

CHAPTER 30

FARM PRACTICES

30.005 Short Title. This chapter of the Benton County Code shall be known as the "Farm Practice Ordinance" and shall be so cited and pled. This Benton County Farm Practice Ordinance is a structured format for Fact Finding. [Ord. 2000-0159]

30.010 Purpose. It is the purpose of this Ordinance to minimize disagreement, conserve and protect, agriculture, and other resource based industries of this county for the production of food and other products. "Generally accepted farm practices" may offend, annoy, interfere with or otherwise affect non farm uses located on farm lands or near "farm" uses. As a result, farm activities may be subject to lawsuits or complaints from non farm users. The purpose of this ordinance is to establish a procedure to address the issue of what is considered a generally accepted farm practice under ORS 30.930-30.947 when it may conflict with nonfarm or rural residential use. [Ord. 2000-0159]

30.015 Definitions.

(1) "Farm" means any facility, including the land, buildings, water courses and appurtenances thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock products, or the propagation and raising of nursery stock.

(2) "Facility" means any personal property or real property, including any appurtenances thereto and any fixtures thereon, associated with a given use or activity.

(3) "Farming Practice" means farm use as defined in ORS 215.203 (2) (a) and generally means cultivating, growing, harvesting, or selling plants or animals of any kind, which may be lawfully grown, processed or sold including, but not limited to, fish, poultry, grapes, Christmas trees, and nursery stock.

(4) "Generally Accepted Farm Practice" means a practice that either:

(a) Is conducted in compliance with applicable federal or state rules and regulations; or

(b) Is a practice which the typical producer in this county or other geographic area that it is reasonable to consider who regularly conducts the same type of farm activity would reasonably expect to occur.

(5) "Non Farm Use" means any facility, activity, or land use that is not a farm activity including, but not limited to, any residential use or dwelling.

(6) "Protected Farm Activity" means any current or future generally accepted farming practice or facility that is conducted or operated in compliance with applicable federal, state or local statutes, regulations or ordinances. The term "protected farm activity" does not include:

- (a) The growing of infested, infected, or diseases crops, poultry or livestock.
- (b) The physical condition of facilities that endanger public health or safety.
- (c) A trespass that involves an actual physical invasion of the property of another by a person or by another person's animals. [Ord. 2000-0159]

30.020 Peer Review Board. A Peer Review Board will be established by the Benton County Board of Commissioners to advise the County on whether a disputed farm activity is a generally accepted farming practice or facility. The Board shall consist of five (5) persons who are actively involved in farm production within the County, at least three (3) of whom are actively involved in the same type of farm activity over which the dispute has occurred where possible. One member of the Peer Review Board shall be designated the Designee. [Ord. 2000-0159]

30.025 Designee.

(1) The Designee may include, but is not limited to: Oregon State University (OSU) Extension Agents in Benton County, Field Consultants and OSU Extension Agents from neighboring counties.

(a) Designee shall be knowledgeable about the farm industry in the county and will be appointed by the Benton County Board of Commissioners from a list of candidates provided by the OSU Extension Service or any county agency which the Board deems appropriate. The list of candidates shall, whenever possible, be drawn up with the consultation of at least two (2) local farm organizations.

(b) The Designee shall be eligible for one-year terms and may be reappointed any number of times without limitation.

(2) Designee shall be chairperson of the Peer Review Board.

(3) Initial duty will be to work with the Benton County Office of OSU Extension Services to screen, select, and periodically update a list of persons able and willing to serve as Designees, and another list of farmers willing to serve on the Peer Review Board, and to provide these lists to the Benton County Board of Commissioners. [Ord. 2000-0159]

30.030 Complaint Response and Procedure.

(1) Initial farm activity complaints shall.

(a) Be referred to the appropriate Benton County department; and

(b) Be responded to as soon as possible.

(2) The responding department shall:

- (a) Document the complaint;
- (b) Determine whether the activity in question is protected by ORS 30.930-30.947. If such a determination cannot be made, contact the Designee for consideration by the Peer Review Board.
- (c) The Designee will advise the referring department as to what type of farming activity is involved in the disputed practice.
- (d) Benton County Board of Commissioners will then appoint a Peer Review Board consistent with section 30.025.
- (e) The Designee will convene a meeting of the Peer Review Board within two (2) weeks of the Board's appointments to determine whether the farm practice in question is generally accepted.
- (f) The Designee will report the decision to the referring department and the Benton County Board of Commissioners.
- (g) The referring department shall rely on the determination of the Peer Review Board, when determining what action may be taken in response to the complaint. [Ord. 2000-0159]