

# SECTION II

## LEGAL CONSIDERATIONS LICENSES, PERMITS, AND REGULATIONS

### ZONING — WHAT IS AND IS NOT ALLOWED

*This information is provided by the Department of Land Conservation and Development*

The people of Oregon have developed laws to ensure that agricultural lands will remain in farm use. However, there are some nonfarm activities besides farm use that may be allowed in farm zones. The state land use laws provide the parameters for farm land with each county given the authority to more fully define and clarify ag lands and their use at the local level, consistent with state law.

***Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state’s agricultural land use policy expressed in ORS 215.243 and 215.700.***

State law provides for the preservation and maintained use of farm land in Oregon. Statewide Planning Goal 3, “Agricultural Lands,” requires all agricultural lands to be inventoried and preserved by adopting exclusive farm use zones consistent with ORS Chapter 215. Additional limitations are applied to high-value farmlands.

Over the years a number of “non-farm” uses have been listed in the law and rules implementing Goal 3. Every application for a non-farm use will be decided on a case-by-case basis by the county, based on the facts presented to it, keeping in mind that the overriding and primary purpose of Exclusive Farm Use zones is to promote and sustain commercial farming.

PERMITTED NON-FARM USES ON EFU LAND — Contact your county planning department prior to siting or building any structure or starting any non-farm use activity. Non-farm uses require prior approval by the respective county. Certain non-farm uses are allowed, and their approval standards are incorporated into local zoning regulations; additional approval standards may apply to “high value farmland.” Technical variations exist between counties; so contact your county planning department or DLCDC (373-0050) for details. The following types of uses are generally allowed in exclusive farm use zones:

- Public or private schools
- Forest product propagation & harvesting
- Dwelling for farm use
- Farm buildings and Farm Stands
- Mineral exploration & mining
- Farm-worker housing
- Churches and Cemeteries
- Public Utility Service
- Geothermal exploration/production
- Community Centers
- Land based application of reclaimed water for farm use
- Siting for solid waste disposal
- Creation/restoration of wetlands
- Hunting & fishing preserves
- Golf courses
- Winery
- Playgrounds or campgrounds
- Boarding, breeding & training of greyhounds
- Dog kennels
- Bed & Breakfast (5 guest limit) in existing residences
- Commercial activities in conjunction with farm use
- Small Scale crop processing facility

# Guest Ranches

Senate Bill 928  
Ordered by the Senate April 12  
Including Senate Amendments dated April 12

Sponsored by Senator FERRIOLI (at the request of Oregon  
Association of Convention and Visitors Bureaus)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Extends sunset for provision that allows establishment of guest ranch in exclusive farm use zone in eastern Oregon and requires guest ranch to use accepted livestock practices. Clarifies required distance between ranch and urban growth boundary. Takes effect December 31, 2001.

## A BILL FOR AN ACT

Relating to guest ranches; creating new provisions; amending sections 1 and 5, chapter 728, Oregon Laws 1997; repealing section 3, chapter 728, Oregon Laws 1997; and prescribing an effective date. Be It Enacted by the People of the State of Oregon:

**SECTION 1.** Section 3, chapter 728, Oregon Laws 1997, is repealed.

**SECTION 2.** Section 1, chapter 728, Oregon Laws 1997, as amended by section 1, chapter 216, Oregon Laws 1999, is amended to read: Sec. 1.

Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing and continuing livestock operation, using accepted livestock practices, that qualifies as a farm use under ORS 215.203 in any area zoned for exclusive farm use in eastern Oregon.

(2) A guest ranch established under this section shall meet the following conditions:

(a) Except as provided in paragraph (d) of this subsection, the lodge, bunkhouses or cottages cumulatively shall:

(A) Include not less than four nor more than 10 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and

(B) Not exceed a total of 12,000 square feet in floor area.

(b) The guest ranch shall be located on a lawfully created parcel

(A) That is at least 160 acres;

(B) That is the parcel containing the dwelling of the person conducting the livestock operation; and

(C) That is not classified as high-value farmland as defined in ORS 215.710.

(c) The guest ranch may be sited on any portion of a lot or parcel if the majority of the lot or parcel is more than 10 air miles from an urban growth boundary containing a population greater than 5,000, regardless of whether any other portion of the lot or parcel is within 10 miles of the urban growth boundary. The guest ranch shall be deemed to comply with this paragraph if it is located within the range set by the standard margin of error on the county's map used to determine the distance from an urban growth boundary.

(d) For each doubling of the initial 160 acres required under paragraph (b) of this subsection, up to five additional overnight guest rooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guest rooms and 21,000 square feet of floor area.

(3) A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively

developed recreational facilities, such as golf courses as identified in ORS 215.283, shall not be allowed. A campground as described in ORS 215.283 (2)(c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course under ORS 215.283 (2)(e) or with an existing

campground under ORS 215.283 (2)(c).

(4) Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.

(5) Approval of a guest ranch shall be subject to the provisions of ORS 215.296 (1) and (2) and other approval or siting standards of the county.

(6) As used in this section:

(a) 'Eastern Oregon' shall have the meaning provided in ORS 321.405.

(b) 'Guest ranch' means a facility for overnight lodging incidental and accessory to an existing livestock operation that qualifies as a farm use under ORS 215.203. Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in subsections (2) to (4) of this section.

(c) 'Livestock' means cattle, sheep, horses and bison.

**SECTION 3.** Section 5, chapter 728, Oregon Laws 1997, is amended to read:

Sec. 5. Chapter 728, Oregon Laws 1997, is repealed December 31, 2005.

**SECTION 4.** The Department of Land Conservation and Development, the State Department of Agriculture and the Economic and Community Development Department shall jointly submit a written report to the Seventy-third Legislative Assembly by January 1, 2005.

**SECTION 5.** This 2001 Act takes effect on December 31, 2001.

## **Specifics on Zoning for Certain Recreational Uses**

### Farm/Game and Exotic Animal Ranches:

Farm use, in part, includes the current employment of land for the “primary purpose of obtaining a profit in money. . . by feeding, breeding, management and sale of, or the production of, livestock...or animal husbandry or any combination thereof.” (ORS 2 15.203) Thus, the raising of any kind of animal not otherwise prohibited by state or federal law is a farm use under Oregon law and allowed in farm and forest zones. Some counties apply additional conditions to “feedlots” and the Oregon Department of Agriculture may require a Confined Animal Feeding Permit in certain types of operations.

### Produce Stands as amended by 2001 Legislature:

Farm stands may be approved in a farm zone if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm[s] operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up ~~no~~ more than 25% of the total annual sales of the farm stand; and,

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock, and does not include structures for banquets, public gatherings or public entertainment. [See ORS 215.283(1)(r) and ORS 660-33-130(23)].

### Hunting and Fishing Preserves:

Private parks, playgrounds, hunting and fishing preserves, and campgrounds are uses subject to local review in farm and forest zones. They are not allowed on high value farmland in EFU zones. However, this restriction does not prohibit or limit a farm/ranch owner from inviting people onto their land and charging a fee to hunt or fish.

In farm zones, the limitation on hunting and fishing preserves on high value farmland, or the need to get approval for such preserves on non-high value lands, only applies to those activities that are clearly separate businesses or clubs established to allow hunting or fishing for a fee that is not incidental to the primary farm use of the land (see OAR 660-33-120). In forest zones, private hunting and fishing operations “without lodging accommodations” are allowed outright (see OAR 660-06-025(3)(f)). Private seasonal accommodations for fishing and fee hunting are also allowed subject to certain conditions (see OAR 660-06-025(4)(p) and (4)(w)).

### Campgrounds:

In both farm and forest zones, “campgrounds” are defined as “an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer, recreational vehicle or a limited number of yurts. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.” Separate sewer, water or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts [See OAR 660-06-025(4)(e) and 660-33-130(19); also see OAR Division 333-31-0000 to determine the need to register with the Health Division and county requirements.]

### Bed & Breakfast Establishments:

B&B establishments are not specifically listed as an allowed use; however, two other uses are allowed which can authorize this type of use within existing dwellings. These provisions provide the most flexibility to farm/ranch owners to allow small-scale accommodations, especially related to hunting and fishing in EFU zones. Room and board arrangements for a maximum of five unrelated persons in existing residents [ORS 215.283(2)(u)] and home occupations may be authorized in an existing dwelling, employing only residents of the home [OAR 660-33-120, 660-33-130 and 660-06-025]. For Oregon Health Division requirements on Bed & Breakfast food service rules see ORS 324 and OAR 333-17-000, and ORS 446.330 and OAR 333-29-0000 for lodging requirements.

## Visiting the County Planning Department

- First, ask for the zoning map and establish exactly what zones cover your property, including any overlay zones such as for airports, wetlands, floodplains, recreation, etc.
- If you have a need for resource inventory maps that can help identify specific features on your property that may affect your plans, the county can usually direct you to these. All counties have National Wetlands Inventory maps and Soil Information Maps provided by the Natural Resource Conservation Services, U.S. Department of Agriculture. Another source of maps is the Nature of the Northwest Information Center, which carries USGS maps, publications and maps from the OR Dept. of Geology and Mineral Industries, state and national forest maps, etc. The center is located in the State Office Building near the Lloyd Center in Portland. Hours are 10am to 5pm M-F, 800 NE Oregon St., #5, Suite 177, Portland OR 97232, 503-731-4444.
- Ask for the text listing all uses allowed in your zone and all conditions applicable to those uses. Watch for references to other codes or sections and obtain copies of those as well.
- After careful reading, ask for explanations of any uses or conditions you don't understand.
- Ask for an application form for your proposed use and any fee schedule.
- Ask what documentation has to be filed with the application (maps, sketches, letters from fire district, water district, etc.)
- Ask about deadlines for filing and procedures for application approval.
- Ask whether anyone else in the county is doing the same thing and when and how he or she received permission.
- Ask who makes the decision. Each county is different, so be sure you know. Ask whether any decisions are made "over the counter" and if any hearings are needed. Who holds the hearings and who gets notices of the hearings and the application?
- Ask what local, state and federal government guidelines specific to your activity must be met — who else needs to write a letter of support or sign off on your project? (For septic approval it's usually the county or DEQ; sometimes the fire district needs to review proposed building layout, vegetation setbacks, water storage ponds, road access, etc.; building inspector may need to review your plans for code compliance, safety, electric; local health department or Oregon Health Division rules may apply.)
- Ask if there are other design reviews, sign codes, parking and road access codes, access for disabled provisions, or other requirements.
- Before you submit your application, scout the territory— build trust with neighbors, know who might be affected and get their cooperation, and ensure compliance with all coding.
- Have pre-application meetings with the county staff. Make sure you and the county have the same understanding about codes and requirements. If there are meetings or hearings, listen carefully to any objections or concerns and answer them upfront, eliminate the problem if you can or make adjustments if possible.

It's cheaper and easier to change your plan at the beginning than fight through appeals and deal with lawsuits after you've spent money and time on a recreation enterprise.

If the use you propose is in the Exclusive Farm Use statute but not in the county comprehensive plan, you can apply to have the plan changed and the use added or applied directly under ORS 197.646. Incidental, infrequent events like school tours, fund raisers, infrequent festivals are usually not regulated, but check first. These activities are not prominent uses which require zoning approval or changes in most instances.

The Department of Land Conservation and Development and the Land Conservation and Development Commission does not approve local decisions.

TECHNICAL ASSISTANCE — Contact the local DLCD field representative or Jon Jinings or Ronald Eber at DLCD/Salem (373-0050) for information about state law, Goal 3, and the Land Conservation & Development Commission. Information on local procedures and standards is available from each local county planning department.

DLCD Field Representatives by Region

<u>Region</u>	<u>Field Representative</u>	<u>Phone</u>
Willamette Valley, Hood River Columbia Counties	Rob Hallyburton	(503) 373-0050 x 239
Central and Eastern Oregon	Jon Jinings	(541) 388-6424
South Coast	David Perry	(541) 563-2056
North Coast	Dale Jordan	(503) 373-0050 x 262
Southern Oregon	John Renz	(541) 858-3189
Farm & Forest Lands Specialist	Ronald Eber	(503) 373-0050 x 247