

# Senate Bill 640

Sponsored by Senator GIROD, Representative GILLIAM; Senator COURTNEY, Representative CLEM

## 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**.

Authorizes division of land in exclusive farm use zone to create parcel smaller than minimum lot or parcel size on which to establish fire service facilities that provide rural fire protection services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to division of land for fire service facilities; amending ORS 215.263; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 215.263 is amended to read:

6 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting  
7 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the  
8 governing body or its designee of the county in which the land is situated. The governing body of  
9 a county by ordinance shall require [*such*] prior review and approval for [*such*] divisions of land  
10 within exclusive farm use zones established within the county.

11 (2) The governing body of a county or its designee may approve a proposed division of land to  
12 create parcels for farm use as defined in ORS 215.203 if it finds:

13 (a) That the proposed division of land is appropriate for the continuation of the existing com-  
14 mercial agricultural enterprise within the area; or

15 (b) The parcels created by the proposed division are not smaller than the minimum size estab-  
16 lished under ORS 215.780.

17 (3) The governing body of a county or its designee may approve a proposed division of land in  
18 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283  
19 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for  
20 the use. The governing body may establish other criteria as it considers necessary.

21 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined  
22 in ORS 215.010, the governing body of a county or its designee:

23 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels  
24 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-  
25 vided in conjunction with farm use if:

26 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

27 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
28 created prior to July 1, 2001;

29 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with  
30 the minimum size established under ORS 215.780;

**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 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings  
2 complies with the minimum size established under ORS 215.780; and

3 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
4 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
5 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
6 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
7 forest use in conjunction with other land.

8 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into  
9 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

10 (A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

11 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
12 created prior to July 1, 2001;

13 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or  
14 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

15 (D) The parcels for the nonfarm dwellings are:

16 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;  
17 and

18 (ii) Composed of at least 90 percent Class VI through VIII soils;

19 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;  
20 and

21 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
22 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
23 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
24 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
25 forest use in conjunction with other land.

26 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

27 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels  
28 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-  
29 vided in conjunction with farm use if:

30 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

31 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
32 created prior to July 1, 2001;

33 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with  
34 the minimum size established under ORS 215.780;

35 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings  
36 complies with the minimum size established under ORS 215.780; and

37 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
38 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
39 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
40 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
41 forest use in conjunction with other land.

42 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into  
43 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

44 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

45 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully

1 created prior to July 1, 2001;

2 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or  
 3 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

4 (D) The parcels for the nonfarm dwellings are:

5 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;  
 6 and

7 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90  
 8 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage  
 9 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the  
 10 State Department of Agriculture and other interested persons, may establish by rule objective cri-  
 11 teria for identifying units of land that are not capable of producing adequate herbaceous forage for  
 12 grazing livestock. In developing the criteria, the commission shall use the latest information from  
 13 the United States Natural Resources Conservation Service and consider costs required to utilize  
 14 grazing lands that differ in acreage and productivity level;

15 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;  
 16 and

17 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
 18 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
 19 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
 20 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
 21 forest use in conjunction with other land.

22 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within  
 23 the boundaries designated for a farm use zone at the time the zone is established.

24 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions  
 25 of land resulting from foreclosure of recorded contracts for the sale of real property.

26 (8) The governing body of a county may not approve any proposed division of a lot or parcel  
 27 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division  
 28 that separates a processing facility from the farm operation specified in ORS 215.213 (1)(u) or 215.283  
 29 (1)(r).

30 (9) The governing body of a county may approve a proposed division of land in an exclusive farm  
 31 use zone to create a parcel with an existing dwelling to be used:

32 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved  
 33 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

34 (b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).

35 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-  
 36 prove a proposed division of land provided:

37 (A) The land division is for the purpose of allowing a provider of public parks or open space,  
 38 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;  
 39 and

40 (B) A parcel created by the land division that contains a dwelling is large enough to support  
 41 continued residential use of the parcel.

42 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

43 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

44 (B) May not be considered in approving or denying an application for siting any other dwelling;

45 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a

1 redesignation or rezoning to allow a public park, open space or other natural resource use; and

2 (D) May not be smaller than 25 acres unless the purpose of the land division is:

3 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a  
4 wildlife habitat protection plan; or

5 (ii) To allow a transaction in which at least one party is a public park or open space provider,  
6 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000  
7 acres of open space or park property.

8 (11) The governing body of a county or its designee may approve a division of land smaller than  
9 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone  
10 provided:

11 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction  
12 with the church;

13 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

14 (c) The newly created lot or parcel is not larger than five acres; and

15 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size  
16 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or  
17 parcel.

18 **(12) Notwithstanding the minimum lot or parcel size described in ORS 215.780 (1) or (2),**  
19 **the governing body of a county or its designee may approve a proposed division of land in**  
20 **an exclusive farm use zone for the nonfarm uses set out in ORS 215.213 (1)(v) or 215.283 (1)(s)**  
21 **if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary**  
22 **for the use. The governing body may establish other criteria as it considers necessary.**

23 [(12)] (13) The governing body of a county may not approve a division of land for nonfarm use  
24 under subsection (3), (4), (5), (9), (10), [or] (11) or (12) of this section unless any additional tax im-  
25 posed for the change in use has been paid.

26 [(13)] (14) Parcels used or to be used for training or stabling facilities may not be considered  
27 appropriate to maintain the existing commercial agricultural enterprise in an area where other  
28 types of agriculture occur.

29 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**  
30 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
31 **on its passage.**

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