2009-2010 Development Code Docket A-7: Amend Development Code to allow retail sales of agricultural products in most zoning districts (Title 20).

Date: February 16, 2010

Public Hearing Date: Tentative Date: April 6, 2011

Prepared by: Scott Longanecker, Associate Planner

Proponent/Applicant: Thurston County

Action Requested: Amend Development Code to allow retail sales of agricultural products. (Title 20).

☐ Map Changes ☒ Text Changes ☐ Both ☐ Affects Comprehensive Plans/documents
☐ Affected Jurisdictions

New language and discussion in green / aerial added after the February 2, 2011 Planning Commission (PC) meeting.

**Note:** On February 2, 2011 the Planning Commission met regarding the attached Development Code amendment to Thurston County Title 20. Based upon comments from the February 2nd meeting and additional information discovered by staff, some slight changes have been made which will be discussed at the February 16th PC meeting.

In particular, staff discovered that tents (membranous structures) may be up to 700 square feet if open on all sides (i.e. a canopy) [International Fire Code, Chapter 24 – Tents and Other Membrane Structures – See Attachment D.]. The 400 square foot limit on tents applies if one or more sides are enclosed. The proposed language has been amended to reflect this allowance. The Planning Commission should discuss and provide direction.

The Planning Commission discussed differences in the regulatory language between the Long Term Agricultural (LTA) zoning district and the Nisqually Agricultural (NA) zoning district. The NA zone contained language stating that farm stands must only sell products grown on or near the site, while the LTA zone is less restrictive. The difference in the language prior to this proposed amendment appears to be related to the two sections being adopted and subsequently amended at different times in the early 1990’s. The rationale behind these differences is difficult to determine without many hours of researching archived documents. Now, twenty years later it is appropriate to review and update this language given changes in building codes, fire codes and
others. Staff has made proposed changes to the LTA and NA district regulations on pages 4 and 5 of this staff report to make the language related to farm stands consistent between the two zones and with the proposed language for the rest of the rural county.

ISSUE:
Thurston County Resource Stewardship’s policy is to allow farm stands selling items grown on-site. Washington State law defines farm stands as a standard agricultural activity pursuant to RCW 7.48.310\(^1\). Allowing agricultural sales operations and limited sales of products that were not raised on the property, or to sell products at non-farm locations could assist with the economic viability of local farms. The proposed amendment would allow retail sales of agricultural products raised on-site and allow similar sales in other locations deemed appropriate. The allowance should also include ancillary products and services.

BACKGROUND:
Local farms provide many benefits to the County and its residents. These benefits include preserving open space, creating employment, reducing urban sprawl and producing goods and services like fresh produce, eggs, dairy products and maintaining an agricultural land base. Currently there are a limited number of zones that specifically allow farm stands. To clarify, a farm stand is generally a temporary structure or location at or near the point of production where farmers are allowed to sell their fresh produce and eggs directly to consumers, exempt from packaging, sizing and labeling regulations.

Farm stands differ from farmers market, and would typically consist of a single producer displaying and selling their own produce. It is common for small scale farm stands to operate on the honor system (unmanned) in order to lower labor and time costs. In this case, the customers simply pick up their produce and leave the payment at the stand in a secured box to minimize theft.

Some zoning districts in Thurston County already allow farm stands, but most zoning codes are silent regarding farm stands as a land use. The reasons for the proposed code amendment are simple. Farm stands selling locally produced agricultural goods and services benefits local citizens and the local agriculture industry. Thurston County has been approached at various times by individuals proposing farm stands. However, the review process and standards for farm stands have not been clear. This is a proposal to amend Thurston County Code, Titles 20. The

\(^1\) RCW 7.48.310 - Agricultural activities and forest practices — Definitions.

For the purposes of RCW 7.48.305 only:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers...
intention of this amendment is to provide some clear standards for farm stands, reduce barriers to allowing them by creating a specific exemption for them while mitigating likely conflicts with other land uses. Many jurisdictions have instituted similar regulations which clarify and simplify land use and environmental regulations affecting small scale farm stands.

DEPARTMENT ANALYSIS:
Amending Thurston County Code as described herein would provide standards for the review and approval of farm stands in Thurston County. The proposed regulations would help to guide future proponents of farm stands and help to minimize potential traffic, safety, zoning and health issues that could arise from farm stands.

This ordinance should be amended because providing some clear and understandable standards for small scale farm stands will allow for a streamlined review process for applicants. Small scale farm stands provide many benefits including promoting local small scale and organic farms, as well as emphasizing our rural character and supporting the local economy. As long as reasonable standards and size limits are followed and safe vehicular access and parking is provided, there should be few if any negative impacts associated with additional roadside farm stands in the community.

ALTERNATIVES:

Option 1) Amend Title 20, including Chapter 20.54.070, and 20.54 - Table 1 to permit farm stands in most zoning districts and provide uniform standards for their placement and operation.

Option 2) Make no change to Title 20 TCC with regard to farm stands.

SEPA:
A SEPA determination has not been made at this time.

NOTIFICATION:

Written notice of the public hearing will be published in The Olympian at least twenty (20) days prior to the public hearing.

DEPARTMENT RECOMMENDATIONS:

Amending TCC 20.54.070, and 20.54 - Table 1 as suggested would be consistent with other Thurston County Development Codes, including Title 21 (Lacey UGA), Title 22 (Tumwater UGA), and Title 23 (Olympia UGA) and the Thurston County Comprehensive Plan.

The Resource Stewardship Department recommends the Planning Commission forward Development Code Docket item A-7, Retail Agricultural Products (farm stands) (Title 20 TCC) with a recommendation of approval to the Board of County Commissioners as follows:

Title 20 Zoning would be amended as follows:
Possible language for Title 20:

Long Term Ag. District (LTA)

20.08A.020 – Primary uses.

Subject to the provisions of this title, the following uses are permitted within this district:

1. Agriculture, including forest practices;
2. Single-family dwellings with lots conforming to provisions of Section 20.08A.035(3);
3. Greenhouses—wholesale;
4. Accessory uses and structures including, but not limited to, a farm residence, barns, garages, storage buildings for crops, feed and equipment sheds, nurseries, shipping, receiving and handling facilities, and retail facilities for the sale of agricultural products primarily produced on the premises and related products;
4.5 Seasonal farm stands for retail sale of agricultural products grown in the Northwest are permitted as a matter of right, i.e. no land use approval is required, provided the farm stand is a membranous structure (i.e. tent), does not exceed 400-square feet if enclosed on one or more sides, or 700 square feet if open on all sides and meets the standards contained in section 20.54.070 11.7(a.), and the stand is in place for no more than six (6) months out of the year. An on-site advertising sign of no more than four square feet meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

Note: Language above in green / aerial added since the Feb. 2nd PC meeting. There was much discussion about attempting to regulate the source of the agricultural products sold at these farm stands. Most agreed that it is preferable if the majority of products come from on-site or near the site. However, the reality is that farm stands selling fruits and vegetables from Eastern Washington already exist and it impossible to enforce a rule which states that the produce sold must come from on or near the site. Additionally, given the climate of Thurston County, the varieties of fruits that can realistically be grown locally is limited. In order for a farm stand to succeed, it may be necessary to supplement local seasonal produce with produce grown elsewhere in the state. For this reason, the language regarding the source of the produce has been changed to “grown in the Northwest” in order to provide greater flexibility for these small farms and businesses.

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20.08C - Nisqually Agricultural District (NA)
...

20.08C.020 – Primary uses.

Subject to the provisions of this title, the following uses are permitted within this district:

1. Agriculture, including forest practices (refer to the definition in Section 20.03.040; does not include wholesale greenhouses);

2. Accessory uses and structures including but not limited to farm residences, barns, garages, storage buildings for crops, feed and equipment sheds, shipping, receiving and handling facilities;

3. Farm stands which sell agricultural products, provided these products are raised on the premises, the stand does not exceed five hundred square feet, and customer parking is provided on the site; Seasonal farm stands for retail sale of agricultural products grown in the Pacific Northwest are permitted as a matter of right, i.e. no land use approval is required, provided the farm stand is a membranous structure (i.e. tent), does not exceed 400-square feet if enclosed on one or more sides, or 700 square feet if open on all sides and meets the additional standards contained in section 20.54.070 11.7(a.), and the stand is in place for no more than six (6) months out of the year. An on-site advertising sign of no more than four square feet meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

20.54.070 – Use Specific Standards.
Subsection 11.7 - Farm stands.

a. Seasonal farm stands for retail sale of agricultural products are permitted as a matter of right, i.e. no land use approval is required, provided the farm stands meet the following standards:

   Note: Added the word ‘seasonal’ to just this section because a tent is a temporary structure in order to be exempt from a building permit / fire code permit per Chris Edmark, Plans Examiner. Could change to temporary and define more clearly if necessary.

i. The roofed area or associated structure does not exceed 400 square feet if enclosed on one or more sides, or 700 square feet if open on all sides and the structure is a tent or similar membranous structure, or licensed as a vehicle. (Note: Please see Attachment B: regarding farm stand size limits.

ii. Product display area does not exceed 1,000 square feet.

iii. Safe vehicular access and customer parking is provided on site, such that vehicles are not required to back onto County roads.

iv. Farm stand and associated parking shall be located outside of public right-of-ways. Structures and canopies associated with a farm stands must be set back a minimum of 10-feet from public right of ways.

v. The products sold are grown or produced in the Pacific Northwest.

vi. Ancillary products and services are permitted, however they shall not exceed twenty five (25)% of product display area.

Notes: Since a percentage of gross sales would be extremely difficult to measure or prove, staff suggests using a different standard common in other jurisdictions farm stand ordinances. Staff initially proposed 50%, but BoCC initially indicated a preference for 25% gross sales limit on ancillary items. On Jan. 27, 2011 staff met with the County Agriculture
Committee who suggested and all agreed to the proposed limit of 25% of product display area. The Planning Commission also agreed with this option. This would also be an easy standard to understand, explain and enforce, in contrast to a percentage of gross sales.

vii. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis. **Note:** New farm stands will need an access permit. If this standard cannot be met, the access permit may be denied or revoked depending on circumstances.

viii. All other applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.

ix. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.

x. Advertising signage meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

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**Notes:** Concerning 11.7 a.v. and a.vi. (above), do we want to specify what “on or near the site” means or leave it open to interpretation? It could mean next door or the entire County. Could specify grown or produced in Washington State instead to make more liberal. Small seasonal roadside stands selling fruit from Eastern Washington are not an uncommon site during summer months.

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b. Farm stands for retail sale of agricultural products shall be reviewed through an administrative special use permit if the following standards are met:

i. The roofed area or associated structure does not exceed 1,000 square feet.

ii. Product display area does not exceed 2,000 square feet.

iii. Safe vehicular access and customer parking is provided on site, such that vehicles are not required to back onto County roads.

iv. Farm stand and associated parking shall be located outside of public right-of-ways.

v. The products sold are grown or produced in the Pacific Northwest.

vi. Ancillary products and services are permitted, however they shall not exceed twenty five (25)% of product display area.

vii. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis.

viii. All applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.
ix. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.

c. Farm stands for retail sale of agricultural products meeting the following standards shall be reviewed and approved by the Thurston County Hearings Examiner through a special use permit when the roofed area or associated structure is greater than 1,000 square feet, and/or the product display area exceeds 2,000 square feet in size. Such farm stands shall meet the following standards:

i. Safe vehicular access and customer parking shall be provided on site, such that vehicles are not required to back onto County roads.

ii. Farm stand and associated parking shall be located outside of public right-of-ways.

iii. Ancillary products and services are permitted, however they shall not exceed twenty five (25)% of product display area.

iv. The products sold are grown or produced in the Pacific Northwest.

v. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis.

vi. All applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.

vii. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.

Conclusions:

This ordinance should be amended to provide clear and understandable standards for small scale farm stands. Farm stands can provide many benefits including promoting local small scale and organic farms, emphasizing Thurston County’s rural character, supporting the local and regional economy and increasing access to healthy foods in rural areas. As long as reasonable standards and size limits are followed and safe vehicular access and parking is provided, there should be few if any negative impacts associated with additional roadside farm stands in the community.

Staff recommends moving the proposed amendments to the Board of County Commissioners for consideration.
**Proposed changes to TCC 20.54, Table 1 (see use no. 11.7)**

**Table 1**

Special Uses—Distribution in County Zoning Districts

Uses listed below are prohibited unless specifically identified as allowable through special use review, or unless listed as a permitted or primary use within an individual zoning district chapter.

| USE | R 1/20 | R 1/10 | R 1/5 | U 1/1 | R L 1/1 | R L 1/2 | R L 6/1 | R 3 4/1 | L I | R RI | P I | N C | R CC | A C | H C | S L1 | MG S | LT A | NA | LT F | PP | M |
|-----|--------|--------|-------|-------|---------|---------|---------|---------|-----|------|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1.  | Academic schools* | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | | | | | |
| 2.  | Airfields and landing strips* | A/ | A/ | A/ | A/ | A/ | A/ | | | | | | | | | | | | | | | |
| 3.  | Animal/bone black, rendering, bone distillations | X |
| 3.5 | Athletic facilities | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 4.  | Boat launch | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 5.  | Camp or recreation ground | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 6.  | Cemeteries | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 7.  | Churches | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 8.  | Community center/community club | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 9.3 | Composting facilities | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 9.5 | Country inns | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 10. | Day-care center | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 11. | Drive-in theaters | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 11.4 | Family day care provider | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| 11.5 | Farm housing (five or more units) | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X | | |
| 11.7 | Farm stands (retail) | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | A/ | | |

**Notes:** The highlighted portion is new.

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ATTACHMENT A: Photos of small vs. larger scale farm stands:

Honor System: A buyer gets her own change at a 1948 vegetable stand run by H.A. Schonle near Huntington Beach. (UCLA Library)

Small, unmanned farm stand today
Modern day unmanned farm stands. Not much has changed with the exception of land use and zoning regulations.
Farm stand design can vary greatly.

Road side stands sell a variety of home made products. To date, the proposed amendment only addresses farm stands, however sale of other 'home made' products could be addressed as well. The amended term “grown or produced in the Pacific Northwest” may address this sufficiently.
Examples of larger scale farm stands that would trigger a Special Use Permit under the proposed amendment.
ATTACHMENT B:

Seattle Times article, 2004

Area farmers hope to harvest more 'agritourism' benefits They say county regulations on the size of farm stands and other rules hinder their ability to market themselves to the public.

Byline: Jane Hodges; Times Snohomish County bureau

Keith Stocker’s Snohomish-area farm has sold corn, pumpkins and beef cattle on a wholesale level for four generations, but during the past decade, the farm has worked more directly with consumers, selling at farmers markets and a farm stand, and hosting corn mazes, pumpkin patches and other attractions.

Though Stocker and many other county farmers have moved increasingly toward "agritourism" to bolster revenue, they say county regulations over their use of farm property have not changed to reflect those new realities.

Stocker pointed to county codes that restrict farm stands to a maximum of 400 square feet. He said he knows of only one farm stand among a dozen that conforms to those standards, noting that many farmers operate larger stands in order to draw customers.

Stocker and other members of the Snohomish County Agricultural Advisory Board recently presented the County Council with a list of suggestions for how the county could amend its code governing the use of farmland. The council will review these recommendations, three years in the making, in the spring.

The farmers' activism comes at a time when agricultural interests have gained more prominence on the county's agenda.

Snohomish County Executive Aaron Reardon announced yesterday that John Roney, formerly a special-projects coordinator in the planning department, had been appointed the county’s agriculture coordinator. Roney will be a liaison between farmers and the county.

Reardon has also named two farm representatives to his transition team, and Washington State University also recently assigned Michael Hackett, a professor and liaison to the school's agricultural extension program, to work with Snohomish County farmers.

Reardon also is scheduled to join King County Executive Ron Sims on Monday to petition grocery representatives on behalf of Puget Sound Fresh, a marketing program for local growers, about buying more locally farmed products. Some grocers have abandoned the practice because of corporate consolidation.

Even as Reardon and Sims appeal to grocers on behalf of local growers, the producers acknowledge that they will have to take a more direct role selling to consumers. Some who attended the agricultural advisory-board meeting last week in Everett said a county-appointed agriculture advocate could help them sell through different channels, including institutional buyers such as hospitals, schools and prisons.

In the meantime, they've asked the county to consider amending codes to allow:

Farmers markets on farm property.

Larger farm stands and other accessory buildings.

More food processing on farm property so farmers can create "value-added" food products from crops.
Some types of light food processing without requiring that agricultural land be rezoned to commercial or manufacturing use.

Farms to provide more parking, event space or the ability to add overnight stays, such as at bed-and-breakfast inns, in conjunction with agritourism.

Stocker said that, thus far, the county hasn't penalized farms whose agritourism activities violate its codes. But as more farms plan ways to sell direct to consumers, he and others want to make sure county codes allow them to operate ancillary businesses, especially as the county's population spreads farther into once-rural areas.

"As you have population density filling in (the land), some rural farming starts to become suburban or even urban farming," Stocker said. "While urban growth restricts some of the things that farms can do, agritourism is still viable."

Tristan Klesick said he is not planning to introduce on-farm activities at the 23-acre Klesick Family Farm near Stanwood but said his farm would still benefit by code changes.

He, for one, would like to handle more food processing. That way, he said, he and his family could make soap from his goats' milk or honey from bees and add it to the organic-food baskets they sell to subscribers.

"These are farmer-friendly codes," Klesick said. "This will allow us to meet the needs of our customers."

Jane Hodges: 425-745-7813 or jhodges@seattletimes.com

CAPTION(S):

Mark Harrison / The Seattle Times : Keith Stocker is pushing for the Snohomish County Council to amend its code governing the use of farmland. (0393969658)
ATTACHMENT C:

Staff Comments on Draft Staff Report:

This draft looks very good to me. I have to agree with the comment late in the report about other home made products and would highly recommend that these be included rather than just produce. I'm not sure about the use of the phrase "safe parking". It seems a bit broad and subject to interpretation (but then I don’t usually review these types of things so maybe that’s how they are generally written). I like the clarification of it being off the public right of way which may be adequate.

If two farms that are close are collocated would they need to have ONE stand of 400 s.f. or can there be two. Or an even broader question: Is the farm limited to one structure or could they potentially have several at the same location to get around the concern of having adequate square footage. Just a few thoughts...

Katie Henry,

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Scott,

Looks fine. The only comment I want to make is not about what you wrote but is about what I read from the Snohomish comments. They stated that the 400 square feet was too small. The fire code will allow multiple tents provided that they are spaced 20 feet apart. They can come in and get a tent permit for a tent at a reasonable cost that would allow larger temporary structures.

Would it be possible to base the size on the acreage? Someone who has twenty acres may have more produce, but a person who only has five acres would not need a huge structure. Smaller farms maybe looking to bring in produce from other farms to supplement their income.

400 square feet for the first five acres and 200 square feet for every additional five acres if the structure is temporary. A twenty acre parcel would have 1000 square feet.

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Tuesday - Friday
phone (360)786-5466
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______________________________
Re: Request for review: Farm stand ordinance update - Dev Code Docket item A-7
Hey Scott,

Here are our comments:

- 20.54.070 (a)(ix) should read "Unless a 20' wide existing, legal vehicular access..."
- 20.54.070 (a)(iii) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- 20.54.070 (b)(viii) should read "Unless a 20' wide existing, legal vehicular access..."
- 20.54.070 (b)(iii) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- 20.54.070 (c)(vi) should read "Unless a 20' wide existing, legal vehicular access..."
- 20.54.070 (c)(l) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- You'll need to add a condition that talks about grading/clearing and drainage requirements. Grading over 50 cubic yards, clearing more than 7,000 sf or either within critical areas or buffers requires a permit. And the new drainage standards require a drainage plan review if the total new impervious (building/driveway/parking) exceeds 2,000 sf.

Kevin Hughes, PE
Development Review Manager
Thurston County Public Works
Phone: (360) 867-2042
ATTACHMENT D:

2009 International Fire Code, Chapter 24 – Tents and Other Membrane Structures

2403.2 Approval required. Tents and membrane structures having an area in excess of 400 square feet (37 m²) shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides which comply with all of the following:
   2.1. Individual tents having a maximum size of 700 square feet (65 m²).
   2.2. The aggregate area of multiple tents placed side by side without a fire break clearance of 12 feet (3658 mm), not exceeding 700 square feet (65 m²) total.
   2.3. A minimum clearance of 12 feet (3658 mm) to all structures and other tents.