

Farm Agriculture/Equine Building Exemption Request

Malheur County Building Department

14 South 3rd St / P.O. Box 2783

Nyssa, OR. 97913

Ph. 541-372-5460 Fax. 541-372-5465

Email: BuildingDepartment@bldgmalheurco.org



Agricultural Building Exemption: State law (ORS 455.315) allows exemption from the requirement for a building permit and inspections under the Oregon State Structural Specialty Code when the proposed building meets the agricultural-building/equine building requirements. See page 4 for complete text of OAR 455.315(2)(E).

INSTRUCTIONS

Important information: This exemption applies to the structural permit only. You must obtain the appropriate permits if the building includes electric wiring, mechanical (heating, ventilation, or air conditioning), a boiler, plumbing or septic system.

Obtain approval and signature from the local Planning Office. The Building Department does not issue local zoning permits. If the local jurisdiction determines the property is not a farm, in a *flood plain***, is not zoned appropriately, or is denied for any other purpose, the Building Department may not exempt the building.

This form is for use only in **Malheur County**

1. Complete the applicant information and answer each question. Incomplete applications may be returned.
2. Include the legal description of the property where the building is to be constructed.
3. Provide the building information as appropriate. If the building will be wired, you must complete page 3 of the form.
4. Sign and date the form. Submit it to Malheur County Planning & Zoning.
5. Sign, notarize and record the Building Permit Exemption Covenant.

Malheur County Planning & Zoning

251 B St West

Vale, OR. 97918

Fax (541) 473-5140

Email: Eric.Evans@malheurco.org or Tatiana.Burgess@malheurco.org

APPROVAL PROCESS

Once the building department receives Planning and Zoning approval, the Building Department will review the Exemption Request and verify that the building you intend to construct meets the requirements for a farm agricultural exemption. The decision will be mailed to you.

CHECKLIST

- 1. Has form been approved by the local planning department? See Page 3
- 2. Is property located in flood plain? (If yes, additional information may be needed.)
- 3. Job site address completed. If no address is assigned, provide the legal description.
- 4. Form dated and signed. Form must be completed.
- 5. The Building Permit Exemption Covenant must be recorded with Malheur County Clerk's office in the chain of title.

** If the property is located in a flood plain, the following documents must be included with this application, OAR 455.315(2)(E). **Plot plan, legal description of the property, and FEMA flood plain map showing the property and its boundary lines.**

OWNER INFORMATION

Property Owner name: _____ Phone: _____

Cell Phone: _____ Email: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Jobsite address: _____ Legal Description _____

City: _____ State: _____ Zip: _____

Directions to the site: _____

PROPOSED BUILDING INFORMATION (A plot plan must be attached to this application)

1. Is the subject building located on a farm and used in the operation of the farm, with county approval? Yes No

2. Is the structure located in the flood plain ? Yes No

3. Describe specific use of building & items to be contained within: _____

4. Building Dimensions: _____ Width X _____ Length X _____ Height of proposed structure

5. Which of the following systems will the proposed structure have:

- Electrical (**see page 3**)..... Yes No
- Plumbing..... Yes No
- Boiler..... Yes No
- Mechanical..... Yes No
- Septic (DEQ Permit required..... Yes No

A separate permit is required for each of these five systems.

6. Will this structure be used by the public at any time?..... Yes No

7. What is the proposed maximum number of people (including employees, owners, etc.) that will be in the building at any one time? _____

8. Where will restroom facility be provided? _____

9. Check which of the following agriculture-building uses apply to your building:

- Storage, maintenance, and repair of farm machinery, equipment, and supplies used on this farm.
- Raising, harvesting, or selling of crops raised on this farm.
- Feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honeybees on this farm.
- Dairying and sale of dairy products produced on this farm.
- Other agricultural, horticultural, or animal husbandry use.
- Equine Facility: Stabling, training, riding lessons, and/or clinics. **-If checked please fill out additional information related to Equine exemption criteria :**

of stalls/horses _____ # of stalls/horses for personal use only _____
of stalls/horses used for commercial or trade purposes _____

I understand that if the subject building is converted to nonagricultural use (i.e., garage, home occupancy, etc) I must obtain a building permit before the conversion. Failure to obtain appropriate permits may result in action to enforce the applicable building codes for such structure and use. I understand that a post-occupancy inspection may be made to ensure continuing compliance with the agriculture-building requirements.

Signature of owner

Date

Print Name

This portion must be completed if the building will contain electrical wiring.

1. Will there be a concrete slab either within or adjacent to the building?..... Yes No
2. Will there be farm animals (poultry excluded) within the building at any time?..... Yes No
 On the slab?..... Yes No
 (If the answers to questions 1 and 2 are “yes” see “A” below. An electrical permit is required before placing concrete.)
3. Will the building be used for storage of feed, hay, or straw?..... Yes No
4. Will the building be used for major repair of motor vehicle equipment?..... Yes No
 The National Electrical Code defines major repair as “engine overhauls, painting, body and fender work, and repairs that require draining of the motor vehicle fuel tank.”

Electrical concerns if an answer to any of the above questions is yes:

- A.** If there is a concrete slab either in the building or immediately adjacent, in an area where farm animals will occupy or stand at any time, the animals may be either distressed or killed by current that would not affect humans. The slab is required to have an electrical grounding system (547.10)
- B.** If the building is used for storing feed, hay, or straw, the electrical wiring must be installed in a dustproof manner. [547.5(C), 547.I (A)]
- C.** If the building is used for major repairs of motor vehicle equipment, the electrical wiring may have to meet special wiring requirements. (547.3) (Article 500-501)

These electrical requirements are not difficult or expensive when incorporated during original building construction. However, they can be expensive to retrofit.

If the answer to both items 1 and 2 on page 3 are “yes” contact the local electrical inspector or your local electrical contractor to determine the requirements for the grounding system in the slab before placing the concrete.

Provide your electrical contractor with a copy of this page or contact the local electrical inspector for specific requirements before beginning electrical work.

Owners Signature: _____ Date: _____

OFFICIAL USE ONLY

Land Use and Farm Recognition (P & Z)	Structural Building Permit Exemption
This application has been reviewed for land-use compatibility and recognition as operating as a farm and is: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	This application has been reviewed for compliance with standards that allow agricultural or equine facility. Exemption as allowed by ORS 455.315 and is: <input type="checkbox"/> Approved <input type="checkbox"/> Denied
Legal Desc. T S, R E, Sec TL	Comments:
Property is in a Flood Zone: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Zoning No#: Zoned Acres:	AG-Exemption No#:
Print name: ERIC EVANS	Print name
Title: Planning Director	Title:
Signature:	Signature:
Date:	Date:

ORS 455.315 Exemption, of agricultural buildings, agricultural grading, and equine facilities

- (1) Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.
- (2) As used in this section:
- (a) “Agricultural building” means a structure located on a farm and used in the operation of the farm for:
 - (A) Storage, maintenance, or repair of farm machinery and equipment;
 - (B) The raising, harvesting and selling of crops;
 - (C) The feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals, or honeybees;
 - (D) Dairying and the sale of dairy projects; or
 - (E) Any other agricultural or horticultural use or animal husbandry, or any combination thereof, including, the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise.
 - (b) “Agricultural building” does not mean:
 - (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 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.
 - (c) “Agricultural grading” means grading related to farming practice as defined in ORS 30.930.
 - (d) “Equine facility” means a building located on a farm and used by the farm owner or the public for:
 - (A) Stabling or training equines; or
 - (B) Riding lessons and training clinics.
 - (e) “Equine facility” does not mean:
 - (A) A dwelling;
 - (B) A structure in which more than 10 persons are present at any one time;
 - (C) A structure regulated by the State Fire Marshal pursuant to ORS Chapter 476; or
 - (D) A structure subject to sections 4001 to 4127, 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 and equine facilities within their boundaries pursuant to this chapter. [Formerly 456.758 and then 456.917; 1995 c.783; 2003 c.74; 1;2005 c.288; 3].

**BUILDING PERMIT EXEMPTION COVENANT
(ORS 455.315)**



THIS COVENANT, made this _____ day of _____, 20____, by and between _____ (owners) and Malheur County (County) in consideration of the County’s issuance of Agriculture/Equine Exemption Approval No. _____, which is incorporated herein by this reference, for the placement of a structure on real property located in Malheur County, Oregon. The property is described as follows:

Attach Legal Description as “Attachment A”

Owners do hereby promise and covenant as follows:

The structure proposed under Agricultural/Equine Approval No. _____ located on the real property described above, and generally depicted on the plot plan attached as “Attachment B”, will be used solely as an agricultural building or equine facility as defined by ORS 455.315(2)(2), respectively (see below).

In farm zones or land devoted to farm use in a mixed farm/forest zone, this agreement further serves as notice to the owners and all successors in interest that no change in use of the structure shall occur without obtaining the necessary land use approval and building permits from Malheur County.

This covenant will run with the land and is intended to and hereby binds owners, their successors, heirs, assigns and lessees.

OR 455.315 Exemption, of agricultural buildings, agricultural grading, and equine facilities

(1) Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.

(2) As used in this section:

- (a) “Agricultural building” means a structure located on a farm and used in the operation of the farm for: (A) Storage, maintenance, or repair of farm machinery and equipment;
- (B) The raising, harvesting and selling of crops;
- (C) The feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals, or honeybees;
- (D) Dairying and the sale of dairy projects; or
- (E) Any other agricultural or horticultural use or animal husbandry, or any combination thereof, including, the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise.

(b) “Agricultural building” does not mean:

- (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 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(c) “Agricultural grading” means grading related to farming practice as defined in ORS 30.930.

(d) “Equine facility” means a building located on a farm and used by the farm owner or the public for:

- (A) Stabling or training equines; or
- (B) Riding lessons and training clinics.

(e) “Equine facility” does not mean:

- (A) A dwelling;
- (B) A structure in which more than 10 persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS Chapter 476; or
- (D) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

Dated this _____ day of _____, 20_____.

Owner: _____ Owner: _____

State of _____

County of _____

On this _____ day of _____, 20_____, personally appeared

_____ and acknowledged the foregoing to be his/her/their voluntary act and deed.

Notary

Return to:
Malheur County Planning Department
251 B St W #12
Vale, OR 97918
Farm/Equine Restrictive Covenant