



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



February 12, 2015

TO: The Honorable Representative Brian Clem, Chair
House Committee on Rural Communities, Land Use and Water

FROM: Jim Rue, Director
Department of Land Conservation and Development

RE: HB 2457

House Bill 2457 has been introduced on behalf of the Department of Land Conservation and Development (DLCD). This bill would authorize land partitions for farm or forest parcels that “straddle” an urban growth boundary (UGB), even if the newly created parcel that would remain outside the UGB would be smaller than the statutory minimum lot size for farm or forest land. This legislation would ensure that the new parcel outside the UGB remains protected for farm or forest use and that the parcel inside the UGB is planned and zoned in accordance with the applicable acknowledged comprehensive plan.

Several cities and Metro have made a concerted attempt to follow streams and other natural features in establishing and amending their urban growth boundaries (UGBs). However, farm and forest land is typically at the edge of urban areas. As a result, decisions to establish UGBs based on natural features rather than property lines mean that some farm or forest land parcels are partially split by the UGB, with some portion of the parcel inside the boundary and some portion outside. Under Oregon land use law, cities plan and zone land for “urban uses” inside UGBs. Counties protect farm and forest land outside UGBs by maintaining large parcel sizes – these minimum parcel sizes are established by law.

Local governments have brought it to our attention that development is unduly complicated when a farm or forest land parcel straddles a UGB, such that some of the parcel is inside the UGB and some is outside. Such a parcel would usually need to be divided in order to authorize the part inside the UGB to be zoned and developed with urban uses and (usually) to be annexed to the city.

The problem is that, under land use statutes, large lot farm or forest zoning must be maintained on the portion of the property that is outside the boundary. If local governments were to try and property is divided along the UGB, in many cases the portion outside the UGB would be smaller than the statutory required minimum lot size (ORS 215.780 establishes minimum lot sizes for new farm and forest land parcels). As such, many of these parcels cannot be divided along a UGB that splits the property. For several reasons, it is not practical for cities to attempt to annex land or portions of land that are outside the UGB and preserved for farm use or forest use.

Without annexation, even the urban portion of parcels that are split by a UGB will be very difficult or impossible to develop.

Department of Land Conservation and Development staff and legal counsel have determined that because the minimum lot size restrictions for new parcels outside the UGB are specified in state law, rulemaking is not a reasonable option for the Land Conservation and Development Commission to resolve this problem. Legislation is required.

This proposed legislation would amend ORS 215 to authorize land partitions for farm or forest parcels straddling a UGB even if the newly created portion of the parcel outside the UGB would be smaller than the statutory minimum lot size. The legislation would ensure that the parcel outside the UGB remains protected in farm or forest use regardless of the size of the parcel, and that the parcel inside the UGB will be planned and zoned for urban uses in accordance with the applicable acknowledged comprehensive plan.

Thank you for considering this legislation. If you have questions, please contact Bob Rindy, Legislative Coordinator, 503-934-0008; bob.rindy@state.or.us

Copy: Greg Macpherson, LCDC Chair