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## Inside this Brief

- **Zoning**
- **Permitted Uses, Conditional Uses and Exceptions**
- **Land Divisions**
- **Dwellings**
- **Special Assessment Tax Programs**
- **Staff and Agency Contacts**

Legislative Committee Services  
State Capitol Building  
Salem, Oregon 97301  
(503) 986-1813

Background Brief on ...

# Agricultural and Forest Lands

Oregon has a long history of land use planning to protect agricultural and forest lands. Oregon's economic dependence on agricultural and timber production combined with concerns over loss of these valuable resource lands and the potential for conflicts with incompatible uses led the Legislative Assembly to first adopt Exclusive Farm Use (EFU) zoning and special tax assessment for farmland in 1961. The Legislature in 1973 passed Senate Bills 100 and 101, further strengthening Oregon's protection of resource lands by requiring the development of comprehensive statewide goals to establish coordinated policies on land use and by amending the EFU and special tax assessment provisions. For more information on Oregon's land use planning system, see the Background Brief on Land Use.

Oregon protects agricultural lands (Goal 3) and forest lands (Goal 4) through the statewide comprehensive planning program that requires local governments to inventory and designate these lands in the comprehensive plan, zone the land for EFU or forest use, and adopt policies to preserve these lands. Farm and forest lands are further protected through limitations on the uses allowed on lands designated for farm or forest use, restrictions on land divisions and special assessment tax incentives. Lands designated as farm, forest and mixed farm-forest land account for zoning of 94 percent of private lands.

## Designating and Zoning Agricultural and Forest Lands

Comprehensive plans (see Background Brief on Land Use) implement the statewide planning goals by guiding land use zoning and defining the associated uses permitted within each zone. Cities are required to establish an *urban growth boundary (UGB)*, which separates urban and urbanizable lands from rural lands not intended for intensive development. Lands outside of a UGB are zoned for rural uses and include agricultural lands, forest lands, and other rural lands intended for non-resource uses, such as rural residential, commercial and industrial.

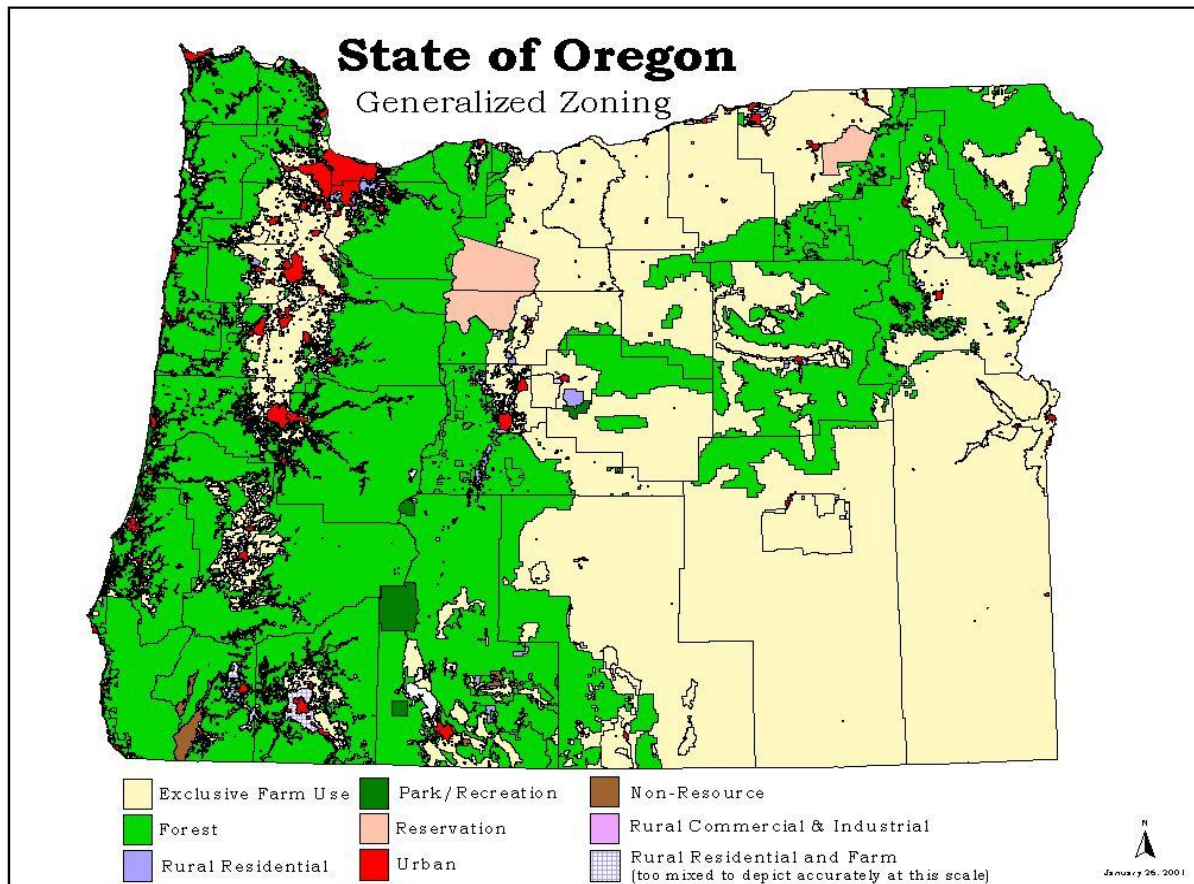
<b>Table 1. Acreage of Land Use in Oregon</b>		
<b>Land in Oregon</b>	<b>Acres</b>	<b>Percent</b>
Total Private Land	27.7 million	45
Farm	15.5 million	(25)
Forest	8.2 million	(13)
Farm/Forest	2.3 million	(4)
Rural	890,116	(1)
Development		
Other Rural/Non-resource	105,000	(0)
Urban (UGB)	781,836	(1)
Total Public Land	34.1 million	55
Total Land	61.8 million	100

Agricultural lands are defined as containing predominantly Class I, II, III and IV soils with Class V and VI soils also included if the lands are in eastern Oregon. In addition, other lands are classified as agricultural lands if they are suitable for farm use, taking into account 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. Also,

land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands and land in capability classes other than I-IV/I-VI that is adjacent or intermingled with productive farmland is considered to be agricultural land. Lands that meet the definition of agricultural lands must be protected in EFU zones unless the land is within an UGB, is designated as forest land under Goal 4, or the local government has taken an exception to Goal 3 (see discussion below). The EFU zones include 15.5 million acres of agricultural land and account for 55 percent of private land in Oregon or approximately 25 percent of Oregon's land base.

Approximately 30 percent of private lands in Oregon, or 8.2 million acres, are zoned for forest use. Forest land includes lands suitable for commercial forest uses, lands that are necessary for forest operations and forested lands required to maintain soil, air, water and fish and wildlife. Forest lands are identified using published productivity data or a mapping of average annual wood production capability by cubic foot per acre; however there is currently no specific threshold that determines what level of productivity and other forest values define forest land that must be protected under Goal 4. Lands that are defined as forest lands must be protected in forest zones unless the land is within an UGB, is designated as agricultural land under Goal 3, or the local government has taken an exception to Goal 4 (see discussion below).

An additional 2.3 million acres of private land is included in mixed farm-forest zones that are intended to be applied to a combination of farm and forest land. In these areas, counties may apply the rules for either farm or forest lands in approving land divisions and most uses. However, dwellings must be reviewed against the rules for either farm or forest lands based on the predominant use of the land in 1993.



### Permitted Uses, Conditional Uses and Exceptions in Farm and Forest Zones

The establishment of urban growth boundaries directs most development into the UGB, while maintaining lands for farm and forest use outside of the UGB by establishment of permissible uses which are defined in statute for farmland and in statute and rule for forest lands. The law defines permitted uses, which are typically related to farm and forest use, and conditional uses, which are usually not related. *Permitted uses* are reviewed by a planning official but do not generally involve consideration of discretionary approval criteria, special permits, or conditions. *Conditional uses* allow activities that are not acceptable throughout the entire zone but may be appropriate where not found to be incompatible with nearby farm and forest operations; the county may include conditions in the permit to reduce impacts on the surrounding area.

Landowners and counties may seek to exclude lands from the requirements of Goals 3 or 4 by taking a *goal exception* and rezoning land from farm or forest uses to another non-resource use. Exceptions can be justified when land has either been developed to the extent that it cannot meet the standards of the applicable goal, or when existing adjacent uses make allowed uses on the land impracticable. Exceptions can also be proposed when a case can be made that compelling reasons exist to justify a rezoning.

Finally, land zoned for farm or forest use may be rezoned to a non-resource use without an exception if it can be demonstrated that the land does not qualify as either agricultural or forest land. In addition to the exceptions process, farm and forest land is periodically rezoned to other non-resource uses when it is included within urban growth boundaries and designated for development.

*Farm use* is the employment of land for agricultural or horticultural uses to obtain a

profit including growing crops, raising specified animals, processing and marketing related farm products, and certain other uses as defined in statute. In 1963, the first statutory EFU zone included just six non-farm uses; today over 50 uses are allowed by statute in the EFU zone. Current uses permitted in EFU zones include but are not limited to: forest product propagation and harvesting; farm dwellings, buildings, and stands; fire service and law enforcement facilities; irrigation canals; wineries; geothermal, oil and gas exploration and production; churches; cemeteries; certain transportation improvements; hunting preserves; small crop processing facilities; wetlands; utility facilities; and campgrounds. Current uses requiring approval (conditional use) in EFU zones include but are not limited to: commercial activities in conjunction with farm use; mining operations; public or private schools; playgrounds and parks; community centers; golf courses; home occupations; forest product processing facilities; solid waste facilities; transmission towers over 200 feet high; commercial power generating facilities; dog kennels; certain dwellings; additional transportation improvements; destination resorts; water bottling facilities and guest ranches. For a complete list of permitted and conditional uses see [OAR 660-033-0120 Table 1](#).

*Forest use* includes forest operations, forest practices and auxiliary uses. Permitted uses include but are not limited to: uses to conserve soil, air, and water quality and to provide for wildlife and fisheries; farm use; utility distribution lines and equipment; mineral and aggregate exploration; hunting and fishing operations; forest towers and fire stations; destination resorts; geothermal, gas and oil exploration; solid waste disposal sites; and certain dwellings. Conditional uses include but are not limited to permanent forest product processing facilities and logging equipment storage, scaling and weigh stations; parks and campgrounds; fire stations; utility facilities; reservoirs and water intake facilities; cemeteries; home occupations; fishing and hunting accommodations and certain transportation improvements. For a complete list of permitted

and conditional uses see [OAR 660-006-0025 and 0027](#).

## **Land Divisions in Farm and Forest Zones**

Oregon land use law sets minimum lot sizes and standards for all land divisions in farm and forest zones. In EFU zones, the minimum lot size for land divisions on rangeland is 160 acres, while the minimum for other farmland is 80 acres. If a county can justify a lower minimum lot size that can continue to protect the existing commercial farming within the county, a “go below” minimum may be approved by the Land Conservation and Development Commission. Several counties have such “go below” minimums. The statutory minimum lot size for new forest parcels is 80 acres. New non-forest parcels may be created for many of the permitted non-forest related uses, except for new dwellings (see discussion below.)

## **Dwellings on Farm and Forest Lands**

In EFU zones, dwellings are allowed in seven different circumstances, including primary farm dwellings, accessory farm dwellings, relative farm help dwellings, non-farm dwellings, lot-of-record dwellings, replacement dwellings and temporary hardship dwellings. Lot-of-record dwellings may not be sited on high-value farmland unless the parcel cannot practicably be managed for farm use. Non-farm dwellings must be sited on soils that are generally unsuitable for agriculture. New non-farm parcels are permitted to be created for some types of dwellings and for other non-farm related uses. The farm dwelling approval standard is \$80,000 in gross revenues from agriculture on high-value farmland or, on non high-value farmland, either \$40,000 in gross revenues or 160 acres.

*Marginal, Secondary and High Value Farm Lands* - Prior to adopting the high-value farmlands standard, the Legislature in 1983 approved the Marginal Lands Act allowing a county to identify and reduce regulations on marginal lands in return for greater protection of productive resource lands. Lane and Washington Counties were the only two counties to adopt the marginal lands program before the statute was

repealed in 1991 and are the only two counties permitted to continue to operate under the marginal lands program. During the late 1980s and early 1990s, there was a movement to define secondary resource lands to allow for less restrictive uses, but the 1991 Legislature did not adopt secondary lands legislation. In 1993, an additional provision was made for dwellings on less productive agricultural land, while the review criteria for dwellings and divisions on high value farmland was made more rigorous. High value farmlands are defined as Class I and II (prime) soils, certain Class III and IV soils in the Willamette Valley, and lands growing certain types of perennials outside of the Willamette Valley.

In forest zones, dwellings are allowed in five different circumstances and include large tract dwellings, lot-of-record dwellings, template dwellings, replacement dwellings and temporary hardship dwellings. Lot-of-record dwellings may be approved where soils have a low capability for growing merchantable tree species. "Template" dwellings may be approved where there is a certain amount of existing development and parcelization within a 160-acre area centered on a parcel. In western Oregon, large-tract dwellings must be on ownerships of at least 160 contiguous or 200 non-contiguous acres. In eastern Oregon, they must be on ownerships of 240 or more contiguous or 320 or more non-contiguous acres.

### **Farm and Forest Properties Qualifying for Special Assessment**

Property in Oregon is typically taxed based on real market value, which is the price the land would sell for on the open market. As demand to develop farm and forestland increases, the value of property rises, potentially making it difficult for farm and forest land owners to pay property taxes and leading to greater loss of land to development. In recognition of the effects high property taxes can have on forest and farm land and acknowledging the restrictions placed on these lands to meet state planning goals, the Legislature established special assessment tax programs to reduce property taxes for forest and farm lands that meet certain criteria.

Properties zoned exclusive farm use that are currently used primarily to make a profit in farming and have been used exclusively for farm use in the previous year are automatically eligible for farm use assessment. Lands that are not in an EFU zone but are used as farmland

may qualify for special assessment if the land

Table 2. Income Requirements for Farm Use Special Assessment in Non-EFU Zones

Acres	Minimum Gross Income
6.5 or less	\$650 total
greater than 6.5 and less than 30	\$100 per acre
30 or more	\$3,000 total

has been used for farm use for the previous two years and the land meets income requirements in three of the previous five years (see Table 2). Farm use special assessment value for each land class is determined using an income method.

A property owner may qualify for special assessment on lands designated for forest use if the property meets Oregon Forest Practices Act stocking and species standards. If only a portion of the land meets the standards, the property owner may qualify if at least 20 percent of the land meets the standards in the first assessment year and a management plan is submitted to meet the standards within five years. Land under the program is assessed based on the typical price paid for forestland and may vary depending on the location of the property and its production ability.

In addition to the farm and forestland assessments, a Small Tract Forestland Program allows small woodland owners to delay paying a portion of annual property taxes until timber is harvested.

## **Staff and Agency Contacts**

Beth Patrino / Beth Herzog  
[Legislative Committee Services](#)  
503-986-1751 / 503-986-1755

Richard Whitman  
[Department of Land Conservation and Development](#)  
Director  
503-373-0050 ext. 280

Bob Rindy  
[Department of Land Conservation and Development](#)  
Policy Analyst  
503-373-0050 ext. 229

John VanLandingham  
[Land Conservation and Development Commission](#)  
Chair  
541-344-7972

Melissa M. Ryan  
[Land Use Board of Appeals](#)  
Board Chair  
503-373-1265