

## SUBCHAPTER 53: AGRICULTURE (AG) ZONE

### 53.005 Purpose

The purpose and intent of the Agriculture Zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible to agricultural activities.

Further, it is the intent of this zone classification to provide the automatic farm use valuation for farms which qualify under the provisions of Oregon Revised Statute 308. Therefore, the Agriculture Zone is to be applied only in those areas generally well suited for farming, as indicated by the nature and type of soil, size and location of the property, the suitability of the terrain and other similar factors.

Further, the Agriculture Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use, free from conflicting non-farm uses and influences. The zone is subject to change only in those instances where there is substantial evidence that such land is no longer suitable for agriculture.

It is not the purpose or intent of this ordinance to regulate or limit farm or agricultural use of land.

Except when approval of the Planning Commission has been obtained as provided in Subchapter 53.035, all divisions of land in an agriculture zone are prohibited.

### 53.010 Definitions

Agriculture: For the purposes of this subchapter, "Agriculture" and "Farm Use" are synonymous.

Farm Use: The current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by feeding, breeding, management and sale of, or the product of livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321, or to the construction and use of dwellings customarily provided in conjunction with the farm use.

### 53.015 Permitted Uses

Within any Agriculture Zone, no building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained, except for the following uses:

- A. Farm uses (see farm use definition).

- B. Accessory buildings, not dwellings or manufactured dwellings, normally required in connection with a use as specified in (a) above.
- C. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.
- D. The propagation or harvesting of a forest product.
- E. Placing of signs, markers, aids, etc., by a public agency.
- F. Customary cleaning or maintenance of a stream or drainage.
- G. Maintenance and repair, usual and necessary, for the continuation of an existing use.
- H. Reasonable emergency procedures necessary for the safety or protection of property.
- I. Medical Marijuana Grow Site, subject to the special use limitations described in Section 53.021.
- J. Recreational Marijuana Producer, subject to the special use limitations described in Section 53.021.
- K. Transportation Facilities: includes construction, operation, maintenance or repair of facilities located within right-of-way controlled by a public agency, including streets, pathways and sidewalks, consistent with the Transportation System Plan; and water, sanitary sewer, gas, oil, electric and communication lines, and stormwater facilities.

#### 53.020 Conditional Uses

When authorized under the procedure provided for conditional uses in this ordinance, the following uses may be permitted in an Agriculture Zone:

- A. Operations conducted for the exploration, mining and processing of geothermal resources, as defined by Subsection 4 of ORS 522.010, aggregate and other mineral resources or other subsurface resources.
- B. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- C. Parks, playgrounds or community centers owned and operated by a governmental agency or a non-profit community organization.

- D. Fills, dikes, or levees.
- E. A single family dwelling or a manufactured dwelling subject to the provisions of Sections 51 and 52 and ORS 215.203.

53.021 Special Use Limitations for Marijuana Facilities

- A. At the time a Medical Marijuana Grow Site or a Recreational Marijuana Producer locates in the AG Zone, the Medical Marijuana Grow Site or Recreational Marijuana Producer may not be located:
  - 1. Within 1,000 Feet of an Elementary or Secondary School; or
  - 2. Within 250 Feet of a Public Library, Public Park, Public Playground, Public Recreational Facility, or Public Athletic Field.
- B. A Medical Marijuana Grow Site or a Recreational Marijuana Producer must possess a valid business registration in accordance with Chapter 8 of the Independence Municipal Code, Article XII, Marijuana Facilities.
- C. A Medical Marijuana Grow Site or a Recreational Marijuana Producer may not include a Drive-Through Facility.

53.025 Standards for Conditional Uses

An application for a conditional use in the Agricultural Zone shall be approved only if the conditional use is approved pursuant to Subchapter 71 of this Independence Zoning Ordinance and the following conditions are found to exist:

- A. The proposed use is consistent with the purpose of the Agriculture Zone as stated in this chapter.
- B. The proposed use shall not interfere with adjacent farm uses.
- C. The proposed use is consistent with the applicable overlay zones.

53.030 Prohibited Uses

It shall be unlawful to erect, alter, maintain or establish in an Agriculture Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, excepting existing nonconforming uses, which may continue as provided in Section 10.055. Subdivisions are not consistent with the purpose and intent of this zone and are hereby declared to be prohibited activities and uses in this zone.

53.035 Land Divisions

The division of land in an Agriculture Zone is discouraged as not consistent with farm use practices, but the Planning Commission may permit the division of land after holding a public hearing. The Commission shall consider:

- A. If a residential use permitted will seriously interfere with the usual and normal farm practices on adjacent agricultural lands (such as hazardous pesticide and herbicide applications, noise, dust, smoke and offensive odors).
- B. If the proposed division of land will materially alter the stability of the overall land use pattern of the area.
- C. If the land is generally suitable for the production of farm crops and livestock, as conducted in that area, considering the terrain, soil or land conditions, drainage, and flooding, vegetation, location, and size of tract.

An affirmative decision may be granted only if either the following conditions are found to exist:

- A. The division is for the purpose of expansion or consolidation of adjoining farming activities.
- B. The division is for the purpose of establishing a labor intensive agricultural activity meeting, the definition of farm use as contained in ORS 215.203.

The Commission may attach appropriate conditions in the granting of an application, including the minimum size of the tracts and future redivisions.

#### 53.040 Parcel Area

The minimum area for a parcel shall be determined by the Planning Commission, as set forth in Section 53.035. This restriction shall also apply to contiguous parcels of land under one ownership, whether or not previously platted which contiguous parcels shall be considered as single unit of ownership.

#### 53.045 Yards

The minimum requirements for front, side and rear yards shall be as follows:

Minimum front yard dept: 20 feet (6.21 meters)

Minimum side yard depth:

- Yard not adjoining street: 5 feet (4.5 meters)
- Yard adjoining street: 10 feet (9.14 meters)

#### 53.050 Height

There are no height restrictions in an Agriculture zone.

53.055 Parking Requirements

Parking space requirements shall conform to the requirements set forth in Chapter 73.