

**PROPOSED AMENDMENTS TO
HOUSE BILL 2457**

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

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

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

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

11 “(2)(a) The governing body of a county or its designee may approve a
12 proposed division of land to create parcels for farm use as defined in ORS
13 215.203 if it finds **that**:

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

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

19 **“(C) A portion of a lot or parcel has been included within an urban**
20 **growth boundary and redesignated for urban uses under the applicable**
21 **acknowledged comprehensive plan and the portion of the lot or parcel**
22 **that remains outside the urban growth boundary and zoned for exclu-**

1 **sive farm use is smaller than the minimum lot or parcel size estab-**
2 **lished under ORS 215.780, subject to paragraph (b) of this subsection.**

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

6 **“(A) If the parcel contains a dwelling, the parcel must be large**
7 **enough to support continued residential use.**

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

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

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

13 **“(iii) May not be considered in approving a redesignation or rezon-**
14 **ing of forestlands under the acknowledged comprehensive plan and**
15 **land use regulations, except for a redesignation or rezoning to allow**
16 **a public park, open space or other natural resource use.**

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

23 **“(4) In western Oregon, as defined in ORS 321.257, but not in the**
24 **Willamette Valley, as defined in ORS 215.010, the governing body of a county**
25 **or its designee:**

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

30 **“(A) The nonfarm dwellings have been approved under ORS 215.213 (3)**

1 or 215.284 (2) or (3);

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

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

6 “(D) The remainder of the original lot or parcel that does not contain the
7 nonfarm dwellings complies with the minimum size established under ORS
8 215.780; and

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

15 “(b) May approve a division of land in an exclusive farm use zone to di-
16 vide a lot or parcel into two parcels, each to contain one dwelling not pro-
17 vided in conjunction with farm use if:

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(D) The remainder of the original lot or parcel that does not contain the
19 nonfarm dwellings complies with the minimum size established under ORS
20 215.780; and

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

27 “(b) May approve a division of land in an exclusive farm use zone to di-
28 vide a lot or parcel into two parcels, each to contain one dwelling not pro-
29 vided in conjunction with farm use if:

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

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

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

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

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

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

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

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

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

30 “(7) This section does not apply to divisions of land resulting from lien

1 foreclosures or divisions of land resulting from foreclosure of recorded con-
2 tracts for the sale of real property.

3 “(8) The governing body of a county may not approve any proposed divi-
4 sion of a lot or parcel described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d)
5 or (2)(L) or 215.284 (1), or a proposed division that separates a processing
6 facility from the farm operation specified in ORS 215.213 (1)(u) or 215.283
7 (1)(r).

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

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

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

16 “(10)(a) Notwithstanding ORS 215.780, the governing body of a county or
17 its designee may approve a proposed division of land provided:

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

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

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

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

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

29 “(C) May not be considered in approving a redesignation or rezoning of
30 forestlands except for a redesignation or rezoning to allow a public park,

1 open space or other natural resource use; and

2 “(D) May not be smaller than 25 acres unless the purpose of the land di-
3 vision is:

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

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

10 “(11) The governing body of a county or its designee may approve a divi-
11 sion of land smaller than the minimum lot or parcel size described in ORS
12 215.780 (1) and (2) in an exclusive farm use zone provided:

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

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

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

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

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

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

1 “(14) Parcels used or to be used for training or stabling facilities may not
2 be considered appropriate to maintain the existing commercial agricultural
3 enterprise in an area where other types of agriculture occur.”.

4
