



**SUPPLEMENTAL APPLICATION FOR
NONFARM DWELLING/PARTITION IN EFU ZONE**

1. Complete the application form and provide appropriate original signatures. To ensure timely processing of your application, all materials must be submitted on single-sided, 8.5" x 11" paper. Do not use binders, tabs/dividers, staples or tape.
2. This application shall include one full-sized plan set (to scale) and one plan set reduced to no larger than 11" x 17". Include a plot plan that shows all property lines and existing and proposed structures, parking, landscaping, lighting, etc.
3. Include a copy of the current deed showing the property owners.
4. Attach correct fee.
5. All applicable standards and criteria must be addressed in writing prior to acceptance of the application. Detailed descriptions, maps and other relevant information must be attached to the application.

TYPE OF APPLICATION (check one):

FEE: _____

Administrative Determination (AD) ___	Partition (MP) ___	Site Plan (SP) ___
Conditional Use (CU) ___	Subdivision (TP) ___	Variance (V) ___
Declaratory Ruling (DR) ___	Temporary Use (TU) ___	Setback Exception (SE) ___
		Other _____

Applicant's Name (print): _____ Phone: (____) _____

Mailing Address: _____ City/State/Zip: _____

Applicant's Email Address: _____

Property Owner's Name (if different)*: _____ Phone: (____) _____

Mailing Address: _____ City/State/Zip: _____

Owner's Email Address: _____

1. Request: _____
2. Property Description: Township _____ Range _____ Section _____ Tax Lot _____
3. Property Zone(s): _____ Property Size (acres or sq. ft.): _____
4. Lot of Record? (State reason): _____
5. Property Address: _____

(over)

- 6. Present Use of Property: _____
- 7. Existing Structures: _____
- 8. Property will be served by: Sewer _____ Onsite Disposal System _____
- 9. Domestic Water Source: _____

Supplemental Questions:

History/General Information

Oregon’s land use laws include important provisions intended to protect farmland. In 2007, the agriculture industry in Oregon produced over \$4 billion in farm commodities. During 2007, farming in Deschutes County contributed over \$19 million to the local economy.

Farmland in Oregon is protected through Exclusive Farm Use (EFU) zoning. In order to protect the land available for commercial farming and to reduce conflicts between farming and rural dwellings, the types of dwellings allowed in EFU zones are regulated under state law. In general terms, three types of dwellings are allowed: (1) “nonfarm” dwellings, which may be authorized on land not suitable for raising crops or livestock; (2) “lot of record” dwellings; and (3) “farm” dwellings.

Oregon law, as implemented by the Deschutes County Comprehensive Plan and Zoning Code, places strict limits on the siting of nonfarm dwellings in EFU zones. The Oregon courts have stated that under Oregon law, nonfarm dwellings should be the exception and that approval for them should be difficult to obtain.

Chapter 18.16 of the Deschutes County Code, Exclusive Farm Use Zones, contains the criteria for nonfarm dwellings. The primary approval criteria are set by state law and are codified in the Deschutes County Code. These criteria also apply to the approval of land divisions, as prescribed under Section 18.16.055 of Chapter 18.16 of Title 18.

The information requested on this application is the minimum which will assist County planners in evaluating whether your proposal meets these criteria. Failure to complete applicable portions of this form may result in the County either not accepting, or denying, your application for failure to demonstrate that criteria have been met. The County will assist you by providing such information as U.S. Soil Conservation Service soils maps and data from the County Assessor’s office on the nature of parcels surrounding the subject parcel. However, the burden lies on you, the applicant, to demonstrate that the criteria have been met. In many cases, you may wish to provide additional information beyond that requested on the form, to support your application.

Approval of a nonfarm dwelling or partition may require payment of deferred taxes. Before deciding whether to proceed, you should read and make sure you understand Form D, attached to this application.

Nonfarm Dwelling/Partition Application Process

1. Information Packet

The applicant will first pay a deposit of ten percent (10%) of the total fee for the conditional use permit for the dwelling(s). Planning staff will then assemble a packet of information relevant to the applicant's property, which will include:

- a. Six (6) geographical information system (GIS) maps with Assessor's data (total acres, date dwellings were established, irrigated acres and farm deferral, soil types, etc.) written on each parcel within the area of review surrounding the subject property.
- b. A GIS data report for each EFU-zoned parcel within the area of review.
- c. Copy/ies of 1985 aerial photo/s of the subject property and nearby area.
- d. Natural Resource Conservation Service Map for subject parcel and abutting parcels and descriptions of the soils.
- e. List of farming practices for various types of agricultural operations common in Deschutes County.

The County will either mail the completed information packet to the applicant or, upon request, notify the applicant that the packet may be picked up. **This packet *must* be returned with the completed application.**

2. Pre-Application Conference

Once the applicant has a draft application compiled, it is recommended he/she/they make an appointment for a pre-application conference with County planning staff. The Planning Division will describe the criteria and application requirements. After reviewing the criteria and the information packet with staff, the applicant will decide whether or not to proceed.

3. Application Requirements

Prior to action by the County, the applicant *must* submit to the Planning Division:

- A completed General Application Form (attached).
- A completed Supplemental Application Form (attached).
- Completed Forms A, B, C and D (attached).
- A plot plan of the subject property, showing:
 - ◆ The location of the nonfarm dwelling/s, other buildings, septic system (including reserve area), well and road access, with setbacks noted.
 - ◆ Existing structures, if any, with a description of type, size, existing use and the location of all existing canals, ditches, wells, septic tanks and drainfields.
 - ◆ Fences or other improvements on the property.
 - ◆ The topography of the property (flat, sloping, etc.) and the location of features such as canyons, bluffs, rock outcroppings, natural springs or flood plains.

- ◆ The names and the existing condition/s of any adjacent road/s.
- ◆ If the proposal includes a partition, the dimensions of the new property line/s, the area of each proposed parcel, locations of all easements, and the location/s, width, proposed name/s, curve radii and grade/s of proposed rights-of-way.
- A color aerial photo from 1993 or later showing the area within the area of review surrounding the subject property.
- Ground level color photographs (prints only) showing the nature of the proposed homesite, its vegetation (or lack thereof), topography and other pertinent information. Please state the location from which the photos were taken and what they are intended to illustrate.
- A letter from the supplier of the applicant's domestic drinking water affirming the supplier's ability to continue to provide water. Or, if the applicant is drilling a new well, provide at least two well logs for wells developed in the area, showing that water is available, or provide a letter to that effect from the Watermaster.
- A letter from the fire district or other entity affirming that the district or entity is able to serve the proposed dwelling/s. If the applicant is not in a fire protection district, a fire protection plan must be provided, including water source/s and fire prevention measures.
- A copy of the irrigation map for the area and historical water rights information on the subject property (available from the appropriate Irrigation District).
- A letter from the area's electric utility affirming its ability to serve the proposed dwelling.
- A letter from any other appropriate utilities affirming their abilities to serve the proposed dwelling (gas, phone, etc.).
- The information packet prepared by the Planning Division.
- The correct application fee.

4. Review and Action on the Application

The application will be processed pursuant to the Deschutes County Development Procedures Ordinance, Title 22 of the Deschutes County Code (for an approximate timeline, see handout "Procedures Used in Reviewing Land Use Applications").

Supplemental Application

This application is for (check one):

- Nonfarm Dwelling
- Partition to Create Nonfarm Homesite/s through (check one):
 - Irrigated Land Division
 - Non-Irrigated Land Division

State law requires that applications for non-irrigated land divisions be evaluated as if the applicant were applying for a nonfarm dwelling on each parcel. Therefore, the entire application must be completed as if seeking approval for a nonfarm dwelling on each parcel to be created. In addition, applications for land divisions must address the requirements of Chapter 17.22 of Title 1, Deschutes County Code, Subdivisions.

The applicant has the burden of proving the application meets the following criteria in the County's Zoning Code (as mandated by State law). The applicant's answers below will help the Planning Division to determine whether or not the criteria are met. If the applicant chooses to complete a separate response in a burden of proof statement, "see burden of proof statement" should be indicated.

1. Compatibility and Noninterference with Nearby Farming Activities

The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices as defined in Oregon Revised Statutes 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.

Please state why your proposal meets this criterion: _____

- a. On a separate sheet of paper, list which EFU-zoned parcels on the Assessor's maps falling within one (1) mile of the property are currently being farmed, and for each such parcel describe the following:
 1. The nature of the current farming (e.g., cattle grazing, alfalfa, potatoes, mint, etc.) including the number of acres in such use or the number of livestock grazed on the property. List the source of your information and, if based on visual observation, state the date of your observation.
 2. For each type of farming activity listed above, describe the attendant farming practices (e.g., tilling, ground or aerial spraying, harvesting, etc.) that might conflict with nearby residences because of noise, dust or chemical trespass, and the frequency of such activity. Consult the list of farming practices provided in the deposit packet for various types of farming operations in the County.

- 3. Estimate the intervening distance between the farming practices on the parcels and the proposed dwelling site. Describe any vegetative, topographical or structural features that might reduce or eliminate conflicts between residential use and the nearby farming activity.
- b. If any parcels have been omitted in responding to question a., above, identify them and explain why.
- c. If there are any EFU-zoned parcels managed for timber production or which have stands of merchantable timber (that is, timber other than juniper), respond as in questions a., and b., above.

2. Maintaining the Stability of the Overall Land Use Pattern of the Area

The proposed nonfarm dwelling does not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County will consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels similarly situated in the area.

Please state why your proposal meets this criterion: _____

- a. Considering only EFU parcels in the surrounding area of review, complete the following:

Number of EFU zoned parcels: _____

Number of parcels with dwellings on them: _____

Number of parcels not receiving farm tax deferral/s _____

Number of parcels that are twenty (20) acres or smaller: _____

Number of vacant parcels: _____

- b. List the vacant parcels similar to yours, in terms of size, soils and other characteristics that could be the subjects of future nonfarm dwelling/s and partition application/s. If there are none, explain why:

- c. Using the GIS map, count the number of dwellings:

Constructed during or prior to 1978 _____

Constructed from 1979 to 1992 _____

Constructed during or after 1993 _____

- d. After comparing the two (2) aerial photos, describe the changes in land use over time. Circle in red any areas which have changed from agricultural to residential or other uses:

3. General Unsuitability of the Property for Crop or Livestock Production

The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable 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.

Please state why your proposal meets this criterion: _____

- a. General description of the subject property:

1. How large is the property? _____ acres

2. List all tax lots making up the property: T _____ R _____ Sec _____ Tax Lot _____

T _____ R _____ Sec _____ Tax Lot _____

T _____ R _____ Sec _____ Tax Lot _____

3. If you or another member of your household owns or leases any parcels abutting the subject property, please list the tax lots and give the combined acreage.

T _____ R _____ Sec _____ Tax Lot _____

T _____ R _____ Sec _____ Tax Lot _____

T _____ R _____ Sec _____ Tax Lot _____

4. Complete Form B (attached) concerning soils on the property.
5. Describe the vegetation on the property, referring to the type, distribution and suitability for grazing. If you are unable to identify the vegetation on the property and/or to address the grazing capacity of the existing vegetation, you may wish to consult a range conservationist to assist with your answer.

6. Describe the type and volume of crops, including hay, grown on the property during any of the last five (5) years, and the portions of the property on which they were produced, or indicate that no crops were grown:

Crop	Amount Produced	Number of Acres Used to Grow the Crop

_____ No crops were grown on this property within the last five (5) years.

7. Describe the type and volume of crops, including hay, grown on the property during any of the last five (5) years, and the portions of the property on which they were produced, or indicate that no crops were grown:

Livestock Type and Number	Days Grazed	Number of Acres Used for Grazing

_____ No livestock were grazed on this property within the last five (5) years.

8. Are you aware of any other historical use of the property for farming? If so, please describe the use and its duration:

9. If the property was once part of an abutting or nearby farming operation, describe the nature of that operation:

10. During which of the preceding five (5) years has the subject property been receiving special tax assessment for farm use? _____

If the property has received special farm tax assessment during any of those years, explain

the change in circumstances that now make/s the parcel "generally unsuitable for the production of crops or livestock":

- b. General description of surrounding area. Complete one Form C (attached) for each parcel that abuts your property.

4. **Conflicting Uses**

The proposed nonfarm dwelling is not within one-quarter (1/4) mile of a dairy farm, feed lot or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm dwelling or the agriculture of the area.

Please list any such uses by tax map and lot number: _____

Please state any proposed or existing provisions for a buffer between the nonfarm dwelling and these uses:

5. **Adequacy of Public Services, Water and Site Safety**

Are road access, fire and police services and utility systems (i.e., electrical and telephone) are adequate for use?

- a. Describe what access the property has to public roads. Describe the number of trips per day you believe would be made by residents of the dwelling/s:

- b. Describe what your source of domestic drinking water will be:

- c. Describe how fire protection will be provided to the property:



6. Additional Information or Analysis Addressing the Criteria

Please feel free to attach additional information or analysis which you believe demonstrates compliance within the requirements of the EFU zone.

To the best of my knowledge, the proposal complies with all previous conditions of approval and all other applicable local, state, and federal laws. By signing this application, I acknowledge that Deschutes County planning staff may make a site visit(s) to the address(es) listed on this application in order to evaluate the property(ies) with the Deschutes County Code criteria applicable to the land use request(s) submitted. Please describe any special circumstances regarding a potential site visit:

Applicant's Signature: _____ Date: _____

Property Owner's Signature (if different)*: _____ Date: _____

Agent's Name (if applicable): _____ Phone: (____) _____

Mailing Address: _____ City/State/Zip: _____

Agent's Email Address: _____

***If this application is not signed by the property owner, a letter authorizing signature by the applicant must be attached.**

Form A

Traffic Figures for NonFarm Dwelling

To be completed by Applicant:

The proposal is for a nonfarm dwelling located on _____,
(road name)

on a parcel described as: Township _____ Range _____ Section _____ Tax Lot _____.

To assist County staff in making a proper determination of traffic impact/s, please list the number of dwellings or uses currently taking primary access from the road. This information is necessary only if the road terminates in a dead end or cul-de-sac (i.e., not a through road). Example: 10 houses, 2 businesses, etc: _____

Office use only:

The road is designated as a:

With a generalized capacity to handle:

- | | |
|----------------------|--------------------------------------|
| _____ State Highway | 10,000 vehicle trips per day |
| _____ Arterial | 2,500 – 10,000 vehicle trips per day |
| _____ Collector | 1,000 – 5,000 vehicle trips per day |
| _____ Local | 250 – 1,500 vehicle trips per day |
| _____ Partition Road | < 250 vehicle trips per day |
| _____ Other: _____ | |

The proposed nonfarm dwelling will generate an estimated eight (8) vehicle trips per day, which will cause the total daily number of vehicle trips on that road to:

- _____ Exceed the generalized capacity of the road.
_____ Not exceed the generalized capacity of the road.

County Transportation Planner

Date

Form B

Information Concerning the Soils of the Property

List the soils on the subject property, with reference to the Natural Resources Conservation Service (NRCS) soil number. For each soil type, estimate the percentage of the property covered by such soil. From the soils narrative, list the crops or livestock that can be produced on the soil.

Soil Number	Name	Soil Class	Percentage of Lot	Crops or Livestock which NRCS Survey States can be Produced on this Soil Type

Form C

Soil Information for Abutting Parcel
(complete one Form C for each abutting tax lot)

Tax Map and Lot Number: _____

Soil Number	Name	Soil Class	Percentage of Lot	Crops or Livestock which NRCS Survey States can be Produced on this Soil Type

If farming activity is currently taking place on abutting parcels, and these parcels have the same soils as the subject property, explain why your property cannot be used for the same kind of farming as the abutting parcels.

Form D

Acknowledgment of Tax Consequences

Oregon law requires that any property receiving special farm tax assessment be disqualified from such tax status upon receipt of preliminary approval for a nonfarm dwelling or partition. In addition, the law requires that certain taxes associated with disqualification be paid before the partition can be effected or the nonfarm dwelling can be built. The statute, as set forth in Subsection 18.16.050(G)(3), reads as follows:

“Loss of Tax Deferral

- a. Pursuant to Oregon Revised Statutes 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use Zone that is or has been receiving special assessment may be approved only on the condition that, before a building permit is issued, the applicant must produce evidence from the County Assessor’s Office that the parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under Oregon Revised Statutes 308.370 or other special assessment under Oregon Revised Statutes 308.765, 321.352, 321.730 or 321.815, and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

- b. A parcel that has been disqualified for special assessment at value for farm use pursuant to Oregon Revised Statutes 215.236(4) shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.”

I/We, the undersigned, by my/our signature acknowledge having read the above provision. I/We understand that under Oregon real property law, approval of this nonfarm application may result in significant deferred real property tax liability.

Date

Owner’s Signature

Printed Name

Date

Owner’s Signature

Printed Name