

Chapter 23.88. AGRICULTURAL LANDS

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23.88.010. Agricultural Lands.

The protection of farmland is a public policy goal of the federal government (USDA, Secretary's Memo #1828, Revised, Oct. 30, 1978), most states in the United States and many other countries. In Oregon, the 1975 Planning Goals, as amended, set statewide standards which must be met by local governments. For farmlands, ORS 215 and 197 and OAR 660, Division 5 set forth the criteria for compliance. The principal concept is that standards in the EFU zones must provide protection for the continuation of commercial-scale agriculture in the County, including farm operations, marketing outlets and the agricultural support system. In Deschutes County, where some lands have severe limitations for the commercial production of agricultural products, this has resulted in considerable debate and occasional hostility. The County has found itself between angry landowners who do not wish to protect what they see as marginal agricultural land, other County residents who are adamant that agricultural land is a non-renewable resource that must be preserved and a State law mandating specific actions that must be taken to protect the land defined as agricultural land.

Commercial agriculture in Deschutes County consists primarily of field crops (alfalfa, other hay, some peppermint, potatoes and seed crops) and livestock operations. The high elevation (2700-3500 feet) and low rainfall make difficult conditions for crop farming. A short growing season and the risk of crop damage from frost or mid-summer hailstorms must be factored into agriculture investment planning. Irrigation is essential for crops and is used extensively for irrigated pastures. Without irrigation, little soil is classified better than SCS Soil Capability Class IV. These factors, along with limited marketing alternatives, often produce a frustrating and discouraging experience for local farmers, although some do manage to be successful.

However, agriculture still is an important economic element of the County, contributing significantly to the local economy. Agriculture also provides secondary benefits such as open space and scenic appearance; benefits which may also pay economic returns in the form of tourist dollars.

Since detailed soils mapping existed for only a portion of the County in 1979, it was necessary to develop a more elaborate definition than that found in the State Goal. The definition finally agreed to by the County used the available information on agricultural lands and laid a foundation for future additions or deletions as better soils information became available.

Agricultural lands were defined as those lands identified as possessing Soil Conservation Service Agricultural Capability Class I-VI soils (S.C.S. Land Capabilities Classification Map) or, where detailed soils information was not available, land identified by having been listed as on Farm Tax Deferral within the five years preceding the adoption of the 1979 plan (as indicated on the Existing Land Use Map compiled from County Assessor's records) and/or by the fact that the land was indicated on the County Planning Department's Irrigated Lands Map.

Having a definition was only the first step, as it was then necessary to differentiate between the various types of agriculture to be found locally and to identify the various areas they characterized. Members of the Planning Staff, the Agricultural CAC and the Overall CAC identified seven types of agriculture and areas characterized by such agriculture. These types included High Desert Sagebrush and Juniper Land, located east of Horse Ridge and characterized by extensive livestock grazing; Riparian Meadows, located along the Upper Deschutes River, the Little Deschutes River and in the Sisters area and characterized by sub-irrigated pasture and meadow hay; Irrigated Commercial Crop Land, located in Lower Bridge and characterized by

field crops; Irrigated Marginally Commercial Land, located in the Alfalfa, Cloverdale and Terrebonne areas and characterized by pasture and forage; Dry Rangeland, located near Odin Falls and characterized by dry land grazing; Marginal Farm Land - Undeveloped, located east of Bend and near Redmond, Tumalo and Sisters and characterized by pasture and forage; and Marginal Farm Land - Developed, located in the Bend, Plainview and Tumalo areas and characterized by pasture and forage.

As part of periodic review in 1992, the County conducted a study of commercial agriculture in Deschutes County. The purpose of the study was to ensure that EFU zone boundaries and standards for farm divisions and dwellings were consistent with Goal 3 and relevant administrative rules. The results of the study are detailed in the completion report dated June 1992, and are incorporated into the Resource Element of the Comprehensive Plan. The study identified 7 agricultural subzones: Lower Bridge, Sisters/Cloverdale, Tumalo/Redmond/Bend, Terrebonne, Alfalfa, La Pine and Horse Ridge East. For each subzone, standards were determined for minimum parcel sizes for farm divisions. The standards are designed to protect the commercial agriculture land base.

One of the primary findings of the study is that irrigated acres is the controlling variable for defining commercial agriculture. Therefore, the standard for defining what constitutes a farm parcel is keyed to the number of irrigated acres typically found on commercial farms in each subzone. The study also found that farms in Deschutes County usually contain a mix of irrigated and nonirrigated land, as well as a mix of soils of different classes. Since the assessed farm use value is linked to the productive capability of property, it provides a surrogate for irrigated acres by acknowledging the presence and role of unirrigated soils in farm operations. The assessed farm use value can be used in place of the irrigated acreage figure where the land value is set to equal that of the irrigated land (i.e., median irrigated acres in subzone x farm use value of best irrigated land in subzone = threshold assessed land value).

Notwithstanding the preceding, the La Pine Subzone is somewhat different from the other subzones in that farm sales are less than farm use values. In general, this is due to agricultural practices that depend to a much greater degree than in the other subzones on livestock grazing on non-irrigated pasture. To address this situation, median irrigated acreage and median assessed farm use value are used to set the basic commercial standards.

Following the completion of the 1992 farm study and submission of the County's periodic review package to LCDC, the Oregon legislative session and LCDC amended the statutes and rules governing uses in the farm zones. The County's ordinances and the policies that follow have been amended as necessary to conform to those changes.

Recognizing the importance of protecting agricultural land the following policies were chosen to meet State requirements and local needs.

(Ord. 2002-005 §1, 2002; Ord. 2000-17 §1, 2000; Ord. 95-017, 1995; Ord. 80-203, 1980; PL-20, 1979)

23.88.020. Goal.

To preserve and maintain agricultural land.

(Ord. 2002-005 §1, 2002; Ord. 2000-17 §1, 2000; Ord. 95-017, 1995; PL-20, 1979)

23.88.030. Zoning Policies.

1. All lands meeting the definition of agricultural lands shall be zoned Exclusive Farm use, unless an exception to State goal 3 is obtained so that the zoning may be Multiple Use Agriculture or Rural Residential.
2. Lands not meeting the agricultural lands definition but having potential for irrigation according to the Bureau of Reclamation Special Report - Deschutes Project, Central Division, Oregon, although presently without water, shall receive exclusive farm use zoning.
3. Public lands meeting the criteria for EFU zoning shall be so zoned unless some other resource (i.e., forest) or public use exists on the land.

4. No more than 25 percent of a given agricultural subzone shall be composed of lands not of the same agricultural type. Any agricultural lands not zoned EFU agriculture shall be identified in the County Exception Statement. Zoning districts shall be at least 40 acres in size.
5. Zones and minimum parcel sizes shall be established to assure the preservation of the existing commercial agricultural enterprise of the area.
6. For purposes of profiling the existing commercial agricultural enterprises of the County, the County shall consider as one land unit all tracts in contiguous ownership (including those parcels separated only by a road) zoned EFU.
7. The County will consider as its pool for profiling the nature of the existing agricultural enterprises of the area those farms that make the highest 90% contribution to the local agricultural economy.
8. In recognition that irrigated acres per farm unit is the key variable identifying commercial agricultural enterprises in the County, the County shall use the median number of irrigated acres per farm unit in the area or subzone as its principal standard for defining what size of tract constitutes a farm parcel.
9. Following from the June 1992 OSU Extension Service completion report detailed in the resource element, the County has identified 7 subzones representing distinct groupings of agricultural types. The County's EFU zoning shall reflect those identified subzones, generally described as follows and as more particularly detailed in the resource element of the comprehensive plan:

Subzone	Profile
Lower Bridge	Irrigated field crops, hay and pasture
Sisters/Cloverdale	Irrigated alfalfa, hay and pasture, wooded grazing and some field crops
Terrebonne	Irrigated hay and pasture
Tumalo/Redmond/ Bend	Irrigated pasture and some hay
Alfalfa	Irrigated hay and pasture
La Pine	Riparian meadows, grazing and meadow hay
Horse Ridge East	Rangeland grazing

10. For the purposes of determining relevant characteristics (i.e., farm use values, multipliers, irrigated acres and assessed farm use values) of commercial farms, the County will rely on those farms and those statistics identified in the completion report prepared by the OSU Extension Service dated June 1992 and set forth in the resource element of the comprehensive plan.
11. In order to provide some flexibility in the zoning and to assist farmers who may need to sell an isolated unproductive piece of land in order to assure continued operation of the farm, individual isolated partitions (creation of one or two new nonfarm parcels) establishing parcels less than the EFU irrigated minimum lot size in EFU areas shall be permitted. The remaining farm parcel must be at least the irrigated minimum established by the EFU subzone.

In order to provide some flexibility in the zoning, while still maintaining the rural character of the area and limiting the costs of providing services to rural residents, the county shall allow non-farm residential divisions on nonirrigated land, in accordance with state law, with a minimum lot size of five acres.
12. So that a farmer who has lived on his land for 10 years or more may retire and sell his property while retaining the use of his existing home, a homestead exception may be permitted which allows the homesteader to retain a life estate lease on the home and some of the surrounding land. The lease will end with the death(s) of the homesteader and spouse. This exception shall not permit the creation of another residence on the property in question.

13. A division of land for non-farm uses, except dwellings, may be approved as long as the parcel for the non-farm use is no larger than the minimum size necessary for the use. The parcel shall be at least one acre in size.
 14. Parcel size exceptions may be granted because of survey errors when original section lines were established, so that standard section divisions may be achieved (i.e., 160, 80, 40, 10, etc., acres). Man-made barriers such as roads or canals, over which the applicant has no control, may serve as adequate justification for granting a parcel (lot) size variance.
 15. Normal agricultural practices (i.e., aerial pesticide applications, machinery dust and noise, etc.) shall not be restricted by non-agricultural interests in exclusive farm use zones. The County shall consider requiring noise, dust, fly, etc., easements to be granted to adjoining farmers where non-agricultural uses are permitted.
 16. Coordination between public and private landowners to encourage farm use shall be encouraged. And projects to increase productivity and to bring new land into agricultural production shall be fostered.
 17. Control of noxious weeds through educational programs should be continued.
 18. Farm and non-farm uses in rural areas shall be consistent with the conservation of soil and water.
 19. Prior to the next periodic review of its comprehensive plan and to the extent allowed by state law, the County Planning Department shall initiate a study of EFU-zoned lands to develop a recommendation as to whether marginal lands or secondary lands would be appropriate.
- (Ord. 2002-020 §1, 2002; Ord. 2002-005 §1, 2002; Ord. 2000-17 §1, 2000; Ord. 95-017, 1995; Ord. 92-062, 1992; Ord. 80-203, 1980; PL-20, 1979)