

APPROVED BY COMMISSION AS ADDITION TO THIS POLICY PAPER JULY 12, 1979
(Replaces Old Question #7)

COMMON QUESTIONS ABOUT GOAL #3--AGRICULTURAL LANDS:
MINIMUM LOT SIZES IN EFU ZONES

7. WHAT DOES GOAL 3 REQUIRE ON THE USE OF A MINIMUM LOT SIZE IN AN EFU ZONE?

Goal 3 states, "such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area." This Goal phrase is the required standard to be used to determine appropriate lot sizes in EFU zones. It is applied when approving both the creation of new lots and development on preexisting lots.

Goal 3 does not require a specific acre size (i.e., a 40-acre minimum lot size). Needs for agricultural acreage vary from large wheat ranches to small intensive farming operations. A specific minimum lot size adopted at the state level would be impractical.

The Goal's minimum lot size standard can be applied in various ways, including but not limited to the following:

1. To determine one specific acre size which is used for:
 - both farm and nonfarm uses, or
 - only farm uses, with the size for nonfarm uses decided case-by-case;
2. To determine different acre sizes which are used for:
 - farm and nonfarm uses,
 - different types of farms (crops and practices), or
 - different areas of the county; or
3. To determine performance standards which are used to decide appropriate lot sizes for farm and nonfarm uses on a case-by-case basis.

Counties should apply the Goal's standard on minimum lot sizes in the way which best meets their local needs. That application may vary for different farm areas within the county. The only constraint is that the standard be applied in a way adequate to maintain appropriate lot sizes for the continuation of the existing commercial agriculture in the area.¹

8. WHY IS THE GOAL'S STANDARD ON MINIMUM LOT SIZES APPLIED TO THE CREATION OF NEW LOTS WITHIN AN EFU ZONE?

The Goal's standard on minimum lot sizes is applied to the creation of new lots to prevent agricultural land from being divided into parcels or lots which will not contribute to the local commercial agricultural enterprise. If the parcel is a producing commercial farm, the parcel should not be divided if to do so renders any part of the original parcel no longer a commercial farm unit. If the parcel is not now a producing commercial farm, it still should not be divided into smaller parcels because to do so further removes the possibility that the land will contribute to the commercial agricultural enterprise in the future.

The minimum lot size standard requires the distinction between farm and nonfarm parcels. Divisions of land that create lots larger than those allowed by the minimum lot size standard are considered nonfarm parcels. Divisions of land that create lots smaller than those allowed by the minimum lot size standard are considered nonfarm parcels, unless it is found that smaller lots are appropriate for an intensive commercial farm operation (i.e., nursery, berries, greenhouse, etc.) The distinction is important because of the statutory regulation of dwellings within an EFU zone. Dwellings on farm parcels are allowed outright under ORS Ch 215.213(1). Dwellings on nonfarm parcels are allowed only if they meet the conditions set forth in ORS Ch 215.213(3) for nonfarm residences.

The safeguards of the EFU statutes would be circumvented if the Goal's standard on minimum lot sizes is not used. The division of agricultural land into small acre tracts could be found consistent with Goal 3 and the requirements of the EFU statutes. Small acre tracts could merely be called farms. Houses on each of these tracts would be "dwellings customarily provided in conjunction with farm use." Such dwellings would be permitted outright in an EFU zone (ORS 215.213 (1)(e)). The interference and compatibility conditions required for the siting of nonfarm dwellings would not apply.

¹While a certain minimum lot size may be appropriate for the continuation of commercial agriculture (as required by Goal 3), it may be inadequate to comply with Goal 5 requirements to protect wildlife resources. Counties must identify wildlife habitat areas and ensure that the minimum lot size is also appropriate for the protection of these areas.

Nonfarm parcels are considered to be acreage homesites. They are not outright permitted uses in an EFU zone because they do not preserve agricultural land for commercial farm uses. Instead, they allow the land to be taken out of the county's commercial agricultural enterprise. Nonfarm dwellings seldom need 20 or 40 acre lots when a smaller amount of land would be sufficient. Such dwellings also threaten the continuation of the remaining commercial operations within the area.

The only way acreage homesites can be created within an EFU zone is through the conditional use procedure set forth in ORS 215.213(3). The Commission made this point clear in its decision in 1000 Friends of Oregon v. Board of County Commissioners of Marion County, LCDC No. 75-006 (1977):

The locations of acreage homesites on agricultural land cannot be justified simply on the basis that they relate to farm use in some peripheral sense. The primary purpose of such sites is to provide a homesite, although livestock may be kept and crops raised as a secondary, but important activity of the homesite. ORS 215.213(3) is very clear that such homesites may be permitted in the EFU zones under only very strict conditions, so as to insure compatibility with the farm practices used in the exclusive farm use area and to keep the exclusive farm use area free from development. (Opinion and Order, pp. 7-8.)

The Goal's standard on minimum lot sizes is in addition to the statutory requirement dealing with the review criteria for divisions of land in an EFU zone (ORS 215.263). That requirement states that any division of land (except cemetery lots) must be found by the governing body to conform with the legislative intent of the "Agricultural Land Use Policy" set forth in ORS 215.243.

The basic intent of this policy is that:

- (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 into rural areas is a public concern because of conflicts between farm and urban activities; and,
- (4) Incentives and privileges provided by Exclusive Farm Use Zoning encourage owners of agricultural land to hold those lands in EFU zones.

9. WHY IS THE GOAL'S STANDARD ON MINIMUM LOT SIZES APPLIED TO THE DEVELOPMENT OF PREEXISTING LOTS WITHIN AN EFU ZONE?

The Goal's standard on minimum lot sizes is applied to the development of preexisting lots to prevent increased development from interfering with neighboring farms. This is accomplished through the conditional use standards of the EFU zoning statutes (ORS 215.213(3)).

As in question 8, the standard requires the distinction between farm and nonfarm parcels. If the preexisting lot meets the standard, a new dwelling will be considered farm related and be permitted outright. If the lot does not meet the standard, the new dwelling will be considered a nonfarm residence, unless it is found that the smaller lot is appropriate for an intensive commercial farm operation (i.e., nursery, berries, greenhouse, etc.). Otherwise, a nonfarm residence must be approved subject to the conditions set forth in ORS 215.213(3).

New dwellings on all preexisting lots cannot be allowed outright since this would, in effect, change a conditional use (nonfarm dwelling) to a permitted use (farm dwelling). Such an act would render the local EFU zone less restrictive than the state statute. Such a zone would not meet the requirements of Goal 3 and ORS Ch 215.

10. WHAT IS A COMMERCIAL AGRICULTURAL OPERATION?

A Commercial agricultural operation is one which will:

1. Contribute in a substantial way to the area's existing agricultural economy; and
2. Help maintain agricultural processors and established farm markets.

Therefore, when determining whether a farm is part of the commercial agricultural enterprise, one should consider not only what is produced, but how much and how it is marketed. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

The commercial agricultural enterprise is specified in Goal 3 because of its economic importance as Oregon's second largest industry. The commercial agricultural enterprise involves more than just agricultural production. It involves the entire marketing system through processing, packaging, distributing, wholesaling and retailing. It is this marketing chain which multiplied the 1.25 billion dollars in gross farm sales in 1978 into the 3.75 billion dollar industry on which Oregon's economy is based. Commercial agricultural production provides the volume to maintain this market system.

11. HOW DO YOU DETERMINE WHAT LOT SIZE IS "APPROPRIATE FOR THE CONTINUATION OF THE EXISTING COMMERCIAL AGRICULTURAL ENTERPRISE"?

Once the types of commercial agriculture in the area are identified, one can determine the lot size(s) needed to maintain it.² The appropriate lot size should be determined based on type of crops grown, yields, acres in production, existing processing and marketing practices, type of farms (i.e., practices and crops) and most important, the amount and type of land needed, in various parts of the county, to constitute a commercial farm unit.

The type and quantity of crops produced and how they are marketed are the key factors in determining appropriate lot sizes. Owner characteristics, such as percent of income from farming and primary occupation, do not necessarily define a commercial farmer or a commercial farm unit. Commercial agriculture in Oregon is supported, in part, by less than full-time farmers.

Information on the above factors can be found in the following sources:

1. Census of Agriculture, Oregon, State and County Data, Vol 1 pt. 37, U.S. Department of Commerce, Bureau of the Census (every 5 years).
2. Oregon Soil and Water Conservation Needs Inventory, USDA, 1971 (state and county acreages).
3. Crop Reports, Oregon Crop and Livestock Reporting Service, USDA, 1735 Federal Bldg., 1220 SW 3rd Ave, Portland, OR 97204 (221-2131).
4. Commodity Data Sheets, USDA Extension Economic Information Office, OSU, Corvallis, Stanley Miles (754-4821).
5. "Annual Report", County Extension Office, (detailed information on crops grown and local agricultural situations).
6. Detailed and general soil survey reports, prime and unique farmlands inventory and OR-1 soil data sheets. Soil Conservation Service, .. USDA, .
7. Crop and marketing information, Oregon Department of Agriculture, 635 Capitol NE, Salem, OR 97310 (378-4665)
8. Capital Press, Regional Agricultural-Forest Weekly, P.O. Box 2048, Salem, OR 97308 (364-4431) (\$12/yr.).

²The lot size standard in the Goal refers to an entire farm unit and should not be confused with individual tax lots. A single farm unit may consist of any number of tax lots (owned or leased) which are managed jointly as a single farm unit.