

Everymember Material

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Land Use Planning and Agriculture in Oregon

Oregon has a long history of land use planning. The city of Portland established the first ordinance in 1918. The Oregon legislature permitted cities to zone private land in 1919. In 1947 the legislature permitted counties to zone private land. In 1961 the legislature provided for farm use property assessment for land being farmed and zoned exclusively for farm use. In 1963 the Exclusive Farm Use Zone was enacted and with it the uses it allows.

Senate Bill 10, passed in 1969, mandated all local governments to draw up comprehensive plans and to zone all lands within their jurisdiction. If there was a failure to comply, the Government would step in to develop the plan and zone the land, using the ten original goals to guide the process.

In 1973, after much campaigning by then Governor Tom McCall, a Republican, Senate Bill 100 was passed. The bill's sponsors were Hector McPherson, a Republican farmer from Linn county, and Ted Hallock, a Democrat from Portland.

The bill was designed to control urban sprawl and provide protection of farm and forest lands, conservation of natural resources, orderly and efficient development, coordination among local governments, and citizen involvement in planning.

The bill provided the base for a strong statewide program for land use planning. It created the Department of Land Conservation and Development (DLCD) and directed it to establish new statewide goals and guidelines by Jan. 1, 1975. After extensive public review and many hearings, Goals 1 through 14 were adopted in Dec. of 1974. Five additional goals were adopted later. These 19 goals provide the foundation for the statewide land use planning program; their subjects and full text can be found at <http://www.oregon.gov/LCD/pages/goals>. The full list:

- Goal 1 Citizen Involvement
- Goal 2 Land Use Planning
- Goal 3 Agricultural Lands
- Goal 4 Forest Lands
- Goal 5 Nat. Resources, Scenic & Historic Areas and Open Spaces
- Goal 6 Air, Water & Land Resources Quality
- Goal 7 Areas Subject to Natural Hazards
- Goal 8 Recreational Needs
- Goal 9 Economic Development

- Goal 10 Housing
- Goal 11 Public Facilities and Services
- Goal 12 Transportation
- Goal 13 Energy Conservation
- Goal 14 Urbanization
- Goal 15 Willamette River Greenway
- Goal 16 Estuarine Resources
- Goal 17 Coastal Shorelands
- Goal 18 Beaches and Dunes
- Goal 19 Ocean Resources

Oregon's land use goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land-division ordinances needed to put the plan into effect. These local plans must be consistent with the statewide planning goals. The plans are reviewed for such consistency by the Land Conservation and Development Commission (LCDC), the board appointed by the governor to oversee the Department of Land Conservation and Development (DLCD), and when officially approved become the controlling document for land use decisions in the geographic area covered by the plan. Oregon's planning laws also apply to special districts and state agencies. The Envision Eugene process that the local League has been following represents the City's work to update its comprehensive plan in accordance with the nineteen goals.

There have been several attempts to repeal SB 100. All have been defeated.

Goals 1 to 3 are discussed below.

Goal 1. Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

(For full text see: <http://www.oregon.gov/LCD/pages/goals>)

Goal 2. Land Use Planning

Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable implementation ordinances to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and

amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

Goal 3. Agricultural Lands

Goal 3 defines “agricultural lands.” It requires counties to inventory such lands and to “preserve and maintain” them through farm zoning.

Zoning applied to agricultural land limits uses which can have significant adverse effects on agricultural and forest land, farm and forest uses or accepted farming or forest practices. Some of the criteria used in defining agricultural lands are soil fertility, suitability for grazing, climatic conditions and availability of water. High-value farmlands are areas of agricultural land defined by statute and Commission Rule.

Details on the uses allowed in farm zones are found in ORS Chapter 215 and in OR Administrative Rules, Chapter 660, Division 33.

Permitted Nonfarm uses on EFU (exclusive farm use) land include: winery, dwelling for farm use, farm stands, churches and cemeteries, dog kennels, mineral exploration, playgrounds or campgrounds, utility service, geothermal exploration, golf courses. For full list see: www.landuseoregon.com/references-resources/exclusive-farm-use/

More recent legislation includes:

The Big Look, Senate Bill 82, created the Oregon Task Force on Land Use Planning in 2005. The task force was charged with conducting a comprehensive review of the statewide planning program and making recommendations to the 2009 legislature for any needed changes to land use policy.

1000 Friends of Oregon, a land use watchdog organization founded in 1975, looked at the recommendations. Among their comments were that the planning program has been very effective. The rate of loss of farmland in the Willamette Valley had slowed considerably. However, the old concerns not only remain but have intensified, partly because of population growth and development pressures. The protections to farmland are not strong enough, due to inadequate funding and inconsistent implementation. Non-farm uses that are allowed in exclusive farm zones are a problem. More effective regulations and new, market based incentives are needed. Purchase of development rights or land conservation easements could complement Oregon’s regulatory program. Vermont and Massachusetts and have such

programs. The creation of a land stewardship program to fund the purchase of farm protection easements from willing farmland owners could be a market incentive. Limits on destination resorts and nonfarm uses could be used as a regulatory tool. The best farmland should be protected from developers. And the DLCD needs to be adequately funded.

<http://www.friends.org/issues/big-look-new>

Senate Bill 841, approved in the 2013 legislative session, regulates winery activities on farmland. Wineries have long sought clarification of allowed activities on farmland. This bill creates a clear distinction between wine marketing activities and special events. Activities like promoting wines by having tasting rooms and guided tours are allowed. Special events like weddings, concerts and facility rentals are limited to 18 days per year. Full service restaurants are permitted in the largest wineries only. If a winery wants to operate the restaurant for more than 25 days per year, a permit from the county is needed. For example King Estates outside of Eugene has a full service restaurant, but the smaller Sweet Cheeks winery can serve only cold items.

House Bill 2202, also passed in 2013, addresses mining on valuable farmland. The bill was brought forward by the Oregon Farm Bureau . It was intended to stop destructive mining operations that ruin prime lands. The final version of the bill allows deeper mining than before, the rationale being that less farmland will be disturbed.

www.landuseoregon.com/references-resources/exclusive-farm-use/

Considerations of a small Farmer

In August of 1999 I moved from a condominium in Oakland, CA to 6.33 acres of prime farmland on the Willamette River. I asked a local land use attorney about the laws that would affect me. The advantage was a low tax base as long as I “farmed” the land and made a profit of 100 dollars per acre. If I chose to stop qualifying as a farm, Lane County would bill me all back taxes but would not push to collect them. I also could not build any other permanent livable structures on my acres, but I could build farm related structures.

For the next two, years two of my children, who were active in farming related fields, and I talked to alpaca and llama farmers, lawyers and accountants. Nothing presented itself that did not cost more to start and work than it made in profits.

For example, one area that everyone recommended was alpaca farming. I looked at this in detail. Good wool animals sold for \$1000 or more. At that time a shearer was brought up from Peru because the wool was so valuable that a common sheep shearer might waste it. Add a great guard dog, prize feed and records and more records to the mix. I asked how it paid and was shown clothing made and sold for a good price or given as luxury gifts. I actually hired an accountant this farmer recommended and he told me that alpaca farmers made most of their profits selling animals to each other. I decided I would pass.

An exception to the general expensive beginning would have been tree farming, but I hoped to avoid that area as my neighbor with Christmas trees was having trouble selling. There was already a glut on the market. In 2011 and 2012 his son sold U-cut trees for \$15 each to pay his tuition to Oregon State University. The sign is already up for 2013.

My solution has been to rent grazing land for sheep and horses for \$50 a month. Expenses have been for water and repairs to fences. I have grown vegetables for Food for Lane County and flowers for a Coburg business.

Christine Donahue

DISCUSSION QUESTIONS

1. What types of commercial, industrial or residential land use can be detrimental to agricultural lands, especially those in exclusive farm zones?
2. Are current commercial or industrial enterprises causing destruction or harm to farmlands?
3. Are too many commercial land use activities being allowed on agricultural lands? If so, what new constraints should be in place?
4. Considering roadways, water rights and irrigation, sewage, and need for utilities, what conflicts arise because of commercial activity in farm zones?
5. In 1994 the Land Conservation and Development Commission created a farm income test (80/80 rule ; 80 acres/ \$80,000gross profit) for high-value farmland to limit dwellings in rural areas. Did this create another obstacle for new farmers and for small farm producers? Are there other options to prevent residential development?
6. The 1000 Friends of Oregon have suggested a solution to protecting farmland from being converted by establishing a land stewardship program with the ability to purchase easements. What could be the impact of such a program?
7. What are the costs to the larger community to protect farm land by programs such as land stewardship and property tax deferral?

Questions posed by Linda Ferdowsian

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