



**Board of Commissioners**  
Office: (541) 766-6800  
Fax: (541) 766-6893

4500 SW Research Way  
Corvallis, OR 97330  
co.benton.or.us

## AGENDA

*(Chair May Alter the Agenda)*

### BENTON COUNTY BOARD OF COMMISSIONERS

**Tuesday, November 15, 2022, 9 AM**

| How to Participate in the Board of Commissioners Meeting |                                |                                           |
|----------------------------------------------------------|--------------------------------|-------------------------------------------|
| Zoom Video<br><a href="#">Click for Zoom link</a>        | Zoom Meeting ID: 853 4290 2486 | Zoom Phone Audio<br>Dial 1 (253) 215-8782 |
|                                                          | Zoom Passcode: 934986          |                                           |

#### 1. Opening

- 1.1 Call to Order
- 1.2 Introductions
- 1.3 Announcements

#### 2. Review and Approve Agenda

#### 3. Comments from the Public

*No public comments will be taken at this meeting.*

#### 4. Old Business

- 4.1 In the Matter of a Second Reading of Ordinance #2022-0313, Development Code Amendments Regarding Psilocybin – *Greg Verret; Community Development*

#### 5. Other

ORS 192.640(1)" . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

**MINUTES OF THE MEETING  
BENTON COUNTY BOARD OF COMMISSIONERS**

**Zoom link:**

<https://us06web.zoom.us/j/85342902486?pwd=clNIRFZnNDdCSTRBVWltNHBYc3ZXZz09>

**Livestream:** <http://facebook.com/BentonCoGov>

**Tuesday, November 15, 2022**

**9:00 a.m.**

**Present:** Nancy Wyse, Chair; **Xanthippe Augerot**, Commissioner; **Pat Malone**, Commissioner; **Vance Croney**, County Counsel; **Joe Kerby**, County Administrator

**Staff:** **Mac Gillespie**, Mara Sargent, Health; **Amanda Makepeace**, BOC Staff; **Erika Milo**, BOC Recorder; **Greg Verret**, Community Development

**Guests:** **Alex Powers**, Mid-Valley Media

Chair Wyse called the meeting to order at 9:01 a.m.

**I. Opening:**

**A. Introductions**

**B. Announcements**

No announcements were made.

**II. Comments from the Public**

No comments were offered.

**III. Review and Approve Agenda**

No changes were made to the agenda.

**IV. Old Business**

**4.1 In the Matter of a Second Reading of Ordinance #2022-0313, Development Code Amendments Regarding Psilocybin – *Greg Verret, Community Development***

Verret noted that the meeting packet contained an older version of the Ordinance. At the first Public Hearing on this matter, the Board directed that the separation distance requirement between treatment service centers and the limitation on hours of operation be removed from County Code. Also, the effective date was changed from December 16, 2022 to December 15, 2022. Those corrections were made in the version of the Ordinance posted on the County website.

**MOTION:** Augerot moved to approve the second reading of Ordinance #2022-0313. Malone seconded the motion, which **carried 3-0.**

Counsel read the Ordinance aloud (short title). Ordinance to take effect December 15, 2022.

**V. Other**

Augerot mentioned an email from organizers of the 4-H Banquet on December 1, 2022, requesting that a Commissioner attend to present awards.

Wyse offered to present the awards.

Malone offered to attend if Wyse was unavailable.

## **VI. Adjournment**

Chair Wyse adjourned the meeting at 9:08 a.m.

DocuSigned by:  
  
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Nancy Wyse, Chair

DocuSigned by:  
  
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Erika Milo, Recorder

*\* NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY  
STATE OF OREGON**

|                                                     |   |                      |
|-----------------------------------------------------|---|----------------------|
| <b>In the Matter of Amending the Benton</b>         | ) | <b>ORDINANCE</b>     |
| <b>County Development Code Regarding</b>            | ) |                      |
| <b>Psilocybin, specifically Chapters 51 and 91.</b> | ) | <b>No. 2022-0313</b> |

**WHEREAS:**

Measure 109 was approved by Oregon voters in November 2020, establishing a program for legalized psilocybin in Oregon.

In Benton County, Measure 109 passed by a vote of 63% in favor to 37% opposed.

The Psilocybin Services Program will be overseen by the Oregon Health Authority. The agency maintains full authority over licensing and enforcement for product manufacturers, product testing labs, service centers, facilitators, and facilitator training programs. A local jurisdiction may “adopt ordinances that impose reasonable regulations on the operation” of licensed psilocybin businesses.

Benton County identifies a public interest in enabling psilocybin treatment to be available to members of the community.

Benton County identifies a public interest in limiting conflicts between land uses and in maintaining the integrity of the Oregon land use planning system.

Benton County has balanced the various interests and concerns into Development Code provisions that allow the growing and processing of psilocybin-producing fungi and treatment service centers in appropriate locations.

Benton County recognizes an inherent tension between the desire for rural settings for treatment service centers and the principles of the Oregon land use planning system regarding the use and conservation of rural lands. Future work at the state and local levels will be needed to resolve this tension.

The Benton County Planning Commission held a duly advertised public hearing on October 18, 2022, received public testimony, and voted to recommend that the Board of Commissioners approve the Development Code amendments with modifications.

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The Benton County Board of Commissioners held a duly advertised public hearing on November 1, 2022, received public testimony, deliberated, and voted to approve the Development Code amendments. The Benton County Board of Commissioners has considered the staff report, the application materials, the recommendation of the Benton County Planning Commission, and the record as a whole, and finds that the proposed Development Code amendments comply with the criteria of Benton County Code 53.605 through 53.625, and are consistent with the applicable policies and procedures of the Benton County Comprehensive Plan.

The Board of Commissioners conducted the First Reading of the Ordinance on November 1, 2022.

The Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on November 15, 2022.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

**PART I.**     Short Title. Amendments to the Benton County Development Code Regarding Psilocybin.

**PART II.**     Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.

**PART III.**    The Development Code amendments proposed in Planning File No. LU-22-048 are hereby approved, based on the Findings and Conclusions contained in the attached “Exhibit 1” and hereby adopted and incorporated herein.

**PART IV.**    Chapters 51 and 91 of the Benton County Development Code are hereby amended as shown in “Exhibit 2”.

**PART V.**     The effective date for these amendments to the Benton County Development Code will be:

First Reading:     November 1, 2022

Second Reading:   November 15, 2022

Effective Date:    December 15, 2022

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**BENTON COUNTY BOARD OF  
COMMISSIONERS**

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Nancy Wyse, Chair

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Pat Malone, Commissioner

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Xan Augerot, Commissioner

Approved as to Form:

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County Counsel

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Recording Secretary

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY  
STATE OF OREGON**

|                                                     |   |                      |
|-----------------------------------------------------|---|----------------------|
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The Psilocybin Services Program will be overseen by the Oregon Health Authority. The agency maintains full authority over licensing and enforcement for product manufacturers, product testing labs, service centers, facilitators, and facilitator training programs. A local jurisdiction may “adopt ordinances that impose reasonable regulations on the operation” of licensed psilocybin businesses.

Benton County identifies a public interest in enabling psilocybin treatment to be available to members of the community.

Benton County identifies a public interest in limiting conflicts between land uses and in maintaining the integrity of the Oregon land use planning system.

Benton County has balanced the various interests and concerns into Development Code provisions that allow the growing and processing of psilocybin-producing fungi and treatment service centers in appropriate locations.

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The Benton County Board of Commissioners held a duly advertised public hearing on November 1, 2022, received public testimony, deliberated, and voted to approve the Development Code amendments. The Benton County Board of Commissioners has considered the staff report, the application materials, the recommendation of the Benton County Planning Commission, and the record as a whole, and finds that the proposed Development Code amendments comply with the criteria of Benton County Code 53.605 through 53.625, and are consistent with the applicable policies and procedures of the Benton County Comprehensive Plan.

The Board of Commissioners conducted the First Reading of the Ordinance on November 1, 2022.

The Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on November 15, 2022.

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First Reading:      November 1, 2022

Second Reading:      November 15, 2022

Effective Date:      December 15, 2022

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**BENTON COUNTY BOARD OF  
COMMISSIONERS**

DocuSigned by:



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Nancy Wyse, Chair

DocuSigned by:



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Pat Malone, Commissioner

DocuSigned by:



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Xan Augerot, Commissioner

Approved as to Form:

DocuSigned by:



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County Counsel

DocuSigned by:



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Recording Secretary

## Exhibit 1

### Findings of Fact and Conclusions of Law Development Code Amendments; File No. LU-22-048

#### DEVELOPMENT CODE PROVISIONS FOR TEXT AMENDMENTS

***BCC 53.605. On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.***

***BCC 53.610(1). The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.***

***BCC 53.620. The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.***

***BCC 53.625. The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.***

**Findings:** The Board of Commissioners finds that the proposed text amendments are necessary to address changing conditions, namely the enactment of Measure 109 legalizing and regulating psilocybin. The Board initiated these text amendments. The staff report constitutes the background report discussing the justification for the proposed amendment.

The Planning Commission, at its October 18, 2022, public hearing, developed a recommendation to the Board of Commissioners. The Board of Commissioners held a public hearing on November 1, 2022, and is adopting the Development Code provisions by ordinance.

**Conclusion:** The requirements of the Development Code will be met.

## Exhibit 2

### **Amendments to Chapters 51 and 91, Benton County Development Code** **File No. LU-22-048**

Added text is underlined.  
Deleted text is ~~struck through~~.

## Chapter 51

### Development Code Administration

\* \* \*

**51.020 Definitions.** As used in BCC Chapters 51 to 100:

\* \* \*

(15) "Farm use" means the following:

- (a) In only the Exclusive Farm Use, Forest Conservation, and Multi-Purpose Agriculture zones, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Marijuana, grown commercially pursuant to a license issued by the State of Oregon, is a crop. In the Exclusive Farm Use and Multi-Purpose Agriculture zones only, psilocybin-producing fungi, grown pursuant to a license from the State of Oregon, is a crop. "Farm Use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and other animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees defined in ORS 215.203 (3) or land described in ORS 321.267 (3) or 321.824. A wholesale or retail plant nursery is considered horticultural use and therefore is allowed under this definition. [Ord 2015-0270]
- (b) In zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture, "farm use" means the current employment of land for

the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry, or any combination thereof. "Farm Use" includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees or for hardwood species marketable as fiber for manufacturing paper products as described in ORS 321.267(3) or 321.824. Farm use shall be appropriate for the continuation of existing, or the promotion of new, commercial agriculture enterprise in the area.

"Farm use" in zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture is distinguished from the 51.020(135)(a) definition by the exclusion of:

- (A) "stabling or training equines";
- (B) "bird and other animal species that are under the jurisdiction of the State Fish and Wildlife Commission";
- (C) "on-site construction and maintenance of equipment and facilities" used for farm use; and
- (D) "marijuana, grown commercially pursuant to a license issued by the State of Oregon," as a farm crop. [Ord 2015-0270]
- ~~(D)~~(E) Psilocybin-producing fungi, grown pursuant to a license from the State of Oregon, as a farm crop.

(c) As used in the definition of "farm use",

- (A) "Current employment" of land for farm use includes:
  - (i) Farmland, the operation or use of which is subject to any farm-related government program;
  - (ii) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
  - (iii) Land planted in orchards or other perennials, other than land specified in subparagraph (iv) of this paragraph, prior to maturity;

- (iv) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
  - (v) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
  - (vi) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
  - (vii) Water impoundments lying in or adjacent to and in common ownership with farm use land;
  - (viii) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
  - (ix) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
  - (x) Any land described under ORS 321.267 (3) or 321.824 (3); and
  - (xi) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
    - 1. Only the crops of the landowner are being processed;
    - 2. The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
    - 3. The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.
- (B) "Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.
- (C) "Cultured Christmas trees" means trees:

- (i) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
  - (ii) Of a marketable species;
  - (iii) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
  - (iv) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation. {ORS 215.203}
- (D) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and
- (E) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

**[Ord. 2001-0174, Ord 2006-0214, Ord 2015-0269, Ord 2015-0270]**

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## Chapter 91

### Specific Use Standards

**91.005 Purpose.** A variety of land uses are permitted in more than one zone. It is the purpose of this chapter to provide uniform standards for certain land uses, with the standards applicable to all zones in which such uses are allowed. These standards shall be applied in addition to all other standards and criteria appropriate to the review process required by the zone. [Ord 90-0069]

\* \* \*

#### **PSILOCYBIN-RELATED PRODUCTION, MANUFACTURING AND SERVICE CENTERS**

**91.680 Generally.** Land uses involved in psilocybin-related growing/production, processing manufacturing and treatment service centers shall be governed by BCC 91.680 through 91.688. Other provisions of the Development Code shall also apply except where they conflict with more specific provisions of BCC 91.680 through 91.688.

**91.682 Growing/Production.** The growing of psilocybin-producing fungi:

- (1) Pursuant to a license from the State of Oregon, is allowed as a farm use in the Exclusive Farm Use, Multi-Purpose Agriculture, Urban Industrial, Rural Industrial, Agricultural Industrial, and Airport Industrial Park zones; and
- (2) Shall be subject to all applicable overlay zones and all siting standards of the zone in which located and any other applicable provisions of the Development Code.

**91.684 Processing.** The processing of psilocybin products pursuant to a license from the State of Oregon:

- (1) Is permitted in only:
  - (a) The Exclusive Farm Use and Multi-Purpose Agriculture zones pursuant to the provisions for a facility for the processing of farm crops;
  - (b) The Urban Industrial and Rural Industrial zones pursuant to the provisions for a facility for the manufacturing, processing and/or assembling of products;
  - (c) The Agricultural Industrial zone; and
  - (d) The Special Use-Airport Industrial Park zone pursuant to the provisions for manufacturing, processing and assembling, except that on-site sale of such products are not allowed. A treatment service center may be allowed pursuant to BCC 91.686.
- (2) Is prohibited in all other zones, including as a home occupation or cottage industry.
- (3) Shall be subject to all applicable overlay zones and to the siting standards of the

zone in which located.

### **91.686 Service Centers.**

(1) A psilocybin treatment service center:

- (a) Is a conditional use in the Urban Commercial, Rural Commercial, Village Commercial, and Special Use-Airport Industrial Park zones, subject to review pursuant to the conditional use provisions of those zones.
- (b) Is prohibited in all other zones, including as a home occupation or cottage industry.

(2) Siting Standards.

- (a) A psilocybin treatment service center shall not be located within 1,000 feet of:
  - (A) Either of the following, unless authorized to be so sited by the Oregon Health Authority:
    - (i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
    - (ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a).
  - (B) A licensed daycare;
  - (C) A publicly owned park, playground or recreation facility.
- (b) If any of the uses described above is established subsequent to the legal establishment of a psilocybin treatment service center, the service center may remain at that location unless the Oregon Health Authority revokes the license of the service center operator or the service center use is otherwise abandoned for a period of more than one year.

(3) A psilocybin treatment service center shall:

- (a) Operate only with proper licensing from the State of Oregon;
- (b) Operate only indoors or within an enclosed and secured outdoor area;
- (c) Not include overnight accommodations or other associated uses unless such uses are listed as permitted or conditional uses within the zone. Such associated uses shall require conditional use review either as part of the psilocybin treatment service center conditional use review or as a subsequent stand-alone review in conjunction with an approved psilocybin treatment service center.
- (d) Be subject to all applicable overlay zones and to the siting standards of the zone in which located.

### **91.688 Other Land Uses.**

- (1) Notwithstanding other provisions of the Development Code, the following are not permitted uses in the Exclusive Farm Use or Multi-Purpose Agriculture zones:
  - (a) A new dwelling used in conjunction with a psilocybin-producing fungi crop;

- (b) A farm stand used in conjunction with a psilocybin-producing fungi crop;  
and
- (c) A commercial activity in conjunction with farm use, carried on in  
conjunction with a psilocybin-producing fungi crop.

**Findings of Fact and Conclusions of Law**  
**Development Code Amendments; File No. LU-22-048**

**DEVELOPMENT CODE PROVISIONS FOR TEXT AMENDMENTS**

***BCC 53.605. On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.***

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**Findings:** The Board of Commissioners finds that the proposed text amendments are necessary to address changing conditions, namely the enactment of Measure 109 legalizing and regulating psilocybin. The Board initiated these text amendments. The staff report constitutes the background report discussing the justification for the proposed amendment.

The Planning Commission, at its October 18, 2022, public hearing, developed a recommendation to the Board of Commissioners. The Board of Commissioners held a public hearing on November 1, 2022, and is adopting the Development Code provisions by ordinance.

**Conclusion:** The requirements of the Development Code will be met.

Exhibit 2

**Amendments to Chapters 51 and 91, Benton County Development Code**  
**File No. LU-22-048**

Added text is underlined.  
Deleted text is ~~struck through~~.

## Chapter 51

### Development Code Administration

\* \* \*

**51.020 Definitions.** As used in BCC Chapters 51 to 100:

\* \* \*

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- (b) In zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture, "farm use" means the current employment of land for

the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry, or any combination thereof. "Farm Use" includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees or for hardwood species marketable as fiber for manufacturing paper products as described in ORS 321.267(3) or 321.824. Farm use shall be appropriate for the continuation of existing, or the promotion of new, commercial agriculture enterprise in the area.

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(c) As used in the definition of "farm use",

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  - (ii) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
  - (iii) Land planted in orchards or other perennials, other than land specified in subparagraph (iv) of this paragraph, prior to maturity;

- (iv) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
  - (v) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
  - (vi) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
  - (vii) Water impoundments lying in or adjacent to and in common ownership with farm use land;
  - (viii) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
  - (ix) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
  - (x) Any land described under ORS 321.267 (3) or 321.824 (3); and
  - (xi) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
    - 1. Only the crops of the landowner are being processed;
    - 2. The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
    - 3. The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.
- (B) "Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.
- (C) "Cultured Christmas trees" means trees:

- (i) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
  - (ii) Of a marketable species;
  - (iii) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
  - (iv) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.  
{ORS 215.203}
- (D) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and
- (E) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

[Ord. 2001-0174, Ord 2006-0214, Ord 2015-0269, Ord 2015-0270]

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## Chapter 91

### Specific Use Standards

**91.005 Purpose.** A variety of land uses are permitted in more than one zone. It is the purpose of this chapter to provide uniform standards for certain land uses, with the standards applicable to all zones in which such uses are allowed. These standards shall be applied in addition to all other standards and criteria appropriate to the review process required by the zone. [Ord 90-0069]

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#### **PSILOCYBIN-RELATED PRODUCTION, MANUFACTURING AND SERVICE CENTERS**

**91.680 Generally.** Land uses involved in psilocybin-related growing/production, processing manufacturing and treatment service centers shall be governed by BCC 91.680 through 91.688. Other provisions of the Development Code shall also apply except where they conflict with more specific provisions of BCC 91.680 through 91.688.

**91.682 Growing/Production.** The growing of psilocybin-producing fungi:

- (1) Pursuant to a license from the State of Oregon, is allowed as a farm use in the Exclusive Farm Use, Multi-Purpose Agriculture, Urban Industrial, Rural Industrial, Agricultural Industrial, and Airport Industrial Park zones; and
- (2) Shall be subject to all applicable overlay zones and all siting standards of the zone in which located and any other applicable provisions of the Development Code.

**91.684 Processing.** The processing of psilocybin products pursuant to a license from the State of Oregon:

- (1) Is permitted in only:
  - (a) The Exclusive Farm Use and Multi-Purpose Agriculture zones pursuant to the provisions for a facility for the processing of farm crops;
  - (b) The Urban Industrial and Rural Industrial zones pursuant to the provisions for a facility for the manufacturing, processing and/or assembling of products;
  - (c) The Agricultural Industrial zone; and
  - (d) The Special Use-Airport Industrial Park zone pursuant to the provisions for manufacturing, processing and assembling, except that on-site sale of such products are not allowed. A treatment service center may be allowed pursuant to BCC 91.686.
- (2) Is prohibited in all other zones, including as a home occupation or cottage industry.
- (3) Shall be subject to all applicable overlay zones and to the siting standards of the

zone in which located.

**91.686 Service Centers.**

(1) A psilocybin treatment service center:

- (a) Is a conditional use in the Urban Commercial, Rural Commercial, Village Commercial, and Special Use-Airport Industrial Park zones, subject to review pursuant to the conditional use provisions of those zones.
- (b) Is prohibited in all other zones, including as a home occupation or cottage industry.

(2) Siting Standards.

- (a) A psilocybin treatment service center shall not be located within 1,000 feet of:
  - (A) Either of the following, unless authorized to be so sited by the Oregon Health Authority:
    - (i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
    - (ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a).
  - (B) A licensed daycare;
  - (C) A publicly owned park, playground or recreation facility.
- (b) If any of the uses described above is established subsequent to the legal establishment of a psilocybin treatment service center, the service center may remain at that location unless the Oregon Health Authority revokes the license of the service center operator or the service center use is otherwise abandoned for a period of more than one year.

(3) A psilocybin treatment service center shall:

- (a) Operate only with proper licensing from the State of Oregon;
- (b) Operate only indoors or within an enclosed and secured outdoor area;
- (c) Not include overnight accommodations or other associated uses unless such uses are listed as permitted or conditional uses within the zone. Such associated uses shall require conditional use review either as part of the psilocybin treatment service center conditional use review or as a subsequent stand-alone review in conjunction with an approved psilocybin treatment service center.
- (d) Be subject to all applicable overlay zones and to the siting standards of the zone in which located.

**91.688 Other Land Uses.**

(1) Notwithstanding other provisions of the Development Code, the following are not permitted uses in the Exclusive Farm Use or Multi-Purpose Agriculture zones:

- (a) A new dwelling used in conjunction with a psilocybin-producing fungi crop;

- (b) A farm stand used in conjunction with a psilocybin-producing fungi crop;  
and
- (c) A commercial activity in conjunction with farm use, carried on in  
conjunction with a psilocybin-producing fungi crop.