

REVIEWED  
Buw  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18 of the \*  
Deschutes County Code, Amending Chapter \*  
18.16 Exclusive Farm Use Zones Relating \*  
to Dimensional Standards and Yards and \*  
Declaring an Emergency. \*

93 APR -1 PM 2:57

MARY SUE PENHOLLOW  
COUNTY CLERK

0120-1404

ORDINANCE No. 93-004

WHEREAS, Ordinance No. 92-055 established a maximum building height of 30 feet, which was inadvertently deleted via adoption of Ordinance No. 92-065; and

WHEREAS, Section 18.16.067(C) contains a requirement that applications for farm dwellings submitted under Tier 3 receive a favorable report from a technical review committee, and the Board has determined that the requirement as written is impractical to administer; and

WHEREAS, the Board has determined that the generic 100-foot setback described in Section 18.16.070 may conflict with the county's goal of preserving the maximum amount of viable farm land; and

WHEREAS, review or public hearings have been held in conformance with state law before the Deschutes County Planning Commission and the Board of County Commissioners for Deschutes County; and

WHEREAS, the Board of County Commissioners has considered the recommendations of the Planning Commission and the public; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON ORDAINS AS FOLLOWS:

Section 1. Section 18.16.060 of Title 18 is amended to add a new subsection E, as follows:

"Section 18.16.060 Dimensional Standards.

\* \* \*

**E. Building Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed under Section 18.129.040.**

\* \* \*"

Section 2. Section 18.16.067(c) of Title 18 is amended to read as follows:

"Section 18.16.067 Farm Management Plans.

\* \* \*

C. Tier 3 Review. For purposes of Tier 3 approvals, the management plan shall be reviewed by [a County technical review committee] an independent expert. [The report of the review committee must be favorable.]

\* \* \*

\*"KEYPUNCHED  
APR 7 1993

Section 3. Section 18.16.070 of Title 18 is amended to read as follows:

"Section 18.16.070 Yards.

A. [The front yard setback from the property line shall be a minimum of 100 feet if adjacent to an EFU zone ; otherwise,] The front yard shall be [80] 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector and 100 feet from a property line fronting on an arterial.

B. Each side yard shall be a minimum of [20] 25 feet, except that [on corner lots or parcels, a side yard fronting a street shall be a minimum of 80 feet.] for nonfarm dwellings proposed on parcels or lots with side yards adjacent to [an EFU zone] a property currently employed in farm use, the side yard shall be a minimum of 100 feet.

C. Rear yards shall be a minimum of 25 feet, except that for nonfarm dwellings proposed on parcels or lots with rear yards adjacent to [an EFU zone] a property currently employed in farm use, the rear yard shall be a minimum of 100 feet."

Section 4. FINDINGS. The board of County Commissioners adopts as its findings and conclusions in support of these amendments the text of the amended language and the findings set forth as Exhibit "A" to this ordinance and by this reference incorporated herein.

Section 5. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, phrase, area, overlay or other separable part of this ordinance or any exhibit thereto is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this ordinance or any exhibit thereto.

Section 6. REPEAL OF ORDINANCE AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of any ordinance, ordinance provision, or code section by this ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability incurred under such ordinance, unless a provision of this ordinance shall so expressly provide, and such ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any property section or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who violated the repealed ordinance.

Section 7. EMERGENCY AND EFFECTIVE DATE. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

0129-1486

DATED this 31st day of March, 1993.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

Tom Throop  
TOM THROOP, Chair

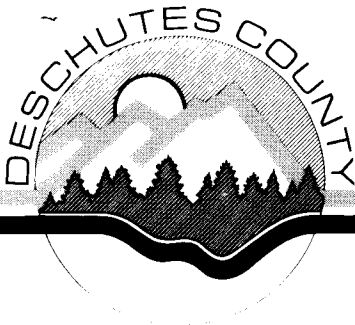
Nancy Pope Schlagen  
NANCY POPE SCHLANGEN, Commissipner

B. H. Slaughter  
B. H. SLAUGHTER, Commissioner

ATTEST:

Aruta Mutchie  
Recording Secretary

0120-1407



## Community Development Department

Administration Bldg. / 1130 N.W. Harriman / Bend, Oregon 97701

(503) 388-6575

## M E M O R A N D U M

Date: March 31, 1993

To: Deschutes County Board of Commissioners

From: Kevin Harrison, Senior Planner

Subject: Proposed Amendments to Chapter 18.16, EFU Zones

Planning Division  
 Building Safety Division  
 Environmental Health Division

Attached, please find proposed amendments to Chapter 18.16 relating to maximum building height, review of farm management plans and yards. These amendments are designed to correct problems in the text of the zoning ordinance identified following adoption of the farm portion of periodic review. The reasons for the amendments are as follows:

1. Section 1 adds a maximum building height of 30 feet. This standard was incorporated into Chapter 18.16 on August 17, 1992, via Ordinance No. 92-055. The provision was inadvertently deleted through adoption of the farm ordinances in December. Thus, this amendment serves to replace the previously adopted language.
2. Section 2 replaces a technical review committee with an independent expert in the review of farm management plans submitted to justify farm dwellings under Tier 3. The reasons for this modification, as detailed in a memo dated December 2, 1992, from Bruce White, Assistant County Counsel are to simplify the independent review process and to make it fit into the structure of the County's existing land use hearing process.

OSU Extension has agreed to review, and provide technical comments on, farm management plans submitted under Tier 3. We believe this satisfies the intent and purpose of this section of the ordinance.

3. Section 3 describes changes to setback requirements in response to feedback from staff and property owners. The staff believes the blanket 100-foot setback to be too onerous, necessitating variances on smaller parcels, and in conflict with our goal of trying to preserve the

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maximum amount of viable farm land. The setbacks contained in this proposal are designed to mitigate conflict between residential use and farm practices. Incorporated in state and county law is the assumption that there are inherent conflicts between nonfarm residential use and farm use. Conversely, state and county law assumes there is no conflict between farm buildings (including agricultural buildings, farm dwellings and other non-residential structures) and farm use. Thus, it is staff's opinion the setback standards should differentiate between nonfarm dwellings and other structures.

The 100-foot setback is triggered when a property adjacent to a proposed nonfarm dwelling is currently employed in farm use. Current employment can be documented by a site visit during the review of a conditional use permit and confirmed by checking Assessor records.

The attached ordinance amends Section 18.16.070, Yards, to differentiate between nonfarm dwellings and other structures to require front yard setbacks of 40, 60 or 100 feet, and side and rear yards of 25 feet, for structures other than nonfarm dwellings, and to require the same setbacks for nonfarm dwellings unless adjacent to a property currently employed in farm use. If the adjacent property is currently employed in farm use the side and/or rear setback is 100 feet.

The Deschutes County Planning Commission held a public hearing to discuss these changes on February 24, 1993. At that hearing they unanimously moved to recommend that the Board adopt the amendments as proposed. These amendments have been reviewed against the requirements of Goal 3, Agricultural Land, and OAR Chapter 660, Division 5, Interpretation of Goal 3 Agricultural Lands. State law is silent on these matters. Thus, the amendments are not goal related. Please feel free to contact me if you have any questions or concerns about the proposal.

KMH/mjz  
Attachment