

**Enrolled**  
**House Bill 3125**

Sponsored by COMMITTEE ON LAND USE

CHAPTER .....

AN ACT

Relating to minimum size of unit of land; amending ORS 215.780.

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

**SECTION 1.** ORS 215.780 is amended to read:

215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

- (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- (c) For land designated forestland, at least 80 acres.

*[(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:]*

*[(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.]*

*[(b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed farm and forest use, subject to the following requirements:]*

*[(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;]*

*[(B) The dwelling existed prior to June 1, 1995;]*

*[(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or]*

*[(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and]*

*[(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.]*

*[(c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for mixed farm and forest use the following requirements apply:]*

**(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:**

**(a) When the county can demonstrate to the Land Conservation and Development Commission that the county can adopt a lower minimum lot or parcel size while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.**

**(b) To divide an area of land zoned for forest use to establish a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:**

(A) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres; and

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum land division standards of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

(c) To divide an area of land zoned for mixed farm and forest use to establish a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum land division standards of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone;

[A] (C) The minimum tract eligible under **this** paragraph [(b) of this subsection] is 40 acres[.];

[B] (D) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321[.]; **and**

[C] (E) The remainder of the tract [shall] **does** not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

(A) [Shall not be] **Are not** eligible for siting of a new dwelling;

(B) [Shall] **May** not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) [Shall] **May** not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; **and**

(D) [Shall] **May** not result in a parcel of less than 35 acres, [except] **unless the purpose of the land division is to:**

(i) [Where the purpose of the land division is to] Facilitate an exchange of lands involving a governmental agency; or

(ii) [Where the purpose of the land division is to] Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland[.]; **and**]

[E] *If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone.*]

(e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under a statewide planning goal protecting forestland if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(q) or 215.283 (1)(p);

(C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;

(D) At least one dwelling is located on each lot or parcel created under this paragraph; **and**

(E) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of

release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

(f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record shall be readily available to the public.

(4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing dwelling on the lot or parcel was approved under:

(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.651 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) **and** (c) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

**Passed by House April 9, 2013**

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 2, 2013**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

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Kate Brown, Secretary of State