products and services essential to the practice of commercial agriculture. For wineries that are reviewed under Section 430-33 as commercial activities in conjunction with farm use, see also Section 430-145.9.

A commercial activity in conjunction with farm use includes, but is not limited to, processing facilities which convert harvested agricultural crops from their natural state into new products, i.e., drying, freezing, canning, etc. In addition, the preparation and storage of a product which includes significant amounts of agricultural crops not raised by the operator of the storage facility shall also be considered a commercial activity...
430-63  Home Occupation

A home occupation is a lawful activity carried on within a dwelling by a member or members of the family who occupy the dwelling, where the occupation is secondary to the use of the dwelling for living purposes and the residential character of the dwelling is maintained. Bed and breakfast facilities serving five (5) or fewer persons are permitted as a Type I Home Occupation in all districts except the Institutional, EFU, EFC and AF-20 Districts (Section 430-63.1 C does not apply to bed and breakfast facilities). Pursuant to Section 430-145.4 D, a bed and breakfast facility serving five (5) or fewer persons, in association with and on the same tract as a winery described under 430-145.1 or 430-145.2, is permitted as a Type II Home Occupation in the EFU and AF-20 Districts (Section 430-63.2 D (2) does not apply). Bed and breakfast facilities serving more than five (5) persons are subject to the standards of Section 430-19 - Boarding House (including Bed and Breakfast facilities for more than five (5) persons). A home occupation shall not be conducted on a site that includes an accessory dwelling unit, from either the primary dwelling unit or the accessory dwelling unit, except as allowed under Section 201-2.18 (CDC Section 430-117.1 J);

430-63.2  Home Occupation - Type II

A Type II Home Occupation shall:

D. Including storage of materials and products, occupy:

(2) Outside the UGB

(a) Not more than one thousand (1000) square feet or twenty-five (25) percent of a dwelling or lawful accessory structure, whichever is greater; or

(b) An area exceeding the above maximums by up to ten (10) percent, when requested by an applicant with a disability.

For purposes of Section 430-63.2 D.(2), a "dwelling" includes the basement and attached garage. Areas used only for storage of farm equipment or farm vehicles are not considered as part of the maximum allowed home occupation space.
430-145 Winery

Winery

Wineries are structures where the grapes or other fruits or produce of the applicant or others may be processed and converted to wine, bottled, blended, stored, sold at wholesale or directly to a consumer for consumption off or on the premises. Vineyards are fields where grapes are grown.

Wineries that may be established under 430-145.8 in rural districts other than EFU or AF-20 are as described above, except that qualification as a winery may be based on processing and above noted activities using fruits or produce other than grapes.

As used in Section 430-145:

“Agritourism or other commercial events” includes 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. Agritourism and other commercial events allowed at EFU/AF-20 wineries by ORS 215 differ from provisions that the state allows counties to adopt for agritourism and other commercial events in connection with other farm uses.

“On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club, or over the Internet or telephone.

430-145.1 In the EFU and AF-20 Districts, a winery, as described by ORS 215.452 (considered for the purposes of this Code as a “standard winery”), may be established as a permitted use in the EFU and AF-20 Districts subject to findings and evidence establishing compliance with the following standards A or B, below, and the standards of Section 430-145.3:

A. The winery produces a Maximum maximum annual production is of less than fifty thousand (50,000) gallons of wine annually and that:

(1) Owns an on-site planted vineyard of at least fifteen (15) acres;

(2) Owns a contiguous planted vineyard of at least fifteen (15) acres;

(3) Has and provides proof of an executed a-long-term contract for the purchase of all of the grapes from at least fifteen (15) acres of a planted vineyard contiguous to the winery; or

(4) Obtains grapes from any combination of (1), (2), or (3) of this subsection.
B. The winery produces Maximum annual production is at least fifty thousand (50,000) gallons and no more than one hundred thousand (100,000) gallons and that of wine annually and:

(1) Owns an on-site planted vineyard of at least forty (40) acres;
(2) Owns a contiguous planted vineyard of at least forty (40) acres;
(3) Has and provides proof of an executed a long-term contract for the purchase of all the grapes from at least forty (40) acres of a planted vineyard contiguous to the winery;
(4) Owns an on-site planted vineyard of at least fifteen (15) acres on a tract of at least forty (40) acres and owns at least forty (40) additional acres of vineyards in Oregon that are located within fifteen (15) miles of the winery site; or
(5) Obtains grapes from any combination of (1), (2), or (3), or (4) of this subsection.

C. A winery described in Section 430-145.1.A. or B. shall allow only the sale of:

(1) Wines produced in conjunction with the winery; and
(2) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited-service restaurant, as defined in ORS 624.010.

D. Prior to the issuance of a permit to establish a winery under Section 430-145.1, the applicant shall show that the vineyards, described in Section 430-145.1.A. and B., have been planted or that the contract has been executed as applicable.

E. Standards imposed upon a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with farming or forest practices on adjacent lands:

(1) Establishment of a setback of at least one-hundred (100) feet from all property lines for the winery and all public gathering places, except as allowed through CDC Section 435 (Variances and Hardship Relief); and
(2) Provision of direct road access, including safety and operational considerations and the standards of Section 501-9.3, internal circulation and parking:
   (a) Internal access shall be based upon the maximum number of people at the tasting room or restaurant, including times of special events. Access shall be approved by the appropriate fire marshal.
(b) On-site parking requirements shall be based upon the maximum number of employees at the winery, the size of the tasting room and/or restaurant, and the expected number of visitors.

(c) On premise temporary parking shall be available for special winery events.

(d) A festival permit (Section 430-135.1.E.) shall be required for special events in excess of one (1) day.

(3) The review authority shall also apply, when applicable, the standards of Sections 421 (Flood Plain and Drainage Hazard Area Development), Section 422 (Significant Natural Resources), and other standards regarding geologic hazards, airport safety, and other regulations for resource protection—acknowledged to comply with any statewide planning goal respecting open spaces, scenic and historic areas and natural resources.

F. Findings shall be made to demonstrate compliance with the standards of Section 430-145.1.

G. A winery, which does not comply with the standards of Section 430-145.A. or Section 430-145.B., may be approved as a Commercial Activity in conjunction with Farm Use (Section 430-33) upon demonstration of compliance with the applicable review criteria.

430-145.2 In the EFU and AF-20 Districts, a winery as described by ORS 215.453 (considered for the purposes of this Code as a “large winery”) may be established as a permitted use subject to findings and evidence establishing compliance with the following standards and those indicated under 430-145.3:

A. The winery has produced annually, at the same or a different location, at least one hundred and fifty thousand (150,000) gallons of wine in at least three (3) of the five (5) calendar years before the winery is established under CDC Section 430-145.2; and

1. Owns and is sited on a tract of eighty (80) acres or more, at least fifty (50) acres of which is a planted vineyard; and

2. Owns at least eighty (80) additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described under Section 430-145.2.A(1), above.

430-145.3 In the EFU and AF-20 Districts, to limit demonstrated conflicts with accepted farming or forest practices on adjacent lands, approval to establish a winery as described under either Section 430-145.1 (standard winery) or 430-145.2 (large winery) as a permitted use, is subject to findings and evidence demonstrating:
A. Establishment of a setback of at least one hundred (100) feet from all property lines for the winery and all public gathering places, except as allowed through CDC Section 435 (Variances and Hardship Relief);

B. Provision of parking for all activities or uses of the lot, parcel, or tract on which the winery is established. Winery parking requirements shall be based on the maximum number of employees at the winery, the size of the winery and associated facilities, and the expected number of visitors;

C. Provision of direct road access, including safety and operational considerations and the standards of Section 501-9.3;

D. Provision of internal circulation, based upon the maximum number of people at the winery and associated facilities, including times of special events. Access shall be approved by the appropriate fire marshal;

E. Compliance with standards of Section 421 (Flood Plain and Drainage Hazard Area Development) and other standards regarding geologic hazards, solar access, and airport safety, when applicable;

F. Compliance with standards of Section 422 (Significant Natural Resources) and other regulations for resource protections acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources, when applicable; and

G. Compliance with regulations of general applicability for the public health and safety, including Environmental Health (Health and Human Services) requirements and applicable requirements of Section 501-9 (Limited Application of the Public Facility and Service Standards Outside the UGB).

430-145.4 In addition to producing and distributing wine, wineries may conduct activities consistent with 430-145.4 A through F, below, as applicable.

A. The gross income of the winery from the sale of incidental items or services provided pursuant to Sections 430-145.4 C(3) and (4), E(1), and F(1) and (2), below, may not exceed twenty-five (25) percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

The County may require a written statement, prepared by a certified public accountant, that certifies compliance with this requirement for the previous tax year, with application submittal and/or for periodic submittal as a condition of approval.

B. Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied.
C. Through winery establishment under either Section 430-145.1 (standard winery) or 430-145.2 (large winery), a winery may:

(1) Market and sell wine produced in conjunction with the winery;

(2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

(a) Wine tastings in a tasting room or other location on the premises occupied by the winery;

(b) Wine club activities;

(c) Winemaker luncheons and dinners;

(d) Winery and vineyard tours;

(e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine industry members;

(f) Winery staff activities;

(g) Open house promotions of wine produced in conjunction with the winery; and

(h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(3) Host charitable activities for which the winery does not charge a facility rental fee;

(4) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages that are:

(a) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(b) Served in conjunction with an activity authorized by Section 430-145.4 C(2) or (3).

D. Subject to submittal and approval of an application for a Type II home occupation permit via CDC Section 430-63, wineries established under 430-145.1 (standard winery) or 430-145.2 (large winery) may operate a bed and
breakfast facility in association with the winery and on the same tract as the
winery, and may:

(1) Prepare two (2) meals per day to the registered quests of the bed and
breakfast facility; and

(2) Serve the meals at the bed and breakfast facility or at the winery.
As an alternative to the above, the applicant may request bed and
breakfast approval through Type II Room and Board provisions of Section
340-4.2 N or 344-4.2 N.

E. In addition to activities allowed under 430-145.4 C and D, above, a winery
established under Section 430-145.1 (standard winery) may:

(1) Carry out agritourism or other commercial events on the tract occupied by
the winery subject to Section 430-145.5, below;

(2) Include on-site kitchen facilities licensed by the Oregon Health Authority
under ORS 624.010 to 624.121 for the preparation of food and beverages
described in Section 430-145.4 C(4) or E(1). Food and beverage services
authorized under this subsection may not utilize menu options or meal
services that cause the kitchen facilities to function as a café or other
dining establishment open to the public.

F. In addition to activities allowed under 430-145.4 C and D, a winery established
under Section 430-145.2 (large winery) may:

(1) Provide services, including agritourism or other commercial events, hosted
by the winery or patrons of the winery, at which wine produced in
conjunction with the winery is featured, subject to CDC 430-145.6, below;

(2) Market and sell items directly related to the sale or promotion of wine
produced in conjunction with the winery, the marketing and sale of which is
incidental to on-site retail sale of wine, including food and beverages
served in conjunction with an activity authorized by Section 430-145.4
F(1), above;

(3) Operate a restaurant, as defined in ORS 624.010, in which food is
prepared for consumption on the premises of the winery, subject to
requirements of Section 430-145.7, below.

430-145.5 Standards for agritourism or other commercial events on a tract occupied by a winery
described under 430-145.1 (standard winery):

A. The winery may carry out up to eighteen (18) days of agritourism or other
commercial events annually on the tract occupied by the winery, subject to the
following:

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(1) If the winery conducts agritourism or other commercial events authorized under CDC Section 430-145.5.A (pursuant to ORS 215.452), the winery may not also conduct agritourism or other commercial events addressed under ORS 215.213 (11);

(2) Agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items in conjunction with these, must be:

   (a) Directly related to the sale or promotion of wine produced in conjunction with the winery;

   (b) Incidental to the retail sale of wine on-site.

(3) Income cap requirements described under Section 430-145.4.A apply, including certification of compliance from a certified public accountant;

(4) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied;

(5) A license pursuant to 430-145.5.B and/or a permit pursuant to 430-145.5.C is required, whichever is applicable.

B. Events on the first six (6) days of the eighteen (18) day limit per calendar year must be authorized by the County through a renewable license that has a term of five (5) years. The County’s decision on a license under Subsection 430-145.5.B is not a land use decision as defined in ORS 197.015.

C. Events on days seven (7) through the maximum of eighteen (18) per calendar year must be authorized by the Current Planning Section, via approval of an application for a renewable multi-year permit that has a term of five (5) years, subject to:

   (1) Type II land use review to determine conditions necessary to ensure compliance with 430-145.5.C(3), below;

   (2) Evidence that a license, as required under 430-145.5.B, was obtained for events on the first six (6) days of the eighteen (18) day limit;

   (3) As necessary to ensure that agritourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions on the license related to:

      (a) The number of event attendees;
(b) The hours of event operation;

(c) Access and parking;

(d) Traffic management;

(e) Noise management; and

(f) Sanitation and solid waste.

430-145.6 Standards for agritourism or other commercial events on a tract occupied by a winery described under 430-145.2 (large winery):

A. Through winery establishment under 430-145.2 (large winery), a winery may:

(1) On twenty-five (25) days or fewer per calendar year, provide services including agritourism or other commercial events hosted by the winery or patrons of the winery, subject to the following:

(a) Wine produced in conjunction with the winery is featured;

(b) Agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items in conjunction with these, must be:

(i) Directly related to the sale or promotion of wine produced in conjunction with the winery;

(ii) Incidental to the retail sale of wine on-site;

(c) Income cap requirements described under Section 430-145.4 A apply, including certification of compliance from a certified public accountant;

(d) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied.

B. If a winery established under 430-145.2 (large winery) provides for agritourism or other commercial events on more than twenty-five (25) days in a calendar year, the winery shall obtain approval from the Current Planning Section via application for a permit subject to the following:

(1) Type III land use review;

(2) In addition to any other requirements, the County may approve a permit application if the County finds that the authorized activity:
(a) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery;

(b) Does not materially alter the stability of the land use pattern in the area; and

(c) Complies with all provisions of ORS 215.296, including but not limited to requirements that the proposed use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. An applicant's findings may demonstrate that these standards will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied:

(4) If the County issues a permit under 430-145.6 B. for operation of agritourism or other commercial events on more than twenty-five (25) days per calendar year, the County shall review the permit at least once every five (5) years and, if appropriate, may renew the permit.

430-145.7 Standards for a restaurant on a tract occupied by a winery established under 430-145.2 (large winery):

A. A winery, through establishment under 430-145.2 (large winery), may:

(1) On twenty-five (25) days or fewer per calendar year, operate a restaurant as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery, subject to the following:

(a) Wine produced in conjunction with the winery is featured;

(b) Marketing and sale of food and beverages in conjunction with the restaurant is:

(i) Directly related to the sale or promotion of wine produced in conjunction with the winery;

(ii) Incidental to the retail sale of wine on-site;

(c) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied.
B. If a winery established under 430-145.2 (large winery) operates a restaurant that is open to the public for more than twenty-five (25) days in a calendar year, the winery shall obtain a permit from the Current Planning Section subject to the following:

(1) Type III land use review;

(2) In addition to any other requirements, the County may approve a permit application if the County finds that the authorized activity:
   (a) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery;
   (b) Does not materially alter the stability of the land use pattern in the area; and
   (c) Complies with all provisions of ORS 215.296, including but not limited to requirements that the proposed use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. An applicant's findings may demonstrate that these standards will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) A person may not have a substantial ownership interest in more than one winery operating a restaurant under ORS 215.453.

(4) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied;

(5) If the County issues a permit under 430-145.7 B, for operation of a restaurant on more than twenty-five (25) days per calendar year, the County shall review the permit at least once every five (5) years and, if appropriate, may renew the permit.

430-145.82 A winery in the AF-10, AF-5, RR-5, Rural Commercial, Rural Industrial and MAE Districts may be established as a permitted use via Current Planning approval of an application subject to the following standards:

A. Comply with all state and federal requirements;

B. Have an access based upon the maximum number of people expected at the tasting room, including times of special events. Access shall be approved by the appropriate fire marshal;

C. Parking requirements shall be based on:
(1) The maximum number of employees at the winery; and
(2) The size of the tasting room and expected visitors;

D. On-premise temporary parking shall be available for special winery events; and

E. A festival permit (Section 430-135.1 E.) shall be required for special events in excess of one (1) day.

430-145.9 Wineries and/or activities at wineries as Commercial Activities in Conjunction with Farm Use (Section 430-33)

A. The County may authorize the siting of a winery in the EFU or AF-20 District pursuant to the standards that apply to a Commercial Activity in Conjunction with Farm Use (CDC Section 430-33) or other law, via Current Planning approval of a permit application subject to the following:

(1) The winery:

(a) Does not qualify for siting under CDC Section 430-145.1 (standard winery) or 430-145.2 (large winery) (ORS 215.452 or 215.453); or

(b) Seeks to carry out uses or activities that are not authorized by CDC Section 430-145.4 through 7 (or are not otherwise authorized by ORS 215.452 or 215.453).

(2) The gross income of the winery from any activity other than the production or sale of wine shall not exceed twenty-five (25) percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery;

(3) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied.

B. The County may authorize a winery described in Subsection 430-145.2 (large winery) to sell or deliver items or provide services not described within 430-145.4 A, 430-145.4 C(4), or 430-145.6 A under the criteria for Commercial Activities in Conjunction with Farm Use ( CDC Section 430-33) or other provisions of law, subject to Current Planning approval of a permit application. Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied.

430-145.10 Lawful continuation of certain winery-related uses or structures in the EFU or AF-20 district

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A. A use or structure that exists on June 28, 2011 may be lawfully continued, altered, restored or replaced pursuant to CDC Section 440 (or as otherwise allowed by ORS 215.130) if the use or structure is located on the same tract as a winery established under ORS 215.213 (1)(p) (a winery described in ORS 215.452 or 453/CDC Section 430-145.1 or 2) that produced more than two hundred fifty thousand (250,000) gallons of wine in calendar year 2010.

B. A winery established under ORS 215.213 (1)(p) (a winery described in ORS 215.452 or 453/CDC Section 430-145.1 or 2) that produced more than one hundred fifty thousand (150,000) gallons and not more than two hundred fifty thousand (250,000) gallons of wine in calendar year 2010 does not require a permit under CDC Section 430-145.9 A (ORS 215.213 (2)(c)), but must comply with all provisions of CDC Section 430-145 that apply to wineries described under 430-145.1 (small standard winery) (ORS 215.452) except the annual production requirements.

C. A use or structure that is lawfully established at a winery that exists on June 28, 2013, including events and activities that exceed the income limit imposed by CDC Section 430-145.4 A (ORS 215.452), may be continued, altered, restored or replaced pursuant to CDC Section 440 (or as otherwise allowed by ORS 215.130).

D. Subsections 430-145.10 A and C do not affect the lawful continuation, alteration, restoration or expansion of the winery sited on the same tract.

10. SECTION 440 NONCONFORMING USES AND STRUCTURES

A nonconforming use is a structure or use of land which does not conform to the provisions of this Code or Comprehensive Plan lawfully in existence on the effective date of enactment or amendment of this Code or Comprehensive Plan. It is the intent of this Section to allow and regulate existing uses and structures that were lawfully established and are not now in conformance with the applicable regulations of this Code.

The purpose of this Section is to generally encourage the discontinuance of nonconforming uses and structures or changing of nonconforming uses and structures to conforming or more conforming uses or structures. However, it is not the purpose of this Section to force all nonconforming uses or structures to be eliminated or brought into conformance with existing standards, or to discourage the continued nonconforming use of land for single family dwellings. Except in industrial, institutional, and commercial districts other than Neighborhood Commercial (NC), it is the intent of this Section to allow the owner of a structure used as a single family dwelling to alter or replace the structure consistent with state law, LCDC administrative rules and the applicable provisions of this Code.
Nonconforming uses that have a lesser impact on the immediate area have fewer restrictions than nonconforming uses with greater impacts. Nonconforming commercial and industrial uses in residential and farm or forest districts have more rigorous review criteria than these uses have in commercial and industrial districts in order to protect the livability and character of residential and farm or forest districts. In contrast, nonconforming single dwelling units in residential and farm or forest districts have fewer review standards because residential uses are permitted in these districts and these uses do not represent a major disruption to the immediate area. The intent of this Section in reviewing alterations to nonconforming single dwelling units in the EFU, EFC and AF-20 Districts is to review only those things that adversely affect resource based activities which are the basis for the use restrictions in these districts. See Section 430-145.9 for additional information on wineries and associated activities at wineries that may be nonconforming.

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