

HOUSE AMENDMENTS TO HOUSE BILL 2457

By COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

March 6

1 On page 1 of the printed bill, delete lines 5 through 28 and delete pages 2 through 4.

2 On page 5, delete lines 1 through 11 and insert:

3 “**SECTION 1.** ORS 215.263 is amended to read:

4 “215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
5 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
6 governing body or its designee of the county in which the land is situated. The governing body of
7 a county by ordinance shall require prior review and approval for divisions of land within exclusive
8 farm use zones established within the county.

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

11 “[a] **(A)** *[That]* The proposed division of land is appropriate for the continuation of the existing
12 commercial agricultural enterprise within the area; *[or]*

13 “[b] **(B)** The parcels created by the proposed division are not smaller than the minimum size
14 established under ORS 215.780[.]; **or**

15 “**(C) A portion of a lot or parcel has been included within an urban growth boundary and**
16 **redesignated for urban uses under the applicable acknowledged comprehensive plan and the**
17 **portion of the lot or parcel that remains outside the urban growth boundary and zoned for**
18 **exclusive farm use is smaller than the minimum lot or parcel size established under ORS**
19 **215.780, subject to paragraph (b) of this subsection.**

20 “**(b) When a parcel for farm use is created in an exclusive farm use zone under paragraph**
21 **(a) of this subsection, the partition must occur along the urban growth boundary and:**

22 “**(A) If the parcel contains a dwelling, the parcel must be large enough to support con-**
23 **tinued residential use.**

24 “**(B) If the parcel does not contain a dwelling, the parcel:**

25 “**(i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;**

26 “**(ii) May not be considered in approving or denying an application for siting any other**
27 **dwelling; and**

28 “**(iii) May not be considered in approving a redesignation or rezoning of forestlands under**
29 **the acknowledged comprehensive plan and land use regulations, except for a redesignation**
30 **or rezoning to allow a public park, open space or other natural resource use.**

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

35 “(4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined

1 in ORS 215.010, the governing body of a county or its designee:

2 “(a) May approve a division of land in an exclusive farm use zone to create up to two new
3 parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling
4 not provided in conjunction with farm use if:

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

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

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

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

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

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

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

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

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

24 “(D) The parcels for the nonfarm dwellings are:

25 “(i) Not capable of producing more than [at least] 50 cubic feet per acre per year of wood fiber;
26 and

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

28 “(E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
29 and

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

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

37 “(a) May approve a division of land in an exclusive farm use zone to create up to two new
38 parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling
39 not provided in conjunction with farm use if:

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

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

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

45 “(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings

1 complies with the minimum size established under ORS 215.780; and

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

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

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

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

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

14 “(D) The parcels for the nonfarm dwellings are:

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

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

25 “(E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
26 and

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

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

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

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

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

42 “(a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been ap-
43 proved under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

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

45 “(10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-

1 prove a proposed division of land provided:

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

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

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

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

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

10 “(C) May not be considered in approving a redesignation or rezoning of forestlands except for
11 a redesignation or rezoning to allow a public park, open space or other natural resource use; and

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

13 “(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
14 wildlife habitat protection plan; or

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

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

21 “(a) The division is for the purpose of establishing a church, including cemeteries in conjunction
22 with the church;

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

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

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

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

33 “(13) The governing body of a county may not approve a division of land for nonfarm use under
34 subsection (3), (4), (5), (9), (10), (11) or (12) of this section unless any additional tax imposed for the
35 change in use has been paid.

36 “(14) Parcels used or to be used for training or stabling facilities may not be considered appro-
37 priate to maintain the existing commercial agricultural enterprise in an area where other types of
38 agriculture occur.”.

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