



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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March 2, 2007

TO: County Planning Directors and Interested Persons

FROM: Ronald Eber, Farm and Forest Lands Specialist 

SUBJECT: **Approved 2004-2005 EFU and Forest Reports**

### **APPROVED FARM AND FOREST REPORTS:**

On January 26, 2007, the Land Conservation and Development Commission approved the enclosed report required for submittal to the Legislature by ORS 197.065 analyzing applications for dwellings, non farm and non forest uses and land divisions in farm and forest zones. The purpose of the Farm and Forest Reports is to allow the Legislature, Commission, local officials and interested parties to evaluate how effective Goals 3 and 4 are at protecting agricultural and forestlands. The requirement to prepare the Farm Report was adopted in 1983 and 1989 for the Forest Report.

The statute requires the Commission to submit a report to the Joint Legislative Committee on Land Use before each Legislative session "analyzing applications approved and denied for" certain dwellings, nonfarm and nonforest uses and land divisions in EFU and Forest zones based on the information provided by each county and from other public comments. The report may also contain "such other matters pertaining to protection of agricultural or forest lands as the Commission deems appropriate." (ORS 197.065(1)(d)).

The current Biennial Report includes two separate reports, one for decisions on farm land and one for decisions on forest lands, for the two year period of January 1, 2004 to December 31, 2005. Information for 2006 period is just being submitted and is being readied for analysis.

Draft copies of the Farm and Forest reports were mailed to all of you previously for comment. Corrections were made to the Tables based on the comments received.

Additionally, the Commission directed the department to monitor any approvals for dwellings and other uses in farm and forest zones based on any waivers to the provisions of these zones resulting from the passage of Ballot Measure 37 and approved forms for providing information about these decisions as a regular part of these reports. These new forms are attached. Information about some land use decisions based on Measure 37 waivers approved in 2005 is included in these reports.

The Commission also directed the department to continue to explore cost effective means to map the geographic extent of the approvals of dwellings and non-farm and non-forest uses with Metro, counties and other interested parties. Further, the Commission believes such an effort can provide some very important information on the effectiveness of Oregon's land use program to protect its farm and forest land base that will be crucial to any upcoming review of these programs.

Overall, development approvals for dwellings, uses and land divisions on farm and forest lands during the 2004-05 reporting period continue to reflect the influence of changes to state laws and LCDC rules enacted since 1993.

Attachments:

- A. ORS 197.065
- B. 2004 and 2005 Farm Report
- C. 2004 and 2005 Forest Report
- D. Approved Post M 37 Reporting Forms

**197.065 Biennial report analyzing uses of certain land; annual local government reports.** (1) Prior to each legislative session, the Land Conservation and Development Commission shall submit to the Joint Legislative Committee on Land Use a written report analyzing applications approved and denied for:

(a) New and replacement dwellings under:

(A) ORS 215.213 (1)(e) and (g), (2)(a) and (b), (3) and (4), 215.283 (1)(e) and (f), 215.284 and 215.705; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(b) Divisions of land under:

(A) ORS 215.263 (2), (4) and (5); and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(c) Dwellings and land divisions approved for marginal lands under:

(A) ORS 215.317 or 215.327; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland; and

(d) Such other matters pertaining to protection of agricultural or forest land as the commission deems appropriate.

(2) The governing body of each county shall provide the Department of Land Conservation and Development with a report of its actions involving those dwellings, land divisions and land designations upon which the commission must report to the Joint Legislative Committee on Land Use under subsection (1) of this section. The department shall establish, after consultation with county governing bodies, an annual reporting period and may establish a schedule for receiving county reports at intervals within the reporting period. The report shall be on a standard form with a standardized explanation adopted by the commission and shall be eligible for grants by the commission. The report shall include the findings for each action except actions involving:

(a) Dwellings authorized by ORS 215.213 (1)(e) or 215.283 (1)(e); or

(b) Land divisions authorized by ORS 215.263 (2) creating parcels as large as or larger than a minimum size established by the commission under ORS 215.780.

(3) The governing body of each county shall, upon request by the department, provide the department with other information necessary to carry out subsection (1) of this section. [1983 c.826 §13; 1985 c.811 §9; 1987 c.555 §4; 1989 c.107 §1; 1993 c.792 §9; 2001 c.704 §9]

## New Dwellings Approved in Farm Zones

<b>TYPE OF DWELLING</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>TOTALS (% of Net)</b>
<b>Primary Farm ORS 215.283(1)(f)</b>	372	149	94	98	68	88	77	81	76	93	88	84	'1368 (17%)
<b>Accessory Farm Dwelling ORS 215.283(1)(f)</b>	122	64	54	57	35	53	36	29	27	30	20	23	550 (7%)
<b>Family Farm Help ORS 215.283(1)(e)</b>	34	57	49	78	77	59	43	38	48	34	53	49	619 (8%)
<b>Temporary Hardship ORS 215.283(2)(L)</b>	105	154	122	131	126	105	105	115	104	80	73	89	1309 (17%)
<b>Lot-of-Record ORS 215.284</b>	68	112	123	129	131	94	80	78	89	53	64	51	1072 (14%)
<b>Non Farm ORS 215.284</b>	225	252	299	340	205	208	227	203	279	258	202	218	2909 (37%)
<b>Net New Dwellings</b>	<b>926</b>	<b>788</b>	<b>741</b>	<b>833</b>	<b>642</b>	<b>607</b>	<b>568</b>	<b>544</b>	<b>623</b>	<b>548</b>	<b>500</b>	<b>514</b>	<b>7834</b>
<b>Replacement ORS 215.283(1)(s)</b>	211	220	289	419	361	354	307	276	333	305	294	233	3604 (32%) of Total
<b>TOTAL DWELLINGS APPROVED IN FARM ZONES</b>	<b>1137</b>	<b>1008</b>	<b>1030</b>	<b>1252</b>	<b>1003</b>	<b>961</b>	<b>875</b>	<b>820</b>	<b>956</b>	<b>853</b>	<b>794</b>	<b>747</b>	<b>11,438</b>

Prepared by the Department of Land Conservation and Development (DLCD)

Using data submitted by Oregon's 36 counties

**Note: For 2001 only, the numbers shown are a 12 month average (16 month total ÷ 16 x 12 = 2001)**

# Approved 2004 & 05 FARM REPORT

## January 1, 2004 through December 31, 2005

### Introduction

State law (ORS 197.065) requires the Oregon Land Conservation and Development Commission to submit a report to the Legislature "analyzing applications approved and denied" for certain land uses in exclusive farm use (EFU) and forest zones and "such other matters pertaining to protection of agricultural or forest land as the Commission deems appropriate." Land use decisions compiled in this report were made on land protected by Statewide Planning Goals 3, "Agricultural Lands" and Goal 4 "Forest Lands either in a traditional EFU, forest use or mixed farm/forest zone.

The Department of Land Conservation and Development receives a description of each local decision approved or denied in these zones along with a compilation of all decisions made during the reporting period from each county. This report summarizes the information provided by the counties for the two year period.

**Usually the department prepares separate farm and forest land reports for each year. For this biennium, there will be separate farm and forest land reports for the entire two year period. Separate tables for each year are still included as the basis for the combined reports.**

### Reporting Period

This report includes the land use decisions made during the two year period between January 1, 2004 through December 31, 2005.

Tables A through O include information for dwelling and land division decisions, as well as information on other approved uses (for example, golf courses, home occupations, schools, etc.). Table N reports the number and size of urban growth boundary amendments. Table O summarizes the adopted rural plan map amendments submitted to the Department and will be provided to LCDC at its meeting. This report continues to include information on the number of acres planned and zoned as "non resource land" (lands that are not agricultural or forest land as defined by Goals 3 and 4) and the number of counties that have or are engaged in mapping high-value farmland as required by OAR 660-033-0080(2).

### Ballot Measure 37

This report includes a new section for the land use decisions approved in farm zones based on waivers to state and local land use regulations under Ballot Measure 37 (ORS 197.352). All these decisions were made in the 2005 reporting period. These decisions are based on the Goal 3 and farm zone standards for dwellings and land divisions in effect at the time an applicant acquired the property and will be an added feature of this and future reports. A new reporting

form was approved by the Commission for use with the 2006 Farm/Forest report.

## Use of Reported Information

The Department uses the collected information to monitor the type and extent of development occurring on agricultural land statewide and in individual counties in order to:

1. Assess the effectiveness of the EFU zone to implement Statewide Goal 3; and
2. Focus staff resources to assist counties and the public with the implementation of Statewide Goal 3 where needed.

The Department recognizes that many counties have processes, such as pre-application conferences, which serve to discourage applications for uses unlikely to be approved. Such local processes are not specifically addressed in this report. **For this reason, we urge readers to use caution in creating "approval rates" based on the information in this report.**

Relatively few applications (less than 10%) are actually denied. In many cases, early conferences between potential applicants and planners result in a decision by the potential applicant to not submit an application. Some counties have compared the number of client contacts or "pre-application conferences" with the actual number of approvals and denials. These comparisons show that there are many more initial contacts than actual decisions.

## Oregon's Agricultural Land Protection Program

The preservation of agricultural land is one of the primary objectives of Oregon's statewide planning program. Oregon has determined that it is the state's interest to protect the land resource foundation of one of its largest industries, agriculture. According to the Oregon Department of Agriculture, in 2005, the total direct and indirect contribution to Oregon's economy by the agriculture and food processing industry was \$12 billion dollars (\$4.3 billion in farm/ranch products; \$2 billion from value-added processing; \$3.4 billion of purchased goods and services and \$2.3 billion generated in wages and salaries). This is 10% of Oregon's gross state product and the agricultural sector provides over 9% (1 in 12) of all Oregon jobs.

Oregon's agricultural lands protection program is based on several elements composed of statutory and administrative rule provisions, the agricultural lands goal, and LUBA/Court opinions and interpretations. These elements are held together in a program by Statewide Planning Goal 3, "Agricultural Lands." This goal requires the identification of agricultural land the use of an exclusive farm use zone (EFU) under ORS Chapter 215 and requires counties to review certain non farm uses according to administrative rule and the statutory (EFU) provisions. The LCDC rule (OAR 660, Division 33) and statutory EFU zone (ORS Chapter 215) set forth the farm and non farm uses allowed and also provide related tax

and other benefits to the property owner. The goal and administrative rule also incorporate the statutory minimum lot sizes and standards for all land divisions (ORS 215.263 and 215.780).

## **Agricultural Land Use Policy**

Three policy statements set forth Oregon's "Agricultural Land Use Policy". The first was established by the Legislature 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 exclusive farm use 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). These are to:

1. Provide certain owners of less productive land an opportunity to build a dwelling on their land; and
2. 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 clearly set forth the state's interest in the preservation of agricultural lands, the means for their protection (EFU zoning), and establish that incentives and privileges (i.e., tax and other benefits) are justified because of the limits placed upon the use of the land.

## **Exclusive Farm Use Zones**

In Oregon, agricultural lands are to be preserved by an exclusive farm use (EFU) zone. At present, about 15.5 million acres (56%) of private land in Oregon are included in the EFU zone.

The EFU zone was developed by the Oregon legislature in 1961 along with the farm tax assessment program. Farm use is encouraged and protected within the zone while also allowing a variety of farm and non farm related dwellings and other non farm uses.

# Dwellings

In EFU zones, dwellings are allowed for seven (7) different reasons and include primary farm dwellings, relative farm help dwellings, non farm dwellings, temporary hardship dwellings, lot-of-record dwellings, replacement dwellings, and accessory farm dwellings. Each of the above dwelling types is discussed in this section. The total number of approved dwellings in 2004 was 794 and 749 in 2005. During the year 2003 reporting period, 853 dwellings were approved.

**Overall, there have been no significant changes in the approval rates for the different types of dwellings allowed in EFU zones statewide.** In general, the number of yearly approvals has been on a downward trend and all current approvals are less than their respective eleven year average since 1995. See the "New Dwellings Approved in Farm Zones" chart attached to the cover memorandum.

## Primary Farm Dwellings

The total number of primary farm dwellings approved in 2004 was 88 and 84 in 2005 compared with 93 for the 2003 reporting period (Table A). Over the years, the type of primary farm dwellings approved have been fairly evenly split (45% - 55%) between those approvals based on an income standard and those approved on parcels larger than 160 acres. However, in 2005 the percentage of dwellings approved on large lot (160 acre) parcels increased to 71% of all primary farm dwellings. Seventy-one percent (73%) of these were in eastern Oregon.

Jackson and Jefferson counties continue to be the only two counties to utilize the optional potential gross farm sales approval standard in OAR 660-33-135 (2). They have prepared and received approval from the department for the capability numbers as required by OAR 660-033-0135(4).

Table B shows parcel size, distribution and the number of farm dwellings by the parcel size on which the dwellings were sited. For both reporting years about seventy (70%) percent of all the farm dwellings approved were on parcels larger than the statutory minimum lot size of 80 acres which is an increase from 56% in the 2003 reporting period.

## Other Farm Related Dwellings

Farm related dwellings include accessory farm dwellings approved under ORS 215.283 (1)(f), family farm help dwellings (ORS 215.283 (1) (e)) and seasonal farm worker dwellings (ORS 215.283 (1) (p)) (Table C).

Accessory farm dwelling approvals in 2004/05 were down slightly from the previous 2003 reporting period. Accessory farm dwellings must be sited on a farm operation that earns the same gross income required for a primary farm dwelling (\$80,000/\$40,000). Forty to fifty percent of the accessory farm dwellings continue to be sited on larger parcels (> than 80 acre minimum lot size) an increase from the 33% of the last reporting period (see Table G).

Some of the dwellings that were previously counted as seasonal farm worker housing are now included with accessory farm dwellings as a result of HB 3171 (2001 Legislature) and new the rules adopted by LCDC in 2002.

The number of dwellings approved for family members whose assistance is needed on the farm is up slightly from the 34 approved in the 2003 reporting period to 53 & 49 in '04 & '05 (Table C).

### Not Farm-Related Dwellings

Not farm-related dwellings include those approved under the non farm standards of ORS 215.284, lot-of-record dwellings approved under ORS 215.705, and temporary hardship dwellings allowed under ORS 215.283(2)(k) (Table D).

A comparison of the 2003 total with the 2004 and 2005 reporting periods shows that non farm dwelling approvals decreased from 258 to 202 in 2004 and then increased back to 218 in 2005; temporary hardship dwellings decreased from 80 to 73 in 2004 and then increased back to 89 in 2005 and lot-of-record dwellings increased from 53 approvals to 64 in 2004 and then decreased to 49 in 2005 (Table D). In 2004, the largest decreases in the number of non-farm dwellings occurred in Deschutes (60-37), Douglas (35-18) and Malheur (21-7) counties. Also in 2004, Klamath County increased from 17-30 and then in 2005, decreased back to 10 approvals. In 2005, Douglas County increased back from 18 to 31 approvals while Jackson went from 6 – 17 and Lake from 28-40 (Table D).

For non farm dwellings, (70 to 75%) were in eastern Oregon on parcels less than 20 acres. This distribution continues the trend begun in 1993 by HB 3661 that shifted the number of approved non farm dwellings away from the Willamette Valley to eastern and southern Oregon. This is a direct result of new approval standards that recognize Oregon's regional differences. (Tables D & F).

Almost all of the lot-of-record dwellings approved were not on high value farmland (ORS 215.705 (1)) (Table D).

Temporary hardship dwellings may be sited in conjunction with any existing dwelling, regardless of whether it is a farm or non farm dwelling and must be removed at the end of the hardship. Temporary dwellings still account for about 17% of all new dwellings approved in farm zones. (Table D).

### Replacement Dwellings

The approval of replacement dwellings continued to decrease from 294 in 2004 to 233 in 2005 compared with the 305 in the 2003 reporting period.

