

Community Development Department

Statewide Planning Goals 3 and 4

Part 3 of a 12-Part Series



Planning Commission, October 8, 2020

Invited Guests

- Hilary Foote, DLCD Farm and Forest Specialist
- Jon Jinings, DLCD Community Service Specialist
- Scott Edelman, DLCD Central Region Representative



- Matt Martin, AICP, Deschutes County Associate Planner
- Ed Keith, Deschutes County Forester



Goal 3 – Agricultural Lands

- Goal:

Preserve and maintain agricultural lands

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

- Definitions:

Eastern Oregon land is predominantly Class I, II, III, IV, V, and VI soils as identified in Soil Capability Classification System of U.S. Soil Conservation Service



Goal 3 – Agricultural Lands

- ORS 215.203 - Defines Farm Use

ORS

Adopted by State Legislature

“Farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use of animal husbandry or any combination thereof.



Goal 3 – Agricultural Lands

- ORS 215.283 – Uses Permitted in EFU

ORS

Adopted by State Legislature

1. The following uses may be established in any area zoned EFU

Sub 1 uses: uses of right – County must allow and not add discretionary standards (*Brentmar v. Jackson*)

2. The following nonfarm uses may be established, subject to approval in any area zoned EFU

Sub 2 uses – County may allow and can add additional discretionary standards

3. Roads, highways, and other transportation
4. Agri-tourism and other commercial events

Exclusive Farm Use Zone (EFU)



Goal 3 – Agricultural Lands

- Other Uses in ORS 215

ORS

Adopted by State Legislature

- ❖ ORS 215.218 Private Hunting Preserves
- ❖ ORS 215.246 Land application of reclaimed water, agricultural or industrial biosolids
- ❖ ORS 215.284 Dwellings not in Conjunction with Farm Use (Nonfarm Dwelling)
- ❖ ORS 215.298 Mining
- ❖ ORS 215.301 Blending materials for cement prohibited near vineyards
- ❖ ORS 215.306 Filming activities
- ❖ ORS 215.311 Log truck parking in exclusive farm zones; dump truck parking in forest zones or mixed farm/forest zones.
- ❖ ORS 215.452 and 215.453 Wineries



Goal 3 – Agricultural Lands

- OAR 660, Division 33 (Agricultural Lands)

OAR

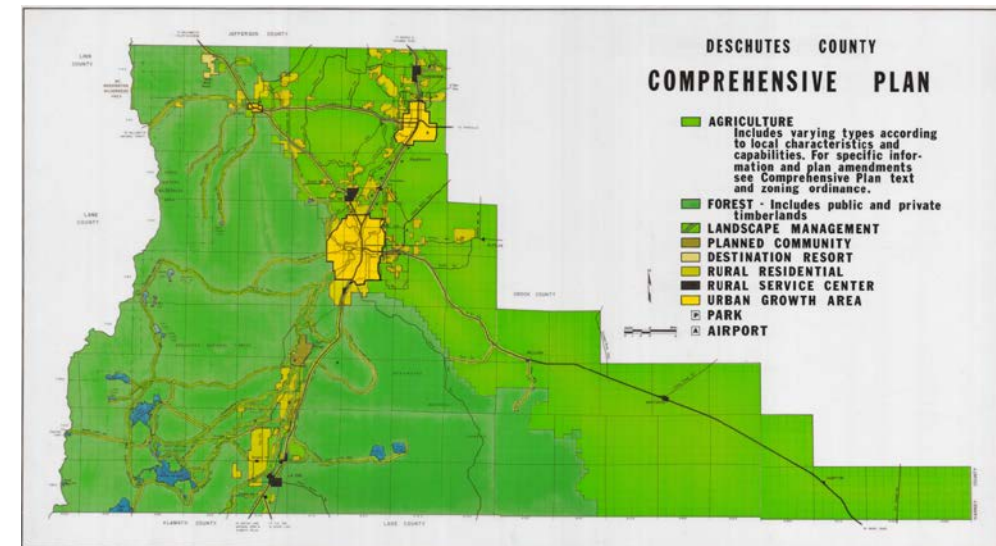
Adopted by LCDC

- ❖ 660-033-0010: Purpose:
- ❖ 660-033-0020: Definitions
- ❖ 660-033-0030: Identifying Agricultural Lands
- ❖ 660-033-0045: Soil Assessments by Professional Soil Classifiers
- ❖ 660-033-0080: Designation of High-Value Farmland
- ❖ 660-033-0100: Minimum Parcel Size Requirements
- ❖ 660-033-0120: Uses Authorized on Agricultural Lands (see Rule 120 Use Table)
- ❖ 660-033-0130: Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses
- ❖ 660-033-0135: Dwellings in Conjunction with Farm Use
- ❖ 660-033-0140: Permit Expiration Dates

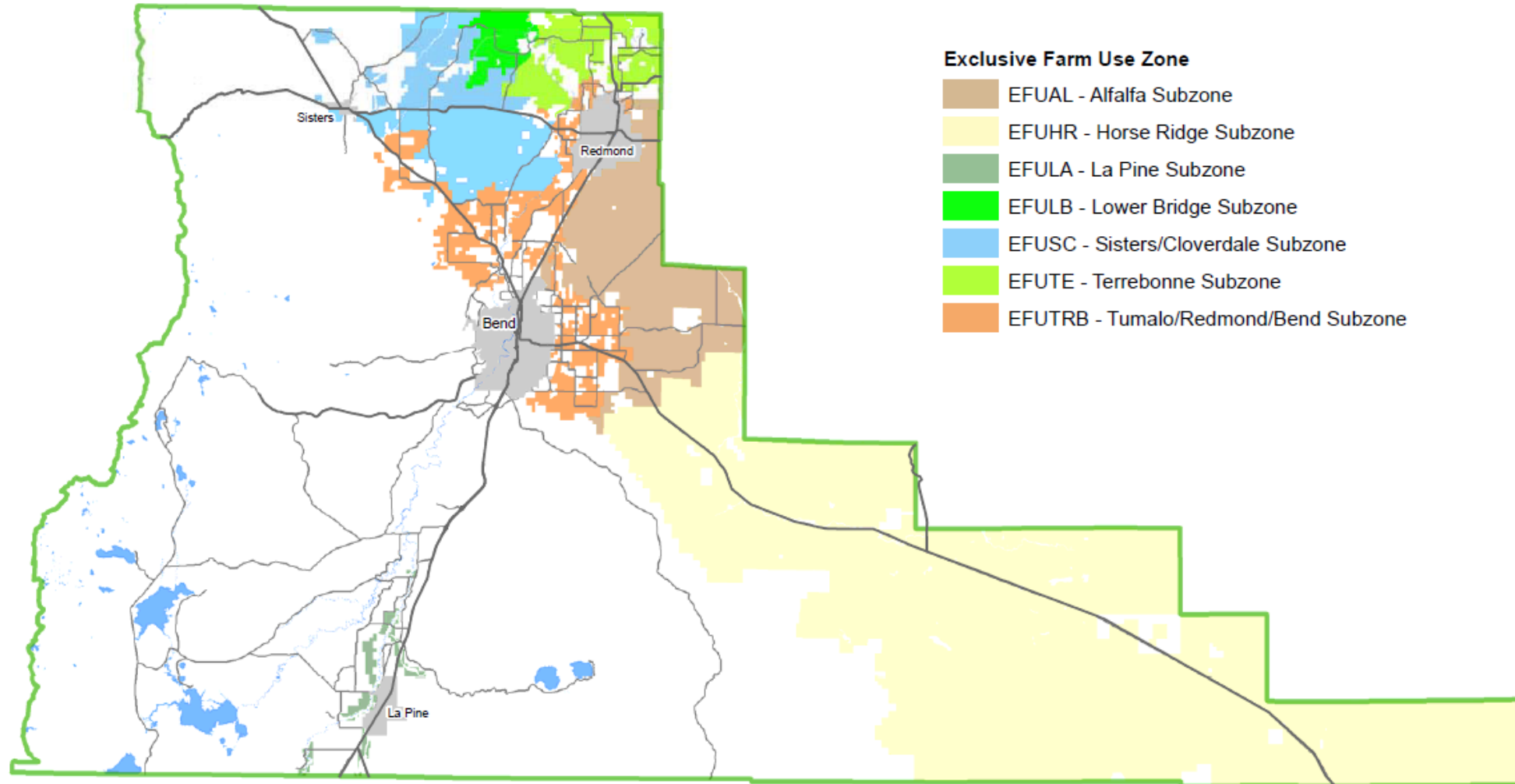


Comprehensive Plan – Section 2.2

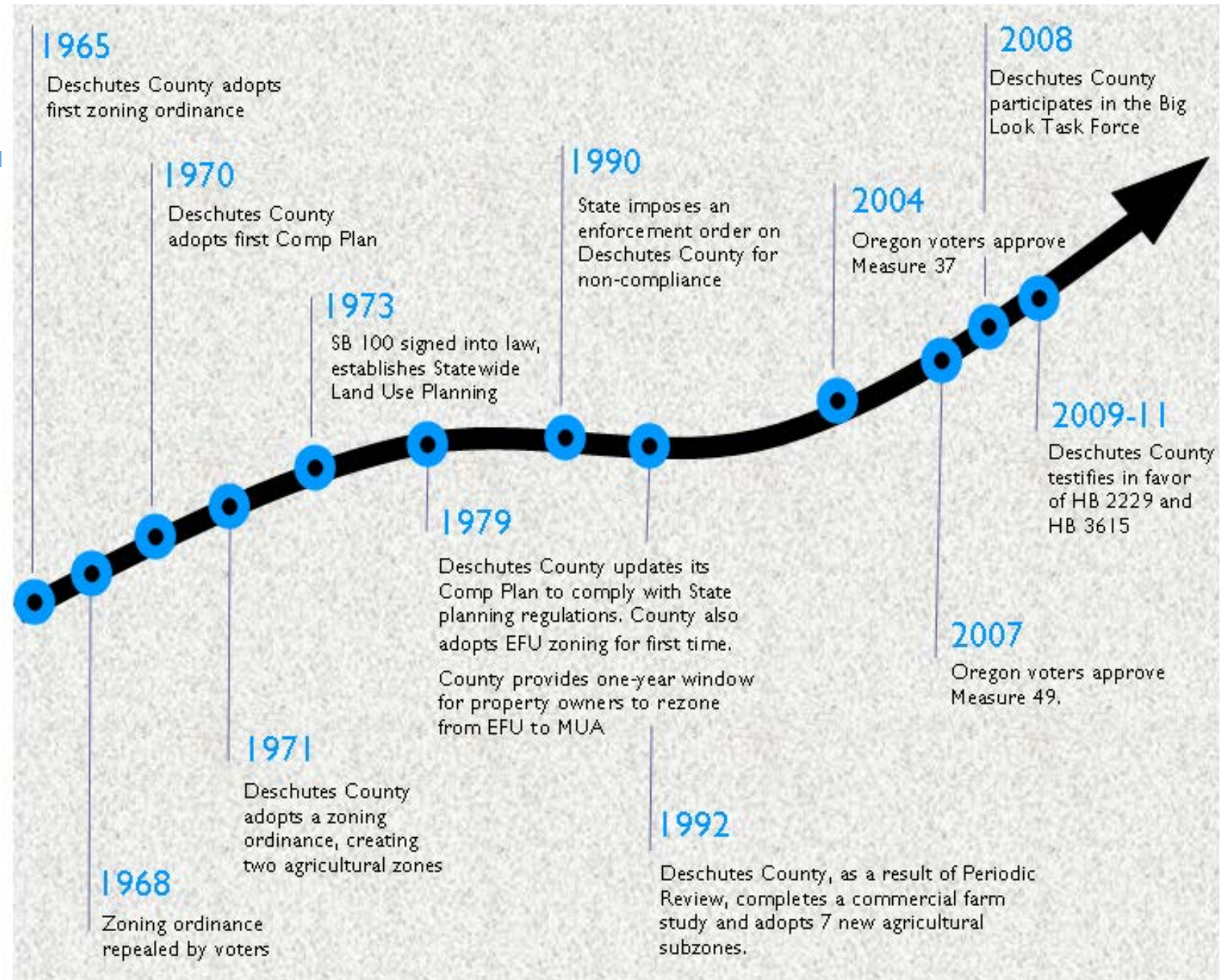
- Section 2.2, Agricultural Lands recaps:
 - ❖ Deschutes County's agricultural designations starting in 1970s
 - ❖ Periodic Review
 - ❖ 1992 Commercial Farm Study
 - ❖ 700,000 acres designated as agriculture
 - 69% is public
 - ❖ 7 EFU subzones
 - Lower Bridge
 - Sisters/Cloverdale
 - Terrebonne
 - Tumalo/Redmond/Bend
 - Alfalfa
 - La Pine
 - Horse Ridge



Comprehensive Plan – Section 2.2



Zoning History



Comprehensive Plan – Section 2.2

- Section 2.2, Agricultural Lands Goals and Policies recognize:
 - ❖ Retaining agricultural lands through EFU zoning
 - ❖ Allowing qualifying non-resource land amendments for individual EFU parcels as allowed by State law
 - ❖ Reviewing farm regulations to ensure compliance with changes to State law
 - ❖ Supporting economically viable agricultural opportunities and practices
 - ❖ Permitting alternative and supplemental farm activities compatible with farming
 - ❖ Exploring new methods of identifying and classifying agricultural lands



Development Activity on EFU (2010-2020)

- Processed over 3,400 land use applications
 - ❖ 470 Conditional Uses
 - ❖ 420 Administrative Determinations
 - ❖ 329 Extensions
 - ❖ 320 Lot Line Adjustments
 - ❖ 275 Lot of Record Verifications
 - ❖ 205 Landscape Management Reviews
 - ❖ 131 Declaratory Ruling
 - ❖ 106 Site Plans
 - ❖ 91 Appeals
 - ❖ 57 Partitions



Agricultural Lands – Emerging Trends

Non-resource Lands



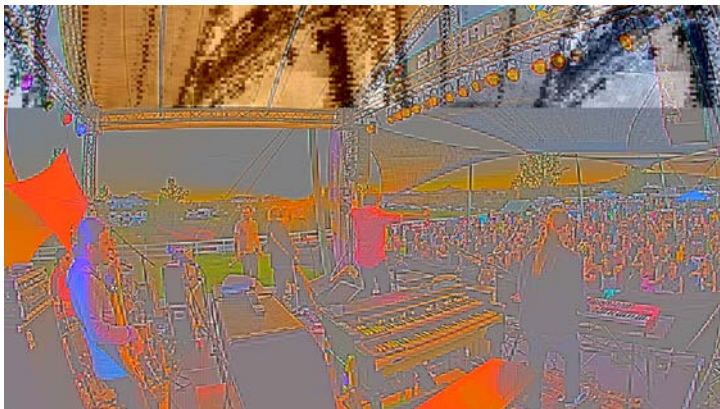
Oregon spotted frog



Nonfarm Dwellings



Agri-tourism



Marijuana and Hemp



Goal 4 – Forest Lands

- Goal:

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with the sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.



Goal 4 – Forest Lands

OAR

Adopted by LCDC

- OAR 660, Division 6 (Forest Lands)
 - ❖ 660-006-0000: Purpose:
 - ❖ 660-006-0005: Definitions
 - ❖ 660-006-0010: Identifying Forest Land
 - ❖ 660-006-0025: Uses Authorized in Forest Zones
 - ❖ 660-006-0026: New Land Division Requirements in Forest Zones
 - ❖ 660-006-0027: Dwellings in Forest Zones
 - ❖ 660-006-0029: Siting Standards for Dwellings and Structures in Forest Zones
 - ❖ 660-006-0031: Youth Camps
 - ❖ 660-006-0035: Fire-Siting Standards for Dwellings and Structures
 - ❖ 660-006-0050: Uses Authorized in Agriculture/Forest Zones
 - ❖ 660-006-0060: Regulation of Forest Operations



Comprehensive Plan – Section 2.3

- Section 2.3, Forest Lands recaps:
 - ❖ Deschutes County's forest designations starting in 1970s
 - ❖ 1990s LCDC Forest Rule defining allowed uses, siting conditions and minimum lot sizes in forest zones
 - ❖ Forest 1 and Forest 2 zones
 - ❖ 1 million acres designated as forest
 - 92% is federal land, not under County jurisdiction



Comprehensive Plan – Section 2.3

- Section 2.3, Forest Lands Goals and Policies recognize:
 - ❖ Retaining forest lands through Forest Use 1 and 2 zoning
 - ❖ Coordinating with U.S. Forest Service and Bureau of Land Management to promote sustainable forest uses, including recreation on forest land
 - ❖ Maintaining Skyline Forest as a Community Forest
 - ❖ Supporting economic development opportunities that promote forest health
 - ❖ Supporting forest management projects that treat wildland hazardous fuels and retain fish and wildlife habitat



Development Activity on Forest Zoned Lands (2010-2020)

- Processed over 400 land use applications
 - ❖ 59 Conditional Uses
 - ❖ 48 Landscape Management Reviews
 - ❖ 42 Administrative Determinations
 - ❖ 38 Extensions
 - ❖ 35 Lot of Record Verifications
 - ❖ 18 Lot Line Adjustments
 - ❖ 17 Declaratory Rulings
 - ❖ 14 Partitions
 - ❖ 10 Site Plans
 - ❖ 9 Appeals



Forest Lands – Emerging Trends

Wildfire Hazards



Caldera Springs Destination Resort Expansion



Schedule

Oct. 22	Goal 5 Part 1: Water Resources, Wildlife
Nov. 12	Goal 5 Part 2: Scenic & Open Spaces, Historic Resources
Dec. 10	Goal 6 Air, Water and Land Resources Quality & Goal 7 Hazards
Jan. 14	Goal 8 Recreational Needs
Jan. 28	Goal 9 Economic Development
Feb. 11	Goal 10 Housing & Goal 11 Public Facilities & Services
Feb. 25	Goal 12 Transportation
March 11	Goal 13 Energy & Goal 14 Urbanization



Discussion.

Project website:

<https://www.deschutes.org/cd/page/deschutes-2040>





DLCD



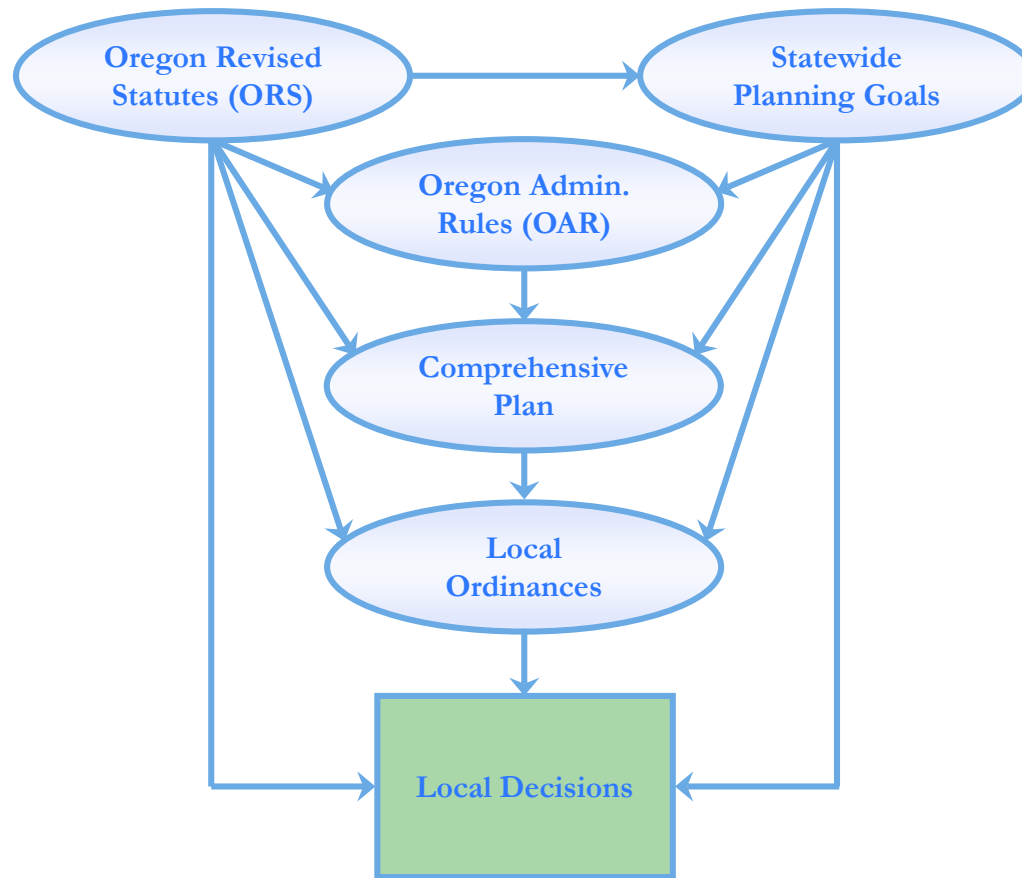
Oregon Statewide Planning Goals 3 & 4

October 8, 2020

Hilary Foote
Farm Forest Specialist

A Very, Very Brief Overview

Land Conservation and Development Act in 1973 created a statewide framework for land use planning.



To preserve and maintain agricultural lands.

Learn more:

<https://www.oregon.gov/lcd>

“THE LONG AND WINDING ROAD: FARMLAND PROTECTION IN OREGON 1961 – 2009”

Right to Farm requirements and prohibitions on the regulation of farm and forest practices

No local government shall adopt any rules, regulations or ordinances that prohibit, limit, or regulate forest practices on forestlands.

ORS 215.253 Restrictive local ordinances affecting farm use zones prohibited

No local government shall adopt any rules, regulations or ordinances that prohibit, limit, or regulate farm structures or farm practices on lands zoned for exclusive farm use unless such practices interfere with lands within a UGB.

ORS 527.722 Restrictions on local government adoption of rules regulating forest operations

No farming or forest practice on lands zoned for farm or forest use - or established as a preexisting nonconforming use - shall give rise to any private right of action or claim for relief based on nuisance or trespass.

ORS 30.930 to 30.949 Prohibition on local laws that make farm and forest practices a nuisance or trespass

Any local ordinance or regulation now in effect or subsequently adopted that makes a farm or forest practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid.

Agricultural Lands

"Agricultural Land" as defined in Goal 3 includes:

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and **I-VI soils in Eastern Oregon**;
- (B) Land in other soil classes that is **suitable for farm use** as defined in ORS 215.203(2)(a), 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; and accepted farming practices; and
- (C) Land that is **necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.**
- (b) Land in capability classes other than I-IV/I-VI that is **adjacent to or intermingled with lands in capability classes I-IV/I-VI** within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;
- (c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

“Man – despite his artistic pretensions, his sophistication, and his many accomplishments – owes his existence to a six inch layer of topsoil and the fact that it rains.”

Paul Harvey



ORS 215.243 Agricultural land use policy

The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

Physical, Social and Aesthetic Asset:

- Landscape identity
- Agri-tourism and recreation
- Essential environmental services — from clean drinking water and wildlife habitat to carbon sequestration.
- Oregon's working farms and forests keep carbon pollution sequestered in existing soils, plants and trees. Oregon's planning program helps keep these lands in production, rather than converting them to other uses and releasing sequestered carbon.
 - Agricultural land produces far fewer GHG emissions than land converted to housing or commercial use.
 - When farmland is converted to developed uses, we lose the opportunity to steward it using regenerative practices. And additional pressure is put on remaining acres to be farmed more intensively. Losing farmland is a double hit which thwarts a need to sequester more carbon in farmland soils.

Why preserve agricultural land part I : general benefits to society.

“Good farmers, who take seriously their duties as stewards of Creation and of their land's inheritors, contribute to the welfare of society in more ways than society usually acknowledges, or even knows. These farmers produce valuable goods, of course; but they also conserve soil, they conserve water, they conserve wildlife, they conserve open space, they conserve scenery.”

— Wendell Berry



(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

- **Preserve large blocks of agricultural land:** Fragmentation of agricultural landscape results in reduced operational efficiencies (driving between noncontiguous parcels), detrimental impacts to social fabric (knowledge sharing, informal/sharing economy), reduced availability of local support services (feed store, diesel mechanic), reduced access to first-mile resources (co-pack plant, slaughter/cut-and-wrap), longer drive-times and associated carbon footprint.
- **Maintaining the Agricultural Economy:** Agriculture and associated industry is Oregon's #2 economic sector directly and indirectly annually contributes 686,518 jobs, \$29.7Bn in wages, \$12.12 Bn in taxes and \$2.85 Bn in exports.
- **Assuring healthful and nutritious food supply:** Agriculture is critical infrastructure. It takes regionally diverse, resilient and sometimes redundant systems to support the growing public demands from agriculture. How to integrate food supply chains into emergency hazard responses?

Why preserve ag land part II : the agricultural economy.

Resources:

USDA NASS 2017 Census of
Agriculture County Profiles



(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

- **Cost of service:** sewer, water, road maintenance, law enforcement, fire protection, social and health services, school buses
- **Conflicts:** farm vehicles, trespass, weed control, biological contamination, water table impacts, noise, spray, odors, pets, etc.
- **Open Space and aesthetic values**

Forces that lead to agricultural land conversion:



- Development pressure,
- Weakened farm viability, and
- The challenges of transferring land to a new generation.

Why preserve ag land part III : the negative consequences of not preserving it.

Learn More:

“More Extensive is More Expensive: How Sprawl Infrastructure Bankrupts Oregon Communities, and What We Can Do About It”

“Death by 1,000 Cuts: A 10-Point Plan to Protect Oregon’s Farmland”

“Farms Under Threat: State of the States”

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

ORS 308A.050 : The Legislative Assembly recognizes that agriculture and related land uses contribute significantly to Oregon’s character and economy. The Legislative Assembly finds that providing the means for agriculture to continue and prosper is in the interest of all residents of this state, who benefit directly or indirectly from agricultural production and stewardship of farmlands and ranchlands. Valuation of farm properties based upon market data from sales for investment or other purposes not connected with bona fide farm use encourages the conversion of agricultural land to other uses. The identification of agricultural land for farm use, as provided by law, **substantially limits alternative uses of such land and justifies the valuation of that land based on its agricultural production capability (vs highest and best use)**. Therefore, it is the declared intent of the Legislative Assembly that bona fide farm properties be assessed for ad valorem property tax purposes at a value that is exclusive of values attributable to urban influences or speculative purposes.

ORS 308A.062 : Any land that is within an exclusive farm use zone and that is used exclusively for farm use shall qualify for farm use special assessment under ORS 308A.050 (Legislative intent) to 308A.128 (Certain district assessments inapplicable to exclusive farm use zone farmland), unless disqualified under other provisions of law.

Potential for additional tax liability on disqualification.

Oregon incentivizes the preservation of ag land via tax benefits for EFU landowners.

Learn more:

“Farm Zoning and Fairness in Oregon 1964-2014”

How are we performing relative to our agricultural policy goal?

EFU zoning ~16 M acres.

Zone change to non-resource since 1987: ~40,000 acres. The Goal 3 program has been successful by that metric – maintaining over 99% of land originally zoned for exclusive farm use in that program.

USDA NASS ~15.8 M acres in farm use

USDA NASS indicate that over the past 10 years Oregon acreage in production has declined by ~1.8% which is lower than the national average.

AFT identified ~ 17.5M acres based on recent (and unprecedented) high resolution land cover review

20,500 acres	Nationally Significant ag land
43,800 acres	Other ag land
32,800 acres	urban high density development (tracks with DLCD KPM estimates for UGB expansion)
33,000 acres	low density residential development

You can't manage what you can't measure.

Resources:

- DLDC Biennial Farm and Forest Report
- “Farms Under Threat: State of the States”
- USDA NASS 2019 Oregon State Agricultural Overview

Goal 4

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Learn more:

“Forests, Farms & People: Land Use Change on Non-Federal Land in Oregon 1974-2014”



How are we doing?

Forest Zoning 11.7 M acres.

The Goal 4 program has been successful by that metric – maintaining over 99% of land zoned for Forest use in that program.

ODF estimate 10.4 M acres in wildland forest, 9M acres in range and 1.5 M acres in mixed farm/forest based on aerial imagery review. Conversion estimates are slightly higher over the same period estimating a loss of about 1.2% of land in wildland forest use.

ODF also notes significantly greater (~2x) conversion to low-density residential use than to urban uses.

You can't manage what you can't measure.

Learn more:

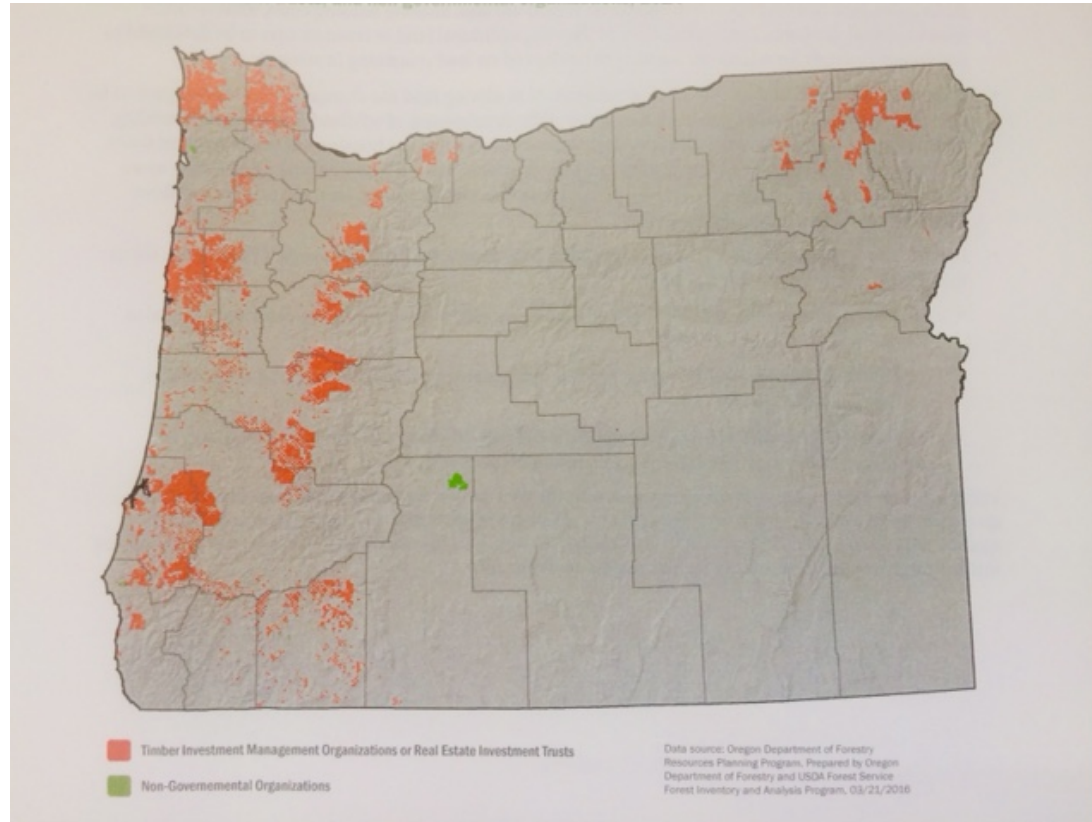
DLDC Biennial Farm and Forest Report

“Forests, Farms & People: Land Use Change on Non-Federal Land in Oregon 1974-2014”



Forest Ownership

TIMO/REIT Ownership ~ 2.7 M acres of forest land.

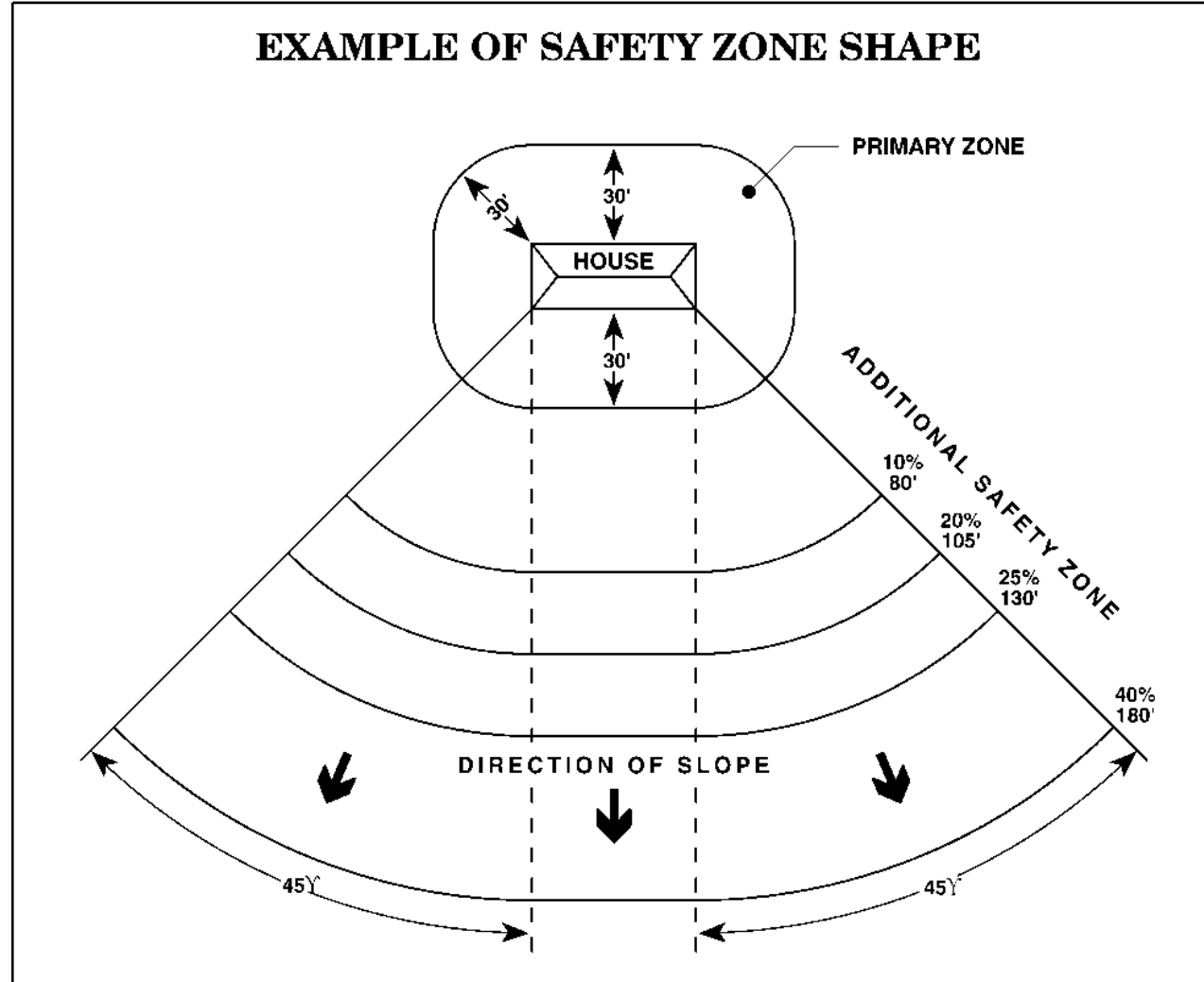


Timber Investment Management Organization (TIMO)

Real Estate Investment Trusts (REITS)



Fire Siting Standards





Thank you!



DLCD

Department of
Land Conservation
& Development

October 8, 2020

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