

TO: House Committee on Agriculture, Land Use, Water, and Natural Resources
RE: Comments Regarding HB 4153 as Introduced

Dear Committee Members:

There appears to be conflicting information about how, exactly, HB 4153 will affect land use protections and farming opportunities on EFU land in Oregon. Until there is clear information, I cannot support this bill in its entirety. Amendments may be needed.

Land use protections are vital in Oregon, and the state has a long history of implementing protections. Once fertile farmland disappears under concrete and structures, you can't easily go back. However, what it takes to be successful at farming has evolved since the first round of regulations were approved, and this is certainly true of small-scale farming. Farms near urban areas are very appealing as a destination when they offer activities that supplement their farm income. A balance is needed.

As I understand it, the measure will replace the previous designation of farm stands with newly defined farm stores.

In some testimony and in the media I'm reading that 10,000 square foot buildings will be allowed. But in the text of the bill it is made clear that only existing buildings of that size would be allowed and any new structures would be limited to 5,000 square feet.

I'm reading in some testimony that corporations could purchase farmland, add three cows, then sell 95% non-farm related products and build amusement parks. I would hope that nothing in HB 4153 would allow that to happen!

It appears that the following language in Section 2 of HB 4153 addresses the actual proposal changes:

- (2) A farm store may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1) and 215.283 (1) or on land zoned for mixed farm and forest use if:
 - (a) The farm store is used for the sale of farm products produced by the farm operation;
 - (b) The farm store is situated on a tract of:
 - (A) At least 80 acres with at least 45 acres employed for farm use;
 - (B) Less than 80 acres but at least 40 acres and with at least 25 acres employed for farm use;
 - (C) Less than 40 acres but at least 20 acres and with at least 15 acres employed for farm use; or
 - (D) Less than 20 acres if:
 - (i) At least 10 acres are employed for farm use; or

- (ii) The farm store operates in conjunction with a farm operation, including a farm operation on a separate tract from the farm store, that earned at least \$40,000 in gross farm income in the preceding two years; and
- (c) The use does not occupy:
 - (A) More than 5,000 square feet of one or more permanent enclosed structures; or
 - (B) More than 10,000 square feet of one or more permanent enclosed structures that existed prior to the effective date of this 2026 Act.
- (3) Farm store structures may be used for:
 - (a) The sale of the farm products or processed farm products produced in the local agricultural area;
 - (b) The sale of retail items, if displayed in an area not to exceed 25 percent of the enclosed farm store structures;
 - (c) The sale of beverages and prepared food items that are cooked or otherwise made ready for immediate consumption; or
 - (d) Agri-tourism activities.
- (4) A farm store's farm-to-table meal operations may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (3)(c) of this section. Food and beverage services authorized under subsection (3)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.
- (5)(a) A local government with land use jurisdiction over the site of a farm store may adopt siting standards for farm stores related to:
 - (A) Access, egress and parking;
 - (B) Traffic management;
 - (C) Noise management;
 - (D) Hours of event operation; or
 - (E) Sanitation and solid waste.
- (b) A county may not apply siting standards in a manner that directly prohibits or unreasonably frustrates the siting and operation of a farm store under this section.

For the most part I support the above language, though question what seems to be the requirement of only approximately half of a farm's acreage be retained for farming (45 of 80 acres, 25 of 40 acres, 10 of 20 acres). I would like to know statistics about what portions of a typical farm's acreage is farmable. Understandably dwellings, driveways, septic fields, and other necessary elements of rural living and allowable farm stands take away from tillable area or pastureland. I can't judge if the above numbers in HB 4153 would dramatically change that. Certainly, on smaller farms, the ratio of farmable to non-farmable acreage would be different from large-scale operations.

In scanning the text of HB 4153, I am not seeing any limitations to the dollar amount of income derived from non-farm activities, except in the deleted text about farm stands. Is there a certain percentage of total income allowed? Am I missing it?

This is not my first foray into testimony regarding land use planning. I was a member of the Community Advisory Committee that helped draft the updated Sauvie Island and Multnomah Channel Plan adopted in 2015. There was a lot of discussion about how to preserve high value farmland for the farmers making a living on Sauvie Island. The EFU farmland throughout Oregon deserves that same attention. The language in the Sauvie Island and Multnomah Channel Plan could be helpful, such as:

Some key points about Land Use:

- Preserve the rural character of the island
- Preserve the agricultural nature of the island
- Balance island activities (hiking, tourism, farming, bicycling, etc.)
- **Land use regulations should be clear, easy to implement, and coordinated between government agencies**

Many “retail” farm activities are currently allowed on farms with farm stands and by separate agri-tourism regulations. What HP 4153 should address is that final bulleted point. If it does not do so, then amendments may be required for it to offer to farmers the flexibility those supporting HP4153 are hoping for.

One additional point regarding farm stands: I believe there are currently two types of farm stands, a traditional farm stand that sells locally grown farm products and incidental items and occupies one acre or less, including parking, and a farm stand that includes promotional events and activities and occupies more than one acre (ORS 215.283(1)(o)). Policy 1.3 in the Sauvie Island Multnomah Channel Plan recommends a different review process for each type. **What does removing references to farm stands in HB4153 do to that distinction? What will the owners of very small farms have to deal with as they pursue simple “farm stand” ways to sell their products without a farm store?**

Is more work needed to make HB4153 the best it can be?