

# INDUSTRIAL HEMP AND RIGHT TO FARM IN OREGON

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# LAND USE BASICS

- Oregon's land use laws allow "farm uses" outright in farm zones, meaning that no land use approval is required to engage in them on farmland.
  - "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops
  - "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
  - Processing crops usually requires local land use approval
    - OFB is interested in pursuing a legislative change to allow for small scale processing without a permit on farm zoned lands

# RIGHT TO FARM BASICS

- Right to Farm has two components:
  - Prohibition on local regulation of farming practices as if they were a trespass or nuisance
  - Limited protection from nuisance and trespass lawsuits related to farming practices
    - Exception for damage to commercial agricultural products
  - Farming practice is a mode of operation on a farm that is or may become generally accepted, complies with applicable laws and is done in a reasonable and prudent manner
  - Also ORS 215.253 prevents state agencies and local governments from imposing restrictions or regulations on farm uses located on lands zoned for exclusive farm use, *with a health and safety exception.*

# REGULATION OF INDUSTRIAL HEMP

- The state requires a “land use compatibility statement” (“LUCS”) as part of the “hemp handler” license
  - A handler license from Oregon Department of Agriculture is required to handle hemp, with some exceptions.
  - Legislation defined a “handler” as a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.
- The LUCS requirement has raised questions from several counties on the status of industrial hemp as a farm use

## LOCAL QUESTIONS REGARDING INDUSTRIAL HEMP

- Marijuana vs. Hemp
  - There is a limited carve out for marijuana regulation under state law
  - Marijuana is not defined, but the legislature clearly intended there to be a difference between hemp and marijuana regulation given that the state has enacted two separate statutes
  - Counties have asked questions about whether they are allowed to regulate industrial hemp under these same provisions
- ODA and OFB have taken the position that industrial hemp is not covered by the land use regulation carve out for marijuana, and therefore is treated the same as other farm uses in a farm zone
- To date, no counties have moved forward with their proposed ordinances to regulate industrial hemp

QUESTIONS?

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