

**MEMORANDUM**  
**OFFICE OF COUNTY COUNSEL**

TO: Michael Brandt, Planning Director; Ken Friday, Planning Division Manager

FROM: Rick Sanai, Assistant County Counsel

RE: Agricultural Buildings; Legal Definition of “Farm”

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Mike, I’ll answer your questions in the order presented.

1. Q: Is it legal to require payment of a \$30 fee and zoning permit for verifying setbacks on agricultural buildings? Yes. UBC §326.3 only concerns the ag buildings themselves; it does not prevent a requirement for distance between the ag building and the property line.
2. Q: Is it permissible to require ag building applicants to sign the attached affidavit? Yes. It provides notification to the applicant of the legal permission granted and the uses permitted.
3. A: The UBC §326.2 definitions of “farm”, “farm agricultural buildings” and “non-farm agricultural buildings” are adapted from ORS 455.315(1) and (2). A “farm” is private “land used for **the primary purpose of obtaining in profit in money** by raising, harvesting, and selling of crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing mammals or honeybees ....” Thus the key element of “farm” or “farm building” is that these are being used to generate a profit. Thus “hobby farms, vegetable or flower gardens for private consumption and enjoyment, herds of pet horses or goats, and the like are not “farms” under the legal definition. A “farm” is a business, and those not engaged in the primary business of farming do not, in fact, have a “farm.”

Attached: Brandt memo of July 26, 2002  
UBC §326  
Agricultural Building Affidavit

# Yamhill County

## DEPARTMENT OF PLANNING AND DEVELOPMENT

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June 26, 2002

To: Rick Sanai, Assistant County Counsel  
From: Michael Brandt, Planning Director  
Re: Agricultural Buildings

An issue which seems to cause some confusion on a continuous basis is whether building permits are required for agricultural buildings. The 1997 uniform building code is clear in Section 326.3 that “plans are not required to be submitted and permits will not be required on farm agricultural buildings.” Here are my questions related to this subject:

4. The county does not require submission of plans for agricultural buildings nor are building permits for such buildings required to be obtained. Many years ago, before I became director, the Board approved a \$30 fee and “zoning permit” for verifying the setbacks on agricultural buildings. This requirement is still in place and, in checking with other jurisdictions, seems to be a routine practice. Is this legal in light of the language in Section 326.3 of the uniform building code?
5. As you know, many people claim to be building an agricultural building when they are really building a garage, a storage building, a non-farm shop, etc. When someone applies for the agricultural building (i.e. setback permit), they are required to sign the attached affidavit. Is this legal?
6. In reading section 326 of the uniform building code, there are definitions given for **farm, farm agricultural buildings and non-farm agricultural buildings**. Please review the attached section of the code and give me your legal interpretation as to exactly what these terms mean and how we as a department should go about administering this code section.

Rick, this is very important and it is something that comes up a lot. In the past, we have asked the state to give us some guidance on this issue and, to date, have received nothing. I will be glad to sit down with you to go over this. Also, it may be helpful to go over some of this with Diane, John Stalcup, John Gray and Mark Soderburg. Thanks for your timely response.

cc: Diane Fisher  
John Stalcup  
John Gray  
Mark Soderburg

## Division II—AGRICULTURAL BUILDINGS

Adopted by the State of Oregon.

## SECTION 326 — SCOPE

**326.1 General.** This division applies to nonfarm agricultural buildings. Nonfarm agricultural buildings may be classified by the building official as Group U, Division 1 Occupancies as specified in Section 301.

**326.2 Definitions.** For the purposes of this chapter, certain terms are defined as follows:

**FARM** is land used for the primary purpose of obtaining a profit in money by raising, harvesting and selling of crops or by 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. "Farm use" includes the preparation and storage of products raised on such farm for human use and animal use and disposal by marketing or otherwise.

**FARM AGRICULTURAL BUILDINGS** are exempted from this code as provided in ORS 455.315(1) and (2).

ORS 455.315 is not a part of this code but is reproduced here for the reader's convenience:

**455.315 Agricultural buildings; application of specialty code; regulation by cities.** (1) Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building.

(2) As used in this chapter "agricultural building" means a structure located on a farm and used in the operation of such farm for the storage, maintenance or repair of farm machinery and equipment or for the raising, harvesting and selling of crops or in the feeding, breeding, management and sale of, or the 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, including the preparation and storage of the produce raised on such farm for human use and animal use and disposal by marketing or otherwise. "Agricultural building" does not include:

- (a) A dwelling;
- (b) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
- (c) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
- (d) A structure used by the public; or
- (e) A structure subject to sections 4001 to 4126, Title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(3) Notwithstanding the provisions of subsection (1) of this section, incorporated cities may regulate agricultural buildings within their boundaries pursuant to this chapter.

**NONFARM AGRICULTURAL BUILDING** is a structure which by use or character of its occupancy is similar to a farm agricultural building but is not located on a farm.

**326.3 Exemption of Farm Agricultural Buildings from Structural Specialty Code.** Plans are not required to be submitted and permits will not be required on farm agricultural buildings.

When the owner, agent or builder of such a farm agricultural building submits plans for review and asks for inspection, such applicant shall pay the fees provided in this code and shall design the structure using requirements as specified in Chapters 16, 18, 19, 20, 21, 22 and 23 of this code.

**326.4 Cities May Regulate.** Incorporated cities may regulate agricultural buildings within their boundaries, pursuant to ORS 455.315.

## SECTION 327 — CONSTRUCTION, HEIGHT AND ALLOWABLE AREA

**327.1 General.** Buildings classed as a Group U, Division 1 Occupancies shall be of one of the types of construction specified in this code and shall not exceed the area or height limits specified in Sections 504, 505 and 506 and Table A-3-A.

**327.2 Special Provisions.** The area of a Group U, Division 1 Occupancy in a one-story building shall not be limited if the building is entirely surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width, regardless of the type of construction.

The area of a two-story Group U, Division 1 Occupancy shall not be limited if the building is entirely surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width and is provided with an approved automatic sprinkler system throughout conforming to UBC Standard 9-1.

Buildings using plastics shall comply with Type V-N construction. Plastics shall be approved plastics as defined in Chapter 2 and regulated by Chapter 26. For foam plastic, see Section 2602.

**EXCEPTIONS:** 1. When used as skylights or roofs, the areas of plastic skylights shall not be limited.

2. Except where designs must consider snow loads, plastics less than 20 mil (0.51 mm) thick may be used without regard to structural considerations. The structural frame of the building, however, shall comply.

## SECTION 328 — OCCUPANCY SEPARATIONS

Occupancy separations shall be as specified in Section 302 and Table A-3-B.

## SECTION 329 — EXTERIOR WALLS AND OPENINGS

Except where Table 6-A requires greater protection, exterior walls of agricultural buildings shall not be less than one-hour fire-resistive construction when less than 20 feet (6096 mm) from property line.

Openings in exterior walls of agricultural buildings that are less than 20 feet (6096 mm) from property lines shall be protected by fire assemblies having a fire-protection rating of not less than three-fourths hour.

## SECTION 330 — MEANS OF EGRESS

Means of egress shall be as specified in Chapter 10.

**EXCEPTIONS:** 1. The maximum travel distance shall not exceed 300 feet (91 440 mm).

2. One means of egress is required for each 15,000 square feet (1394 m<sup>2</sup>) of floor area and fraction thereof.

3. Exit and exit-access openings shall not be less than 2 feet 6 inches by 6 feet 8 inches (762 mm by 2032 mm).