

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 226

An Ordinance adopting interim procedures and standards governing land division and land development activities in rural areas of Multnomah County designated for farm and forest uses, in accord with LCDC's continuance of the County's request for acknowledgment of compliance with the Statewide Planning Goals, and declaring an emergency.

Multnomah County ordains as follows:

Section 1. FINDINGS.

(A) The Multnomah County Comprehensive Framework Plan recognized certain lands in the West Hills, Orient and Corbett areas as rural agricultural lands, but sought exemption of those lands from the exclusive farm use designation required by LCDC Goal 3.

(B) The Comprehensive Framework Plan recognized certain lands on Sauvie Island as rural agricultural lands and sought to regulate development of those lands through the provisions of Section 3.10 of Ordinance No. 100, which required a 38 acre minimum lot size.

(C) The Comprehensive Framework Plan recognized certain lands as rural forest lands and designated certain of those lands Multiple Use Forest (20 acre minimum lot size) and Commercial Forest Use (38 acre minimum lot size).

(D) On January 31, 1980, the Land Conservation and Development Commission (LCDC) reviewed the above plan provisions and the implementing zoning districts (EFU-38; MUA-20; CFU-38 and MUF-20) in relation to the applicable statewide planning goals.

(E) On that date, LCDC determined that the above regulations did not satisfy the applicable goals in the particulars stated in an "Acknowledgment Report" dated January 31, 1980.

(F) LCDC, acting through the Director of the Department of Land Conservation and Development, on February 29, 1980, offered Multnomah County a continuance of 120 days in order to allow the County time to revise its regulations to comply with the statewide goals.

(G) The Department of Planning and Development is preparing revised zoning districts to meet the 120-day schedule established by LCDC.

(H) The Planning Commission has found, and the Board concurs, that during the 120-day interim, the County should take all possible measures to avoid a building moratorium with regard to lands proposed to be developed under the County regulations found by LCDC to be deficient under the statewide goals.

(I) The Department of Planning and Development has prepared a set of interim standards and procedures to be used in processing development proposals on land zoned EFU-38; MUA-20; CFU-28 and MUF-20 until those districts are revised, the standards and procedures being designed to directly apply LCDC Goals 3 and 4 to development proposals on a case-by-case basis.

(J) At a public hearing held on March 25 and continued to March 31, 1980, the Planning Commission reviewed the interim standards and procedures, contained in Attachments "A" and "B" hereof and incorporated herein by this reference, and found them to be consistent with the LCDC continuance order concerning state-wide Goals 3 and 4;

(K) The Board concurs in the Planning Commission recommendation.

Section 2. Adoption of Interim Standards and Procedures.

The Board of County Commissioners adopts the attached interim standards and procedures (attachments A and B hereof).

Section 3. Effective Date.

This ordinance being necessary in order to lawfully allow continued processing of land development applications pending approval by the Board of permanent regulations in conformance with LCDC's Continuance Order, and for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its enactment pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 24th day of April, 1980, being the date of its FIRST reading before the Board of County Commissioners.

(SEAL)

FOR THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By Don V. Smith
Presiding Officer

Authenticated by the County Executive on the 28 day of April, 1980.

Donald E. Clark
Donald E. Clark, County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY
County Counsel for
Multnomah County, Oregon

X By Laurence Kressel
Laurence Kressel
Deputy County Counsel

ORDINANCE NO. 226

ATTACHMENT "A"

STANDARDS AND PROCEDURES FOR
LAND DEVELOPMENT PROPOSALS ON CERTAIN LANDS
IN THE MUA DISTRICT AND LANDS IN THE EFU DISTRICT

1. Land development proposals in any MUA district which LCDC has determined to have been invalidly excluded from the Goal 3 requirement of exclusive farm use zoning shall be regulated under Section 3.10 of the zoning ordinance (EFU).
2. In accordance with ORS 215.203, primary uses allowed in the EFU district shall include the growing of cultured Christmas trees as defined under ORS 215.203(3).
3. Notwithstanding Section 3.104.a., of the zoning ordinance, the minimum lot size for a primary use or a use under prescribed conditions listed under Section 3.10 shall vary and shall be appropriate for the continuation of the existing commercial agricultural enterprises within the area. The minimum lot size for conditional uses listed under Section 3.10 shall continue to be determined in accordance with Section 3.104.3.
4. In recognition of LCDC's ruling on the 38 acre minimum lot size in the EFU district, the provisions in Section 3.10 for approval of "Lots of Exception" (i.e., lots less than 38 acres) shall be disregarded.
5. In considering a permit application for construction of a residence provided in conjunction with farm use on land regulated by the EFU district, the Director shall find that:
 - (a) The applicant is operating or had committed to operate a farm use activity on the property;
 - (b) The residence is to be occupied by the person(s) engaged in the farm use activity;
 - (c) No other residences exist on the Lot, or, if other residences do exist on the Lot, the other residences shall be occupied by persons engaged in the farm use activity; and
 - (d) The size of the Lot is appropriate for the continuation of the existing commercial agricultural enterprise within the area; and
 - (e) The residence is necessary for the continuation or intensification of the commercial agricultural use of the Lot.
6. A permit application under paragraph 5 hereof shall be required to furnish the following information:

ATTACHMENT "A" (Continued)

- (a) The existing average lot size for similar commercial agricultural enterprises in the vicinity of the lot in question or a comparable area; and
 - (b) In the case of an ongoing farming activity, a private management plan documented by receipts, tax records, or other relevant information, or
 - (c) In the case of a proposed new farming activity, an agricultural management program developed in conjunction with the County Extension Agent, licensed veterinarian or professional agriculturalist accredited by the State of Oregon or U.S.D.A., or
 - (d) Evidence of participation in an agricultural tax deferral program, as described in ORS, or
 - (e) Other information the Planning Director considers necessary for establishing the need for the proposed residence.
7. The procedure for approval of a permit application under paragraph 5 hereof shall be as follows:
- (a) The Planning Director shall make a tentative decision including findings of fact and conclusions of law within 20 days of the receipt of the application. The tentative decision shall be mailed to the applicant and to record owners of all property within 250 feet of the property for which the application is sought.
 - (b) The tentative decision shall be final at the close of business on the tenth day after the date of the tentative decision, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written request for a hearing which states the basis thereof. Upon receipt of a request, the Planning Director shall treat the matter as an "action proceeding" under the zoning ordinance, and shall schedule the matter for the next public hearing by the Hearings Officer for which notice can be provided pursuant to Section 12.25, Ordinance No. 100.

ORDINANCE NO. 226

ATTACHMENT "B"

STANDARDS AND PROCEDURES FOR
LAND DEVELOPMENT PROPOSALS ON CERTAIN LANDS
IN THE MUF DISTRICT AND LANDS IN THE CFU DISTRICT

1. Land development proposals on lands in the Multiple Use Forest District (MUF) shall be regulated under Section 3.11 of the zoning ordinance (CFU), except as provided herein.
2. Notwithstanding Section 3.114.a, of the zoning ordinance, the minimum lot size for a primary use or a use under prescribed conditions listed under Section 3.11, shall vary and shall be appropriate for the enhancement of forest uses within the area. The minimum lot size for conditional uses listed under Section 3.13 shall continue to be determined in accordance with Section 3.115.
3. In considering a permit application for construction of a forest-related single family dwelling on land regulated by the CFU district, the Planning Director shall find that:
 - (a) The applicant is operating or has committed to operate a forest use as defined in LCDC Goal 4 on the property; and
 - (b) The use is to be occupied by the person(s) engaged in the forest use activity; and
 - (c) No other residences exist on the lot. If other residences do exist on the lot, the other residences shall be occupied by persons engaged in the farm use activity; and
 - (d) The size of the lot is appropriate to the continuation of forest use; and
 - (e) The lot for which the use is proposed is greater than ten acres in size, pursuant to ORS 321.705 (small tract timber program) and to the Forestry Incentive Program of the Oregon Agricultural Stabilization and Conservation Committee.
4. A permit applicant under paragraph 3 hereof shall be required to furnish the following information:
 - (a) The existing average lot size for similar forest uses in the vicinity of the lot in question or a comparable area; and
 - (b) A private forest management plan documented by receipts, tax records, or other relevant information, or
 - (c) A forest improvement plan approved by the Oregon State Department of Forestry, or an Agricultural Extension Agent.

ATTACHMENT "B" (Continued)

- (d) A fish, wildlife or other conservation management program approved by the appropriate State or Federal agency, and
 - (e) Other information the Planning Director considers necessary for establishing the need for the proposed residence.
5. In considering an application for construction of a farm-related single family residence on land regulated in the CFU district, the Planning Director shall find:
- (a) The applicant is operating or has committed to operate a farm use activity on the property;
 - (b) The residence is to be occupied by the person(s) engaged in the farm use activity;
 - (c) No other residences exist on the Lot or, if other residences do exist on the Lot, the other residences shall be occupied by persons engaged in the farm use activity; and
 - (d) The size of the Lot is appropriate for the continuation of the existing commercial agricultural enterprise within the area; and
 - (e) The residence is necessary for the continuation or intensification of the commercial agricultural use of the Lot.
6. A permit applicant under paragraph 5 hereof shall be required to furnish the following information:
- (a) The average lot size for similar commercial agricultural enterprises in the vicinity of the lot in question or a comparable area;
 - (b) In the case of an ongoing farming activity, a private management plan documented by receipts, tax records or other relevant information, or
 - (c) In the case of a proposed, new farming activity, an agricultural management program developed in conjunction with the County Extension Agent, licensed veterinarian, or professional agriculturalist accredited by the State of Oregon or U.S.D.A., or
 - (d) Evidence of participation in an agricultural tax deferral program, as described in ORS, or
 - (e) Other information the Planning Director considers necessary for establishing the need for the proposed residence.
7. The procedure for approval of a permit application under paragraphs 4 and 5 hereof shall be as follows:

ATTACHMENT "B" (Continued)

- (a) The Planning Director shall make a tentative decision including findings of fact and conclusions of law within 20 days of the receipt of the application. The tentative decision shall be mailed to the applicant and to record owners of all property within 250 feet of the property for which the application is sought.
 - (b) The tentative decision shall be final at the close of business on the tenth day after the date of the tentative decision, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written request for a hearing which states the basis thereof. Upon receipt of a request, the Planning Director shall treat the matter as an "action proceeding" under the zoning ordinance and shall schedule the matter for the next public hearing by the Hearings Officer for which notice can be provided pursuant to Section 12.25, Ordinance No. 100.
8. An application for construction of a non-farm or non-forest residence shall be an application for a conditional use and shall be processed as an "action proceeding" by the Hearings Officer in the manner provided by Sections 7.50 and 12.20 of Ordinance No. 100. The applicant for such a request shall bear the burden of demonstrating that the dwelling:
- (a) Is compatible with farm uses described in paragraph (a) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
 - (b) Does not interfere seriously with accepted farming practices; as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use;
 - (c) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil and land conditions, drainage and flooding, vegetation, location and size of the tract;
 - (d) Does not materially alter the stability of the overall land use pattern of the area;
 - (e) Complies with subparagraphs 1, 2, and 3, of subsection 3.103.2.a, if constructed off-site; and
 - (f) Complies with such other conditions as the Officer considers necessary.