

REVIEWED
KG
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON
87-11443

0088-0619

An Ordinance Amending Ordinance *
No. PL-15, the Deschutes County *
Zoning Ordinance, Revising Pro- *
visions for Dwellings in Exclusive *
Farm Use (EFU) Zones, and Declar- *
ing an Emergency. *

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ORDINANCE NO. 87-013

WHEREAS, on November 19, 1979, the Deschutes County Board of County Commissioners adopted a resolution which established a standard whereby dwellings would be allowed on any parcel in the Exclusive Farm Use (EFU) Zone based upon a presumption that the land on which the dwelling was to be placed was being used for farm use; and

WHEREAS, the standard established by the 1979 resolution was not consistent with the standards and procedure set forth in ORS 215.213, 215.236 and 215.283 for the establishment of dwellings in EFU zones; and

WHEREAS, by Resolution No. 87-011, the Board of County Commissioners rescinded the resolution dated November 19, 1979; and

WHEREAS, the Board of County Commissioners has found that there are a number of parcels of land in Deschutes County, located in EFU zones, which are below the minimum lot size in the zone, and which parcels were legally created prior to the adoption of the Deschutes County Zoning Ordinance; and

WHEREAS, the Board of County Commissioners has also found that a number of these pre-existing non-conforming lots may be of sufficient size to allow commercial agricultural production, particularly by the raising of livestock; and

WHEREAS, the Board of County Commissioners believes that it is appropriate to allow a dwelling on a pre-existing non-conforming lot in an EFU zone where that lot is of sufficient size to support commercial agricultural activity and where the dwelling will not interfere with existing agricultural production on surrounding property; and

WHEREAS, the Board of County Commissioners believes the provisions of ORS 215.283, which authorize a dwelling on land used for farm use without regard to the size of the parcel, give the County the flexibility to allow a dwelling on a pre-existing non-conforming lot used for farm use; and

WHEREAS, the Board of County Commissioners believes that standards must be adopted for a farm dwelling on a pre-existing non-conforming lot in an EFU zone; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON ORDAINS as follows:

Section 1. Subsection 3 of Section 4.010, Exclusive Farm Use EFU-320, Ordinance No. PL-15, Deschutes County Zoning Ordinance of 1979, as amended, is further amended by the addition of the following:

"(P) A single family residential dwelling, including a mobile home subject to Section 5.100 of this Ordinance, customarily provided in conjunction with farm use, on pre-existing non-conforming lots as defined in Sections 1.030 and 6.020 of this Ordinance, subject to the following criteria:

- a. The lot is currently employed for farm use where the day-to-day activities are principally directed to the farm use of the land.
- b. The lot is of sufficient size to demonstrate commercial production of food, fiber, or livestock using innovative and/or intensive farming practices, during at least two of the previous three years.
- c. The soil, growing season, water and energy are adequate and available for the farm use.
- d. The markets for the farm product are demonstrable.
- e. The proposed dwelling on the lot will not adversely affect adjacent and surrounding commercial agricultural operations.
- f. The proposed dwelling on the lot will not force a significant change in or significantly increase the cost of accepted farming practices on nearby agricultural land.
- g. The lot and the farm use on it are appropriate for the continuation

of the existing commercial agricultural operations in the area."

Section 2. Subsection 3 of Section 4.020, Exclusive Farm Use EFU-80, Ordinance No. PL-15, Deschutes County Zoning Ordinance of 1979, as amended, is further amended by the addition of the following:

"(p) A single family residential dwelling, including a mobile home subject to Section 5.100 of this ordinance, customarily provided in conjunction with farm use, on pre-existing non-conforming lots as defined in Sections 1.030 and 6.020 of this Ordinance, subject to the following criteria:

- a. The lot is currently employed for farm use where the day-to-day activities are principally directed to the farm use of the land.
- b. The lot is of sufficient size to demonstrate commercial production of food, fiber, or livestock using innovative and/or intensive farming practices, during at least two of the previous three years.
- c. The soil, growing season, water and energy are adequate and available for the planned farm use.
- d. The markets for the farm product are demonstrable.
- e. The proposed dwelling on the lot will not adversely affect adjacent and surrounding commercial agricultural operations.
- f. The proposed dwelling on the lot will not force a significant change in or significantly increase the cost of accepted farming practices on nearby agricultural land.
- g. The lot and the farm use on it are appropriate for the continuation of the existing commercial agricultural operations in the area."

Section 3. Subsection 3 of Section 4.030, Exclusive Farm Use EFU-40, Ordinance No. PL-15, Deschutes County Zoning Ordinance of

1979, as amended, is further amended by the addition of the following:

"(P) A single family residential dwelling, including a mobile home subject to Section 5.100 of this ordinance, customarily provided in conjunction with farm use, on pre-existing non-conforming lots as defined in Sections 1.030 and 6.020 of this Ordinance, subject to the following criteria:

- a. The lot is currently employed for farm use where the day-to-day activities are principally directed to the farm use of the land.
- b. The lot is of sufficient size to demonstrate commercial production of food, fiber, or livestock using innovative and/or intensive farming practices, during at least two of the previous three years.
- c. The soil, growing season, water and energy are adequate and available for the planned farm use.
- d. The markets for the farm product are demonstrable.
- e. The proposed dwelling on the lot will not adversely affect adjacent and surrounding commercial agricultural operations.
- f. The proposed dwelling on the lot will not force a significant change in or significantly increase the cost of accepted farming practices on nearby agricultural land.
- g. The lot and the farm use on it are appropriate for the continuation of the existing commercial agricultural operations in the area."

Section 4. Subsection 3 of Section 4.040, Exclusive Farm Use EFU-20, Ordinance No. PL-15, Deschutes County Zoning Ordinance of 1979, as amended, is further amended by the addition of the following:

"(Q) A single family residential dwelling, including a mobile home subject to Section 5.100 of this

ordinance, customarily provided in conjunction with farm use, on pre-existing non-conforming lots as defined in Sections 1.030 and 6.020 of this Ordinance, subject to the following criteria:

- a. The lot is currently employed for farm use where the day-to-day activities are principally directed to the farm use of the land.
- b. The lot is of sufficient size to demonstrate commercial production of food, fiber, or livestock using innovative and/or intensive farming practices, during at least two of the previous three years.
- c. The soil, growing season, water and energy are adequate and available for the planned farm use.
- d. The markets for the farm product are demonstrable.
- e. The proposed dwelling on the lot will not adversely affect adjacent and surrounding commercial agricultural operations.
- f. The proposed dwelling on the lot will not force a significant change in or significantly increase the cost of accepted farming practices on nearby agricultural land.
- g. The lot and the farm use on it are appropriate for the continuation of the existing commercial agricultural operations in the area."

Section 5. In support of these amendments, the Board of County Commissioners adopts and incorporates herein the findings attached hereto as "Exhibit A".

0083-0624

Dated this 10th day of June, 1987.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Lois Bristow Prante
LOIS BRISTOW PRANTE, Chair

Tom Throop
TOM THROOP, Commissioner

Dick Mauldin
DICK MAUDLIN, Commissioner

ATTEST:

Susan L. Courtain
Recording Secretary

"EXHIBIT A"

FINDINGS OF FACT

1. The Deschutes County Year 2000 Comprehensive Plan recognizes the existence of "marginal farm land" in the County which will support agricultural activity on parcels less than 20 acres in size. The definition of "Marginal Farm Land - Developed" on page 117 of the Deschutes County Year 2000 Comprehensive Plan states:

"This land is much the same as Type F, but existing residential development and hobby farming activities have reduced the predominant ownership and tax lot size to less than 20 acres. The land is suitable for raising and grazing livestock on a small scale. Because people are able to subsidize the farm operation, productivity is believed to be higher than might otherwise be the case. Lands typical of these characteristics generally lie close in to urban areas, such as Bend, Plainview, Swalley and to some extent Tumalo."

2. The Deschutes County Comprehensive Plan, at pages 114 and 115, states:

"Much of Deschutes County's future agricultural production may be associated with the great diversity of livestock presently grown in the County."

3. A study commissioned by the City of Bend, as part of the coordinated periodic review of the City's and County's Comprehensive Plans and land use regulations, specifically the Technical Appendix of the Economic Study of Deschutes County prepared by Economic Development Services, indicates that a larger proportion of agricultural activity in the County results from the raising of livestock. The study states, at page 15:

"In Deschutes County, cattle and calves also play an important role in contributing to farm income (21.1%), but the bulk of livestock sales can be traced to miscellaneous animals, namely llamas and horses. Over 41% of all Deschutes County's total farm sales and over 50% of livestock sales in the County come from these animals.

The \$10.3 million in farm income from miscellaneous livestock ranked Deschutes County first of all 36 counties in Oregon in terms of miscellaneous livestock farm income. In 1985 this figure accounted for 13% of the entire state's production of miscellaneous livestock animals (\$79.1 million)."

4. ORS 215.283 allows the establishment of farm dwellings without regard to lot size. ORS 215.283 (1) (f) states:

"Subject to ORS 215.288, the following uses may be established in any area zoned for exclusive farm use:

(f) The dwellings and other buildings customarily provided in conjunction with farm use."