

# House Bill 3096

Sponsored by Representative CLEM (at the request of Oregon Farm Bureau)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands application of definition of high-value farmland to encompass local and comprehensive land use planning.

## A BILL FOR AN ACT

1  
2 Relating to high-value farmland; creating new provisions; and amending ORS 94.508, 195.300, 197.015,  
3 197.045, 197.298, 197.505, 197.825, 215.705, 215.710 and 455.446 and section 1, chapter 728, Oregon  
4 Laws 1997, and sections 7 and 11, chapter 424, Oregon Laws 2007.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 197.015 is amended to read:

7 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

8 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and  
9 land use regulations, land use regulation or plan or regulation amendment complies with the goals  
10 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,  
11 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-  
12 work plan comply with the statewide planning goals.

13 (2) "Board" means the Land Use Board of Appeals.

14 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more  
15 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

16 (4) "Commission" means the Land Conservation and Development Commission.

17 (5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement  
18 of the governing body of a local government that interrelates all functional and natural systems and  
19 activities relating to the use of lands, including but not limited to sewer and water systems, trans-  
20 portation systems, educational facilities, recreational facilities, and natural resources and air and  
21 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the  
22 geographic area covered and functional and natural activities and systems occurring in the area  
23 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-  
24 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-  
25 ordinated" when the needs of all levels of governments, semipublic and private agencies and the  
26 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes  
27 water, both surface and subsurface, and the air.

28 (6) "Department" means the Department of Land Conservation and Development.

29 (7) "Director" means the Director of the Department of Land Conservation and Development.

30 (8) "Goals" means the mandatory statewide planning standards adopted by the commission pur-  
31 suant to ORS chapters 195, 196 and 197.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,  
 2 adoption and implementation of comprehensive plans in compliance with goals and to aid state  
 3 agencies and special districts in the preparation, adoption and implementation of plans, programs  
 4 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state  
 5 agencies, cities, counties and special districts to a single approach.

6 (10) "High-value farmland" means:

7 (a) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that:

8 (A) Is land in a tract composed predominantly of soils that, at the time the siting of a  
 9 dwelling is approved for the tract, are:

10 (i) Irrigated and classified prime, unique, Class I or Class II; or

11 (ii) Not irrigated and classified prime, unique, Class I or Class II.

12 (B) If outside the Willamette Valley, includes tracts growing specified perennials as  
 13 demonstrated by the most recent aerial photography of the Farm Service Agency of the  
 14 United States Department of Agriculture taken prior to December 6, 2007. For purposes of  
 15 this subparagraph, "specified perennials" means perennials grown for market or research  
 16 purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees  
 17 or vineyards but not including seed crops, hay, pasture or alfalfa.

18 (C) If in the Willamette Valley, includes tracts composed predominantly of the following  
 19 soils in Class III or IV or composed predominantly of a combination of soils described in  
 20 subparagraph (A) of this paragraph and the following soils:

21 (i) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton,  
 22 Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro,  
 23 Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price,  
 24 Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and  
 25 Yamhill;

26 (ii) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick  
 27 surface) and Sifton (occasionally flooded);

28 (iii) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory,  
 29 Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

30 (iv) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti  
 31 and Whiteson.

32 (D) If west of the summit of the Coast Range and used in conjunction with a dairy op-  
 33 eration on December 6, 2007, includes tracts composed predominantly of the following soils  
 34 in Class III or IV or composed predominantly of a combination of soils described in subpar-  
 35 agraph (A) of this paragraph and the following soils:

36 (i) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and  
 37 Winema;

38 (ii) Subclassification IIIw, specifically, Brenner and Chitwood;

39 (iii) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and  
 40 Winema; and

41 (iv) Subclassification IVw, specifically, Coquille.

42 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils  
 43 in Class III or IV or composed predominantly of a combination of the soils described in  
 44 paragraph (a)(A) of this subsection and the following soils:

45 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay

1 **Loam;**

2 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt  
3 **Loam; and**

4 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.

5 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that  
6 **on June 28, 2007, is:**

7 (A) Within the place of use for a permit, certificate or decree for the use of water for  
8 **irrigation issued by the Water Resources Department;**

9 (B) Within the boundaries of a district, as defined in ORS 540.505; or

10 (C) Within the boundaries of a diking district formed under ORS chapter 551.

11 (d) Land that contains not less than five acres planted in wine grapes.

12 (e) Land that is in an exclusive farm use zone and that is at an elevation between 200  
13 **and 1,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope**  
14 **between zero and 15 percent, and that is located within:**

15 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

16 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or

17 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.

18 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above  
19 **mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and**  
20 **15 percent, and that is located within:**

21 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178  
22 **that is within the State of Oregon;**

23 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

24 (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that  
25 **is within the State of Oregon;**

26 (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91  
27 **that is within the State of Oregon; or**

28 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208  
29 **that is within the State of Oregon.**

30 [(10)] (11) "Land use decision":

31 (a) Includes:

32 (A) A final decision or determination made by a local government or special district that con-  
33 **cerns the adoption, amendment or application of:**

34 (i) The goals;

35 (ii) A comprehensive plan provision;

36 (iii) A land use regulation; or

37 (iv) A new land use regulation;

38 (B) A final decision or determination of a state agency other than the commission with respect  
39 **to which the agency is required to apply the goals; or**

40 (C) A decision of a county planning commission made under ORS 433.763;

41 (b) Does not include a decision of a local government:

42 (A) That is made under land use standards that do not require interpretation or the exercise  
43 **of policy or legal judgment;**

44 (B) That approves or denies a building permit issued under clear and objective land use stan-  
45 **dards;**

1 (C) That is a limited land use decision;

2 (D) That determines final engineering design, construction, operation, maintenance, repair or  
3 preservation of a transportation facility that is otherwise authorized by and consistent with the  
4 comprehensive plan and land use regulations;

5 (E) That is an expedited land division as described in ORS 197.360;

6 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal  
7 of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal  
8 under ORS 480.410 to 480.460; or

9 (G) That approves or denies approval of a final subdivision or partition plat or that determines  
10 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or  
11 partition plan;

12 (c) Does not include a decision by a school district to close a school;

13 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or  
14 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120  
15 hours in any three-month period; and

16 (e) Does not include:

17 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;  
18 or

19 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after  
20 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

21 [(11)] (12) "Land use regulation" means any local government zoning ordinance, land division  
22 ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards  
23 for implementing a comprehensive plan.

24 [(12)] (13) "Limited land use decision":

25 (a) Means a final decision or determination made by a local government pertaining to a site  
26 within an urban growth boundary that concerns:

27 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS  
28 92.040 (1).

29 (B) The approval or denial of an application based on discretionary standards designed to reg-  
30 ulate the physical characteristics of a use permitted outright, including but not limited to site re-  
31 view and design review.

32 (b) Does not mean a final decision made by a local government pertaining to a site within an  
33 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or  
34 that determines whether a final subdivision or partition plat substantially conforms to the tentative  
35 subdivision or partition plan.

36 [(13)] (14) "Local government" means any city, county or metropolitan service district formed  
37 under ORS chapter 268 or an association of local governments performing land use planning func-  
38 tions under ORS 195.025.

39 [(14)] (15) "Metro" means a metropolitan service district organized under ORS chapter 268.

40 [(15)] (16) "Metro planning goals and objectives" means the land use goals and objectives that  
41 a metropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not  
42 constitute a comprehensive plan.

43 [(16)] (17) "Metro regional framework plan" means the regional framework plan required by the  
44 1992 Metro Charter or its separate components. Neither the regional framework plan nor its indi-  
45 vidual components constitute a comprehensive plan.

1        [(17)] (18) “New land use regulation” means a land use regulation other than an amendment to  
 2 an acknowledged land use regulation adopted by a local government that already has a compre-  
 3 hensive plan and land regulations acknowledged under ORS 197.251.

4        [(18)] (19) “Person” means any individual, partnership, corporation, association, governmental  
 5 subdivision or agency or public or private organization of any kind. The Land Conservation and  
 6 Development Commission or its designee is considered a person for purposes of appeal under ORS  
 7 chapters 195 and 197.

8        [(19)] (20) “Special district” means any unit of local government, other than a city, county,  
 9 metropolitan service district formed under ORS chapter 268 or an association of local governments  
 10 performing land use planning functions under ORS 195.025, authorized and regulated by statute and  
 11 includes but is not limited to water control districts, domestic water associations and water coop-  
 12 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,  
 13 school districts, hospital districts, mass transit districts and sanitary districts.

14        [(20)] (21) “Urban unincorporated community” means an area designated in a county’s ac-  
 15 knowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

16        [(21)] (22) “Voluntary association of local governments” means a regional planning agency in  
 17 this state officially designated by the Governor pursuant to the federal Office of Management and  
 18 Budget Circular A-95 as a regional clearinghouse.

19        [(22)] (23) “Wetlands” means those areas that are inundated or saturated by surface or ground  
 20 water at a frequency and duration that are sufficient to support, and that under normal circum-  
 21 stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

22        **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS chapter 197.**

23        **SECTION 3. For purposes of the definition of “high-value farmland” in ORS 197.015, soil**  
 24 **classes, soil ratings or other soil designations used in or made pursuant to ORS 197.015 are**  
 25 **those of the Natural Resources Conservation Service of the United States Department of**  
 26 **Agriculture in its most recent publication for that class, rating or designation before De-**  
 27 **cember 6, 2007.**

28        **SECTION 4.** ORS 195.300 is amended to read:

29        195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11,  
 30 chapter 424, Oregon Laws 2007:

- 31        (1) “Acquisition date” means the date described in ORS 195.328.
- 32        (2) “Claim” means a written demand for compensation filed under:
  - 33        (a) ORS 195.305, as in effect immediately before December 6, 2007; or
  - 34        (b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.
- 35        (3) “Enacted” means enacted, adopted or amended.
- 36        (4) “Fair market value” means the value of property as determined under ORS 195.332.
- 37        (5) “Farming practice” has the meaning given that term in ORS 30.930.
- 38        (6) “Federal law” means:
  - 39        (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity
  - 40 acting under authority delegated by the federal government;
  - 41        (b) A requirement contained in a plan or rule enacted by a compact entity; or
  - 42        (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal
  - 43 statute or regulation.
- 44        (7) “File” means to submit a document to a public entity.
- 45        (8) “Forest practice” has the meaning given that term in ORS 527.620.

1 (9) "Ground water restricted area" means an area designated as a critical ground water area  
 2 or as a ground water limited area by the Water Resources Department or Water Resources Com-  
 3 mission before December 6, 2007.

4 [(10) "High-value farmland" means:]

5 [(a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone  
 6 or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are  
 7 December 6, 2007.]

8 [(b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class  
 9 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and  
 10 the following soils:]

11 [(A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;]

12 [(B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and]

13 [(C) Subclassification IVw, specifically Huffling Silty Clay Loam.]

14 [(c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June  
 15 28, 2007, is:]

16 [(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation  
 17 issued by the Water Resources Department;]

18 [(B) Within the boundaries of a district, as defined in ORS 540.505; or]

19 [(C) Within the boundaries of a diking district formed under ORS chapter 551.]

20 [(d) Land that contains not less than five acres planted in wine grapes.]

21 [(e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000  
 22 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and  
 23 15 percent, and that is located within:]

24 [(A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;]

25 [(B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or]

26 [(C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.]

27 [(f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea  
 28 level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that  
 29 is located within:]

30 [(A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is  
 31 within the State of Oregon;]

32 [(B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;]

33 [(C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is  
 34 within the State of Oregon;]

35 [(D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that  
 36 is within the State of Oregon; or]

37 [(E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that  
 38 is within the State of Oregon.]

39 [(11)] (10) "High-value forestland" means land:

40 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon  
 41 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per  
 42 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-  
 43 mercial tree species; or

44 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon  
 45 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year

1 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial  
2 tree species.

3 [(12)] (11) “Home site approval” means approval of the subdivision or partition of property or  
4 approval of the establishment of a dwelling on property.

5 [(13)] (12) “Just compensation” means:

6 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, for land use regulations en-  
7 acted on or before January 1, 2007; and

8 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.

9 [(14)] (13) “Land use regulation” means:

10 (a) A statute that establishes a minimum lot or parcel size;

11 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter  
12 215 that restricts the residential use of private real property;

13 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that  
14 restricts the residential use of private real property zoned for residential use;

15 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that  
16 restricts the residential use of private real property;

17 (e) A provision of the Oregon Forest Practices Act or an administrative rule of the State Board  
18 of Forestry that regulates a forest practice and that implements the Oregon Forest Practices Act;

19 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State  
20 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;

21 (g) An administrative rule or goal of the Land Conservation and Development Commission; or

22 (h) A provision of a Metro functional plan that restricts the residential use of private real  
23 property.

24 [(15)] (14) “Measure 37 permit” means a final decision by Metro, a city or a county to authorize  
25 the development, subdivision or partition or other use of property pursuant to a waiver.

26 [(16)] (15) “Owner” means:

27 (a) The owner of fee title to the property as shown in the deed records of the county where the  
28 property is located;

29 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force  
30 for the property; or

31 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,  
32 except that when the trust becomes irrevocable only the trustee is the owner.

33 [(17)] (16) “Property” means the private real property described in a claim and contiguous pri-  
34 vate real property that is owned by the same owner, whether or not the contiguous property is de-  
35 scribed in another claim, and that is not property owned by the federal government, an Indian tribe  
36 or a public body, as defined in ORS 192.410.

37 [(18)] (17) “Protection of public health and safety” means a law, rule, ordinance, order, policy,  
38 permit or other governmental authorization that restricts a use of property in order to reduce the  
39 risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other  
40 natural or human disaster or threat to persons or property including, but not limited to, building  
41 and fire codes, health and sanitation regulations, solid or hazardous waste regulations and pollution  
42 control regulations.

43 [(19)] (18) “Public entity” means the state, Metro, a county or a city.

44 [(20)] (19) “Urban growth boundary” has the meaning given that term in ORS 195.060.

45 [(21)] (20) “Waive” or “waiver” means an action or decision of a public entity to modify, remove

1 or not apply one or more land use regulations under ORS 195.305 to 195.336 and sections 5 to 11,  
 2 chapter 424, Oregon Laws 2007, or ORS 195.305, as in effect immediately before December 6, 2007,  
 3 to allow the owner to use property for a use permitted when the owner acquired the property.

4 [(22)] (21) "Zoned for residential use" means zoning that has as its primary purpose single-family  
 5 residential use.

6 **SECTION 5.** ORS 94.508 is amended to read:

7 94.508. (1) A development agreement shall not be approved by the governing body of a city or  
 8 county unless the governing body finds that the agreement is consistent with local regulations then  
 9 in place for the city or county.

10 (2) The governing body of a city or county shall approve a development agreement or amend a  
 11 development agreement by adoption of an ordinance declaring approval or setting forth the amend-  
 12 ments to the agreement. Notwithstanding ORS 197.015 [(10)(b)] (11)(b), the approval or amendment  
 13 of a development agreement is a land use decision under ORS chapter 197.

14 **SECTION 6.** ORS 197.298 is amended to read:

15 197.298. (1) In addition to any requirements established by rule addressing urbanization, land  
 16 may not be included within an urban growth boundary except under the following priorities:

17 (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or met-  
 18 ropolitan service district action plan.

19 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of  
 20 land needed, second priority is land adjacent to an urban growth boundary that is identified in an  
 21 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may  
 22 include resource land that is completely surrounded by exception areas unless such resource land  
 23 is high-value farmland [*as described in ORS 215.710*].

24 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the  
 25 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247  
 26 (1991 Edition).

27 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the  
 28 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan  
 29 for agriculture or forestry, or both.

30 (2) Higher priority shall be given to land of lower capability as measured by the capability  
 31 classification system or by cubic foot site class, whichever is appropriate for the current use.

32 (3) Land of lower priority under subsection (1) of this section may be included in an urban  
 33 growth boundary if land of higher priority is found to be inadequate to accommodate the amount  
 34 of land estimated in subsection (1) of this section for one or more of the following reasons:

35 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority  
 36 lands;

37 (b) Future urban services could not reasonably be provided to the higher priority lands due to  
 38 topographical or other physical constraints; or

39 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion  
 40 of lower priority lands in order to include or to provide services to higher priority lands.

41 **SECTION 7.** ORS 197.505 is amended to read:

42 197.505. As used in ORS 197.505 to 197.540:

43 (1) "Public facilities" means those public facilities for which a public facilities plan is required  
 44 under ORS 197.712.

45 (2) "Special district" refers to only those entities as defined in ORS 197.015 [(19)] (20) that pro-



1 vide services for which public facilities plans are required.

2 **SECTION 8.** ORS 197.825 is amended to read:

3 197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the  
4 Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or  
5 limited land use decision of a local government, special district or a state agency in the manner  
6 provided in ORS 197.830 to 197.845.

7 (2) The jurisdiction of the board:

8 (a) Is limited to those cases in which the petitioner has exhausted all remedies available by right  
9 before petitioning the board for review;

10 (b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Ap-  
11 peals;

12 (c) Does not include a local government decision that is:

13 (A) Submitted to the Department of Land Conservation and Development for acknowledgment  
14 under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government de-  
15 cision submitted to the department for acknowledgment, unless the Director of the Department of  
16 Land Conservation and Development, in the director's sole discretion, transfers the matter to the  
17 board; or

18 (B) Subject to the review authority of the department under ORS 197.430, 197.445, 197.450 or  
19 197.455 or a matter related to a local government decision subject to the review authority of the  
20 department under ORS 197.430, 197.445, 197.450 or 197.455;

21 (d) Does not include those land use decisions of a state agency over which the Court of Appeals  
22 has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

23 (e) Does not include any rules, programs, decisions, determinations or activities carried out un-  
24 der ORS 527.610 to 527.770, 527.990 (1) and 527.992;

25 (f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the  
26 Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River  
27 Gorge National Scenic Area Act, P.L. 99-663; and

28 (g) Does not include review of expedited land divisions under ORS 197.360.

29 (3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain juris-  
30 diction:

31 (a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions  
32 described in ORS 197.015 [(10)(b)] (11)(b) or proceedings brought to enforce the provisions of an  
33 adopted comprehensive plan or land use regulations; and

34 (b) To enforce orders of the board in appropriate proceedings brought by the board or a party  
35 to the board proceeding resulting in the order.

36 **SECTION 9.** ORS 215.705 is amended to read:

37 215.705. (1) A governing body of a county or its designate may allow the establishment of a  
38 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this  
39 section and ORS [215.710,] 215.720, 215.740 and 215.750 after notifying the county assessor that the  
40 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

41 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired  
42 by the present owner:

43 (A) Prior to January 1, 1985; or

44 (B) By devise or by intestate succession from a person who acquired the lot or parcel prior to  
45 January 1, 1985.

1 (b) The tract on which the dwelling will be sited does not include a dwelling.

2 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the  
3 acknowledged comprehensive plan and land use regulations and other provisions of law.

4 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on *[that]*  
5 high-value farmland *[described in ORS 215.710]*, **as defined in ORS 197.015**, except as provided in  
6 subsections (2) and (3) of this section.

7 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in  
8 ORS 215.720, 215.740 or 215.750.

9 (f) When the lot or parcel on which the dwelling will be sited lies within an area designated in  
10 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent  
11 with the limitations on density upon which the acknowledged comprehensive plan and land use  
12 regulations intended to protect the habitat are based.

13 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining  
14 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

15 (2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family  
16 dwelling not in conjunction with farm use may be sited on high-value farmland, **as defined in ORS**  
17 **197.015**, if:

18 (A) It meets the other requirements of ORS 215.705 to 215.750;

19 (B) The lot or parcel is protected as high-value farmland as described under ORS *[215.710 (1)]*  
20 **197.015 (10)(a)(A)**; and

21 (C) A hearings officer of a county determines that:

22 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with  
23 other land, due to extraordinary circumstances inherent in the land or its physical setting that do  
24 not apply generally to other land in the vicinity.

25 (ii) The dwelling will comply with the provisions of ORS 215.296 (1).

26 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the  
27 area.

28 (b) A local government shall provide notice of all applications for dwellings allowed under this  
29 subsection to the State Department of Agriculture. Notice shall be provided in accordance with the  
30 governing body's land use regulations but shall be mailed at least 20 calendar days prior to the  
31 public hearing before the hearings officer under paragraph (a) of this subsection.

32 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling  
33 not in conjunction with farm use may be sited on high-value farmland, **as defined in ORS 197.015**,  
34 if:

35 (a) It meets the other requirements of ORS 215.705 to 215.750.

36 (b) The tract on which the dwelling will be sited is:

37 (A) Identified in ORS *[215.710 (3) or (4)]* **197.015 (10)(a)(C) or (D)**;

38 (B) Not *[protected under ORS 215.710 (1)]* **described under ORS 197.015 (10)(a)(A)**; and

39 (C) Twenty-one acres or less in size.

40 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller  
41 than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;

42 (B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts  
43 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-  
44 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the  
45 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

1 (C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that  
 2 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter  
 3 mile of the center of the subject tract and on the same side of the public road that provides access  
 4 to the subject tract. The governing body of a county must interpret the center of the subject tract  
 5 as the geographic center of the flaglot if the applicant makes a written request for that interpreta-  
 6 tion and that interpretation does not cause the center to be located outside the flaglot. Up to two  
 7 of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts  
 8 an urban growth boundary. As used in this subparagraph:

9 (i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from  
 10 the public road to the rest of the tract.

11 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines  
 12 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to  
 13 that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

14 (4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compli-  
 15 ance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use  
 16 zone under this chapter, the county may apply the standards for siting a dwelling under either  
 17 subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predom-  
 18 inant use of the tract on January 1, 1993.

19 (5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling  
 20 allowed under this section in any area where the county determines that approval of the dwelling  
 21 would:

22 (a) Exceed the facilities and service capabilities of the area;

23 (b) Materially alter the stability of the overall land use pattern in the area; or

24 (c) Create conditions or circumstances that the county determines would be contrary to the  
 25 purposes or intent of its acknowledged comprehensive plan or land use regulations.

26 (6) For purposes of subsection (1)(a) of this section, "owner" includes the wife, husband, son,  
 27 daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,  
 28 mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or  
 29 grandchild of the owner or a business entity owned by any one or combination of these family  
 30 members.

31 (7) When a local government approves an application for a single-family dwelling under the  
 32 provisions of this section, the application may be transferred by a person who has qualified under  
 33 this section to any other person after the effective date of the land use decision.

34 **SECTION 10.** ORS 455.446 is amended to read:

35 455.446. (1)(a) New essential facilities described in ORS 455.447 (1)(a)(A), (B) and (G) and new  
 36 special occupancy structures described in ORS 455.447 (1)(e)(B), (C) and (E) may not be constructed  
 37 in the tsunami inundation zone established under paragraph (c) of this subsection. The provisions  
 38 of this paragraph apply to buildings with a capacity greater than 50 individuals for every public,  
 39 private or parochial school through secondary level and child care centers.

40 (b) The State Department of Geology and Mineral Industries shall establish the parameters of  
 41 the area of expected tsunami inundation based on scientific evidence that may include geologic field  
 42 data and tsunami modeling.

43 (c) The governing board of the State Department of Geology and Mineral Industries, by rule,  
 44 shall determine the tsunami inundation zone based on the parameters established by the department.  
 45 The board shall adopt the zone as determined by the department under paragraph (b) of this sub-

1 section except as modified by the board under paragraph (d) of this subsection.

2 (d) The board may grant exceptions to restrictions in the tsunami inundation zone established  
 3 under paragraph (c) of this subsection after public hearing and a determination by the board that  
 4 the applicant has demonstrated that the safety of building occupants will be ensured to the maxi-  
 5 mum reasonable extent:

6 (A) By addressing the relative risks within the zone.

7 (B) By balancing competing interests and other considerations.

8 (C) By considering mitigative construction strategies.

9 (D) By considering mitigative terrain modification.

10 (e) The provisions of paragraph (a) of this subsection do not apply:

11 (A) To fire or police stations where there is a need for strategic location; and

12 (B) To public schools if there is a need for the school to be within the boundaries of a school  
 13 district and fulfilling that need cannot otherwise be accomplished.

14 (f) All materials supporting an application for an exception to the tsunami inundation zone are  
 15 public records under ORS 192.005 to 192.170 and must be retained in the library of the department  
 16 for periods of time determined by its governing board.

17 (g) The applicant for an exception to the tsunami inundation zone established under paragraph  
 18 (c) of this subsection shall pay any costs for department review of the application and the costs, if  
 19 any, of the approval process.

20 (2) The definitions in ORS 455.447 apply to this section.

21 (3) The provisions of this section do not apply to water-dependent and water-related facilities,  
 22 including but not limited to docks, wharves, piers and marinas.

23 (4) Decisions made under this section are not land use decisions under ORS 197.015 [(10)] (11).

24 **SECTION 11.** Section 7, chapter 424, Oregon Laws 2007, is amended to read:

25 **Sec. 7.** (1) A claimant that filed a claim under ORS [197.352] **195.305** on or before [*the date of*  
 26 *adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly*] **June 28,**  
 27 **2007,** for property that is not high-value farmland, **as defined in ORS 197.015,** or high-value  
 28 forestland and that is not in a ground water restricted area is eligible for four to 10 home site ap-  
 29 provals for the property if the requirements of this section and sections 8 and 11, **chapter 424,**  
 30 **Oregon Laws 2007,** [*of this 2007 Act*] are met. The procedure for obtaining home site approvals  
 31 under this section is set forth in section 8, **chapter 424, Oregon Laws 2007** [*of this 2007 Act*].

32 (2) The number of lots, parcels or dwellings that may be established on the property under this  
 33 section may not exceed the lesser of:

34 (a) The number of lots, parcels or dwellings described in a waiver issued by the state before [*the*  
 35 *effective date of this 2007 Act*] **December 6, 2007,** or, if a waiver was not issued, the number of lots,  
 36 parcels or dwellings described in the claim filed with the state;

37 (b) Ten, except that if there are existing dwellings on the property or the property contains  
 38 more than one lot or parcel, the number of lots, parcels or dwellings that may be established is re-  
 39 duced, so that the combined number of lots, parcels or dwellings, including existing lots, parcels or  
 40 dwellings located on or contained within the property, does not exceed 10; or

41 (c) The number of home site approvals with a total value that represents just compensation for  
 42 the reduction in fair market value caused by the enactment of one or more land use regulations that  
 43 were the basis for the claim, as set forth in subsection (6) of this section.

44 (3) If the number of lots, parcels or dwellings described in a waiver issued by the state before  
 45 [*the effective date of this 2007 Act*] **December 6, 2007,** or, if a waiver was not issued, the number of

1 lots, parcels or dwellings described in the claim filed with the state is more than 10, the claimant  
 2 may amend the claim to reduce the number to no more than 10 by filing notice of the amendment  
 3 with the form required by section 8, **chapter 424, Oregon Laws 2007** [*of this 2007 Act*].

4 (4) If multiple claims were filed for the same property, the number of lots, parcels or dwellings  
 5 that may be established for purposes of subsection (2)(a) of this section is the number of lots, parcels  
 6 or dwellings in the most recent waiver issued by the state before [*the effective date of this 2007*  
 7 *Act*] **December 6, 2007**, or, if a waiver was not issued, the most recent claim filed with the state,  
 8 but not more than 10 in any case.

9 (5) To qualify for a home site approval under this section, the claimant must have filed a claim  
 10 for the property with both the state and the county in which the property is located. In addition,  
 11 regardless of whether a waiver was issued by the state or the county before [*the effective date of this*  
 12 *2007 Act*] **December 6, 2007**, to qualify for a home site approval under this section, the claimant  
 13 must establish that:

14 (a) The claimant is an owner of the property;

15 (b) All owners of the property have consented in writing to the claim;

16 (c) The property is located entirely outside any urban growth boundary and entirely outside the  
 17 boundaries of any city;

18 (d) One or more land use regulations prohibit establishing the lot, parcel or dwelling;

19 (e) The establishment of the lot, parcel or dwelling is not prohibited by a land use regulation  
 20 described in ORS [*197.352 (3)*] **195.305 (3)**;

21 (f) On the claimant's acquisition date, the claimant lawfully was permitted to establish at least  
 22 the number of lots, parcels and dwellings on the property that are authorized under this section; and

23 (g) The enactment of one or more land use regulations, other than land use regulations de-  
 24 scribed in ORS [*197.352 (3)*] **195.305 (3)**, that are the basis for the claim caused a reduction in the  
 25 fair market value of the property that is equal to or greater than the fair market value of the home  
 26 site approvals that may be established on the property under subsection (2) of this section, with the  
 27 reduction in fair market value measured as set forth in subsection (6) of this section.

28 (6) The reduction in the fair market value of the property caused by the enactment of one or  
 29 more land use regulations that were the basis for the claim is equal to the decrease, if any, in the  
 30 fair market value of the property from the date that is one year before the enactment of the land  
 31 use regulation to the date that is one year after the enactment, plus interest. If the claim is based  
 32 on the enactment of more than one land use regulation enacted on different dates, the reduction in  
 33 the fair market value of the property caused by each regulation shall be determined separately and  
 34 the values added together to calculate the total reduction in fair market value. The reduction in fair  
 35 market value shall be adjusted by any ad valorem property taxes not paid as a result of any special  
 36 assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.700 to 321.754  
 37 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any  
 38 recapture of potential additional tax liability that the claimant has paid or will pay for the property  
 39 if the property is disqualified from special assessment under ORS 308A.703. Interest shall be com-  
 40 puted under this subsection using the average interest rate for a one-year United States Government  
 41 Treasury Bill on December 31 of each year of the period between the date the land use regulation  
 42 was enacted and the date the claim was filed, compounded annually on January 1 of each year of  
 43 the period.

44 (7) For the purposes of subsection (6) of this section, a claimant must provide an appraisal  
 45 showing the fair market value of the property one year before the enactment of the land use regu-

1 lation that was the basis for the claim and the fair market value of the property one year after the  
 2 enactment. The appraisal also must show the fair market value of each home site approval to which  
 3 the claimant is entitled under [section 6 (2) of this 2007 Act] **subsection (2) of this section**, along  
 4 with evidence of any ad valorem property taxes not paid, any severance taxes paid and any recap-  
 5 ture of additional tax liability that the claimant has paid or will pay for the property if the property  
 6 is disqualified from special assessment under ORS 308A.703. The actual and reasonable cost of pre-  
 7 paring the claim, including the cost of the appraisal, not to exceed \$5,000, may be added to the  
 8 calculation of the reduction in fair market value under subsection (6) of this section. The appraisal  
 9 must:

10 (a) Be prepared by a person certified under ORS chapter 674 or a person registered under ORS  
 11 chapter 308;

12 (b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized by the  
 13 Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

14 (c) Expressly determine the highest and best use of the property at the time the land use regu-  
 15 lation was enacted.

16 (8) Relief may not be granted under this section if the highest and best use of the property was  
 17 not residential use at the time the land use regulation was enacted.

18 (9) If the claim was filed after December 4, 2006, to issue a home site approval under this sec-  
 19 tion, the Department of Land Conservation and Development must verify that the claim was filed  
 20 in compliance with the applicable rules of the Land Conservation and Development Commission and  
 21 the Oregon Department of Administrative Services.

22 (10) Except as provided in section 11, **chapter 424, Oregon Laws 2007** [of this 2007 Act], if the  
 23 Department of Land Conservation and Development has issued a final order with a specific number  
 24 of home site approvals for the property under this section, the claimant may seek other govern-  
 25 mental authorizations required by law for the subdivision or partition of the property or for the  
 26 development of any dwelling authorized, and a land use regulation enacted by the state or county  
 27 that has the effect of prohibiting the subdivision or partition, or the dwelling, does not apply to the  
 28 review of those authorizations.

29 **SECTION 12.** Section 11, chapter 424, Oregon Laws 2007, is amended to read:

30 **Sec. 11.** (1) A subdivision or partition of property, or the establishment of a dwelling on prop-  
 31 erty, authorized under sections 5 to 11, **chapter 424, Oregon Laws 2007**, [of this 2007 Act] must  
 32 comply with all applicable standards governing the siting or development of the dwelling, lot or  
 33 parcel including, but not limited to, the location, design, construction or size of the dwelling, lot or  
 34 parcel. However, the standards must not be applied in a manner that has the effect of prohibiting  
 35 the establishment of the dwelling, lot or parcel authorized under sections 5 to 11, **chapter 424,**  
 36 **Oregon Laws 2007**, [of this 2007 Act] unless the standards are reasonably necessary to avoid or  
 37 abate a nuisance, to protect public health or safety or to carry out federal law.

38 (2) Before beginning construction of any dwelling authorized under section 6 or 7, **chapter 424,**  
 39 **Oregon Laws 2007** [of this 2007 Act], the owner must comply with the requirements of ORS 215.293  
 40 if the property is in an exclusive farm use zone, a forest zone or a mixed farm and forest zone.

41 (3)(a) A city or county may approve the creation of a lot or parcel to contain a dwelling au-  
 42 thorized under sections 5 to 11, **chapter 424, Oregon Laws 2007** [of this 2007 Act]. However, a new  
 43 lot or parcel located in an exclusive farm use zone, a forest zone or a mixed farm and forest zone  
 44 may not exceed:

45 (A) Two acres if the lot or parcel is located on high-value farmland, as defined in ORS

1 **197.015**, on high-value forestland or on land within a ground water restricted area; or

2 (B) Five acres if the lot or parcel is not located on high-value farmland, **as defined in ORS**  
3 **197.015**, on high-value forestland or on land within a ground water restricted area.

4 (b) If the property is in an exclusive farm use zone, a forest zone or a mixed farm and forest  
5 zone, the new lots or parcels created must be clustered so as to maximize suitability of the remnant  
6 lot or parcel for farm or forest use.

7 (4) If an owner is authorized to subdivide or partition more than one property, or to establish  
8 dwellings on more than one property, under sections 5 to 11, **chapter 424, Oregon Laws 2007**, [*of*  
9 *this 2007 Act*] and the properties are in an exclusive farm use zone, a forest zone or a mixed farm  
10 and forest zone, the owner may cluster some or all of the dwellings, lots or parcels on one of the  
11 properties if that property is less suitable than the other properties for farm or forest use. If one  
12 of the properties is zoned for residential use, the owner may cluster some or all of the dwellings, lots  
13 or parcels that would have been located in an exclusive farm use zone, a forest zone or a mixed farm  
14 and forest zone on the property zoned for residential use.

15 (5) An owner is not eligible for more than 20 home site approvals under sections 5 to 11,  
16 **chapter 424, Oregon Laws 2007** [*of this 2007 Act*], regardless of how many properties that person  
17 owns or how many claims that person has filed.

18 (6) An authorization to partition or subdivide the property, or to establish dwellings on the  
19 property, granted under section 6, 7 or 9, **chapter 424, Oregon Laws 2007**, [*of this 2007 Act*] runs  
20 with the property and may be either transferred with the property or encumbered by another person  
21 without affecting the authorization. There is no time limit on when an authorization granted under  
22 section 6, 7 or 9, **chapter 424, Oregon Laws 2007**, [*of this 2007 Act*] must be carried out, except  
23 that once the owner who obtained the authorization conveys the property to a person other than  
24 the owner's spouse or the trustee of a revocable trust in which the owner is the settlor, the subse-  
25 quent owner of the property must create the lots or parcels and establish the dwellings authorized  
26 by a waiver under section 6, 7 or 9, **chapter 424, Oregon Laws 2007**, [*of this 2007 Act*] within 10  
27 years of the conveyance. In addition:

28 (a) A lot or parcel lawfully created based on an authorization under section 6, 7 or 9, **chapter**  
29 **424, Oregon Laws 2007**, [*of this 2007 Act*] remains a discrete lot or parcel, unless the lot or parcel  
30 lines are vacated or the lot or parcel is further divided, as provided by law; and

31 (b) A dwelling or other residential use of the property based on an authorization under section  
32 6, 7 or 9, **chapter 424, Oregon Laws 2007**, [*of this 2007 Act*] is a permitted use and may be estab-  
33 lished or continued by the claimant or a subsequent owner, except that once the claimant conveys  
34 the property to a person other than the claimant's spouse or the trustee of a revocable trust in  
35 which the claimant is the settlor, the subsequent owner must establish the dwellings or other resi-  
36 dential use authorized under section 6, 7 or 9, **chapter 424, Oregon Laws 2007**, [*of this 2007 Act*]  
37 within 10 years of the conveyance.

38 (7) When relief has been claimed under sections 5 to 11, **chapter 424, Oregon Laws 2007** [*of this*  
39 *2007 Act*]:

40 (a) Additional relief is not due; and

41 (b) An additional claim may not be filed, compensation is not due and a waiver may not be is-  
42 sued with regard to the property under [*sections 5 to 22 of this 2007 Act*] **ORS 195.305 to 195.336**  
43 **and sections 5 to 11, chapter 424, Oregon Laws 2007**, or ORS [*197.352*] **195.305** as in effect im-  
44 mediately before [*the effective date of this 2007 Act*] **December 6, 2007**, except with respect to a land  
45 use regulation enacted after January 1, 2007.

1 (8) A person that is eligible to be a holder as defined in ORS 271.715 may acquire the rights to  
 2 carry out a use of land authorized under sections 5 to 11, **chapter 424, Oregon Laws 2007**, [of this  
 3 2007 Act] from a willing seller in the manner provided by ORS 271.715 to 271.795. Metro, cities and  
 4 counties may enter into cooperative agreements under ORS chapter 195 to establish a system for the  
 5 purchase and sale of severable development interests as described in ORS 94.531. A system estab-  
 6 lished under this subsection may provide for the transfer of severable development interests between  
 7 the jurisdictions of the public entities that are parties to the agreement for the purpose of allowing  
 8 development to occur in a location that is different from the location in which the development in-  
 9 terest arises.

10 (9) If a claimant is an individual, the entitlement to prosecute the claim under section 6, 7 or  
 11 9, **chapter 424, Oregon Laws 2007**, [of this 2007 Act] and an authorization to use the property  
 12 provided by a waiver under section 6, 7 or 9, **chapter 424, Oregon Laws 2007** [of this 2007 Act]:

13 (a) Is not affected by the death of the claimant if the death occurs on or after **December 6, 2007**  
 14 [the effective date of this 2007 Act]; and

15 (b) Passes to the person that acquires the property by devise or by operation of law.

16 **SECTION 13.** Section 1, chapter 728, Oregon Laws 1997, as amended by section 1, chapter 216,  
 17 Oregon Laws 1999, section 2, chapter 467, Oregon Laws 2001, section 5, chapter 544, Oregon Laws  
 18 2001, section 1, chapter 147, Oregon Laws 2003, section 107, chapter 621, Oregon Laws 2003, and  
 19 section 1, chapter 258, Oregon Laws 2005, is amended to read:

20 **Sec. 1.** (1) Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with  
 21 an existing and continuing livestock operation, using accepted livestock practices, that qualifies as  
 22 a farm use under ORS 215.203 in any area zoned for exclusive farm use in eastern Oregon.

23 (2) A guest ranch established under this section shall meet the following conditions:

24 (a) Except as provided in paragraph (c) of this subsection, the guest lodging units cumulatively  
 25 shall:

26 (A) Include not less than four nor more than 10 overnight guest lodging units; and

27 (B) Not exceed a total of 12,000 square feet in floor area, not counting against the limit of 12,000  
 28 square feet of floor area of a guest lodging unit in a lodge that is dedicated to kitchen area, rest  
 29 rooms, storage or other shared indoor space.

30 (b) The guest ranch shall be located on a lawfully created parcel:

31 (A) That is at least 160 acres;

32 (B) That is the parcel containing the dwelling of the person conducting the livestock operation;  
 33 and

34 (C) That is not classified as high-value farmland as defined in ORS [215.710] **197.015**.

35 (c) For each doubling of the initial 160 acres required under paragraph (b) of this subsection,  
 36 up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor  
 37 area may be added to the guest ranch for a total of not more than 25 guest lodging units and 30,000  
 38 square feet of floor area.

39 (3) A guest ranch may provide recreational activities that can be provided in conjunction with  
 40 the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking,  
 41 horseback riding, camping or swimming. Intensively developed recreational facilities, such as golf  
 42 courses as identified in ORS 215.283, shall not be allowed. A campground as described in ORS  
 43 215.283 (2)(c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not  
 44 be allowed in conjunction with an existing golf course under ORS 215.283 (2)(f) or with an existing  
 45 campground under ORS 215.283 (2)(c).



1 (4) Food services shall be incidental to the operation of the guest ranch and shall be provided  
 2 only for the guests of the guest ranch, individuals accompanying the guests and individuals attend-  
 3 ing a special event at the guest ranch. The cost of meals, if any, provided to guests of the guest  
 4 ranch, individuals accompanying the guests and individuals attending a special event at the guest  
 5 ranch may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell  
 6 individual meals to an individual who is not a guest of the guest ranch, an individual accompanying  
 7 a guest or an individual attending a special event at the guest ranch.

8 (5) Approval of a guest ranch shall be subject to the provisions of ORS 215.296 (1) and (2) and  
 9 other approval or siting standards of the county.

10 (6) As used in this section:

11 (a) "Eastern Oregon" has the meaning given that term in ORS 321.805.

12 (b) "Guest lodging unit" means guest rooms in a lodge, bunkhouse, cottage or cabin used only  
 13 for transient overnight lodging and not for a permanent residence.

14 (c) "Guest ranch" means a facility for overnight guest lodging units, including passive recre-  
 15 ational activities and food services, as set forth in subsections (2) to (4) of this section, that are in-  
 16 cidental and accessory to an existing livestock operation that qualifies as a farm use under ORS  
 17 215.203.

18 (d) "Livestock" means cattle, sheep, horses and bison.

19 **SECTION 14.** ORS 197.045 is amended to read:

20 197.045. The Land Conservation and Development Commission may:

21 (1) Apply for and receive moneys from the federal government and from this state or any of its  
 22 agencies or departments.

23 (2) Contract with any public agency for the performance of services or the exchange of em-  
 24 ployees or services by one to the other necessary in carrying out ORS chapters 195, 196 and 197.

25 (3) Contract for the services of and consultation with professional persons or organizations, not  
 26 otherwise available through federal, state and local governmental agencies, in carrying out its duties  
 27 under ORS chapters 195, 196 and 197.

28 (4) Perform other functions required to carry out ORS chapters 195, 196 and 197.

29 (5) Assist in development and preparation of model land use regulations to guide state agencies,  
 30 cities, counties and special districts in implementing goals.

31 (6) Notwithstanding any other provision of law, review comprehensive plan and land use regu-  
 32 lations related to the identification and designation of high-value farmland [*pursuant to chapter 792,*  
 33 *Oregon Laws 1993, under procedures set forth in ORS 197.251*].

34 **SECTION 15.** ORS 215.710 is amended to read:

35 215.710. [(1) For purposes of ORS 215.705, high-value farmland is land in a tract composed pre-  
 36 dominantly of soils that, at the time the siting of a dwelling is approved for the tract, are:]

37 [(a) Irrigated and classified prime, unique, Class I or Class II; or]

38 [(b) Not irrigated and classified prime, unique, Class I or Class II.]

39 [(2) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705,  
 40 high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as  
 41 demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation  
 42 Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes  
 43 of this subsection, "specified perennials" means perennials grown for market or research purposes in-  
 44 cluding, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not  
 45 including seed crops, hay, pasture or alfalfa.]

1        [(3) *In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705,*  
 2 *high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the fol-*  
 3 *lowing soils in Class III or IV or composed predominantly of a combination of soils described in*  
 4 *subsection (1) of this section and the following soils:]*

5        [(a) *Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cas-*  
 6 *cade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt, Jory,*  
 7 *Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum,*  
 8 *Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;]*

9        [(b) *Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface)*  
 10 *and Sifton (occasionally flooded);]*

11       [(c) *Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton,*  
 12 *Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and]*

13       [(d) *Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and*  
 14 *Whiteson.]*

15       [(4) *In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705,*  
 16 *high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy*  
 17 *operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class*  
 18 *III or IV or composed predominantly of a combination of soils described in subsection (1) of this sec-*  
 19 *tion and the following soils:]*

20       [(a) *Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and*  
 21 *Winema;]*

22       [(b) *Subclassification IIIw, specifically, Brenner and Chitwood;]*

23       [(c) *Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and Winema;*  
 24 *and]*

25       [(d) *Subclassification IVw, specifically, Coquille.]*

26       [(5)] For purposes of approving a land use application under ORS 215.705, the soil class, soil  
 27 rating or other soil designation of a specific lot or parcel may be changed if the property owner:

28       [(a)] (1) Submits a statement of agreement from the Natural Resources Conservation Service of  
 29 the United States Department of Agriculture that the soil class, soil rating or other soil designation  
 30 should be adjusted based on new information; or

31       [(b)(A)] (2)(a) Submits a report from a soils scientist whose credentials are acceptable to the  
 32 State Department of Agriculture that the soil class, soil rating or other soil designation should be  
 33 changed; and

34       [(B)] (b) Submits a statement from the State Department of Agriculture that the Director of  
 35 Agriculture or the director's designee has reviewed the report described in [*subparagraph (A) of*  
 36 *this*] paragraph (a) of **this subsection** and finds the analysis in the report to be soundly and sci-  
 37 entifically based.

38       [(6) *Soil classes, soil ratings or other soil designations used in or made pursuant to this section*  
 39 *are those of the Soil Conservation Service in its most recent publication for that class, rating or des-*  
 40 *ignation before November 4, 1993.]*