

(ii) Notwithstanding LC 16.212(4) (the requirements for a special use permit and to provide notice and opportunity for appeal or to conduct a hearing) and LC 16.212(4)(d-d)(i) above, lawfully existing facilities described in LC 16.212(4)(d-d) above that are on high value farm land may be maintained, enhanced or expanded on the same tract if the existing facilities are wholly located in the Exclusive Farm Use (E-RCP) zone and comply with the general provisions and requirements of LC Chapter 16.

(e-e) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality, together with equipment facilities or buildings necessary for its operation. Such a facility shall comply with these requirements:

(i) Uses allowed by LC 16.212(4)(e-e) are not permitted on high value farm land;

(ii) LC 16.212(10)(f) through (g) below; and

(iii) Notwithstanding LC 16.212(4) (the requirements for a special use permit and to provide notice and opportunity for appeal or to conduct a hearing) and LC 16.212(4)(e-e)(i) through (ii) above, lawfully existing solid waste disposal sites that are located on high value farm land and that are wholly within the Exclusive Farm Use (E-RCP) zone may be maintained, enhanced or expanded on the same tract subject to compliance with the general provisions and requirements of LC Chapter 16.

(f-f) Any gathering, and any part of which is held in open spaces, of more than 3,000 persons which continues or can reasonably be expected to continue for more than 120 hours within any three-month period and that comply with these requirements:

(i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;

(ii) The proposed gathering is compatible with existing land uses;

(iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and

(iv) The provisions of ORS 433.755 shall apply to the proposed gathering.

(g-g) Armed forces reserve center, if the center is within one half mile of the main campus of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(h-h) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community and that comply with LC 16.212(10)(f) through (g) below.

(i-i) Golf courses that comply with these requirements:

(i) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "Golf Course" means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

(aa) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(bb) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(cc) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this subsection, including

but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(dd) Accessory uses provided as part of a golf course shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course or that provides goods or services customarily provided to golfers at a golf course. Accessory uses to a golf course may include: parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course. Accessory uses to a golf course do not include: sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public;

(ii) LC 16.212(10)(f) through (g) below;

(iii) Uses allowed by LC 16.212(4)(i-i) above are not allowed on high value farm land;

(iv) Notwithstanding LC 16.212(4)(i-i)(i) and (iii) above, a lawfully existing golf course that is wholly within the E-RCP zone and on high value farmland may be maintained, enhanced or expanded on the same tract consistent with the requirements of LC 16.212(4)(i-i)(ii) above, but shall not be expanded to contain more than 36 holes.

(j-j) Commercial utility facilities for the purpose of generating power for public use by sale that comply with these requirements:

(i) LC 16.212(10)(f) through (g) below;

(ii) On high value farm land, the power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4;

(iii) On land that is not high value farm land, a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4; and

(iv) Notwithstanding LC 16.212(4) (the requirements for a special use permit and to provide notice and opportunity for appeal or to conduct a hearing) above, uses described by LC 16.212(4)(j-j) above are allowed subject to compliance with ORS 469.504.

(k-k) The land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed by LC 16.212, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and subject to compliance with these requirements:

(i) Allowable uses include:

(aa) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

(bb) The establishment and use of facilities, including buildings, equipment, aerated and non-aerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

(cc) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the land owner provides written consent and the owner of the facility complies with ORS 215.275(4); and

(dd) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to the land;

(ii) Uses not allowed include:

(aa) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(bb) The establishment and use of utility service lines allowed under LC 16.212(3)(r) above; and

(iii) If biosolids are transported by vehicle to a tract on which the biosolids will be applied to the land under a license, permit or approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, the transport and the land application are allowed outright, and a state or Lane County license, permit or approval in connection with the use is not a land use decision.

(5) Allowable Residential Uses On High Value Farmland or Land That Is Not High Value Farmland. The following residential uses are allowed on high value farm land or land that is not high value farmland subject to compliance with the general provisions and exceptions specified by this Chapter of Lane Code and compliance with the requirements in LC 16.212(5)(a) through (d) below. Final approval of a non-farm use authorized under LC 16.212(5) below shall not be given unless any additional taxes imposed on the change in use have been paid.

(a) The alteration, restoration, or replacement in the same location of a lawfully established dwelling is an allowed use without the need for notice and the opportunity for appeal subject to compliance with the following requirements:

(i) The property owner provides:

(aa) Building permit or land use application records from the Lane County Land Management Division indicating that the existing dwelling was lawfully constructed or placed on the subject property; or

(bb) Records from the Lane County Assessment and Taxation Office indicating that the structure has existed on the property and been taxed on a continuous annual basis from a date that, as determined by the Director, predates the zoning of the subject property;

(ii) The dwelling has:

(aa) intact exterior walls and roof structure;

(bb) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(cc) interior wiring for interior lights; and

(dd) a heating system;

(iii) In the case of replacement, the new dwelling shall be sited in the same location as the dwelling to be replaced. For the purpose of LC 16.212(5)(a)(ii) above, "the same site" is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling or manufactured dwelling;

(iv) In the case of replacement, the new dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling. A dwelling established under this section shall comply with all applicable siting standards in LC Chapter 16. However, the siting standards shall not be applied in a manner that prohibits the siting of the dwelling;

(v) An accessory farm dwelling authorized pursuant to LC 16.212(6)(b) or (7)(e) below may only be replaced by a manufactured dwelling;

(vi) LC 16.212(10)(h) below; and

(vii) Land use approval of a permit described in LC 16.212(5)(a) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in LC 16.212(5)(a)(vii) above may be made and approved pursuant to LC 14.700(2).

(b) The alteration, restoration, or replacement of a lawfully established dwelling that does not meet the requirements in LC 16.212(5)(a)(i) or (iii) above is allowed subject to prior submittal of an application pursuant to LC 14.050, approval of the application by the Director pursuant to LC 14.100 with the options to conduct a hearing or to provide written notice of the decision and an opportunity for appeal, and compliance with these requirements:

(i) There is objective evidence demonstrating that the existing dwelling was lawfully placed on the subject property. The burden of proof is upon the applicant to provide this evidence to the Director;

(ii) The dwelling has:

(aa) intact exterior walls and roof structure;

(bb) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(cc) interior wiring for interior lights; and

(dd) a heating system;

(iii) The dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section shall comply with all applicable siting standards in LC Chapter 16. However, the siting standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of a lot or parcel not zoned Exclusive Farm Use, the applicant, as a condition of approval, shall execute and record in the Lane County deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed by the Director in the Lane County deed records. The release shall be signed by the Director and state that the provisions of this subsection regarding replacement dwellings have changed to allow the siting of another dwelling. The Director shall maintain a record of the lots or parcels that do not qualify for the siting of a dwelling under the provisions of this subsection, including a copy of the deed restrictions and release statements filed under this section;

(iv) An accessory farm dwelling authorized pursuant to LC 16.212(6)(b) or (7)(e) below may only be replaced by a manufactured dwelling;

(v) LC 16.212(10)(h) below; and

(vi) Land use approval of a permit described in LC 16.212(2)(b) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in LC 16.212(5)(b)(vi) above may be made and approved pursuant to LC 14.700(2).

(c) A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by relative of the farm operator or the farm operator's spouse which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, subject to prior submittal of an application pursuant to LC 14.050, approval of the application by the Director pursuant to LC 14.100 with the options to conduct a hearing or to provide written notice of the decision and an opportunity for appeal, and compliance with these requirements:

(i) The dwelling shall be occupied by persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing; and

(ii) LC 16.212(10)(h) below; and

(iii) Notwithstanding LC 16.090 'Partition Land,' 13.010 'Partition Land' or the minimum area requirements in LC 16.212(9) below, if the owner of a dwelling described in LC 16.212(5)(c) above obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect. For the purpose of LC 16.212(5)(c)(iii) above, "foreclosure" means only those foreclosures excluded from the definition of partition under ORS 92.010(7)(a).

(d) One manufactured dwelling or park model recreation vehicle in conjunction with an existing dwelling as a temporary use for the term of a medical hardship or hardship due to age or infirmity suffered by the existing resident or relative of the resident is allowed subject to prior submittal of an application pursuant to LC 14.050, approval of the application by the Director pursuant to LC 14.100 with the options to conduct a hearing or to provide written notice of the decision and an opportunity for appeal, and compliance with these requirements:

(i) The manufactured dwelling or park model recreation vehicle shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

(ii) The temporary manufactured dwelling or park model recreation vehicle will comply with Oregon Department of Environmental Quality review and removal requirements and with the requirements of the Uniform Building Code;

(iii) LC 16.212(10)(f) through (h) below;

(iv) Except as provided in LC 16.212(5)(d)(v) below, approval of a temporary manufactured dwelling or park model recreation vehicle permit shall be valid until December 31 of the year following the year of original permit approval;

(v) Within 90 days of the end of the hardship situation, the manufactured dwelling or park model recreation vehicle shall be removed from the property or demolished; and

(vi) A temporary manufactured dwelling or park model recreation vehicle approved under LC 16.212(5)(d) above shall not be eligible for replacement under LC 16.212(5)(a) or (b) above.

(e) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property is allowed subject to prior submittal of an application pursuant to LC 14.050, approval of the application by the Director pursuant to LC 14.100 with the options to conduct a hearing

or to provide written notice of the decision and an opportunity for appeal, and compliance with these requirements:

(i) "Historic Property" means real property that is currently listed in the National Register of Historic Places, established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665);

(ii) The property where the replacement dwelling would be located is used for "farm use;"

(iii) A person who would reside in the replacement dwelling would be employed in conjunction with the farm use of the property where the replacement dwelling would be located; and

(iv) LC 16.212(10)(h) below.

(6) Allowable Residential Uses On High Value Farmland. The following residential uses are allowed on high value farm land subject to the general provisions and exceptions specified by this chapter of Lane Code and subject to prior submittal of an application pursuant to LC 14.050, and approval of the application by the Director pursuant to LC 14.100 with the options to conduct a hearing or to provide written notice of the decision and an opportunity for appeal. Final approval of a non-farm use authorized under LC 16.212(6) below shall not be given unless any additional taxes imposed on the change in use have been paid.

(a) A dwelling customarily provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) The subject tract is currently employed for the farm use, as defined in LC 16.090, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;

(ii) Except as permitted in ORS 215.213(1)(r)(1999 Edition) for seasonal farm worker housing, there is no other dwelling on lands zoned E-RCP owned by the farm operator or on the farm operation;

(iii) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in LC 16.212(6)(a)(ii) above;

(iv) In determining the gross income required by LC 16.212(6)(a)(i) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the farm operation. Only gross income from land owned, not leased or rented, shall be counted. Gross income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used. For the purpose of LC 16.212(6)(b)(iv), parcels zoned E-RCP in Lane County or for farm use in counties contiguous with Lane County, not including Deschutes County or Klamath County, may be used to complete the gross income requirements; and

(v) LC 16.212(10)(h) and (i) below.

(b) An "accessory farm dwelling" includes all types of residential structures allowed by applicable state building codes and is allowed subject to compliance with the following requirements:

(i) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use such as planting, harvesting, marketing or caring of livestock, is or will be required by the farm operator;

(ii) The accessory farm dwelling will be located:

(aa) On the same lot or parcel as the primary farm dwelling;

or

(bb) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(cc) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is:

(A) Limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed in the Lane County deed records and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to LC 16.212(6)(b) above; or

(B) Limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing or the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. Lane County shall require all accessory dwellings approved under LC 16.212(6)(b)(ii)(cc)(B) above to be removed, demolished, or converted to a non-residential use when farm worker housing is no longer required; or

(C) Located on a lot or parcel at least the size of the applicable minimum lot size under LC 16.212(9)(a) below and the lot or parcel complies with the gross farm income requirements in LC 16.212(6)(a) above.

(iii) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;

(iv) The primary farm dwelling to which the proposed dwelling would be accessory:

(aa) Is located on a farm or ranch operation that is currently employed for farm use, as defined in LC 16.090, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(bb) Is located on a commercial dairy farm. A "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross income required by LC 16.212(6)(b)(iv)(aa) above from the sale of fluid milk, and:

(A) The building permits, if required, have been issued and construction has begun or been completed for the building and animal waste facilities required for a commercial dairy farm; and

(B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230, and a producer license for the sale of dairy products under ORS 621.072.

(v) Lane County shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to LC 16.212(6)(d) above. If it is determined that an accessory farm dwelling satisfies the requirements of a dwelling customarily provided in conjunction with farm use pursuant to LC 16.212(6)(a) above, a parcel may be created consistent with the minimum parcel size requirements in LC 16.212(9) below;

(vi) An accessory farm dwelling approved pursuant to LC 16.212(6)(b) above cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to LC 16.212(6)(c) or (d) below; and

(vii) LC 16.212(10)(h) and (i) below.

(c) For land located on the east side of the summit of the Coastal Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) LC 16.212(10)(f) through (h) below;

(ii) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(iii) The dwelling will be sited on a lot or parcel created before January 1, 1993. See the definition of "Date of Creation and Existence" in LC 16.212(2)(b) above;

(iv) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the accumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, the following requirements shall be met:

(aa) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or urban or non-resource uses shall not be included in the study area;

(bb) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under LC 16.212(6)(c) above and under LC 16.212(7)(f) and (g) below, including the identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be created for new parcels for non-farm dwellings under LC 16.212(9)(d) below. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under LC 16.212(6)(c) above and LC 16.212(7)(f) and (g) below;

(cc) Determine whether the approval of the proposed non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operations due to diminished opportunities to expand, purchase of lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;

(v) The dwelling complies with such other conditions as the Approval Authority considers necessary; and

(vi) Land use approval of a permit described in LC 16.212(6)(c) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of

the timelines for the permit approval described in LC 16.212(6)(c)(vi) above may be made and approved pursuant to LC 14.700(2).

(d) For land located west of the summit of the Coast Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) LC 16.212(10)(f) through (h) below;

(ii) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land and:

(aa) A lot or parcel shall not be considered "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(bb) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(iii) The dwelling will not alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, consideration shall be given to the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards in LC 16.212(6)(c)(iv)(aa) through (cc) above;

(iv) The dwelling complies with such other conditions as the Approval Authority considers necessary; and

(v) Land use approval of a permit described in LC 16.212(6)(d) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in LC 16.212(6)(d)(v) above may be made and approved pursuant to LC 14.700(2).

(e) A dwelling customarily provided in conjunction with a commercial dairy farm that complies with these requirements:

(i) As used in LC 16.212(6)(e) above, a "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning at least \$80,000 in gross annual income from the sale of fluid milk;

(ii) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding,

milking or pasturing of the dairy animals or other farm use activities necessary for the operation of the commercial dairy farm;

(iii) The building permits, if required, have been issued for or construction has begun for the buildings and animal waste facilities required for a commercial dairy farm;

(iv) The Oregon Department of Agriculture has approved the following:

(aa) A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 through 468B.230; and

(bb) A Producer License for the sale of dairy products under ORS 621.072;

(v) The subject tract will be employed as a commercial dairy as defined by LC 16.212(6)(e)(i) above;

(vi) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

(vii) Except as allowed by ORS 215.213(r) (1999 edition), there is no other dwelling on the subject tract; and

(viii) LC 16.212(10)(h) and (i) below.

(f) A dwelling customarily provided in conjunction with farm use is allowed subject to compliance with these requirements:

(i) Within the previous two years, the applicant owned a farm or ranch operation that earned \$80,000 in gross annual income from the sale of farm products in the last five years or four of the last seven years;

(ii) In determining the gross income required by LC 16.212(6)(f)(i) above:

(aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(bb) Only gross income from land owned, not leased or rented, shall be counted;

(iii) The subject lot or parcel on which the dwelling will be located is:

(aa) Currently employed for farm use, as defined in LC 16.090, that produced \$80,000 in gross farm income in the last two years or three of the last five years; and

(bb) At least the size of the applicable minimum lot size under LC 16.212(9)(a);

(iv) Except as permitted in ORS 215.213(1)(r) (1999 Edition), there is no other dwelling on the subject tract;

(v) The dwelling will be occupied by a person or persons who produced the commodities which gross the income in LC 16.212(6)(f)(iii)(aa) above; and

(vi) LC 16.212(10)(h) and (i) below.

(7) Allowable Residential Uses On Land That Is Not High Value Farmland. The following residential uses are allowed on land that is not high value farm land subject to the general provisions and exceptions specified by this Chapter of Lane Code and subject to prior submittal of an application pursuant to LC 14.050, approval of the application pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and an opportunity for appeal. Final approval of a non-farm use authorized under LC 16.212(7) below shall not be given unless any additional taxes imposed on the change in use have been paid.

(a) A "160 acre parcel" dwelling customarily provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) The parcel on which the dwelling is located is at least 160 acres and not designated as rangeland;

(ii) Except as permitted pursuant to LC 16.212(5)(f) above, there is no other dwelling on the subject tract;

(iii) The subject tract is currently employed for farm use as defined in LC 16.090;

(iv) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(v) LC 16.212(10)(h) below.

(b) A dwelling customarily provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) The subject tract is currently employed for farm use that produced in the last two years or three of the last five years \$32,500 in gross annual income (the midpoint of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) from the sale of farm products. In determining the gross income required by this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the farm operation. Only gross income from land owned, not leased or rented, shall be counted. Gross income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used. For the purpose of LC 16.212(7)(b)(i), parcels zoned E-RCP in Lane County or for farm use in counties contiguous with Lane County, not including Deschutes County or Klamath County, may be used to meet the gross income requirements;

(ii) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income mentioned in LC 16.212(7)(b)(i) above;

(iii) Except as permitted in ORS 215.213(1)(r)(1999 Edition), there is no other dwelling on lands zoned E-RCP owned by the farm operator or on the farm operation;

(iv) The dwelling will be located on a lot or parcel that is not less than ten (10) acres; and

(vi) LC 16.212(10)(h) and (i) below.

(c) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot is allowed subject to compliance with the following requirements:

(i) The farm operation or woodlot:

(aa) Consists of 20 or more acres; and

(bb) Is not smaller than the average farm or woodlot in Lane County producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot;

(ii) The lot or parcel where the farm operation or woodlot is located does not have any dwellings on it; and

(iii) LC 16.212(10)(f) through (i) below.

(d) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a farm operation or woodlot that is smaller than required under LC 16.212(7)(d) above is allowed subject to compliance with the following requirements:

(i) The farm operation or woodlot is smaller than the size of the farm operation or woodlot required in LC 16.212(7)(c)(i) above;

- (ii) The lot or parcel where the dwelling will be located:
 - (aa) Is managed as part of the farm operation or woodlot described in LC 16.212(7)(d)(i) above;
 - (bb) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or
 - (cc) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income; and
 - (iii) LC 16.212(10)(f) through (h) below.
- (e) An "accessory farm dwelling" includes all types of residential structures allowed by applicable state building codes and is allowed subject to compliance with the following requirements:
 - (i) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use such as planting, harvesting, marketing, or caring for livestock, is or will be required by the farm operator;
 - (ii) The accessory farm dwelling will be located on the same lot or parcel as the primary farm dwelling; or
 - (iii) The accessory farm dwelling will be located on:
 - (aa) The same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (bb) A lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is:
 - (A) Limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed in the Lane County deed records and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to LC 16.212(7)(e) above; or
 - (B) Limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing or the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. Lane County shall require all accessory dwellings approved under LC 16.212(7)(e)(iii)(bb)(B) above to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - (C) Located on a lot or parcel at least the size of the applicable minimum lot size under LC 16.212(9)(a) below and the lot or parcel complies with the gross farm income requirements in LC 16.212(7)(b) above.
 - (iv) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;
 - (v) The primary farm dwelling to which the proposed dwelling would be accessory:
 - (aa) Is located on a farm or ranch operation that is currently employed for farm use, as defined in LC 16.090, and produced at least \$32,500 (the midpoint of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) in gross annual income from the sale of farm products in the last two years or three of the

last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(bb) Is located on a commercial dairy farm. A "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by LC 16.212(7)(b) above from the sale of fluid milk; and

(A) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

(B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 463B.050 and ORS 468B.200 to 468B.230 and a producer license for the sale of dairy products under ORS 621.072; or

(cc) Is located on a farm operation that meets the standards and requirements of LC 16.212(7)(c) or (d) above.

(vi) Lane County shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to LC 16.212(7)(e). If it is determined that an accessory farm dwelling satisfies the requirements of a dwelling customarily provided in conjunction with farm use pursuant to LC 16.212(7)(b) above, a parcel may be created consistent with the minimum parcel size requirements in LC 16.212(9) below;

(vii) An accessory farm dwelling approved pursuant to LC 16.212(7)(e) above cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant LC 16.212(7)(f) below; and

(viii) LC 16.212(10)(h) below.

(f) A dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:

(i) The soils of the lot or parcel are predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture, Soil Conservation Service on October 15, 1983;

(ii) LC 16.212(10)(f) through (h) below;

(iii) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel will not be considered unsuitable solely because of its size or location if it can reasonable be put to farm use in conjunction with other land;

(iv) Land use approval of a permit described in LC 16.212(7)(f) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in LC 16.212(7)(f)(iv) above may be made and approved pursuant to LC 14.700(2); and

(v) The dwelling shall comply with such other conditions as the Approval Authority considers necessary.

(g) One dwelling not provided in conjunction with farm use, on a lot or parcel that is not larger than three acres provided it complies with these requirements:

(i) The lot or parcel does not have a single family or multiple family dwelling on it;

(ii) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed

by Lane Code relating specifically to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable;

(iii) The lot or parcel was created between January 1, 1948, and July 1, 1983. See the definition of "Date of Creation and Existence" in LC 16.212(2)(b) above. For the purpose of LC 16.212(7)(g)(iii) above, only one lot or parcel exists if:

(aa) The lot or parcel is contiguous to one or more lots or parcels described in LC 16.212(7)(g)(iii)(aa). "Contiguous" means "lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road"; and

(bb) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common;

(iv) LC 16.212(10)(f) through (h) below;

(v) Notice and review of an application under LC 16.212(7)(g) above shall occur in compliance with LC 14.160;

(vi) Land use approval of a permit described in LC 16.212(7)(g) above shall be valid for four years from the date of the approval. Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii), an application for a two year extension of the timelines for the permit approval described in LC 16.212(7)(g)(vi) above may be made and approved pursuant to LC 14.700(2); and

(vii) The dwelling complies with other conditions considered necessary by the Approval Authority.

(h) A dwelling customarily provided in conjunction with a commercial dairy farm that complies with these requirements:

(i) As used in LC 16.212(7)(h) above, a "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning at least \$32,500 (the mid point of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) in gross annual income from the sale of fluid milk;

(ii) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary for the operation of the commercial dairy farm;

(iii) The building permits, if required, have been issued for or construction has begun for the buildings and animal waste facilities required for a commercial dairy farm;

(iv) The Oregon Department of Agriculture has approved the following:

(aa) A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 through 468B.230; and

(bb) A Producer License for the sale of dairy products under ORS 621.072;

(v) The subject tract will be employed as a commercial dairy as defined by LC 16.212(7)(h)(i) above;

(vi) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

(vii) Except as allowed by ORS 215.213(1)(r) (1999 Edition), there is no other dwelling on the subject tract; and

(viii) LC 16.212(10)(h) and (i) below.

(i) A dwelling customarily provided in conjunction with farm use is allowed subject to compliance with these requirements:

(i) Within the previous two years, the applicant owned a farm or ranch operation that earned \$32,500 in gross annual income from the sale of farm products in the last five years or four of the last seven years;

(ii) In determining the gross income required by LC 16.212(7)(i)(i) above:

(aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(bb) Only gross income from land owned, not leased or rented, shall be counted;

(iii) The subject lot or parcel on which the dwelling will be located is:

(aa) Currently employed for farm use, as defined in LC 16.090, that produced \$32,500 in gross farm income in the last two years or three of the last five years; and

(bb) At least the size of the applicable minimum lot size under LC 16.212(9)(a);

(iv) Except as permitted in ORS 215.213(1)(r) (1999 Edition), there is no other dwelling on the subject tract;

(v) The dwelling will be occupied by a person or persons who produced the commodities which gross the income in LC 16.212(7)(i)(iii)(aa) above; and

(vi) LC 16.212(10)(h) and (i) below.

(8) Farm Operations.

(a) A farm operation is all agricultural activities occurring under a single management. For purposes of this section, it is immaterial whether the activities occur on a single parcel of land, on contiguous parcels of land or on separate parcels of land. It is also immaterial if the operator has less than fee interest in the land on which the agricultural activity occurs.

(b) Farm operations shall be classified into one of the groups set forth in LC 16.212(8)(d) below. In the event a farm operation consists of agricultural activities described by more than one group, the activity that accounts for more than half of the gross revenue of the farm operation shall determine the group classifications.

(c) Farm operations of a size equal to or greater than the size shown for its respective group in LC 16.212(8)(d) below shall be deemed as contributing in a substantial way to the agricultural economy of the County.

(d) <u>Farm Group</u>	<u>Size</u>
Cash grains.....	120 acres
Field crops (includes grass seed production).....	160 acres
Tree fruit and nuts.....	40 acres
Horticultural specialties.....	20 acres
General farm, primarily crop.....	320 acres
Extensive animal grazing.....	120 acres
Intensive animal husbandry.....	40 acres
Dairy farm.....	240 acres
General farm, primarily livestock.....	80 acres
Berries and grapes.....	20 acres
Vegetables and melons.....	120 acres

(9) Area. Land within the Exclusive Farm Use District shall be designated as E-25, E-30, E-40 or E-60, consistently with Agricultural Lands Policy #10 of the Lane County Rural Comprehensive Plan. The creation of a lot or parcel shall comply with the requirements in LC Chapter 13 for the submittal and approval of tentative plans and plats and with LC 16.212(9)(a) through (l) below.

(a) Except as provided in LC 16.212(9)(b), (c) and (d) below, the minimum area shall be:

E-25.....	25 acres
E-30.....	30 acres
E-40.....	40 acres
E-60.....	60 acres

(b) A division of land may be allowed down to 20 acres for horticultural specialties, berries and grapes. A farm management plan including the factors identified below shall address and establish the suitability of the land for the intended use:

Land preparation.

Ripping and plowing.

Fencing.

Surveying.

Crop cultivation.

Irrigation.

Herbicide; fungicide and/or fertilizer application.

Machinery.

Accessory farm buildings.

Breeding and livestock raising concerns.

Labor.

Projected expenses associated with the above.

Date by which the farm management plan would be substantially implemented.

(c) A division of land may be allowed for a non-farm use identified in LC 16.212(4) above, provided:

(i) The parcel for the non-farm use is not larger than the minimum size necessary for the use;

(ii) Any additional tax imposed for the change in use has been paid; and

(iii) Notwithstanding LC 16.212(9)(c) above, a division of land shall not be approved for a use allowed by LC 16.212(4)(c), (h), (i), (m), (t), (u), (v), (x), (y), (e-e), (g-g), (i-i), (j-j) and (n-n) above.

(d) For the area of Lane County lying west of the summit of the Coast Range, a division of land to create up to two new parcels smaller than the minimum parcel size required by LC 16.212(9)(a) above, each to contain a dwelling not provided in conjunction with farm use may be approved if these requirements are met:

(i) The property owner shall submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of up to two dwellings not in conjunction with farm use;

(ii) The non-farm dwellings shall comply with the requirements in LC 16.212(7)(f) above;

(iii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.212(2)(b) above;

(iv) The remainder of the original lot or parcel that does not contain the dwellings complies with the minimum parcel size established in LC 16.212(9)(a) above;

(v) The parcels for the non-farm dwellings are divided from a lot or parcel that complies with the minimum size established in LC 16.212(9)(a) above;

(vi) The parcels for the non-farm dwellings are generally unsuitable land for the production of farm crops and livestock or merchantable tree

species, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel may not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land;

(vii) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and

(viii) The dwelling complies with such other conditions as the Approval Authority considers necessary.

(e) For the area of Lane County lying west of the summit of the Coast Range, a division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use may be allowed if these requirements are met:

(i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with farm use;

(ii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.212(2)(b) above;

(iii) The parcels for the non-farm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size required by LC 16.212(9)(a) above but equal to or larger than 40 acres;

(iv) The parcels for the non-farm dwellings are:

(aa) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and

(bb) Composed of at least 90 percent Class VI through VIII soils;

(v) The parcels for the non-farm dwellings do not have established water rights for irrigation;

(vi) The parcels for the non-farm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land;

(vii) The non-farm dwellings shall comply with ORS 215.284(2) or (3);

(viii) The non-farm dwellings comply with LC 16.212(10)(f) through (h); and

(ix) The dwelling complies with other conditions considered necessary by the Approval Authority;

(f) For the area of Lane County lying east of the summit of the Coast Range, a division of land to divide a lot or parcel for a dwelling not provided in conjunction with farm use may be allowed if these requirements are met:

(i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with farm use;

(ii) The parcels for the non-farm dwellings are divided from a lot or parcel that:

(aa) Is equal to or larger than the minimum size required by LC 16.212(9)(a) above;

(bb) Is not stocked to the requirements under ORS 527.610 through 527.770;

(cc) Is composed of at least 95 percent Class VI through VIII soils;

(dd) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(ee) The new lot or parcel will not be smaller than 20 acres;

(iii) The dwelling to be sited on the new lot or parcel complies with the requirements for dwellings not in conjunction with farm use in ORS 215.284(3) or (4), 215.236 and OAR 660-033-0130(4).

(g) Divisions under LC 16.212(9) (a) and (b) above shall require that a statement be placed on the face of the plat disclosing that a dwelling is not guaranteed unless the requirements of LC 16.212(5), (6), or (7) above for a dwelling are met.

(h) A person who sells or otherwise transfers real property zoned Exclusive Farm Use (E) may retain a life estate in a dwelling on that property and the tract of land under and around the dwelling. Partition approval is not required for the creation of such a life estate.

(i) A division of land may be allowed to create a parcel with an existing dwelling to be used for historic property provided:

(i) The parcel is not larger than the minimum size necessary for the use;

(ii) The dwelling to be used for historic property meets the requirements of LC 16.212(5)(e) above; and

(iii) Any additional tax imposed for the change in use has been paid.

(j) A division of land may be allowed to create a parcel with an existing dwelling to be used as a residential home provided:

(i) The parcel is not larger than the minimum size necessary for the use;

(ii) The dwelling to be used as a residential home complies with LC 16.212(4)(b) above; and

(iii) Any additional tax imposed for the change in use has been paid.

(k) A division of land may be allowed for the purpose of establishing a church, including cemeteries in conjunction with a church provided:

(i) The church has been approved under LC 16.212(4)(u) above;

(ii) The newly created lot or parcel is not larger than five acres;

(iii) The new parcel for the church shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for non-farm dwellings authorized by LC 16.212(9)(d) through (f) above.

(l) Notwithstanding LC 16.212(9)(a) above, a division of land may be approved provided:

(i) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;

(ii) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel;

(iii) A parcel created pursuant to this subsection that does not contain a dwelling;

(aa) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(bb) May not be considered in approving or denying an application for siting any other dwelling;

(cc) May not be considered in approving a re-designation or rezoning of forestlands except for a re-designation or rezoning to allow a public park, open space or other natural resource use; and

(dd) May not be smaller than 25 acres unless the purpose of the land division is:

(A) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(B) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

(10) Development Requirements. Uses or activities allowed by LC 16.212(3) through (9) above, except farm use, shall comply with the requirements in LC 16.212(10)(a) through (d) below. Uses or activities allowed by LC 16.212(4) through (9) above shall comply with the development requirements in LC 16.212(10)(f) through (h) or (j) below when compliance is expressly required by LC 16.212(4) through (9) above.

(a) For approval of a use or activity allowed by LC 16.212(4) through (9) above that requires notice and the opportunity for appeal or a hearing, the Approval Authority shall balance the setback requirements of LC 16.212(10)(a) below with the applicable special use approval requirements in LC 16.212(4) through (9) in order to minimize adverse impacts upon nearby farm and forest uses or to assure optimal siting of proposed dwellings to minimize adverse impacts on nearby farm and forest lands.

(i) Dwellings to be sited upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as "Major" shall be sited as follows:

(aa) Near dwellings on other tracts.

(bb) With minimal intrusion into forest areas undeveloped by non-forest uses.

(cc) Where possible, when considering LC 16.212(10)(a)(i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.

(ii) Dwellings to be sited upon all other tracts shall be sited as follows:

(aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.

(bb) On the least valuable farm or forest areas of the tract or located near dwellings on other tracts.

(b) Property Line Setbacks. No structure other than a fence or sign shall be located closer than:

(i) 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and

(ii) 10 feet from all other property lines except as provided below.

(c) Class I Stream Riparian Setback Area. The riparian setback area shall be the area between a line 100 feet above and parallel to the ordinary high water of a Class I-stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence shall be located closer than 100 feet from the

ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) are met.

(d) Maintenance Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area . Maintenance, removal and replacement of indigenous vegetation within the riparian setback area along Class I streams designated for riparian vegetation protection by the Rural Comprehensive Plan must comply with the provisions of LC 16.253(2).

(e) Signs.

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs shall not be illuminated or capable of movement.

(iii) Signs shall be limited to 200 square feet in area.

(f) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use.

(g) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(h) The Director shall require as a condition of approval that the landowner for the dwelling sign and record in the Lane County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(i) Prior to final approval for a dwelling that requires one or more contiguous or non-contiguous lots or parcels of a farm operation to comply with the gross income requirements, the applicant shall provide evidence to the Director that the covenants, conditions and restrictions form adopted April 26, 2002 and effective May 22, 2002 as part of OAR 660, Division 33, has been recorded with the county recorder or clerk of Lane County or other counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and:

(i) Shall preclude all future rights to construct a dwelling except accessory farm dwellings, relative assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS 215 or LC 16.212, 16.211 or 16.214; and

(ii) Shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a farm dwelling;

(iii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located. The Director has the authority to sign for Lane County.

(iv) The Director shall maintain a copy of the covenants, conditions and restrictions filed in the Lane County Recorder's Office, pursuant to LC 16.212(10)(i) above, and OAR 660-033-0135(9) and a map or other record depicting the lots and parcels subject to LC 16.212(10)(i) above and OAR 660-033-0135(9). The map or other record shall be readily available to the public in the county planning office.

(j) Transportation facilities and uses listed in LC 16.212(4)(o)(ix) through (xiii) shall comply with the following:

(i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider

alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;

(ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and

(iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

(11) Telecommunication Facilities. Telecommunication facilities are allowed subject to compliance with the requirements of LC 16.264, OAR 660-033 and with applicable requirements elsewhere in LC Chapter 16 including but not necessarily limited to: the riparian vegetation protection standards in LC 16.253; Floodplain Combining Zone (LC 16.244); Willamette Greenway Development Permits (LC 16.254); the Coastal Resource Management Combining Zones (LC 16.234, 16.235, 16.236, 16.237, 16.238, 16.239, 16.240, 16.241, 16.242, or 16.243); Federal or State of Oregon inventories and regulations applicable to delineated wetlands and waters of the nation or state; the Commercial Airport Safety Combining Zone (LC 16.245) and the Airport Safety Combining Zone (LC 16.246); and the Sensitive Bird Habitat protection Standards and Criteria in LC 16.005(4). *(Revised by Ordinance No. 7-87, Effective 6.17.87; 3-91, 5.17.91; 10-92, 11.12.92; 10-95, 10.17.95; 4-02, 4.10.02; 5-02, 8.28.02)*

NATURAL RESOURCE ZONE (NR-RCP) RURAL COMPREHENSIVE PLAN

16.213 Natural Resource Zone (NR-RCP).

(1) Purpose. The Natural Resource Zone (NR-RCP) is intended to protect areas having unique or irreplaceable natural resource which are vital elements for a safe, healthful and pleasant environment for human life. The Natural Resource Zone may be applied to public and private lands where the Rural Comprehensive Plan requires natural resource site protection. The Zone is not intended to be applied to other types of resource land, such as agricultural land and forest land. To minimize the potential hazards of pollution, resource conversion and land development resulting from increases in human population, urbanization, income, leisure time and individual mobility, emphasis will be placed on limiting and regulating human activity in those areas where:

- (a) The acceptable water quality of streams, lakes, estuaries of the ocean may be endangered;
- (b) Watersheds and their streams or lakes are used for domestic water supplies;
- (c) Vegetative cover is essential to maintain soil stability and prevent erosion;
- (d) Natural conditions are vital for either unique vegetative ecosystems, aquatic or wildlife habitat; and
- (e) Scenic quality or vistas or open space is unique and/or irreplaceable.

(2) Permitted Buildings and Uses. In the NR Zone, the following types of buildings and uses are permitted as hereinafter specifically provided for by this subsection, subject to the general provisions and exceptions set forth:

- (a) The following recreational facilities and uses owned by a governmental agency or a nonprofit community organization limited to day use.



LANE COUNTY RECEIPT

05-26-2005

RECEIPT NUMBER: **R05004355**

PLANNING ACTION #: **PA055708**

TYPE: Measure 37 Claim
SITE ADDRESS: 94745 LOVE LAKE RD JUN
PARCEL: 15-04-28-00-00402
APPLICANT: ROBERTS LES
3324 BARDELL AVE
EUGENE OR

97401
541-686-0203

Type	Method	Description	Amount
Payment	Check	4897	850.00

Description	Current Pymt
3040 Planning Hrg Official	850.00

PAID BY: BOWERS JON

**ARNOLD GALLAGHER SAYDACK
PERCELL ROBERTS & POTTER**
A Professional Corporation

ATTORNEYS AT LAW

800 U.S. Bank Center
800 Willamette Street
Eugene, OR 97401

Telephone: (541) 484-0188
Facsimile: (541) 484-0536
E-Mail: wpotter@agsprp.com
www.agsprp.com

Correspondence:
P.O. Box 1758
Eugene, OR 97440-1758

WILLIAM R. POTTER

October 2, 2005

Lane County Board of Commissioners
125 East Eighth Avenue
Eugene, Oregon 97401

I provide this letter in support of Jon and Lynna Gay Bowers' Ballot Measure 37 claim, Lane County Application No. PA055708.

I am Jon and Lynna Gay Bowers' attorney. Over the past 27 years, I have been involved with the entire Bowers family including representing Bowers Distillery, Inc., Jon's parents Howard and Katherine Bowers, and Jon's brothers Jim and Mark Bowers.

Bowers Distillery, Inc. purchased the Petersen farm, of which Jon Bowers' Love Lake property was a portion, under a land sale contract dated June 30, 1971. Land sale contracts were used extensively at that time but now are very rarely used. Under the provisions of a land sale contract, the contract serves as security for the seller until the contract has been paid off. In that respect it is similar to a trust deed or a mortgage. The security is released by a deed given at the time the contract is paid off. A trust deed is released by a deed of reconveyance and a mortgage is released by a satisfaction. Ownership of the property transfers at the time of the land sale contract, not later when the deed is given. Accordingly, Bowers Distillery, Inc. was the owner of the Petersen property from and after June 30, 1971, subject only to the lien of the seller securing payment of the purchase price under the land sale contract.

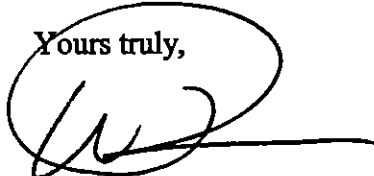
That land sale contract was not paid off until 1977 at which time Bowers Distillery, Inc. received a deed from the sellers which released the lien of the land sale contract.

As stated in Jon Bowers' Affidavit, he and his wife purchased part of the Love Lake Road property and were given a distribution of the balance of the Love Lake Road property from Bowers Distillery, Inc. on June 30, 1971, both on land sale contracts. Because of the provisions of the land sale contracts, no deed was given until 1977 when the Petersens were paid off. Due to a scrivener's error, that deed only covered a portion of the Love Lake Road property. That error was discovered in 1980 and corrected by a second deed. Notwithstanding all of this, Jon and Lynn Gay Bowers have been the owners of the Love Lake Road property since June 30, 1971.

In 1971, the law did not require that any kind of notice or memorandum of a land sale contract be recorded. It was not unusual for people such as the Bowers and their seller not to record a memorandum. They were both farming families back in the days when people's word was good. Accordingly, a notice or memorandum of contract was not recorded. That law was changed by the Oregon Legislature in 1975 for all contracts entered into subsequent to that time. That does not change the conclusion that Bowers Distillery, Inc. as to the Petersen farm and Jon and Lynna Gay Bowers as to the Love Lake Road property were the owners as of June 30, 1971.

This letter is given as an opinion to be relied upon by the board in connection with making a decision at a hearing on October 19, 2005, on the above-referenced Ballot Measure 37 claim filed by Jon and Lynna Gay Bowers.

Yours truly,

A handwritten signature in black ink, appearing to be 'WRP', enclosed within a hand-drawn oval. A horizontal line extends from the right side of the oval.

WILLIAM R. POTTER

WRP:mab

N:\A - EBowers, Jon 13508\Measure 37 Claim 13508-3\Ltr Lane County commissioners 093005.doc

**ARNOLD GALLAGHER SAYDAK
PERCELL ROBERTS & POTTER**
A Professional Corporation

ATTORNEYS AT LAW

800 U.S. Bank Center
800 Willamette Street
Eugene, OR 97401

Telephone: (541) 484-0188
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E-Mail: wpotter@agsprp.com
www.agsprp.com

Correspondence:
P.O. Box 1758
Eugene, OR 97440-1758

WILLIAM R. POTTER

October 4, 2005

Hand Delivered

Mr. Tom Lanfear
Lane County Planning Department
125 East Eighth Avenue
Eugene, Oregon 97401

**RE: Jon and Lynna Gay Bowers Ballot Measure 37 Claim
Lane County Application No. PA055708
Our File No. 13508-0003**

Dear Mr. Lanfear:

I represent Jon and Lynna Gay Bowers in connection with their Measure 37 claim on their Love Lake Road property, Lane County Application No. PA055708. Mr. Bowers advised me that you told him that you are recommending to the Board that it deny the application because Mr. Bowers did not prove that he was an owner of Bowers Distillery, Inc. in 1971, and because you claim the date of the deed rather than the date of the land sale contract is the applicable date for the determination of the date when the Bowers acquired ownership of the Love Lake Road property.

Mr. Lanfear, you are incorrect on both counts.

Jon Bowers became a 25 percent owner of Bowers Distillery, Inc. on December 1, 1967. He remained an owner through the 70s and into the 80s, well past the period of time in question. Enclosed is a copy of an Affidavit that will be submitted to the board at the hearing by Jon Bowers and another Affidavit by Jim Bowers, both including attachments, one of which is a copy of Jon Bowers' stock certificate dated December 1, 1967.

Jon and Lynna Gay Bowers have owned the property in question since June 30, 1971. In the early 70s, land sale contracts were a common device used to transfer real property. A land sale contract is no different than a trust deed or mortgage where the buyer acquires title and possession at the time the transaction closes and then the seller retains the property as collateral under the trust deed, the mortgage, or in this case the land sale contract until the debt is paid.

Mr. Tom Lanfear
October 4, 2005
Page 2

When the debt is paid, the lien of the land sale contract is then cleared by the delivery of a deed which, under long-established law, relates back to the date of the land sale contract. Jon Bowers similarly acquired this property from Bowers Distillery, Inc. on June 30, 1971, under a contract. The deed that was delivered in 1977 relates back to 1971 as does the second deed, done only because there was a scrivener's error, in 1980.

I recommend that you check with county counsel or some other attorney familiar with land sale contracts to confirm to you that the absolute date of acquisition was June 30, 1971, not the date a later deed was delivered. If the Bowers did not acquire title until the later deed was delivered, then why were they entitled to possession, why would a title search show them as the owners subject to the land sale contract, and why would they be making payments? My opinion letter to this effect is one of the attachments to the enclosed Affidavits.

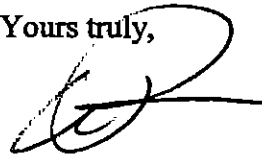
I urge you to reconsider your recommendation before the hearing on October 19.

I will be attending the hearing on the 19th and making a presentation on behalf of Mr. and Mrs. Bowers if that will be necessary.

Please let me know if I can provide you with any additional information to get this information cleared up prior to the hearing.

Thank you for your consideration.

Yours truly,



WILLIAM R. POTTER

WRP:mab

Enclosures

cc: Mr. Jon Bowers

N:\A - E\Bowers, Jon 13508\Measure 37 Claim 13508-3\Tr Tom Lanfear 100305.doc

ARNOLD GALLAGHER SAYDACK
PERCELL ROBERTS & POTTER
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ATTORNEYS AT LAW

800 U.S. Bank Center
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www.agsprp.com

Correspondence:
P.O. Box 1758
Eugene, OR 97440-1758

WILLIAM R. POTTER

October 7, 2005

Hand Delivered

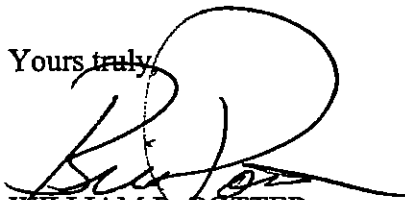
Mr. Tom Lanfear
Lane County Planning Department
125 East Eighth Avenue
Eugene, Oregon 97401

RE: Jon and Lynna Gay Bowers Ballot Measure 37 Claim
Lane County Application No. PA055708
Our File No. 13508-0003

Dear Mr. Lanfear:

To follow up on my letter to you dated October 4, 2005, regarding the above-referenced Measure 37 claim, enclosed is a copy of the signed Affidavit of James H. Bowers and the signed Affidavit of Jon D. Bowers, both to be presented at the October 19 hearing.

I would greatly appreciate it if you would call me prior to the hearing so that we can discuss this matter. My direct line is 685-8112. Thank you very much.

Yours truly,

WILLIAM R. POTTER

WRP:mab

Enclosures

cc: Mr. Jon Bowers

N:\A - EBowers, Jon 13508\Measure 37 Claim 13508-3\Ltr Tom Lanfear 100705.doc

10-07-05P03:30 RCVD

AFFIDAVIT

COPY

TO: Lane County Board of Commissioners

FROM: Jon and Lynna Gay Bowers Ballot Measure 37 Claim, Application No. PA055708

STATE OF OREGON)
) ss.
COUNTY OF LANE)

I, Jon D. Bowers, being first duly sworn, depose and say as follows in support of the application of Jon and Lynna Gay Bowers under Ballot Measure 37, Lane County Application No. PA055708.

This Affidavit is given in connection with a hearing to be held before the Board of Commissioners on October 19, 2005. This hearing is the result of information given to me by Tom Lanfear, Lane County Planner, that he is recommending against my Ballot Measure 37 claim because I did not prove that I was an owner of Bowers Distillery, Inc. in 1971 and I did not prove that my wife and I have owned the property in question since 1971.

1. As to the issue of my ownership interest in Bowers Distillery, Inc.:

1.1 Bowers Distillery, Inc. was incorporated as an Oregon corporation on October 11, 1967. Attached is a copy of the Articles of Incorporation of Bowers Distillery, Inc. I am named as a director of the corporation in Article V.

1.2 I was issued 50 shares of stock in Bowers Distillery, Inc. on December 1, 1967. Enclosed is a copy of stock certificate 3 representing the 50 shares issued to me on December 1, 1967.

1.3 The shareholders of Bowers Distillery, Inc. at that time consisted of my father Howard J. Bowers, my brothers James H. Bowers and Mark L. Bowers and myself. Each of us owned 50 shares of stock and thus I was a 25 percent owner of Bowers Distillery, Inc. Enclosed is a copy of the Stock Transfer Agreement of Bowers Distillery, Inc. dated June 10, 1970, reflecting all of the above.

1.4 In addition to the attached documentary evidence, I swear under oath that I was a shareholder of Bowers Distillery, Inc. from 1967 until beyond 1980, thus more than covering the period of time in question.

The above establishes that I was an owner of Bowers Distillery, Inc. in 1971 and during all years thereafter that are relevant or applicable to the issues at hand.

2. Mr. Lanfear's other objection is that I did not receive a deed to the property in 1971 and therefore was not an owner until 1977.

2.1 Mr. Lanfear is flat out wrong on his facts and on Oregon law. Attached is an opinion letter from my attorney so stating. In summary, Bowers Distillery, Inc., of which I was an owner, purchased the Petersen farm which included my Love Lake Farm property which is the issue of my Ballot Measure 37 claim on land sale contract dated June 30, 1971. Under the provisions of a land sale contract, the seller retains the property as collateral until the contract is paid off but equitable title and possession pass to the buyer immediately upon closing of the land sale contract. When the contract is paid off, the deed is recorded as a release of the lien created by the land sale contract. Although this device is no longer used, it is no different than a mortgage or a trust deed. Bowers Distillery, Inc. bought the Petersen farm in 1971 and was the full owner thereof as of June 30, 1971, even though the deed was not recorded until the land sale contract was paid in full in 1977.

2.2 On June 30, 1971, Bowers Distillery, Inc. sold to Jon and Lynna Gay Bowers on land sale contract the portion of the Love Lake Road property in question which is referred to as Tax Lot 402. My wife and I made payments on this contract to Bowers Distillery, Inc. commencing December 1, 1972, with final payment on November 21, 1974. However, Bowers Distillery, Inc. could not deliver a deed to me releasing the lien of that land sale contract until April 30, 1977, when it received a deed from its seller. My wife and I were still the absolute owners of Tax Lot 402 on June 30, 1971.

2.3 In addition on June 30, 1971, Bowers Distillery, Inc. transferred by land sale contract the portion of the Love Lake Road property which is referred to as Tax Lot 403 consistent with distributions made to my brothers. For the same reason, a deed could not be done until 1977. At that time, the deed that was done was supposed to cover Tax Lots 402 and 403. Due to a scrivener's error, Tax Lot 403 was not included in the 1977 deed. This error was discovered and corrected by a deed in 1980.

2.4 For all purposes, my wife and I have been the absolute owners of all portions of the Love Lake Road property which is the subject of my Ballot Measure 37 claim since June 30, 1971. All evidence as to this is incontrovertible.

In summary, I was a 25 percent owner of Bowers Distillery, Inc. from December 1, 1967, through the entire period at issue in this Ballot Measure 37 claim and my wife and I have been the owners of Tax Lots 402 and 403 of my Love Lake Road property since June 30, 1971.

DATED: oct 2, 2005.



Jon D. Bowers

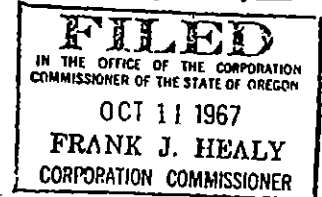
SUBSCRIBED and sworn to before me by Jon D. Bowers on 10-2-, 2005.



Sharron L. Stephens
Notary Public for Oregon
My commission expires: 6-7-09

One or more natural persons of the age of 21 years or more may incorporate a business corporation by signing, verifying and delivering Articles of Incorporation in duplicate to the Corporation Commissioner (ORS 57.306). See notes 1, 2 and 3 at the bottom of this form.

FILE NO. 81695



Articles of Incorporation

OF

BOWERS DISTILLERY, INC.

The undersigned natural person(s) of the age of twenty-one years or more, acting as incorporators under the Oregon Business Corporation Act, adopt the following Articles of Incorporation:

ARTICLE I

©The name of this corporation is Bowers Distillery, Inc.

and its duration shall be perpetual

ARTICLE II

©The purpose or purposes for which the corporation is organized are:

1. To own, improve, buy, sell, operate and manage farms or ranches, or engage in the business of producing, harvesting, distributing, preserving, freezing or processing all kinds of fruit, vegetables, grains, seeds, feeds, mint and all other farm and garden products and produce.
2. To own, operate and manage mint processing equipment, including, but not limited to, mint distilleries.
3. To carry on the business of a public and private warehouse business dealing in mint, mint extract, seed and other farm products and produce.
4. To buy, sell, store, process, distribute, handle and deal in farm products and produce.
5. To make application for and to hold any license or franchise granted or issued by any government or governmental agency and necessary to the operation of any business or activity carried on by the corporation.
6. To purchase, own, hold, use, convey, lease, sell or otherwise dispose of all kinds of real and personal property; to lend and borrow money, act as guarantor or surety on obligations and to issue and receive notes, mortgages, or other evidence of indebtedness in connection with its business or operation, and to enter into a profit sharing arrangement or joint venture, and become a general or limited partner in a partnership.
7. To engage in any mercantile, manufacturing, processing, distributing, wholesaling, retailing, investment, trading or personal service business of any kind or character and to do all things incidental to any such business, to engage in any lawful activity for which corporations may be organized under ORS Chapter 57.

ARTICLE III

The aggregate number of shares which the corporation shall have authority to issue is 500 shares of common stock without a par value.

ARTICLE IV

The address of the initial registered office of the corporation is Route 1 Box 176, Harrisburg, Oregon and the name of its initial registered agent at such address is James H. Bowers

ARTICLE V

The number of directors constituting the initial board of directors of the corporation is four and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and shall qualify are:

<u>Name</u>	<u>Address</u> (Street and Number, if any)
James H. Bowers	Route 1 Box 176, Harrisburg, Oregon
Howard J. Bowers	Route 1 Box 198, Harrisburg, Oregon
Mark L. Bowers	Route 1 Box 176, Harrisburg, Oregon
Jon D. Bowers	143 Wedgewood Drive, Eugene, Oregon

ARTICLE VI

The name and address of each incorporator is:

<u>Name</u>	<u>Address</u> (Street and Number, if any)
James L. Hershner	260 East Eleventh Ave., Eugene, Oregon

ARTICLE VII

(Add provisions for the regulation of the internal affairs of the corporation as may be appropriate.)

Dated October 10, 1967.

James L. Hershner

STATE OF OREGON,

County of Lane,

} ss.

I, RICHARD W. CLEVELAND, a notary public for Oregon, hereby certify that on the 10th day of October, 1967, personally appeared before me James L. Hershner

who being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true.

Richard W. Cleveland
Notary Public for Oregon

My commission expires: 8-9-70

Notes: ①The procedure for the formation of business corporations is set forth in ORS 57.308 to 57.331. See ORS 57.311 for the content of Articles of Incorporation.

②The corporate name must contain the word "Corporation", "Company", "Incorporated" or "Limited" or an abbreviation of one of such words.

③It is not necessary to set forth in the articles any of the corporate powers enumerated in ORS 57.030 and 57.035. It is sufficient to state, either alone or with other purposes, "That the corporation may engage in any lawful activity for which corporations may be organized under ORS Chapter 57"; however, it may be desirable to state the primary purpose of the corporation in conjunction with such statement.

④Insert statement as to par value of such shares or a statement that all of such shares are to be without par value. If there is more than one class of stock, insert a statement as to the preferences, limitations and relative rights of each class.

Mail to Corporation Commissioner, 301 Labor and Industries Bldg., Salem, Oregon 97310.

NUMBER

SHARES



BOWERS DISTILLERY, INC.

INCORPORATED UNDER THE LAWS OF THE STATE OF OREGON

THE COMPANY'S OFFICE IS LOCATED AT 48 PARK PLACE, NEW YORK

This Certificate represents

-----JON D. BOWERS-----

is the owner of

-----Fifty (50)-----

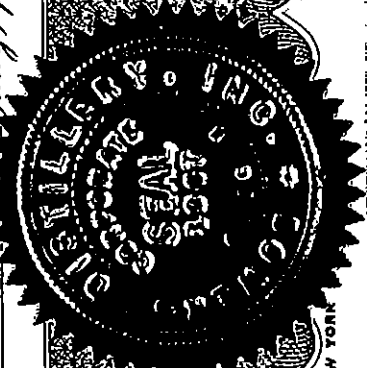
fully paid and non-assessable Shares

of the Capital Stock of BOWERS DISTILLERY, INC.

transferable, only on the books of the Corporation by the holder hereof, in person or by duly authorized Attorney upon surrender of this Certificate, properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation

this 1st *day of* December *A. D.* 1957



EXCELSIOR-LEGAL STATIONERY CO., INC., 48 PARK PLACE, NEW YORK

STOCK TRANSFER AGREEMENT

THIS AGREEMENT is made between BOWERS DISTILLERY, INC., an Oregon corporation, hereinafter referred to as the Corporation, and HOWARD J. BOWERS, JAMES H. BOWERS, JON D. BOWERS and MARK L. BOWERS, hereinafter referred to collectively as the Stockholders.

RECITALS

A. The Stockholders are each the owner of fifty (50) shares of the no par value common stock of the Corporation. The stock owned by the Stockholders constitutes all of the issued and outstanding stock of the Corporation.

B. The Stockholders and the Corporation desire to impose certain restrictions and obligations upon the Stockholders and the Corporation with respect to the transfer of the stock of the Corporation in order to promote the interest of the parties and insure continuity and stability in management and policies of the Corporation.

NOW, THEREFORE, the parties hereto agree as follows:

RESTRICTIONS DURING LIFE

1. Restriction on Transfer. No transfer of stock of the Corporation by any Stockholder during his lifetime shall be valid unless the consent of the other Stockholders as hereinafter provided shall have been had or obtained, or the stock shall have been tendered for sale to the Corporation and to the other Stockholders in the manner, at the price and upon the terms hereinafter set forth.

2. Transfer Defined. "Transfer" shall mean any sale, gift, exchange, hypothecation, sale by legal process under execution, or change in ownership, legal or beneficial, voluntary or involuntary.

because of any act or occurrence. If any stock is hypothecated with the consent of the other Stockholders or after a failure of the Corporation and the other Stockholders to accept a tender and purchase of the stock involved, a subsequent sale or retention of the stock by the secured party under the terms of the hypothecation after default shall be a separate transfer to which this agreement shall apply. The term "Stockholder-Transferor" shall mean the Stockholder whose stock has been or is about to be transferred.

3. Consent of Other Stockholders. Any transfer shall be valid if the other Stockholders give consent in writing to the specific transfer involved.

4. Tender of Stock. If consent to transfer is not obtained as above provided, any stock that is the subject of a transfer shall be tendered to the Corporation and the other Stockholders.

5. Notice of Tender. Notice of tender shall be given in writing, by certified mail, to the other Stockholders at their addresses, as shown on the corporate records. This notice shall state the number of shares to be transferred, the name and address of the person giving the notice and of the transferee, the nature of the transfer and, if the transfer is to be by sale, the proposed price and terms. If the transfer is as a hypothecation, the notice shall set forth the amount and terms of the loan to be secured by the stock. This notice shall be given by the Stockholder-Transferor if the transfer is voluntary. If the transfer is involuntary, or by operation of law, the notice shall be given by the successor in interest or the transferee of the Stockholder-Transferor. This notice shall be effective as of the date of the mailing thereof to the Corporation and the other Stockholders.

6. Acceptance of Tender. Within thirty (30) days following the effective date of the notice provided for above, the Corporation may accept the tender and purchase all or any portion of the shares

at the price and on the terms set forth below. • The Stockholder-Transferor or the transferee of such stock, if the transfer is other than voluntary, shall, if requested by the other Stockholders, vote his stock in favor of purchase by the Corporation and in favor of any recapitalization necessary to legalize or facilitate such purchase.

7. Purchase by Other Stockholders. If the Corporation shall fail to exercise its option to purchase all or any part of the stock, as set forth above, the other Stockholders shall have the right to accept the tender and purchase all or any part of the shares tendered on the same terms as the Corporation. The other Stockholders shall have a period of ten (10) days commencing on the day when the right of the Corporation to accept the tender expires within which to accept the tender as herein provided. The other Stockholders shall have the right to purchase the tendered stock in the same ratio as their stockholding to total outstanding stock exclusive of the stock being offered by the tender. If any Stockholder shall fail to exercise his option to purchase the stock, as set forth above, any other Stockholder shall have the right to accept the tender and purchase all or any part of the shares tendered.

8. Method of Accepting Tender. Any tender as herein provided shall be accepted in writing, which writing shall be delivered by certified mail to the party giving notice of the tender. If the person giving the notice of the tender shall be other than the Stockholder-Transferor, a copy of such acceptance shall be mailed to the Stockholder-Transferor. If the acceptance is by the Corporation, a copy of the acceptance shall be mailed, by certified mail, to all of the other Stockholders and if the acceptance is by another Stockholder, a copy shall be mailed, by certified mail, to the Corporation and to all of the other Stockholders.

9. Failure to Accept Tender. If the tender mentioned above is unaccepted after sixty (60) days from the effective date of the notice of tender, all of the stock tendered or that portion thereof not purchased by the Corporation or the other Stockholders may, at any time within one hundred eighty (180) days after the effective date of the notice of the tender, be transferred to the transferee named in the notice of tender upon the terms therein contained.

10. Failure to Make Tender. Upon the occurrence of an event by reason of which a tender is required under this agreement, if no such tender is made within thirty (30) days after such an occurrence, the Corporation and any other Stockholder may notify, by certified mail, the record owner of the stock in question, or the person to whom the stock is about to pass or has passed or been disposed of, or both, that the Corporation and one or more of the other Stockholders elect to buy the stock. Copies of such notice shall be sent, if given by the Corporation, to all Stockholders, and if sent by a Stockholder to all other Stockholders and the Corporation. The terms of purchase shall be the same as if a tender has been made in accordance with this agreement.

11. Purchase Price.

(a) Voluntary Sale. If the stock is tendered because the Stockholder-Transferor intends to sell the stock by voluntary sale to a third party, the purchase price to be paid by the Corporation or the other Stockholders, as the case may be, for each share shall be the price for which the Stockholder-Transferor intends to sell the stock. The terms of payment and remaining provisions and conditions of such sale shall be the same as would apply if the Stockholder-Transferor made the voluntary sale to a third party.

(b) Transfer by Judicial Process or Foreclosure. If the tender is the result of an attempted or proposed transfer as the

!

result of a judicial or private sale under writ of execution or foreclosure of a security interest in the stock, the price to be paid shall be the total amount required to redeem the stock and discharge or satisfy the judicial process or security agreement. In the event of a purchase by the Corporation or the other Stockholders under such circumstances, the Stockholder-Transferor shall have a period of sixty (60) days from and after the date when the Corporation or the other Stockholders purchase his stock within which to redeem the same by repayment to the Corporation or to the other Stockholders the amount paid for his stock plus any other costs incurred in the making of such purchase and plus interest on the amounts paid at the rate of six per cent (6%) per annum from the date of payment.

(c) Other Transfers. If a tender is made in connection with a proposed transfer not otherwise provided for above, the purchase price per share shall be an amount equal to the amount which would be paid, and the terms of payment shall be the same as such terms would be, in the event the Corporation exercised its option to purchase the stock of a deceased Stockholder, as hereinafter provided. The date of transfer shall be deemed the date of the exercise of such option. If such transfer is to a receiver, trustee in bankruptcy, creditors' committee, assignee for the benefit of creditors, or a similar group or officer, as a result of the insolvency of the Stockholder-Transferor, the appraiser to be appointed on behalf of the owner of the stock being transferred shall be appointed by the transferee.

PURCHASE ON DEATH

12. Option to Purchase Stock on Death. Upon the death of any Stockholder, unless such Stockholder shall be, at the time of his death, the sole owner of all of the issued and outstanding

stock of this Corporation exclusive of treasury stock, the Corporation shall have the exclusive option to purchase all of the stock of this Corporation owned by such deceased Stockholder as at the date of his death, upon the terms and conditions hereinafter contained.

13. Term of Option. This option shall expire upon the death of the last survivor of the four (4) named Stockholders, or at such time as none of the four (4) named Stockholders is the owner of any of the issued and outstanding stock of this Corporation, whichever is earlier.

14. Exercise of Option. This option shall be exercised by the Corporation giving written notice thereof to each person who, as at the date of such notice, is entitled to vote one (1) or more shares of the stock which is subject to this option, which notice shall contain the name and address of the person designated by the Corporation to serve as appraiser for the determination of the purchase price as hereinafter provided. Within thirty (30) days after the giving of such notice, the person or persons to whom such notice was directed shall jointly appoint a person to serve as appraiser for the determination of a purchase price and shall give written notice of the name and address of such person to the Corporation.

15. Determination of Purchase Price. The appraisers so appointed shall forthwith meet to determine the purchase price of the stock subject to the option which has been exercised by the Corporation. If the two (2) appraisers cannot agree upon a price within thirty (30) days after the appointment of the second appraiser, they shall, within ten (10) days thereafter, appoint a third appraiser. The appraisers so selected must determine the price not later than seventy (70) days after the date of the appointment of the second appraiser. The decision of any two (2) of the

appraisers shall be binding upon the parties.

In determining the purchase price, the assets of the Corporation shall be valued at their fair market value as at the date of the exercise of the option. The appraisers shall consider the cash surrender value of any life insurance policies owned by the Corporation as at the date of the exercise of the option and accumulated dividends and interest upon such policies, but shall not consider the proceeds from any policies resulting from the death of the Stockholder whose death was the condition creating the option being exercised, if such option is exercised within fifteen (15) months from the date of the death of such Stockholder.

The decision of the appraisers shall be made in writing and shall be dated and signed by each of the appraisers who concur in the decision. A copy of such decision shall forthwith be delivered to the Corporation and to the person or persons appointing the second appraiser.

In the event any person fails or refuses to appoint an appraiser or if the two (2) appraisers fail or refuse to appoint a third appraiser when required, any person who is entitled to appoint an appraiser, or to jointly participate in the appointment of an appraiser, may file a petition in accordance with ORS 33.210, et seq., to compel such appointment. Further, if for any reason an appraiser fails or refuses to perform his functions as herein provided, any such person may so petition the court for the appointment of an appraiser to replace the appraiser failing or refusing to act. For the purposes of all of the appraisal proceedings, the appraisal procedures herein outlined shall be deemed an arbitration. All arbitration proceedings shall be held within the State of Oregon.

The Corporation shall pay the fees and expenses of the appraiser appointed by it and the person or persons appointing the

second appraiser shall pay the fees and expenses of such appraiser. In the event either party shall fail or refuse to appoint an appraiser or should the appraiser appointed by such party fail or refuse to perform his functions hereunder, such party shall pay the fees and expenses of the appraiser appointed by the court to act for such party. All other costs of the appraisal shall be borne equally by the parties.

16. Payment of Purchase Price. The purchase price for the stock subject to the exercised option, as finally determined by the appraisers, shall be paid in cash, without interest from the date of the exercise of the option to the date of payment, at the time the stock is delivered to the Corporation.

17. Voting of Stock. The person entitled to vote the stock which is the subject of the exercised option shall vote the stock in such manner as to enable the Corporation to purchase such stock.

GENERAL PROVISIONS

18. Delivery of Stock. Upon the purchase by the Corporation or any Stockholder of any stock under the terms and provisions of this agreement, the seller thereof shall forthwith deliver to the Corporation or to the other Stockholder or Stockholders, as the case may be, the certificate or certificates representing such shares, duly endorsed for transfer on the books of the Corporation, together with any and all other documents which are necessary in order to effect the transfer of the stock.

19. Endorsement on Stock Certificates. Upon the execution of this agreement, the following shall be endorsed on all certificates of stock of the Corporation:

"The stock evidenced by this certificate is subject to and transferable only upon compliance with the terms and conditions of an agreement between Bowers Distillery, Inc. and Howard J. Bowers, James H. Bowers,

Jon D. Bowers and Mark L. Bowers, dated June 10, 1970, a copy of which agreement is on file with the Secretary of the Corporation."

20. Application. This agreement is binding upon the parties, their heirs, successors, assigns and transferees, and shall apply to all stock of the Corporation now held by the Stockholders or hereafter acquired by them or any of them. All of the provisions of this agreement shall be binding upon any party who acquires stock in the Corporation, whether such stock is acquired from a named Stockholder herein or from any subsequent transferee of a named Stockholder, and regardless of the manner in which such stock was acquired. Any transfer by such a person shall be subject to all of the terms and provisions hereof.

21. Specific Performance. The parties hereto declare that it is impossible to measure in money the damages which will accrue if any party hereto or his successors or assigns should fail to perform any of the obligations contained in this agreement. Therefore, the terms and provisions of this agreement may be specifically enforced in equity and all parties do hereby waive the claim or defense that the remedy at law is adequate for a breach of any of the terms and provisions of this agreement.

22. Waiver. No waiver of any right arising out of a breach of any covenant, term or condition of this agreement shall be a waiver of any right arising out of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

23. Litigation. In case any suit or action is instituted for any purpose under or in connection with this agreement, the prevailing party shall be entitled to an attorney's fee in such amount as the court may determine reasonable for both trial court

and appellate court proceedings, in addition to any other relief granted.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 10th day of June, 1970.

BOWERS DISTILLERY, INC.

By James H. Bowers

Judy Bowers, Sec.

Howard J. Bowers
Howard J. Bowers

James H. Bowers
James H. Bowers

John D. Bowers
John D. Bowers

Mark L. Bowers
Mark L. Bowers

This agreement is executed by the undersigned, the wives of the named Stockholders, solely for the purpose of evidencing their respective consent to the terms and provisions thereof and shall not be construed to create any rights or obligations as to any of them nor to evidence any interest on the part of any of them in the stock which is the subject of this agreement.

Katherine Bowers
Judy Bowers
Lynne Kay Bowers
Marcia Bowers

AFFIDAVIT

COPY

TO: Lane County Board of Commissioners

FROM: Jon and Lynna Gay Bowers Ballot Measure 37 Claim, Application No. PA055708

STATE OF South Dakota)
) ss.
COUNTY OF Hughes)

I, James H. Bowers, being first duly sworn, depose and say as follows in support of the application of Jon and Lynna Gay Bowers under Ballot Measure 37, Lane County Application No. PA055708.

This Affidavit is given in connection with a hearing to be held before the Board of Commissioners on October 19, 2005. This hearing is the result of information given to Jon Bowers by Tom Lanfear, Lane County Planner, that he is recommending against the Ballot Measure 37 claim of Jon and Lynna Gay Bowers because Jon Bowers did not prove that he was an owner of Bowers Distillery, Inc. in 1971 and he did not prove that he and his wife have owned the property in question since 1971.

1. As to the issue of Jon Bowers' ownership interest in Bowers Distillery, Inc.:

1.1 Bowers Distillery, Inc. was incorporated as an Oregon corporation on October 11, 1967. Attached is a copy of the Articles of Incorporation of Bowers Distillery, Inc. Jon Bowers is named as a director of the corporation in Article V.

1.2 Jon Bowers was issued 50 shares of stock in Bowers Distillery, Inc. on December 1, 1967. Enclosed is a copy of stock certificate 3 representing the 50 shares issued to Jon Bowers on December 1, 1967.

1.3 The shareholders of Bowers Distillery, Inc. at that time consisted of my father Howard J. Bowers, my brothers Jon D. Bowers and Mark L. Bowers and myself. Each of us owned 50 shares of stock and thus Jon Bowers was a 25 percent owner of Bowers Distillery, Inc. Enclosed is a copy of the Stock Transfer Agreement of Bowers Distillery, Inc. dated June 10, 1970, reflecting all of the above.

1.4 In addition to the attached documentary evidence, I swear under oath that Jon Bowers was a shareholder of Bowers Distillery, Inc. from 1967 until beyond 1980, thus more than covering the period of time in question.

The above establishes that Jon Bowers was an owner of Bowers Distillery, Inc. in 1971 and during all years thereafter that are relevant or applicable to the issues at hand.

2. Mr. Lanfear's other objection is that Jon and Lynna Gay Bowers did not receive a deed to the property in 1971 and therefore were not owners until 1977.

2.1 Bowers Distillery, Inc., of which Jon Bowers was an owner, purchased the Petersen farm which included the Love Lake Farm property which is the issue of Jon and Lynna Gay Bowers' Ballot Measure 37 claim on land sale contract dated June 30, 1971. Under the provisions of a land sale contract, the seller retains the property as collateral until the contract is paid off but equitable title and possession pass to the buyer immediately upon closing of the land sale contract. When the contract is paid off, the deed is recorded as a release of the lien created by the land sale contract. Although this device is no longer used, it is no different than a mortgage or a trust deed. Bowers Distillery, Inc. bought the Petersen farm in 1971 and was the full owner thereof as of June 30, 1971, even though the deed was not recorded until the land sale contract was paid in full in 1977.

2.2 On June 30, 1971, Bowers Distillery, Inc. sold to Jon and Lynna Gay Bowers on land sale contract the portion of the Love Lake Road property in question which is referred to as Tax Lot 402. Jon and Lynna Gay Bowers made payments on this contract to Bowers Distillery, Inc. commencing December 1, 1972, with final payment on November 21, 1974. However, Bowers Distillery, Inc. could not deliver a deed to Jon and Lynna Gay Bowers releasing the lien of that land sale contract until April 30, 1977, when it received a deed from its seller. Jon and Lynna Gay Bowers were still the absolute owners of Tax Lot 402 on June 30, 1971.

2.3 In addition on June 30, 1971, Bowers Distillery, Inc. transferred to Jon and Lynna Gay Bowers by land sale contract the portion of the Love Lake Road property which is referred to as Tax Lot 403 consistent with distributions made to me and Mark Bowers. For the same reason, a deed could not be done until 1977. At that time, the deed that was done was supposed to cover Tax Lots 402 and 403. Due to a scrivener's error, Tax Lot 403 was not included in the 1977 deed. This error was discovered and corrected by a deed in 1980.

2.4 For all purposes, Jon and Lynna Gay Bowers have been the absolute owners of all portions of the Love Lake Road property which is the subject of their Ballot Measure 37 claim since June 30, 1971. All evidence as to this is incontrovertible.

In summary, Jon Bowers was a 25 percent owner of Bowers Distillery, Inc. from December 1, 1967, through the entire period at issue in this Ballot Measure 37 claim and Jon and

Lynna Gay Bowers have been the owners of Tax Lots 402 and 403 of their Love Lake Road property since June 30, 1971.

DATED: 10-4, 2005.

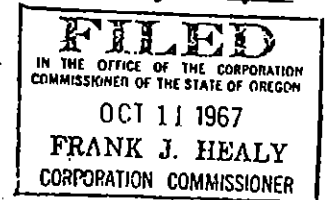
James H. Bowers
James H. Bowers

SUBSCRIBED and sworn to before me by James H. Bowers on October 4, 2005.

Marcy Dawn Field - Marcy Dawn Field
Notary Public for State of South Dakota - Hughes Co.
My commission expires: My Commission Expires
May 12, 2010

One or more natural persons of the age of 21 years or more may incorporate a business corporation by signing, verifying and delivering Articles of Incorporation in duplicate to the Corporation Commissioner (ORS 57.306). See notes 1, 2 and 3 at the bottom of this form.

FILE NO. 81695



Articles of Incorporation

OF

BOWERS DISTILLERY, INC.

The undersigned natural person(s) of the age of twenty-one years or more, acting as incorporators under the Oregon Business Corporation Act, adopt the following Articles of Incorporation:

ARTICLE I

①The name of this corporation is Bowers Distillery, Inc.

and its duration shall be perpetual

ARTICLE II

①The purpose or purposes for which the corporation is organized are:

1. To own, improve, buy, sell, operate and manage farms or ranches, or engage in the business of producing, harvesting, distributing, preserving, freezing or processing all kinds of fruit, vegetables, grains, seeds, feeds, mint and all other farm and garden products and produce.
2. To own, operate and manage mint processing equipment, including, but not limited to, mint distilleries.
3. To carry on the business of a public and private warehouse business dealing in mint, mint extract, seed and other farm products and produce.
4. To buy, sell, store, process, distribute, handle and deal in farm products and produce.
5. To make application for and to hold any license or franchise granted or issued by any government or governmental agency and necessary to the operation of any business or activity carried on by the corporation.
6. To purchase, own, hold, use, convey, lease, sell or otherwise dispose of all kinds of real and personal property; to lend and borrow money, act as guarantor or surety on obligations and to issue and receive notes, mortgages, or other evidence of indebtedness in connection with its business or operation, and to enter into a profit sharing arrangement or joint venture, and become a general or limited partner in a partnership.
7. To engage in any mercantile, manufacturing, processing, distributing, wholesaling, retailing, investment, trading or personal service business of any kind or character and to do all things incidental to any such business, to engage in any lawful activity for which corporations may be organized under ORS Chapter 57.

ARTICLE III

The aggregate number of shares which the corporation shall have authority to issue is 500 shares of common stock without a par value.

ARTICLE IV

The address of the initial registered office of the corporation is Route 1 Box 176, Harrisburg, Oregon and the name of its initial registered agent at such address is James H. Bowers

ARTICLE V

The number of directors constituting the initial board of directors of the corporation is four and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and shall qualify are:

<u>Name</u>	<u>Address</u> (Street and Number, if any)
James H. Bowers	Route 1 Box 176, Harrisburg, Oregon
Howard J. Bowers	Route 1 Box 198, Harrisburg, Oregon
Mark L. Bowers	Route 1 Box 176, Harrisburg, Oregon
Jon D. Bowers	143 Wedgewood Drive, Eugene, Oregon

ARTICLE VI

The name and address of each incorporator is:

<u>Name</u>	<u>Address</u> (Street and Number, if any)
James L. Hershner	260 East Eleventh Ave., Eugene, Oregon

ARTICLE VII

(Add provisions for the regulation of the internal affairs of the corporation as may be appropriate.)

Dated October 10, 1967.

James L. Hershner

STATE OF OREGON,

County of Lane,

} ss.

I, RICHARD W. CLEVELAND, a notary public for Oregon, hereby certify that on the 10th day of October, 1967, personally appeared before me James L. Hershner

who being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true.

Richard W. Cleveland
Notary Public for Oregon

My commission expires: 8-9-70

Notes: ①The procedure for the formation of business corporations is set forth in ORS 57.306 to 57.331. See ORS 57.311 for the content of Articles of Incorporation.

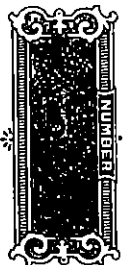
②The corporate name must contain the word "Corporation", "Company", "Incorporated" or "Limited" or an abbreviation of one of such words.

③It is not necessary to set forth in the articles any of the corporate powers enumerated in ORS 57.030 and 57.035. It is sufficient to state, either alone or with other purposes, "That the corporation may engage in any lawful activity for which corporations may be organized under ORS Chapter 57"; however, it may be desirable to state the primary purpose of the corporation in conjunction with such statement.

④Insert statement as to par value of such shares or a statement that all of such shares are to be without par value. If there is more than one class of stock, insert a statement as to the preferences, limitations and relative rights of each class.

Mail to Corporation Commissioner, 301 Labor and Industries Bldg., Salem, Oregon 97310.

See legend on reverse.



INCORPORATED UNDER THE LAWS OF THE STATE OF OREGON

BOWERS DISTILLERY, INC.

THE CORPORATION AUTHORIZED, DESIGNATED, AND ISSUED BY THE BOARD OF DIRECTORS

This Certificate is for

----- Fifty (50) -----

----- JON D. BOWERS -----

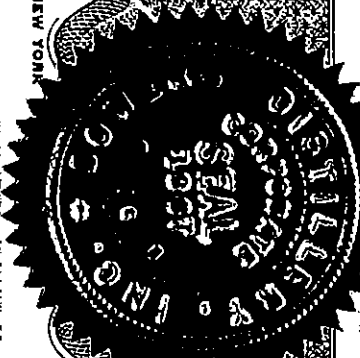
is the owner of
fully paid and non-assessable Shares

of the Capital Stock of BOWERS DISTILLERY, INC.

to transferable, and upon the books of the Corporation and the books of record, and by
due authentication of the Secretary of the Corporation, and by the order of the

Secretary of the Corporation, and to be valid with the Seal of the Corporation,

this 1st day of December A.D. 1967



EXCELSIOR LEGAL STATIONERY CO., INC., 43 PARK PLACE, NEW YORK

STOCK TRANSFER AGREEMENT

THIS AGREEMENT is made between BOWERS DISTILLERY, INC., an Oregon corporation, hereinafter referred to as the Corporation, and HOWARD J. BOWERS, JAMES H. BOWERS, JON D. BOWERS and MARK L. BOWERS, hereinafter referred to collectively as the Stockholders.

RECITALS

A. The Stockholders are each the owner of fifty (50) shares of the no par value common stock of the Corporation. The stock owned by the Stockholders constitutes all of the issued and outstanding stock of the Corporation.

B. The Stockholders and the Corporation desire to impose certain restrictions and obligations upon the Stockholders and the Corporation with respect to the transfer of the stock of the Corporation in order to promote the interest of the parties and insure continuity and stability in management and policies of the Corporation.

NOW, THEREFORE, the parties hereto agree as follows:

RESTRICTIONS DURING LIFE

1. Restriction on Transfer. No transfer of stock of the Corporation by any Stockholder during his lifetime shall be valid unless the consent of the other Stockholders as hereinafter provided shall have been had or obtained, or the stock shall have been tendered for sale to the Corporation and to the other Stockholders in the manner, at the price and upon the terms hereinafter set forth.

2. Transfer Defined. "Transfer" shall mean any sale, gift, exchange, hypothecation, sale by legal process under execution, or change in ownership, legal or beneficial, voluntary or involuntary.

because of any act or occurrence. If any stock is hypothecated with the consent of the other Stockholders or after a failure of the Corporation and the other Stockholders to accept a tender and purchase of the stock involved, a subsequent sale or retention of the stock by the secured party under the terms of the hypothecation after default shall be a separate transfer to which this agreement shall apply. The term "Stockholder-Transferor" shall mean the Stockholder whose stock has been or is about to be transferred.

3. Consent of Other Stockholders. Any transfer shall be valid if the other Stockholders give consent in writing to the specific transfer involved.

4. Tender of Stock. If consent to transfer is not obtained as above provided, any stock that is the subject of a transfer shall be tendered to the Corporation and the other Stockholders.

5. Notice of Tender. Notice of tender shall be given in writing, by certified mail, to the other Stockholders at their addresses, as shown on the corporate records. This notice shall state the number of shares to be transferred, the name and address of the person giving the notice and of the transferee, the nature of the transfer and, if the transfer is to be by sale, the proposed price and terms. If the transfer is as a hypothecation, the notice shall set forth the amount and terms of the loan to be secured by the stock. This notice shall be given by the Stockholder-Transferor if the transfer is voluntary. If the transfer is involuntary, or by operation of law, the notice shall be given by the successor in interest or the transferee of the Stockholder-Transferor. This notice shall be effective as of the date of the mailing thereof to the Corporation and the other Stockholders.

6. Acceptance of Tender. Within thirty (30) days following the effective date of the notice provided for above, the Corporation may accept the tender and purchase all or any portion of the shares

at the price and on the terms set forth below. The Stockholder-Transferor or the transferee of such stock, if the transfer is other than voluntary, shall, if requested by the other Stockholders, vote his stock in favor of purchase by the Corporation and in favor of any recapitalization necessary to legalize or facilitate such purchase.

7. Purchase by Other Stockholders. If the Corporation shall fail to exercise its option to purchase all or any part of the stock, as set forth above, the other Stockholders shall have the right to accept the tender and purchase all or any part of the shares tendered on the same terms as the Corporation. The other Stockholders shall have a period of ten (10) days commencing on the day when the right of the Corporation to accept the tender expires within which to accept the tender as herein provided. The other Stockholders shall have the right to purchase the tendered stock in the same ratio as their stockholding to total outstanding stock exclusive of the stock being offered by the tender. If any Stockholder shall fail to exercise his option to purchase the stock, as set forth above, any other Stockholder shall have the right to accept the tender and purchase all or any part of the shares tendered.

8. Method of Accepting Tender. Any tender as herein provided shall be accepted in writing, which writing shall be delivered by certified mail to the party giving notice of the tender. If the person giving the notice of the tender shall be other than the Stockholder-Transferor, a copy of such acceptance shall be mailed to the Stockholder-Transferor. If the acceptance is by the Corporation, a copy of the acceptance shall be mailed, by certified mail, to all of the other Stockholders and if the acceptance is by another Stockholder, a copy shall be mailed, by certified mail, to the Corporation and to all of the other Stockholders.

9. Failure to Accept Tender. If the tender mentioned above is unaccepted after sixty (60) days from the effective date of the notice of tender, all of the stock tendered or that portion thereof not purchased by the Corporation or the other Stockholders may, at any time within one hundred eighty (180) days after the effective date of the notice of the tender, be transferred to the transferee named in the notice of tender upon the terms therein contained.

10. Failure to Make Tender. Upon the occurrence of an event by reason of which a tender is required under this agreement, if no such tender is made within thirty (30) days after such an occurrence, the Corporation and any other Stockholder may notify, by certified mail, the record owner of the stock in question, or the person to whom the stock is about to pass or has passed or been disposed of, or both, that the Corporation and one or more of the other Stockholders elect to buy the stock. Copies of such notice shall be sent, if given by the Corporation, to all Stockholders, and if sent by a Stockholder to all other Stockholders and the Corporation. The terms of purchase shall be the same as if a tender has been made in accordance with this agreement.

11. Purchase Price.

(a) Voluntary Sale. If the stock is tendered because the Stockholder-Transferor intends to sell the stock by voluntary sale to a third party, the purchase price to be paid by the Corporation or the other Stockholders, as the case may be, for each share shall be the price for which the Stockholder-Transferor intends to sell the stock. The terms of payment and remaining provisions and conditions of such sale shall be the same as would apply if the Stockholder-Transferor made the voluntary sale to a third party.

(b) Transfer by Judicial Process or Foreclosure. If the tender is the result of an attempted or proposed transfer as the

result of a judicial or private sale under writ of execution or foreclosure of a security interest in the stock, the price to be paid shall be the total amount required to redeem the stock and discharge or satisfy the judicial process or security agreement. In the event of a purchase by the Corporation or the other Stockholders under such circumstances, the Stockholder-Transferor shall have a period of sixty (60) days from and after the date when the Corporation or the other Stockholders purchase his stock within which to redeem the same by repayment to the Corporation or to the other Stockholders the amount paid for his stock plus any other costs incurred in the making of such purchase and plus interest on the amounts paid at the rate of six per cent (6%) per annum from the date of payment.

(c) Other Transfers. If a tender is made in connection with a proposed transfer not otherwise provided for above, the purchase price per share shall be an amount equal to the amount which would be paid, and the terms of payment shall be the same as such terms would be, in the event the Corporation exercised its option to purchase the stock of a deceased Stockholder, as hereinafter provided. The date of transfer shall be deemed the date of the exercise of such option. If such transfer is to a receiver, trustee in bankruptcy, creditors' committee, assignee for the benefit of creditors, or a similar group or officer, as a result of the insolvency of the Stockholder-Transferor, the appraiser to be appointed on behalf of the owner of the stock being transferred shall be appointed by the transferee.

PURCHASE ON DEATH

12. Option to Purchase Stock on Death. Upon the death of any Stockholder, unless such Stockholder shall be, at the time of his death, the sole owner of all of the issued and outstanding

stock of this Corporation exclusive of treasury stock, the Corporation shall have the exclusive option to purchase all of the stock of this Corporation owned by such deceased Stockholder as at the date of his death, upon the terms and conditions hereinafter contained.

13. Term of Option. This option shall expire upon the death of the last survivor of the four (4) named Stockholders, or at such time as none of the four (4) named Stockholders is the owner of any of the issued and outstanding stock of this Corporation, whichever is earlier.

14. Exercise of Option. This option shall be exercised by the Corporation giving written notice thereof to each person who, as at the date of such notice, is entitled to vote one (1) or more shares of the stock which is subject to this option, which notice shall contain the name and address of the person designated by the Corporation to serve as appraiser for the determination of the purchase price as hereinafter provided. Within thirty (30) days after the giving of such notice, the person or persons to whom such notice was directed shall jointly appoint a person to serve as appraiser for the determination of a purchase price and shall give written notice of the name and address of such person to the Corporation.

15. Determination of Purchase Price. The appraisers so appointed shall forthwith meet to determine the purchase price of the stock subject to the option which has been exercised by the Corporation. If the two (2) appraisers cannot agree upon a price within thirty (30) days after the appointment of the second appraiser, they shall, within ten (10) days thereafter, appoint a third appraiser. The appraisers so selected must determine the price not later than seventy (70) days after the date of the appointment of the second appraiser. The decision of any two (2) of the

appraisers shall be binding upon the parties.

In determining the purchase price, the assets of the Corporation shall be valued at their fair market value as at the date of the exercise of the option. The appraisers shall consider the cash surrender value of any life insurance policies owned by the Corporation as at the date of the exercise of the option and accumulated dividends and interest upon such policies, but shall not consider the proceeds from any policies resulting from the death of the Stockholder whose death was the condition creating the option being exercised, if such option is exercised within fifteen (15) months from the date of the death of such Stockholder.

The decision of the appraisers shall be made in writing and shall be dated and signed by each of the appraisers who concur in the decision. A copy of such decision shall forthwith be delivered to the Corporation and to the person or persons appointing the second appraiser.

In the event any person fails or refuses to appoint an appraiser or if the two (2) appraisers fail or refuse to appoint a third appraiser when required, any person who is entitled to appoint an appraiser, or to jointly participate in the appointment of an appraiser, may file a petition in accordance with ORS 33.210, et seq., to compel such appointment. Further, if for any reason an appraiser fails or refuses to perform his functions as herein provided, any such person may so petition the court for the appointment of an appraiser to replace the appraiser failing or refusing to act. For the purposes of all of the appraisal proceedings, the appraisal procedures herein outlined shall be deemed an arbitration. All arbitration proceedings shall be held within the State of Oregon.

The Corporation shall pay the fees and expenses of the appraiser appointed by it and the person or persons appointing the

second appraiser shall pay the fees and expenses of such appraiser. In the event either party shall fail or refuse to appoint an appraiser or should the appraiser appointed by such party fail or refuse to perform his functions hereunder, such party shall pay the fees and expenses of the appraiser appointed by the court to act for such party. All other costs of the appraisal shall be borne equally by the parties.

16. Payment of Purchase Price. The purchase price for the stock subject to the exercised option, as finally determined by the appraisers, shall be paid in cash, without interest from the date of the exercise of the option to the date of payment, at the time the stock is delivered to the Corporation.

17. Voting of Stock. The person entitled to vote the stock which is the subject of the exercised option shall vote the stock in such manner as to enable the Corporation to purchase such stock.

GENERAL PROVISIONS

18. Delivery of Stock. Upon the purchase by the Corporation or any Stockholder of any stock under the terms and provisions of this agreement, the seller thereof shall forthwith deliver to the Corporation or to the other Stockholder or Stockholders, as the case may be, the certificate or certificates representing such shares, duly endorsed for transfer on the books of the Corporation, together with any and all other documents which are necessary in order to effect the transfer of the stock.

19. Endorsement on Stock Certificates. Upon the execution of this agreement, the following shall be endorsed on all certificates of stock of the Corporation:

"The stock evidenced by this certificate is subject to and transferable only upon compliance with the terms and conditions of an agreement between Bowers Distillery, Inc. and Howard J. Bowers, James H. Bowers,

Jon D. Bowers and Mark L. Bowers, dated June 10, 1970, a copy of which agreement is on file with the Secretary of the Corporation."

20. Application. This agreement is binding upon the parties, their heirs, successors, assigns and transferees, and shall apply to all stock of the Corporation now held by the Stockholders or hereafter acquired by them or any of them. All of the provisions of this agreement shall be binding upon any party who acquires stock in the Corporation, whether such stock is acquired from a named Stockholder herein or from any subsequent transferee of a named Stockholder, and regardless of the manner in which such stock was acquired. Any transfer by such a person shall be subject to all of the terms and provisions hereof.

21. Specific Performance. The parties hereto declare that it is impossible to measure in money the damages which will accrue if any party hereto or his successors or assigns should fail to perform any of the obligations contained in this agreement. Therefore, the terms and provisions of this agreement may be specifically enforced in equity and all parties do hereby waive the claim or defense that the remedy at law is adequate for a breach of any of the terms and provisions of this agreement.

22. Waiver. No waiver of any right arising out of a breach of any covenant, term or condition of this agreement shall be a waiver of any right arising out of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

23. Litigation. In case any suit or action is instituted for any purpose under or in connection with this agreement, the prevailing party shall be entitled to an attorney's fee in such amount as the court may determine reasonable for both trial court

and appellate court proceedings, in addition to any other relief granted.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 10th day of June, 1970.

BOWERS DISTILLERY, INC.

By James H. Bowers
Judy Bowers, Sec.

Howard J. Bowers
Howard J. Bowers

James H. Bowers
James H. Bowers

John D. Bowers
John D. Bowers

Mark L. Bowers
Mark L. Bowers

This agreement is executed by the undersigned, the wives of the named Stockholders, solely for the purpose of evidencing their respective consent to the terms and provisions thereof and shall not be construed to create any rights or obligations as to any of them nor to evidence any interest on the part of any of them in the stock which is the subject of this agreement.

Katherine Bowers
Judy Bowers
Lynne Bowers
Marcia Bowers