



## MEMORANDUM

**TO:** Deschutes County Planning Commission

**FROM:** Nick Lelack, AICP, Director  
Peter Gutowsky, AICP, Planning Manager

**DATE:** October 1, 2020

**SUBJECT:** Deschutes 2040 / Orientation to Statewide Planning Goals 3 and 4

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**I. Background**

The Community Development Department (CDD) anticipates initiating a Deschutes County Comprehensive Plan Update (Deschutes 2040) in Fall 2021. Staff prepared a seven-month, 12-part orientation for the Planning Commission to familiarize itself with the Statewide Planning Goals and their relationship to noteworthy state statutes (ORSs), administrative rules (OARs), Comprehensive Plan Sections, implementing codes, and issues emerging since 2010. More information is available at [www.deschutes.org/Plan2040](http://www.deschutes.org/Plan2040). Table 1 lists the Planning Commission work session dates for the Statewide Planning Goals. This is part 3 of 12 of the orientation series.

**Table 1 – Planning Commission Work Session Dates & Discussion Topics**

<b>Dates</b>	<b>Statewide Planning Goals</b>
September 10	<b>Oregon Land Use Program Overview</b>
September 24	<b>Goal 1</b> - Citizen Involvement <b>Goal 2</b> - Land Use Planning
October 8	<b>Goal 3</b> - Agricultural Lands <b>Goal 4</b> - Forest Lands
October 22	<b>Goal 5</b> - Natural Resources, Scenic and Historic Areas, and Open Spaces ( <u>PART I - Water Resources, Wildlife</u> )
November 12	<b>Goal 5</b> - Natural Resources, Scenic and Historic Areas, and Open Spaces ( <u>PART 2 - Scenic and Open Spaces and Historic Resources</u> ) <b>Goal 5</b> - Natural Resources, Scenic and Historic Areas, and Open Spaces ( <u>PART 3 - Mineral and Aggregate Resources</u> )
December 10	<b>Goal 6</b> - Air, Water, and Land Resources Quality <b>Goal 7</b> - Areas Subject to Natural Hazards
January 14	<b>Goal 8</b> - Recreational Needs
January 28	<b>Goal 9</b> - Economic Development

February 11	<b>Goal 10 - Housing</b> <b>Goal 11 - Public Facilities and Services</b>
February 25	<b>Goal 12 - Transportation</b>
March 11	<b>Goal 13 - Energy Conservation</b> <b>Goal 14 - Urbanization</b>
March 25	<b>Recap / Annual Work Plan Work Session - Discussion</b>

## II. Statewide Planning Goals 3 and 4

### Goal 3 – Agricultural Lands

Agriculture continues to be a major employer in the state. Goal 3 protects farmland for continued production of food and fiber, and has perhaps the most extensive land use rule divisions in the OARs. Counties must identify farmland, designate it as such on their comprehensive plan maps, and zone it exclusive farm use (EFU). An EFU zone places restrictions on developments that are unrelated to agriculture in order to minimize uses that conflict with farming. In EFU zones, dwellings are allowed in seven different circumstances: primary farm dwellings, accessory farm dwellings, relative farm help dwellings, nonfarm dwellings, lot of record dwellings, replacement dwellings, and temporary hardship dwellings. Property owners who keep EFU land in agricultural production benefit by receiving lowered property taxes through farm deferral.

The Oregon Legislature first established Oregon’s “Agricultural Land Use Policy” in 1973 and is codified at ORS 215.243. There are four basic elements to this policy:

1. Agricultural land is a vital, natural and economic asset for all the people of this state;
2. Preservation of a maximum amount of agricultural land in large blocks is necessary to maintain the agricultural economy of the state;
3. Expansion of urban development in rural areas is a public concern because of conflicts between farm and urban activities;
4. Incentives and privileges are justified to owners of land in EFU zones because such zoning substantially limits alternatives to the use of rural lands.

In 1993, the Oregon Legislature added two more important elements to this policy (ORS 215.700):

5. Provide certain owners of less productive land an opportunity to build a dwelling on their land; and
6. Limit the future division of and the siting of dwellings on the state’s more productive resource land.

Goal 3 reinforces these policies as follows:

*“Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and the state’s agricultural land use policy expressed in ORS 215.243 and 215.700.”*

These policy statements set forth the state's interest in the preservation of agricultural lands and the means for their protection (EFU zoning), and establish that incentives and privileges (e.g. tax deferrals) are justified because of limitations placed upon the use of the land.

The following OARs implement Goal 3:

- OAR 660-033 – Agricultural Land
  - Exhibit A, Declaration of Covenants, Conditions and Restrictions
  - Exhibit B, Declaration of Restrictive Covenant for Youth Camps
- OAR 660-033-120 Table – Uses Authorized on Agricultural Land

#### **Goal 4 – Forest Lands**

Forest land conservation is one of the primary objectives of Oregon's statewide planning program. Forests in Oregon cover more than 30 million acres, about 48 percent of the State. Goal 4 protects working forest land around the state, preserving it for commercial forestry while recognizing its value for fish and wildlife habitat, recreation, and protection of air and water quality. The goal requires counties to identify forest land, designate it as such on the comprehensive plan map, and zone it (Forest Use) consistently with state rules. The goal defines forest land in two ways. One way is based on productivity, as measured by the U.S. Forest Service (USFS). The other is by making a judgement about whether land is suitable for other, non-commercial forest uses, such as watershed protection, fish and wildlife habitat, and recreation.

Goal 4 places development restrictions on forest lands. These restrictions seek to prevent activities that could conflict with forestry practices. Local zoning regulations prevent forest land from being divided into parcels too small to manage effectively for timber, habitat, recreation, watershed protection, and other purposes. Some forest parcels qualify for a dwelling. Five types of dwellings may be approved on forestland: large tract forest dwellings, lot of record dwellings, template dwellings, replacement dwellings and temporary hardship dwellings.

The following OARs implement Goal 4:

- OAR 660-006 – Goal 4 Forest Lands
  - Exhibit A, Declaration of Covenants, Conditions and Restrictions

### **III. Deschutes County Comprehensive Plan**

#### **Section 2.2 – Agricultural Lands**

Section 2.2 recaps Deschutes County's agricultural designations starting in the late 1970s. During periodic review, a 1992 commercial farm study concluded that irrigation is the controlling variable for defining farmlands. Seven new agricultural subzones were ultimately acknowledged based on the average number of irrigated acres. These EFU subzones are unique; no other county has them. As shown in Table 1, irrigated land divisions in each subzone must result in parcels that retain minimum irrigated acreages.

**Table 1 – EFU Subzones**

<b><i>Subzone Name</i></b>	<b><i>Minimum Acres</i></b>	<b><i>Profile</i></b>
Lower Bridge	130	Irrigated field crops, hay and pasture
Sisters/Cloverdale	63	Irrigated alfalfa, hay and pasture, wooded grazing and some field crops
Terrebonne	35	Irrigated hay and pasture
Tumalo/Redmond/Bend	23	Irrigated pasture and some hay
Alfalfa	36	Irrigated hay and pasture
La Pine	37	Riparian meadows, grazing and meadow hay
Horse Ridge East	320	Rangeland grazing

Source: Deschutes County 1992 Farm Study

Deschutes County EFU zoning (Deschutes County Code Chapter 18.16) identifies permitted uses predominantly related to agricultural operations or farm practices, administrative determinations, conditional uses and siting standards for dwellings and structures.<sup>1</sup>

Since the Comprehensive Plan was last updated in 2010, several issues have emerged on agricultural lands:

1. **Non-Resource Lands.** Farmland designations in Deschutes County remain controversial. Non-Resource Lands are areas with an exceedingly low capacity to be managed for commercial agriculture and/or forestry activities. They do not meet the definitions of either agricultural land or forest land found in Statewide Planning Goals 3 and 4 and accompanying ORS and OARs due to the presence of poor soil conditions, a lack of irrigation, climate conditions and other relevant factors, including but not limited to past use.

According to the Department of Land Conservation and Development (DLCD), from 2008 to 2018, there have been 24 zone changes to non-resource designations in Oregon. More than 25% have occurred in Deschutes County.<sup>2</sup> Over the past decade, Deschutes County has supported and participated in numerous State legislative processes and coordinated with DLCD to study and legislatively update agricultural and forest land designations. Unfortunately, these efforts have not resulted in a clear path forward to undertake such a land use change.

2. **Marijuana Production.** Following the passage of Ballot Measure 91 (2014), legalizing the sale and recreational use of marijuana, and HB 3400 (2015), refining the implementation of marijuana legalization, the Board of County Commissioners (Board) adopted marijuana regulations in June 2016.<sup>3</sup> To date, Deschutes County has approved:

<sup>1</sup> <https://www.deschutes.org/cd/page/zoning>.

<sup>2</sup> [https://www.oregon.gov/lcd/Commission/Documents/2019-05\\_Item\\_6\\_Attch\\_A\\_Report.pdf](https://www.oregon.gov/lcd/Commission/Documents/2019-05_Item_6_Attch_A_Report.pdf). Page 7. Since 2007, Deschutes County has approved six quasi-judicial plan amendment, zone change applications from Agricultural to Rural Residential Exception Area (RR-10) and EFU to Multiple Use Agricultural 10 (MUA-10).

<sup>3</sup> Unlike other crops, counties are allowed to adopt reasonable regulations regarding the time, place, and manner of marijuana production. ORS 475B.340 (since renumbered to ORS 475B.486) specifies that cities or counties may impose restrictions on elements such as hours of operation, location, public access, and manner of operation. The OLCC controls the licensing of recreational marijuana.

- 49 marijuana production;
- 7 marijuana processing;
- 3 marijuana wholesaling; and
- 2 marijuana retail.

The introduction of marijuana production into agricultural lands—particularly those areas of smaller lotting patterns—highlights the compatibility concerns expressed by both farm and nonfarm property owners. The unique conditions and development patterns present in Deschutes County only amplify the challenge of balancing the mitigation of potential impacts with the “reasonable time, place, and manner” regulation of marijuana production. On August 19, 2019, the Board voted unanimously and by emergency to temporarily opt out of the establishment of future marijuana production and processing businesses, until the matter is referred to Deschutes County voters in the next statewide general election (November 3, 2020).

3. Hemp. Hemp is recognized as a farm use in Oregon. ORS 215.253 prevents State agencies and local governments from imposing restrictions or regulations on farm uses located on lands zoned for EFU, with a health and safety exception.<sup>4</sup> A handler license from Oregon Department of Agriculture is required to handle hemp, with some exceptions. To date, Deschutes County recognizes 58 hemp handler requests.
4. 2017 Agricultural Census. The U.S. Department of Agriculture (USDA) releases an agricultural census every five years. Its most recent census, 2017, estimated total crop production at \$16.5 million for Deschutes County, compared to \$12.1 million in Crook and \$54.8 million in Jefferson counties.<sup>5</sup> Average crop sales value per irrigated acre is \$690 in Deschutes County, compared to \$400 in Crook County and \$1,310 in Jefferson County. Animal sales (including products) is higher in Crook County (\$32.5 million), compared to Deschutes (\$12 million) and Jefferson (\$12 million) counties. In Deschutes County, farm sector employment and income represent up to approximately 2% of the county economy, compared to 12% for Crook County and 13% for Jefferson County.
5. Agri-tourism. In 2012, Senate Bill 960 allowed counties to conditionally approve agri-tourism and other commercial activities in conjunction with farm use. Eight new land use categories were created:
  - a. Farm Use
  - b. Farm Stand
  - c. Private Park
  - d. Home Occupation
  - e. Commercial Activity in Conjunction with Farm use
  - f. Winery, Cidery, Brewery,
  - g. Agri-tourism & other Commercial Event
  - h. Outdoor Mass Gatherings

Deschutes County amended its zoning code later in 2012 to allow for the uses listed above. Since then, Deschutes County has approved several outdoor mass gathering as well as commercial activity in conjunction with farm use and agri-tourism permits.

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<sup>4</sup> Oregon Department of Agriculture requires hemp and all its non-seed parts and varieties of the Cannabis plant, whether growing or not, do not contain an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis. (OAR 603-048-0010).

<sup>5</sup> [https://www.nass.usda.gov/Publications/AgCensus/2017/Online\\_Resources/County\\_Profiles/Oregon/cp41017.pdf](https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Oregon/cp41017.pdf)

6. Oregon Spotted Frog, Habitat Conservation Plan and Irrigation District Efficiencies. The Deschutes Basin Board of Control and City of Prineville (Applicants) have prepared a Habitat Conservation Plan (HCP) under Section 10 of the federal Endangered Species Act to protect them from liability associated with operations that could affect the Oregon Spotted Frog, a federally threatened species. The Applicant's HCP proposes moderating winter and summer flows for the Upper Deschutes River system to address years of degraded habitat. As proposed, the proposed action focuses entirely on water conservation measures (piping, on farm efficiency measures) that will take several years to implement over the 30 year permit period of the HCP. The U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) anticipate a final HCP and a final Environmental Impact Statement (EIS) will be published in the federal register in early November 2020.
7. Nonfarm Dwellings. Nonfarm dwellings may be approved on parcels or portions of parcels that are unsuitable for farm use. According to the most recent DLCD Farm and Forest Report (2016-2017), Deschutes County ranks second to Lake County (38 dwellings), in issuing 36 nonfarm dwelling approvals during this two year period.<sup>6</sup>

Agricultural Goals and Policies recognize among others:

- Retaining agricultural lands through EFU zoning;
- Allowing comprehensive plan and zoning map amendments, including for those that qualify as non-resource land for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan;
- Reviewing farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law;
- Supporting stakeholders in studying and promoting economically viable agricultural opportunities and practices;
- Reviewing County Code and revise as needed to permit alternative and supplemental farm activities that are compatible with farming, such as agri-tourism or commercial renewable energy projects; and
- Exploring new methods of identifying and classifying agricultural lands.

## **Section 2.3 – Forest Lands**

Section 2.3 discusses Deschutes County forestry designations and trends from 2007 to 2010, including a brief description of Skyline Forest. Skyline Forest consists of approximately 33,000 acres of privately held forest lands at the base of the Three Sisters Mountains previously owned by Crown Pacific. Historically, this property has been logged, but still holds important recreational, scenic and wildlife habitat value. The non-profit Deschutes Land Trust has been working to purchase Skyline Forest from the owners, who represent a large financial company.

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<sup>6</sup> [https://www.oregonlegislature.gov/committees/senr/Reports/2016%20-%202017%20Oregon%20Farm%20and%20Forest%20\(report\).pdf](https://www.oregonlegislature.gov/committees/senr/Reports/2016%20-%202017%20Oregon%20Farm%20and%20Forest%20(report).pdf). Between 1994 and 2017, Deschutes County issued the most nonfarm dwelling approvals in the state with 830.

Most forest lands are public, managed by the USFS. On private property, the number of dwelling approvals on forest lands, unlike on EFU, is noticeably smaller in Deschutes County compared to other counties. According to DLCD, from 2016-2017, Deschutes County approved just 8 dwellings.<sup>7</sup> Clackamas County during this same time period approved 64. In 1992 as part of periodic review, Deschutes County revised its forest zoning to two zones: Forest Use 1 and Forest Use 2 (DCC Chapters 18.36 and 18.40). Both zoning codes identify permitted uses predominantly related to forestry operations or practices, conditional uses and siting standards for dwellings and structures.<sup>8</sup>

Since the Comprehensive Plan was last updated in 2010, a few issues have emerged or reemerged relating to forest lands:

1. Wildfire Frequency and Vulnerability. Since 2010, Deschutes County has experienced 11 large fires (over 100 acres) predominantly on federal land, totaling 72,311 acres. These fires required a substantial emergency management response from the region. For example, the Two Bull Fire in 2014, burned 7,000 acres and cost \$5.7 million to suppress.
2. Caldera Springs Destination Resort Expansion. Sunriver Resort, LLC, acquired a 617-acre tract, zoned Forest Use 2, and successfully designated it as eligible for a destination resort in 2011. This property received conceptual master plan approval in 2015 to expand Caldera Springs Destination Resort. The annexed property anticipates a maximum of 395 single-family residences, a maximum of 95 additional overnight lodging units, and recreation facilities and amenities in the resort's core.

Forest Lands Goals and Policies recognize among others:

- Retaining forest lands through Forest Use-1 and Forest Use-2 zoning;
- Coordinating and cooperating with the USFS, the Bureau of Land Management (BLM) and other public agencies to promote sustainable forest uses, including recreation, on public forest land; and
- Supporting the maintenance of the Skyline Forest as a Community Forest; and
- Coordinating with stakeholders to support forest management projects that contribute to public safety by treating wildland hazardous fuels and retaining fish and wildlife habitat.

### **III. Invited Guests**

- In addition to Matt Martin, Associate Planner, Jon Jinings, DLCD Community Services Specialist and Hilary Foote, DLCD Farm and Forest Specialist will participate in the work session. Matt will summarize development activity on EFU and Forest Use zones while Mr. Jinings and Ms. Foote will offer their perspectives on Goals 3 and 4 from a statewide perspective.

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<sup>7</sup> Ibid. Page 36.

<sup>8</sup> See note 1. The Forest Use-1 zone has stricter standards for non-forestry related development. For example destination resorts are not eligible in this zone. They are allowed in certain areas conditionally in Forest Use-2.

Attachment:

Comprehensive Plan

Section 2.2

Section 2.3



## Section 2.2 Agricultural Lands

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### Background

Protecting farm lands and the economic benefits of agriculture is one of the primary goals of the Oregon land use system. Statewide Planning Goal 3 establishes farmland identification and protection standards which must be met by local governments. The Goal requires farm lands to be preserved for farm uses, consistent with existing and future needs for agricultural products, forest and open space. Additional criteria for Goal 3 can be found in Oregon Revised Statute (ORS) 215 and in Oregon Administrative Rule (OAR) 660-33. These criteria spell out in considerable detail which lands shall be designated as farm lands and what uses are permissible.

The main concept is that local governments must inventory and protect farm lands through the use of Exclusive Farm Use (EFU) zones that provide primarily for the continuation of commercial-scale agriculture, including farm operations, marketing outlets and the agricultural support system. To provide a science based method of identifying farm lands, Statewide Goal 3 defines agricultural lands primarily through soil classifications. However, other lands can, and often must, be classified for farming based on the criterion 'suitable for farm use' or being near agricultural lands.

#### Excerpt from Statewide Planning Goal 3

*"Agricultural Land ... in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.*

*More detailed soil data to define agricultural land may be used by local governments if such data permits achievement of this goal.*

*Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4."*

Besides Statewide Goal 3, farming is protected in Oregon by "right-to-farm" law (ORS 30.930-047). This law protects commercial farms from nuisance suits brought about by generally accepted farming practices, such as noise, dust or odors.

### County Agricultural Designations

Farm land designations in Deschutes County have been and continue to be highly controversial. In designating farm lands in the late 1970s, the County was hampered by the limited availability of soil maps. Where soil maps existed those were consulted, but the County also included irrigated lands and lands receiving farm deferrals for the previous five years. Ultimately, seven separate agricultural areas were identified, each specifying minimum lot sizes. In general, non-urban, non-forest, undeveloped and uncommitted lands were determined to be farm lands.

Despite designating many agricultural areas by default, the 1979 Resource Element noted that based on agricultural determinants of soils, water, climate and economics, profitable farming in the County remained difficult. The findings for protecting non-profitable agricultural land noted the aesthetic value of farm land, the costs and hazards of allowing local development and the economic importance of rural open space.

In 1992 a commercial farm study was completed as part of the State required periodic review process. The study concluded that irrigation is the controlling variable for defining farm lands in Deschutes County. Soil classifications improve when water is available. Seven new agricultural subzones were identified based on the factual data provided in the 1992 study and minimum acreages were defined based on the typical number of irrigated acres used by commercial farms in that particular subzone (with the exception of the Horse Ridge subzone).

Like the 1979 Resource Element, the 1992 farm study noted the challenges of local commercial farming. The high elevation (2700-3500 feet), short growing season (88-100 days), low rainfall and distance to major markets hamper profitability. The 1992 study resulted in minimum lot sizes that are smaller than the State requirement of 80 acres for farm land and 160 acres for range land. These minimum lot sizes are unique in Oregon and were acknowledged as in compliance with Goal 3 by the Oregon Land Conservation and Development Commission. In general, County farm designations are effectively protecting farm lands while allowing limited land divisions.

### **Deschutes County Agricultural Sub-Zones**

As noted above, the County maintains a unique set of farm sub-zones based on the average number of irrigated acres for each type of farm land as determined in the 1992 farm study. Irrigated land divisions in each sub-zone must result in parcels that retain the acreages shown in Table 2.2.1.

**Table 2.2.1 - Exclusive Farm Use Subzones**

<b>Subzone Name</b>	<b>Minimum Acres</b>	<b>Profile</b>
Lower Bridge	130	Irrigated field crops, hay and pasture
Sisters/Cloverdale	63	Irrigated alfalfa, hay and pasture, wooded grazing and some field crops
Terrebonne	35	Irrigated hay and pasture
Tumalo/Redmond/Bend	23	Irrigated pasture and some hay
Alfalfa	36	Irrigated hay and pasture
La Pine	37	Riparian meadows, grazing and meadow hay
Horse Ridge East	320	Rangeland grazing

Source: Deschutes County 1992 Farm Study

### **Irrigation Districts**

As shown in the 1992 farm study, irrigation and irrigation districts are instrumental factors for Deschutes County agriculture. Irrigation districts in Oregon are organized as Special Districts under ORS Chapter 545. The districts are created for the purpose of delivering water to their patrons. As such they are effectively non-profit water user associations. In addition to irrigation, these districts also supply a number of other uses, including municipal, industrial, and

pond maintenance. However, by and large the districts exist for the purposes of delivering irrigation.

Seven districts, which withdraw their water supply from the Deschutes River Basin, have formed an intergovernmental unit called a "board of control" under ORS 190.125. This organizational structure allows the districts to work together as a unit in implementing water conservation projects, providing educational resources, utilizing equipment and for other joint purposes. A key goal for the Deschutes Basin Board of Control is to preserve agricultural uses in those areas where irrigation improves soils to class VI or better.



The six irrigation districts listed below serve residents or have facilities within Deschutes County and are members of the Deschutes Basin Board of Control.

#### *Arnold Irrigation District*

The present Arnold Irrigation District was first organized as the Arnold Irrigation Company on December 27, 1904 and became official on January 9, 1905. As of 2010 the district manages approximately 65 miles of canals, ditches and pipes in an area of approximately 18,560 acres.

#### *Central Oregon Irrigation District*

The Central Oregon Irrigation District (COID) was established in 1918. The District provides water for approximately 45,000 acres within an 180,000 acre area in Central Oregon. More than 700 miles of canals provide agricultural and industrial water to irrigate Terrebonne, Redmond, Bend, Alfalfa and Powell Butte areas. In addition, COID provides water to the City of Redmond and numerous subdivisions. In Bend, many parks and schools receive water through the COID system. COID is also the managing partner in the operation of the 55,000 acre foot Crane Prairie Reservoir, located on the east side of the Central Cascades.

#### *North Unit Irrigation District*

The North Unit Irrigation District (NUID) was organized in 1916. As part of the Reclamation Act of 1902, Congress approved the Deschutes Project and in 1927 began construction of the project under the direction of the U.S. Bureau of Reclamation. The project was completed in 1949 allowing NUID to serve nearly 50,000 acres. Today NUID is the second largest irrigation district in Oregon, serving approximately 59,000 acres in Jefferson County. NUID maintains facilities in Deschutes County, including Wickiup Dam, Bend Headworks and the North Unit Irrigation Canal. NUID has a long-standing relationship with the U.S. Bureau of Reclamation as a result of the Deschutes Project.

#### *Swalley Irrigation District*

The Swalley Irrigation District was organized as the Deschutes Reclamation and Irrigation Company (DRIC) in 1899. In 1994 the shareholders of the DRIC voted to incorporate as an irrigation district and took the name of Swalley Irrigation District. The District has 28 miles of canals and laterals providing water to 667 customers.

### *Three Sisters Irrigation District*

The Three Sisters Irrigation District (formerly Squaw Creek Irrigation District) was founded in 1917 from the Squaw Creek Irrigation Company and the Cloverdale Irrigation Company. They were founded in 1891 and 1903 respectively, making Three Sisters Irrigation District one of the oldest such districts in Oregon. The District serves approximately 175 water users over approximately 7,568 acres.

### *Tumalo Irrigation District*

Originally known as the Tumalo Project, Tumalo Irrigation District started in 1904. In 1922 the Project reorganized as an irrigation district under Oregon state laws. The District serves approximately 60 square miles, irrigating approximately 8,093 acres, and has over 80 miles of canals, laterals and ditches serving 635 landowners.

## **Deschutes County Agriculture 2007 - 2009**

The following statistics provide a snapshot of farming in Deschutes County.

*Source: County GIS data*

- Approximately 36% of the County or more than 700,000 acres are designated as Agriculture on the Comprehensive Plan map. Of that acreage, 69% is public, primarily Federal ownership leaving approximately 224,000 acres privately held.
- 160,078 acres of privately owned farm lands in the County receive special tax assessment for farm use.
- Of the acres receiving farm tax assessments, 44,221 are irrigated.
- In 2008 there were 3,725 agricultural parcels less than five acres.

*Source: Oregon State University Extension Oregon Agricultural Information Network, Deschutes County Agricultural Commodity Sales for 2009 (preliminary estimate)*

- \$19,792,000 in agricultural sales, a drop from the 2008 preliminary estimate of \$25,991,000. This follows slight upturns in sales between 2006-2008.
- 62% of agriculture sales are in crops and 38% in livestock. The primary crops are hay and alfalfa hay while the primary livestock is cattle. The biggest downturns for 2009 are non-alfalfa hay and cattle.

*Source: United States Department of Agriculture, National Agricultural Statistics Service 2007 Census of Agriculture*

- There are 1,405 farms in Deschutes County residing on 129,369 acres
- Average farm size 92 acres
- Approximately 24% of farms are under 10 acres and 78% are under 50 acres
- Total net cash farm income is negative
- 59% of farmers list their primary occupation as 'Other' rather than farming

The above data highlights the fact that farming in Deschutes County is generally not commercially profitable. For a majority of farmers, farming is not a sustaining economic activity, but rather a lifestyle choice. Living on a farm and farming as a secondary economic activity acknowledge a shift from commercial farming towards the benefits of a rural lifestyle.



## **Farm Trends 2010**

Whatever the challenges, agriculture is part of Deschutes County's culture and rural lifestyle. During the public input process, various ideas were discussed on how to preserve agricultural lands, open spaces and rural character of the County, while enabling landowners to make a living. The following ideas identify current trends that could be promoted by the County in conjunction with the local extension service and other agencies and organizations. It is important to emphasize that new uses must conform to State regulations.

*Alternative energy:* Development of small alternative energy projects would promote local energy self-sufficiency, using Central Oregon's sun, wind, thermal, hydropower and biomass resources. Larger agricultural parcels could be used as commercial wind or solar farms to provide renewable energy as well as income to landowners.

*Alternative uses:* There is interest in allowing non-farm uses on farm lands to take advantage of agrarian lifestyles and Central Oregon's setting. Ideas being discussed include agri-tourism or hosting weddings. Nonetheless, new non-farm uses must be evaluated to ensure they are compatible with ORS and OARs as well as existing land uses and zoning.

*Local markets:* Products from small farms are often sold to local markets. Additionally local consumption saves on transportation and energy, allowing better tracking of food sources thereby increasing food safety and improving freshness and quality. Buying local is a current trend that could benefit the County's many small farmers. Community Supported Agriculture is one popular method, where farmers obtain paid subscriptions from customers, who then receive fresh produce every week for the season. Farmers markets and farm stands are another aspect of the local food movement.

*Conservation easements:* Many states are using programs to put permanent conservation easements on farm lands. As an example of a program that is not yet available in Oregon is the Purchase of Agricultural Conservation Easements (PACE). Funded by the federal government and a combination of other sources, PACE purchases development rights from farmers.

*Niche markets:* Small quantities or specialized products can be raised to meet particular markets, like organic products or peppermint oil.

*Value-added products:* Processing crops can increase profitability. An example would be making jam or jelly out of locally grown berries.

*Farm Councils:* Farm councils are being initiated around the country to promote local sustainable food. The Central Oregon Food Policy Council (COFPC) formed in 2010 to lead the effort to a sustainable and just food system. The COFPC is made up of 12-15 volunteers including representatives from agricultural production, public health, government and others interested in the local food system. Identified strategies include supporting access to local healthy food, advocating for public policies that increase sustainable food production and connecting stakeholders in the food systems field.

## **Big Look**

In 2005 a task force was appointed by the Oregon Governor, Speaker of the House and Senate President to review the current land use system. The Oregon Task Force on Land Use Planning was a 10-member group representing various perspectives, charged with conducting a comprehensive review of the Oregon Statewide Planning Program. Called the Big Look Task

Force, this group was asked to make recommendations for any needed changes to land-use policy to the 2009 Legislature.

After three years of extensive input from experts and citizens throughout the State, the task force developed its findings and recommendations. One of the primary conclusions reached was that Oregon needs a more flexible land use system that responds to regional variations.

Two of the primary recommendations from the Task Force addressed agricultural and forest lands, recommending:

- Counties be allowed to develop regional criteria for designating farm and forest lands, if they also protect important natural areas and assure that development is sustainable.
- Counties be allowed to propose specialized rules to decide what lands are designated as farm or forest land.

### **2009 Legislature / House Bill 2229**

House Bill (HB) 2229 began as the vehicle for legislative recommendations for the Big Look Task Force. However, by the time the Legislature adjourned, very little of the Task Force's recommendations remained. HB 2229 does authorize counties to reevaluate resource lands and amend their comprehensive plan designations for such lands consistent with definitions of "agricultural land" and "forest land." For example, the County could add irrigated lands to the regional definition of farm lands to acknowledge the results of the 1992 farm study. Anything that does not qualify as farmland or forestland may be rezoned for non-resource use, subject to conditions that development in the non-resource zones be rural in character, not significantly conflict with surrounding farm and forest practices, and not have adverse effects on such things as water quality, wildlife habitat, and fire safety. County rezoning activities must be pursuant to a work plan approved by the Oregon Department of Land Conservation and Development. This effectively means the work will be done similar to periodic review with the Land Conservation and Development Commission expressly given exclusive jurisdiction to review a county decision.

### **Future of Deschutes County Farm Designations and Uses**

Statewide Planning Goal 3 requires counties to preserve and maintain agricultural lands. However, in discussions on the future of agriculture in Deschutes County, there are still differences of opinion over which lands should be designated farm lands and what uses should be allowed. Farm lands contribute to the County in a number of ways. Agriculture is part of the ongoing local economy. Wide-open farm lands offer a secondary benefit by providing scenic open spaces that help attract tourist dollars. Farm lands also contribute to the rural character that is often mentioned as important to residents. Finally, it should be noted that agricultural lands are preserved through State policy and land use law because it is difficult to predict what agricultural opportunities might arise, and once fragmented the opportunity to farm may be lost.

On the other hand, there seems to be widespread agreement that much of the local farm land is marginal, particularly without irrigation. The climate, especially the short growing season, makes commercial farming challenging. Statewide Planning Goal 3 does not really account for the conditions in Deschutes County, resulting in agricultural zoning being applied to land with no history of farming and limited potential for profitable farming. The small size of agricultural parcels adds to the challenges. It has been argued that preserving farm lands benefits the wider



public at the expense of agricultural landowners. There is considerable pressure to convert agricultural land to residential or other uses.

The debate is complicated because there are impacts to the farming community from converting agricultural lands to other uses. It can be challenging for a farmer who has residential neighbors because farming activities can have noise, odor or dust impacts. The right-to-farm law discussed earlier offers some protection to farmers, but as residential uses grow there is pressure to convert, leading to a greater loss of agricultural lands.

The goals and policies in this Section are intended to provide the basis for evaluating the future of agriculture in the County over the next twenty years. They are intended to provide, within State guidelines, flexibility to the farming community. County farm lands will be preserved by ensuring a variety of alternative paths to profitability.

## Section 2.2 Agricultural Lands Policies

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### Goals and Policies

**Goal I**      **Preserve and maintain agricultural lands and the agricultural industry.**

Policy 2.2.1      Retain agricultural lands through Exclusive Farm Use zoning.

Policy 2.2.2      Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

#### Exclusive Farm Use Subzones

<b>Subzone Name</b>	<b>Minimum Acres</b>	<b>Profile</b>
Lower Bridge	130	Irrigated field crops, hay and pasture
Sisters/Cloverdale	63	Irrigated alfalfa, hay and pasture, wooded grazing and some field crops
Terrebonne	35	Irrigated hay and pasture
Tumalo/Redmond/Bend	23	Irrigated pasture and some hay
Alfalfa	36	Irrigated hay and pasture
La Pine	37	Riparian meadows, grazing and meadow hay
Horse Ridge East	320	Rangeland grazing

Policy 2.2.3      Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

Policy 2.2.4      Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

Policy 2.2.5      Uses allowed in Exclusive Farm Use zones shall comply with State Statute and Oregon Administrative Rule.

Policy 2.2.6      Regularly review farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law.

Policy 2.2.7      Encourage water projects that benefit agriculture.

Policy 2.2.8      Support a variety of methods to preserve agricultural lands, such as:

- Support the use of grant funds and other resources to assist local farmers;
- Work cooperatively with irrigation districts, public agencies and representatives and land owners;
- Encourage conservation easements, or purchase or transfer of development rights programs;
- Control noxious weeds;
- Encourage a food council or 'buy local' program.



- Goal 2      Promote a diverse, sustainable, revenue-generating agricultural sector.**
- Policy 2.2.9    Encourage farming by promoting the raising and selling of crops, livestock and/or poultry.
- Policy 2.2.10   Support stakeholders in studying and promoting economically viable agricultural opportunities and practices.
- Policy 2.2.11   Encourage small farming enterprises, including, but not limited to, niche markets, organic farming, farm stands or value added products.
- Policy 2.2.12   Review County Code and revise as needed to permit alternative and supplemental farm activities that are compatible with farming, such as agri-tourism or commercial renewable energy projects. When a preferred alternative or supplemental use identified through a public process is not permitted by State regulations work with the State to review and revise their regulations.
- Goal 3      Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.**
- Policy 2.2.13   Identify and retain accurately designated agricultural lands.
- Policy 2.2.14   Explore new methods of identifying and classifying agricultural lands.
- a. Apply for grants to review and, if needed, update farmland designations.
  - b. Study County agricultural designations considering elements such as water availability, farm viability and economics, climatic conditions, land use patterns, accepted farm practices, and impacts on public services.
  - c. Lobby for changes to State Statute regarding agricultural definitions specific to Deschutes County that would allow some reclassification of agricultural lands.
- Policy 2.2.15   Address land use challenges in the Horse Ridge subzone, specifically:
- a. The large number of platted lots not meeting the minimum acreage;
  - b. The need for non-farm dwellings and location requirements for farm dwellings;
  - c. Concerns over the impact on private property from off-road vehicles, facilities, and trails located on adjacent public lands.
- Policy 2.2.16   Work with the State to review and revise accessory farm dwelling requirements to address the needs of local farmers.
- Policy 2.2.17   Encourage coordination between fish/wildlife management organizations and agricultural interests.

## Section 2.3 Forest Lands

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### Background

Protecting forests and their economic benefits are primary goals of the Oregon land use system. Statewide Planning Goal 4 establishes forest identification and protection standards which must be met by local governments. The Goal requires forests to be protected primarily for the growing and harvesting of trees, with environmental and recreational uses also being considered. Additional criteria for Statewide Goal 4 can be found in Oregon Revised Statute (ORS) 215 and Oregon Administrative Rule (OAR) 660-006. The key concept is local governments must inventory forest lands and protect them through local regulations.

### County Forestry Designations

In 1979 in order to meet the Statewide Goal 4 inventory requirement for forest lands, the County worked with the Oregon Department of Forestry to review timber productivity based on soils information. A resulting timber productivity map was created and three categories of forest lands were identified based on forest uses identified in Statewide Goal 4.

In the 1990s, the Land Conservation and Development Commission initiated the Forest Rule, OAR 660-006, defining allowed uses, siting conditions and minimum lot sizes in forest zones. In 1992, as part of State mandated Periodic Review, Deschutes County revised its forest designations, reducing forest designations and associated regulations to two (F-1 and F-2).

### County Forests 2007 - 2009

The following statistics provide a snapshot of forests in Deschutes County.

*Source: County GIS data*

- Approximately 52% of the County or over 1 million acres are designated as forest on the Comprehensive Plan map. Of that acreage, 92% is public, primarily federal, leaving approximately 78,000 acres privately held.
- There are 475 forest special assessment accounts.
- The largest privately owned forest land is the 33,000 acre Skyline Forest, formerly Bull Springs Tree Farm.

*Source: OSU Extension Service Silviculture and Fire Education Specialist*

- Total public and private timber harvest in the County in 2007 was 22.5 million board feet, in 2008, 36.1 million board feet and in 2009, 14.7 million board feet.

*Source: Deschutes County Forester*

- Since 2002 approximately 130,000 acres of public and private forest lands have burned in Deschutes County at a firefighting expense of approximately \$60 million.

### Forest Trends 2010

As timber harvesting decreases, other uses for forest lands are emerging. State regulations permit five general types of uses, including forest operations; environmental, agricultural or recreational uses; two types of dwellings and locally dependent uses. Permitted uses are defined

and clarified in OAR 660-006. The following uses are becoming more prominent and likely to gain importance over the next 20 years.

*Secondary forest products (forest operations):* There is an increasing use of secondary forest products, such as hog fuel (chipped wood) or wood slash, which can be used for everything from animal bedding to preston logs to biomass fuel. There is some concern that those uses will lead to increased logging and degradation of forests. However, there is considerable agreement that the high build up of debris in local forests increases the risk of forest fires. The use of secondary forest products can contribute to the health of the forest as well as the local economy.

*Recreation (environmental, agricultural and recreation uses):* The proximity of federal forests for hiking, mountain biking, skiing, hunting, fishing, wildlife viewing and other outdoor recreation draws tourists and residents alike. (see Section 2.6 for data on the economic impacts of wildlife tourism.)

*Alternative energy (locationally dependent):* Commercial alternative energy projects are often locationally dependent. Forestry-related biomass plants and associated infrastructure are being considered in Central Oregon.

## **Future of Forest Uses**

Most of the forest land in Deschutes County is owned and managed by the Federal government under Federal regulations. Forest practices on State or private forest lands are regulated by the Oregon Department of Forestry. The primary role of the County is to limit the impacts of development on private property in forest zones.

Although most forest lands are not owned or managed by Deschutes County, forests contribute immeasurably to livability. Timber management and recreational tourism provide economic benefits and employment. Forests provide an impressive diversity of recreational opportunities. Forests also play a large role in maintaining clean air and water and they provide scenic beauty and habitat for a wide variety of plants and animals. It is important for the County to work cooperatively with forest landowners, including public agencies, non-profit organizations and private land owners.

### *Residential Development*

The primary concern over changing forest uses is that as timber becomes less profitable, the pressure to develop forest lands for residential uses increases. State regulations limit the development of housing in forest zones, recognizing that fragmenting forests decreases productivity. The biggest challenge posed by residential fragmentation of forests is the danger posed by wildfire in heavily wooded areas. Fire danger has increased as dry conditions and disease have impacted the health of forest lands. Years of fire suppression and limited logging have contributed to a build up of wildland fuel that can spread fires quickly. In these conditions, residential uses in forests create conditions dangerous to homeowners and firefighters. Section 3.4, Natural Hazards, has more information on wildfire prevention. The second challenge posed by forest fragmentation is the threat to fish and wildlife. This is addressed in the Water and Wildlife sections of this Chapter.

## Skyline Forest

There is a unique opportunity to preserve a large privately held working forest. Skyline Forest consists of approximately 33,000 acres of privately held forest lands at the base of the Three Sisters Mountains.

Historically, this property has been logged, but still holds important recreational, scenic and wildlife habitat value. The non-profit Deschutes Land Trust has been working to purchase Skyline Forest from the owners, who represent a large financial company. In 2005 the Board of County Commissioners approved creating a Community Forest Authority, a quasi-municipal corporation that has the authority to issue tax-exempt

bonds to pay for purchasing the forest. The bonds will be repaid with revenue from logging. The logging revenue is not anticipated to cover all the bond costs, but combined with other grants and contributions can ensure the bonds are repaid.



### HB 2228

As noted above, the goal of the Deschutes Land Trust is to purchase and manage as much of the Skyline Forest as possible for sustainable logging, wildlife, recreation and scenery. HB 2228, adopted by the 2009 Legislature, allows the owners of this land the right to build a clustered community of up to 282 dwelling units and associated services on 1,200 acres. An additional 1,800 acres must be in a conservation easement as a buffer to maintain wildlife habitat and minimize wildfire danger. In exchange for waiving State and local land use regulations to allow this development, the remaining 30,000 acres of the Skyline Forest and additional property in Deschutes and Klamath counties must be sold to a land trust and protected with a conservation easement. There are additional requirements attached to the Statue that provide more detail on items such as road access, master planning and permitted uses.

## Section 2.3 Forest Lands Policies

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### Goals and Policies

**Goal 1**      **Protect and maintain forest lands for multiple uses, including forest products, watershed protection, conservation, recreation and wildlife habitat protection.**

Policy 2.3.1      Retain forest lands through Forest 1 and Forest 2 zoning.

Policy 2.3.2      To conserve and maintain unimpacted forest lands, retain Forest 1 zoning for those lands with the following characteristics:

- a. Consist predominantly of ownerships not developed by residences or non-forest uses;
- b. Consist predominantly of contiguous ownerships of 160 acres or larger;
- c. Consist predominantly of ownerships contiguous to other lands utilized for commercial forest or commercial farm uses;
- d. Are accessed by roads intended primarily for forest management; and
- e. Are primarily under forest management.

Policy 2.3.3      To conserve and maintain impacted forest lands, retain Forest 2 zoning for those lands with the following characteristics:

- a. Consist predominantly of ownerships developed for residential or non-forest uses;
- b. Consist predominantly of ownerships less than 160 acres;
- c. Consist of ownerships generally contiguous to tracts containing less than 160 acres and residences, or adjacent to acknowledged exception areas; and
- d. Provide a level of public facilities and services, including roads, intended primarily for direct services to rural residences.

Policy 2.3.4      Notwithstanding any other quasi-judicial plan or zone change criteria, lands designated as Forest under this Plan and zoned Forest 2 may upon application be redesignated and rezoned from Forest 2 to Exclusive Farm Use if such lands:

- a. Do not qualify under State Statute for forestland tax deferral,
- b. Are not necessary to permit forest operations or practices on adjoining lands and do not constitute forested lands that maintain soil, air, water and fish and wildlife resources,
- c. Have soils on the property that fall within the definition of agricultural lands as set forth in Goal 3,
- d. Are a tract of land 40 acres or less in size,
- e. Do not qualify under State Statute and the terms of the Forest 2 zone for a dwelling, and;
- f. Were purchased by the property owner after January 1, 1985 but before November 4, 1993.

Such changes may be made regardless of the size of the resulting EFU zoning district. Such changes shall be processed in the same manner as other quasi-judicial plan or zoning map changes.

- Policy 2.3.5 Uses allowed in Forest zones shall comply with State Statute and Oregon Administrative Rule.
- Policy 2.3.6 Coordinate and cooperate with the U.S. Forest Service, the Bureau of Land Management and other public agencies to promote sustainable forest uses, including recreation, on public forest land, including:
- a. Using the Deschutes National Forest Land and Resource Management Plan, or its successor, as the basis for mutual coordination and cooperation with the U.S. Forest Service;
  - b. Using the Prineville Bureau of Land Management Upper Deschutes Resource Management Plan, or its successor, as the basis for mutual coordination and cooperation with the Bureau of Land Management.
- Policy 2.3.7 Notify affected agencies when approving development that could impact Federal or State forest lands.
- Policy 2.3.8 Support the maintenance of the Skyline Forest as a Community Forest.
- Policy 2.3.9 Support economic development opportunities that promote forest health.
- Policy 2.3.10 Provide input on public forest plans that impact Deschutes County.
- Policy 2.3.11 Apply for grants to review forest lands based on ORS 215.788-215.794 (2009 HB 2229).
- Policy 2.3.12 Coordinate with stakeholders to support forest management projects that:
- a. Contribute to public safety by treating wildland hazardous fuels particularly in the designated Wildland Urban Interface as identified in the Community Wildfire Protection Plans described in Section 3.5 of this Plan;
  - b. Retain fish and wildlife habitat.
- Goal 2 Adequately address impacts to public safety and wildlife when allowing development on forest lands.**
- Policy 2.3.13 Review County Code and revise as needed to ensure development in forest zones mitigates impacts, particularly impacts on fish and wildlife habitat and public fire safety.