

SENECA JONES  TIMBER COMPANY

July 2, 2010

Lane County Land Use Task Force:

Re: "Tract" Legislative History (HB 3661)

Dear Task Force Members:

I am in receipt of a document titled "HB 3661, Summary of Legislative History Regarding the Meaning of 'Tract' in the Context of Template Dwellings" authored by Jim Just. Mr. Just concludes from his review of the legislative history of HB 3661 that tract be fixed "at the time of enactment" of HB 3661 for purposes of determining an owner's ability to cite a template dwelling on his or her property. This is not accurate nor does the legislative history support this conclusion.

HB 3661 was adopted by the legislature and signed into law by the Governor in 1993. I was the principle author of HB 3661. I drafted the original Bill which passed the House of Representatives and I personally took part in all negotiations concerning all amendments to the Bill which were passed in the Senate, including the template dwelling provisions which are the subject of Mr. Just's research.

In Mr. Just's document, he quotes testimony from Anne Squier, Governor Barbara Roberts' Natural Resource Advisor, and Senator Jim Bunn. Neither quote supports Mr. Just's position. In the quote attributed to Ms. Squier, she did not speak to the issue of whether the lot, parcel or tract upon which the template dwelling was proposed to be sited had to be in existence on January 1, 1993. Instead, Ms. Squier is speaking to the issue of whether the neighboring dwellings which form the justification for the template dwelling had to be in existence on January 1, 1993.

In contrast to the testimony of Anne Squier, the quote cited by Mr. Just by Senator Bunn speaks directly to the issue. Senator Bunn states that it was his belief that it had been agreed by the work group that dwellings built after January 1, 1993, could not be used to justify new dwellings under the template test, but he did not believe that

parcels created after 1993, could not be built upon if they otherwise qualified for a template dwelling. As Mr. Just quotes Senator Bunn in his paper, Senator Bunn states:

"I think what we have done is if there is a legally created parcel that legally created parcel is not eligible under this [the –A93 Amendments] if it did not exist on this date. I don't think that was any part of the intent. ***This language wasn't in the –A88 amendments. I do remember a concern to prevent extra houses as they are added from becoming a factor. I don't remember discussions to deal with the parcels. That is why I was surprised to see this." [Emphasis added.]

In other words, to the extent that the amendments before the committee (the –A93 Amendments) did not allow template dwellings on legal parcels that were created after 1993, this did not conform to Senator Bunn's understanding of the agreement of the work group.

Mr. Just may be correct that the template dwelling first came to the public's attention at a Senate hearing before the Agriculture and Natural Resources Committee on July 26, 1993. What Mr. Just may not know was that the template dwelling had been the subject of intense negotiations for over a month before it was ever discussed in the Senate Committee. Those negotiations took place in a work group created by the respective chairs of the House Committee on Natural Resources, Ray Baum, and the Senate Committee on Agriculture and Natural Resources, Ron Cease. The last meeting of the work group took place on July 30, 1993. In attendance were Dick Benner (DLCD), Mike Rupp (DLCD), Ron Eber (DLCD), Anne Squier (Governor Roberts' Natural Resource Advisor), Kevin Birch (DOF), Senator Joyce Cohen, Senator Jim Bunn, Representative Ray Baum, Mike Evans (Land Use Planning Consultants) Kent Howe (Lane County), and myself (on behalf of the Speaker of the House, Larry Campbell). The primary purpose of the meeting was to come to final resolution of the final details of the small wood lot dwelling (which later became known as the template dwelling). At the last moment, Ms. Squier had expressed reservations about allowing the template to spin on its axis. There were also certain details that needed to be resolved concerning the use of the rectangular template. After intense negotiations, it was confirmed by the work group that the template would be allowed to spin upon its axis. There were no changes in the other key negotiated elements of the template test. The neighboring lots or parcels, and homes, necessary to justify a template dwelling had to be in existence on January 1, 1993, and the lot, parcel or tract upon which the template dwelling was proposed to be constructed did not have to be in existence as of any particular date. Sue Hanna, legislative counsel, was not present at the meeting. Someone at the meeting, I do not recall, but probably Dick Benner or Anne Squier, was instructed to go

over the details of the meeting with Ms. Hanna, so she could incorporate those details into the amendments of HB 3661 to be discussed in committee later that afternoon.

Later that afternoon, Chairman Cease reconvened the Senate Committee on Agriculture and Natural Resources to go over the final details of the agreement of the work group. These amendments were contained in the -A93 amendments to HB 3661. (See tape recording, Senate Committee on Agriculture and Natural Resources, July 30, 1993, Tape 277, Side A, at 184.) Sue Hanna presented to the committee all changes that had been made to the -A88 amendments by the -A93 amendments. The -A88 amendments had been the document from which the work group had negotiated the final details of the template dwelling earlier that morning.

The -A93 amendments had inserted the requirement that the lot or parcel upon which the template dwelling would be located had to be in existence as of January 1, 1993. Specifically, the words "that existed on January 1, 1993," were added to Section 4(6)(a). See relevant portions of HB 3661-A93 (page 7, line 29) enclosed with this letter. This was brought to the attention of the committee by Ms. Hanna, and strongly opposed by members of the work group, including Senator Bunn, Representative Baum and Mike Evans. As a result, the committee directed Ms. Hanna to remove the language that she had inserted into the -A93 amendments that would have required the lot or parcel upon which the template dwelling would be located to have been in existence as of January 1, 1993. If Mr. Just had provided the full text of the committee hearing, instead of only selected portions, this would have been obvious to the reader. Set out below are relevant portions of the committee hearing:

"HANNA: ***On page 7 line 29, there was a question that arose about the "creeping Template." I talked with the Committee Administrator and he said the purpose of the discussion, he thought it had been agreed upon that those parcels had to exist on January 1, 1993. That is what I bring to your attention.

"SENATOR BUNN: I did not have that understanding. I think we may have talked about dwelling existing, but I don't think we had all dealt with parcels existing on that date.

"BENNER: Mr. Chairman, Dick Benner for the Department. I think Senator Bunn is correct***.

"SQUIER: As I believe the discussion went forward, we were talking about whether the template could spin and I used the term "but it doesn't walk." The purpose of saying "it doesn't walk" was that you take a snapshot at the present time and we discussed using the January 1, 1993, date because that is when the counties have keyed their records for purposes of small-scale resource rules, but it doesn't matter to me whether it is January 1, 1993, or what. But you take the snapshot now and things that happen in the future, whether they are dwellings or an exception area that gets more parcels, don't create the ability to take that template and get the next parcel, and the next parcel, and the next parcel qualifying. That was a very important part of the concept that you have to meet both the parcel and dwelling standards under the snapshot today.

"SENATOR BUNN: I don't recall it that way, but I am also concerned about another part. I think what we have done is, if there is a legally created parcel, that legally created parcel is not eligible under this if it did not exist on this date. I don't think that was any part of the intent. Even if you don't have the creeping, crawling or spinning template, if you have a legally created parcel that is created after January 1, 1993, this language would deny you the ability to use that test even based upon the dwellings that existed on January 1, or the parcels that existed on January 1, 1993. Am I right, Dick? It does two things. We deny the use of newly created parcels in the template, but we also deny the ability to use the template on a parcel created after January 1, 1993. This language wasn't in the -A88 amendments. I do remember a concern to prevent extra houses as they are added from becoming a factor. I don't remember discussions to deal with the parcels. That is why I was surprised to see this.

"MIKE EVANS: Chair Cease, thank you. Mike Evans for the record. This issue was not discussed in the negotiations. We were given the opportunity to work with Ann Squier, members of the Department of Forestry, Department of Land Conservation and Development. We went into a meeting with one purpose—to negotiate a settlement. We were not entirely happy with the -A88 version, however, we used that version. We looked at the concerns others had. We came up with a negotiated settlement based on that language and based on additional language. In that we compromised. We all spoke to issues during the several sessions we have had had, working groups and whatnot—issues that were of concern with us. Whenever you give concessions on one hand, then you expect some return on the other side, and it is a balancing so it works for all parties. Because this is a very important factor that we were dealing with language that existed, we agreed to that language when we walked out of the

meeting. It is an important issue that it be a balanced approach. We believe it is unfair to bring it up at this point. Had we known this was an issue, we could have discussed it and settled it during the discussion session.

"REPRESENTATIVE BAUM: When I started walking, I don't want people inching it along. But things are going to change in the future. There will be changes in parcel sizes and minimum lot sizes throughout the years, and that will happen. We conceded the dwelling issue and froze them as of January 1, 1993. But I understood it was stationary, but things could change over time. Why is this so substantive all of a sudden? I don't see that.

"SENATOR BUNN: Well, I looked back at the -A88, and I think it is clear we have recognized and locked in a date for the dwellings. The parcel concern is also legitimate, but it was not addressed before. The dwelling concern was addressed and was locked into the bill in five different places. This one was not discussed. It was put in the bill in error***.

"SENATOR BUNN: Mr. Chair, did we just agree to remove the words "that existed on January 1, 1993"?

"SQUIER: That was the question I was just asking and I understand you're answer to be that you did not want a change from what was there in the last draft [-A88].

"SENATOR BUNN: I would like to go back to the -A88 that did not include that.

"SQUIER: What that would mean is that, in each of the parallel sections, (a), (b) and (c), the (ii) that talks about the dwellings would require the dwellings to have existed on January 1, 1993 (language on line 5 of page 8), but the language on the date in line 29 on page 7 would come out and that would be as in the draft [-A88 amendments].

"CHAIR CEASE: All right, can we do that? Let's move ahead. It's out."
Tape recording, Senate Committee on Agriculture and Natural Resources (HB 3661), July 30, 1993, Tape 276, Side B.

Later in the hearing, this issue came up again, and again the committee confirmed their intention to delete from the Bill any requirement that the lot or parcel upon which the template dwelling was to be sited had to be in existence as of any particular date:

"SQUIER: I apologize. I have not had a chance to really read this section. What I thought you were debating with respect to the walking was not a date, the date in (6) (a) with Senator Bunn, but rather the issue of whether as you examine whether the template has been fit, the dwellings "existed on January 1, 1993," and the—

"SENATOR BUNN: I think I understand the issue. There are two separate concerns. One is whether or not the parcel can ever have the template applied to it, and the second is whether there are other parcels that are counted toward that template based upon the date.

"SENATOR BUNN: To start with, on the question on page 7, line 29, that there isn't disagreement, do you want a motion to delete that language, or just do it by consensus? It is dealing with the newly created parcel under the minimum lot size, allowing the template to be placed on it.

"HANNA: On page 7, in line 29, it is out. I took it out and I haven't put the date in anywhere else. Do you want to go to my next point?

"CHAIR CEASE: Yes, please."

Tape recording, Senate Committee on Agriculture and Natural Resources (HB 3661), July 30, 1993, Tape 277, Side B.

The committee also reconfirmed its intention that not only the lot or parcel did not have to be in existence as of January 1, 1993, but the tract upon which the template dwelling was sited also did not have to be in existence on January 1, 1993. Shortly after the discussions above, Senator Bunn stated:

"SENATOR BUNN: We have locked in the dwelling, but not locked in the tracts for the template."
Id.

The amendments to the –A93 amendments were codified in B-Engrossed HB 3661, which was the legislative vehicle passed by the Senate on August 2, 1993, the House on August 3, 1993, and duly signed into law by Governor Barbara Roberts. I have enclosed with this letter my personal copy of B-Engrossed HB 3661, which I used in briefing the Speaker of the House on the results of our negotiations on August 2, 1993. You will note my underline on Page 5, Line 18 of Section 4(6)(a) that I made on that date, noting the location of the removal of the "January 1, 1993" language from the Bill.

I have also enclosed a copy of the relevant portions of the –A88 amendments such that, if you review the progress of the Bill, you will find that the –A88 amendments did not require the lot upon which the home would be sited to be in existence on January 1, 1993. The A–93 amendments included this requirement. And, finally, B-Engrossed HB 3661, which ultimately became law and is codified at ORS Chapter 215, reverted back to the –A88 version of HB 3661, no longer requiring the home site upon which the template home was to be sited to have to be in existence on January 1, 1993. Likewise, the tract upon which the home was to be sited did not have to be in existence on January 1, 1993. See Section 4(6)(d)(D).

The issue of whether the tract had to be in existence as of January 1, 1993, and more specifically, whether an owner could change the tract by conveyance after January 1, 1993, was discussed on both the floors of the Senate and House during the final deliberations on HB 3661. For example, Senator Stan Bunn asked the following question and received the following answer from Senator Jim Bunn (one of the carriers of HB 3661 on the Floor of the Senate):

"SENATOR STAN BUNN: Section 4, Subsection (6) of HB 3661 creates dwelling opportunities for small wood lot owners. If I owned two adjacent properties which met wood lot standards, would I be entitled to two wood lot dwellings?

"SENATOR JIM BUNN: No. The answer is no. However, if you conveyed one of the parcels to another person prior to application for a

dwelling, both parcels would be entitled to a dwelling." Tape Recording, Senate Floor Debate (HB 3661), August 2, 1993, Tape 201, Side B.

On the House Floor, Representative Marilyn Dell asked the same question of representative Baum (carrier of HB 3661 on the Floor of the House) and received the following answer:

"REPRESENTATIVE DELL: Section 4, Subsection (6) of the bill creates dwelling opportunities for small wood lot owners. If I owned two adjacent properties which met wood lot standards, would I be entitled to two wood lot dwellings?

"REPRESENTATIVE BAUM: No. However, if you would convey one of the parcels to another person prior to application for a dwelling, both parcels would be entitled to a dwelling." Tape Recording, House Floor Debate (HB 3661) August 3, 1993, Tape 229, Side A.

In summary, Section 4(6)(a) of HB 3661 (codified at ORS 215.750(1) requires lots or parcels and dwellings that form the justification for meeting the standards of the template dwelling to have been in existences of January 1, 1993. However, the lot or parcel upon which the dwelling will actually be sited does not have to be in existence as of any particular date. Likewise, Section 4(6)(d)(D) (codified at ORS 215.750(4)(d) of HB 3661) does not require the tract upon which the dwelling will be sited to have been in existence on any particular date.

I trust that you will find this useful. Please feel free to contact me at my email address or by telephone at (541) 461-6233, if you have any questions or need for further information.

Sincerely,



Dale A. Riddle
Vice President of Legal Affairs
Seneca Sawmill Company, General Partner

DAR:dme
Enclosures

SENATE AG & NATURAL RESOURCES

Bill No: HB 3661 Pages: 58
Exhibit: A Date: 7-29-93
Presented by: Sha J

HB 3661-A88
(LC 3145-1)
7/29/93 (SH/dc)

PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3661

1 On page 1 of the printed A-engrossed bill, line 2, after "ORS" delete the
2 rest of the line and delete lines 3 through 13 and insert "30.930, 30.935, 30.940,
3 92.044, 92.046, 93.040, 197.010, 197.030, 197.040, 197.065, 197.175, 197.625,
4 215.010, 215.130, 215.213, 215.236, 215.263, 215.283, 215.296, 215.317, 215.327,
5 308.372 and 451.555 and section 3, chapter _____, Oregon Laws 1993 (En-
6 rolled Senate Bill 1057); and repealing ORS 197.247, 215.214, 215.288, 215.303,
7 215.337, 527.800, 527.805 and 527.810 and sections 2 and 3, chapter _____,
8 Oregon Laws 1993 (Enrolled Senate Bill 1057), section 42a, chapter _____,
9 Oregon Laws 1993 (Enrolled House Bill 2438), and sections 1 and 2, chapter
10 _____ Oregon Laws 1993 (Enrolled House Bill 2734)."

11 Delete lines 15 through 24 and delete pages 2 through 84 and insert:

12 "SECTION 1. Sections 2 to 7, 10 and 29 of this Act are added to and
13 made a part of ORS chapter 215.

14 "SECTION 2. (1) A governing body of a county may allow the es-
15 tablishment of a single-family dwelling on a lot or parcel located
16 within a farm or forest zone as set forth in this section and sections
17 3 and 4 of this 1993 Act after notifying the county assessor that the
18 governing body intends to allow the dwelling. A dwelling under this
19 section may be allowed if:

20 "(a) The lot or parcel on which the dwelling will be sited was law-
21 fully created and was acquired by the present owner:

22 "(A) Prior to January 1, 1985; or

23 "(B) By devise or by intestate succession from a person who ac-
24 quired the lot or parcel prior to January 1, 1985.

1 “(b) The tract on which the dwelling will be sited does not include
2 a dwelling.

3 “(c) The proposed dwelling is not prohibited by, and will comply
4 with, the requirements of the acknowledged comprehensive plan and
5 land use regulations and other provisions of law.

6 “(d) The lot or parcel on which the dwelling will be sited, if zoned
7 for farm use, is not on that high-value farmland described in section
8 3 of this 1993 Act except as provided in subsections (2) and (3) of this
9 section.

10 “(e) The lot or parcel on which the dwelling will be sited, if zoned
11 for forest use, is described in section 4 of this 1993 Act.

12 “(f) When the lot or parcel on which the dwelling will be sited lies
13 within an area designated in an acknowledged comprehensive plan as
14 habitat of big game, the siting of the dwelling is consistent with the
15 limitations on density upon which the acknowledged comprehensive
16 plan and land use regulations intended to protect the habitat are
17 based.

18 “(g) The lot or parcel on which the dwelling will be sited is part of
19 a tract, and remaining portions of the tract are consolidated into a
20 single lot or parcel when the dwelling is allowed.

21 “(2) Notwithstanding the requirements of subsection (1)(d) of this
22 section, a single-family dwelling not in conjunction with farm use may
23 be sited on high-value farmland if:

24 “(a) It meets the other requirements of sections 2 to 6 of this 1993
25 Act;

26 “(b) The lot or parcel is protected as high-value farmland as de-
27 scribed under section 3 (1) of this 1993 Act; and

28 “(c) A hearings officer of the State Department of Agriculture, un-
29 der the provisions of ORS 183.413 to 183.497, determines that:

30 “(A) The lot or parcel cannot practicably be managed for farm use,
31 by itself or in conjunction with other land, due to extraordinary cir-

1 cumstances inherent in the land or its physical setting that do not
2 apply generally to other land in the vicinity.

3 “(B) The dwelling will comply with the provisions of ORS 215.296 (1).

4 “(C) The dwelling will not materially alter the stability of the
5 overall land use pattern in the area.

6 “(3) Notwithstanding the requirements of subsection (1)(d) of this
7 section, a single-family dwelling not in conjunction with farm use may
8 be sited on high-value farmland if:

9 “(a) It meets the other requirements of sections 2 to 6 of this 1993
10 Act.

11 “(b) The lot or parcel on which the dwelling will be sited is:

12 “(A) Identified in section 3 (3) or (4) of this 1993 Act;

13 “(B) Not protected under section 3 (1) of this 1993 Act; and

14 “(C) Twenty-one acres or less in size.

15 “(c)(A) The tract is bordered on at least 67 percent of its perimeter
16 by tracts that are smaller than 21 acres, and at least two such tracts
17 had dwellings on them on January 1, 1993; or

18 “(B) The tract is bordered on at least 25 percent of its perimeter by
19 tracts that are smaller than 21 acres, and at least four dwellings ex-
20 isted on January 1, 1993, within one-quarter mile of the center of the
21 subject tract. Up to two of the four dwellings may lie within the urban
22 growth boundary, but only if the subject tract abuts an urban growth
23 boundary.

24 “(4) If land is in a zone that allows both farm and forest uses and
25 is acknowledged to be in compliance with goals relating to both agri-
26 culture and forestry, the county may apply the standards for siting a
27 dwelling under either section 3 or 4 of this 1993 Act as appropriate for
28 the predominant use of the tract on January 1, 1993.

29 “(5) A county may deny approval of a dwelling allowed under this
30 section in any area where the county determines that approval of the
31 dwelling would:

1 “(a) Exceed the facilities and service capabilities of the area;

2 “(b) Materially alter the stability of the overall land use pattern in
3 the area; or

4 “(c) Create conditions or circumstances that the county determines
5 would be contrary to the purposes or intent of its acknowledged com-
6 prehensive plan or land use regulations.

7 “(6) For purposes of subsection (1)(a) of this section, ‘owner’ in-
8 cludes the wife, husband, son, daughter, mother, father, brother,
9 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,
10 mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent,
11 stepchild, grandparent or grandchild of the owner or a business entity
12 owned by any one or combination of these family members.

13 “SECTION 3. (1) For purposes of section 2 of this Act, high-value
14 farmland is land in a tract composed predominantly of soils that, at
15 the time the siting of a dwelling is approved for the tract, are:

16 “(a) Irrigated and classified prime, unique, Class I or Class II; or

17 “(b) Not irrigated and classified prime, unique, Class I or Class II.

18 “(2) In addition to that land described in subsection (1) of this sec-
19 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
20 if outside the Willamette Valley, includes tracts growing specified
21 perennials as demonstrated by the most recent aerial photography of
22 the Agricultural Stabilization and Conservation Service of the United
23 States Department of Agriculture taken prior to the effective date of
24 this 1993 Act.

25 “(3) In addition to that land described in subsection (1) of this sec-
26 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
27 if in the Willamette Valley, includes tracts composed predominantly
28 of the following soils in Class III or IV:

29 “(a) Subclassification IIIe, specifically, Bellpine, Bornstedt,
30 Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius,
31 Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult,

1 Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia,
2 Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton,
3 Veneta, Willakenzie, Woodburn and Yamhill;

4 “(b) Subclassification IIIw, specifically, Concord, Conser, Cornelius
5 Variant, Dayton (thick surface) and Sifton (occasionally flooded);

6 “(c) Subclassification IVe, specifically, Bellpine Silty Clay Loam,
7 Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell,
8 Quatama, Springwater, Willakenzie and Yamhill; and

9 “(d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney,
10 Dayton, Natroy, Noti and Whiteson.

11 “(4) In addition to that land described in subsection (1) of this sec-
12 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
13 if west of the summit of the Coast Range and used in conjunction with
14 a dairy operation on January 1, 1993, includes tracts composed pre-
15 dominantly of the following soils in Class III or IV:

16 “(a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa,
17 Meda, Quillayutte and Winema;

18 “(b) Subclassification IIIw, specifically, Brenner and Chitwood;

19 “(c) Subclassification IVe, specifically, Astoria, Hembre, Meda,
20 Nehalan, Neskowin and Winema; and

21 “(d) Subclassification IVw, specifically, Coquille.

22 “(5) The soil class, soil rating or other soil designation of a specific
23 lot or parcel may be changed if the property owner submits a state-
24 ment of agreement from the Soil Conservation Service that the soil
25 class, soil rating or other soil designation should be adjusted based on
26 new information.

27 “(6) Soil classes, soil ratings or other soil designations used in or
28 made pursuant to this section are those of the Soil Conservation Ser-
29 vice of the United States Department of Agriculture in its most recent
30 publication for that class, rating or designation before the effective
31 date of this 1993 Act.

1 **SECTION 4.** (1) A dwelling authorized under section 2 of this 1993
2 Act may be allowed on land zoned for forest use under a goal pro-
3 tecting forestland only if:

4 “(a) The tract on which the dwelling will be sited is in western
5 Oregon, as defined in ORS 321.257, and is composed of soils not capable
6 of producing 5,000 cubic feet per year of commercial tree species and
7 is located within 1,500 feet of a public road as defined under ORS
8 368.001. The road shall not be a United States Forest Service road or
9 Bureau of Land Management road and shall be maintained and either
10 paved or surfaced with rock.

11 “(b) The tract on which the dwelling will be sited is in eastern
12 Oregon, as defined in ORS 321.405, and is composed of soils not capable
13 of producing 4,000 cubic feet per year of commercial tree species and
14 is located within 1,500 feet of a public road as defined under ORS
15 368.001. The road shall not be a United States Forest Service road or
16 Bureau of Land Management road and shall be maintained and either
17 paved or surfaced with rock.

18 “(2) If a dwelling is not allowed under subsection (1) of this section,
19 notwithstanding any other provision of law, a dwelling may be allowed
20 on land zoned for forest use under a goal protecting forestland if it is
21 sited on a tract:

22 “(a) In eastern Oregon of at least 240 contiguous acres except as
23 provided in subsection (5) of this section; and

24 “(b) In western Oregon of at least 160 contiguous acres except as
25 provided in subsection (5) of this section.

26 “(3) For purposes of subsection (2) of this section, a tract shall not
27 be considered to consist of less than 240 acres or 160 acres because it
28 is crossed by a public road or a waterway.

29 “(4) For purposes of this section, ‘commercial tree species’ means
30 trees recognized under rules adopted under ORS 527.715 for commercial
31 production.

1 “(5)(a) An owner of tracts that are not contiguous but are in the
2 same or adjacent counties and zoned for forest use may add together
3 the acreage of two or more tracts to total 320 acres or more in eastern
4 Oregon or 200 acres or more in western Oregon to qualify for a dwell-
5 ing under subsection (2) of this section.

6 “(b) If an owner totals 320 or 200 acres, as appropriate, under par-
7 agraph (a) of this subsection, the owner shall submit proof of
8 nonrevocable deed restrictions recorded in the deed records for the
9 tracts in the 320 or 200 acres, as appropriate. The deed restrictions
10 shall preclude all future rights to construct a dwelling on the tracts
11 or to use the tracts to total acreage for future siting of dwellings for
12 present and any future owners unless the tract is no longer subject to
13 protection under goals for agricultural lands or forestlands.

14 “(c) The Land Conservation and Development Commission shall
15 adopt rules that prescribe the language of the deed restriction, the
16 procedures for recording, the procedures under which counties shall
17 keep records of lots or parcels used to create the total, the mech-
18 anisms for providing notice to subsequent purchasers of the limita-
19 tions under paragraph (b) of this subsection and other rules to
20 implement this section.

21 “(6)(a) In western Oregon, a governing body of a county may allow
22 the establishment of a single-family dwelling on a lot or parcel located
23 within a forest zone if the tract is composed primarily of soils that are:

24 “(A) Capable of producing 0 to 49 cubic feet per acre per year of
25 wood fiber if:

26 “(i) This tract and all or part of at least three other lots or parcels
27 exist within a 160-acre square centered on the center of the subject
28 tract; and

29 “(ii) At least three dwellings existed on January 1, 1993, on the
30 other lots or parcels;

31 “(B) Capable of producing 50 to 85 cubic feet per acre per year of

1 wood fiber if:

2 "(i) All or part of at least seven other lots or parcels exist within
3 a 160-acre square centered on the center of the subject tract; and

4 "(ii) At least three dwellings existed on January 1, 1993, on the
5 other lots or parcels; or

6 "(C) Capable of producing more than 85 cubic feet per acre per year
7 of wood fiber if:

8 "(i) All or part of at least 11 other lots or parcels exist within a
9 160-acre square centered on the center of the subject tract; and

10 "(ii) At least three dwellings existed on January 1, 1993, on the
11 other lots or parcels.

12 "(b) In eastern Oregon, a governing body of a county may allow the
13 establishment of a single-family dwelling on a lot or parcel located
14 within a forest zone if the tract is composed primarily of soils that are:

15 "(A) Capable of producing 0 to 50 cubic feet per acre per year of
16 wood fiber if:

17 "(i) All or part of at least seven other lots or parcels exist within
18 a 160-acre square centered on the center of the subject tract; and

19 "(ii) At least three dwellings existed on January 1, 1993, on the
20 other lots or parcels; or

21 "(B) Capable of producing more than 50 cubic feet per acre per year
22 of wood fiber if:

23 "(i) All or part of at least 11 other lots or parcels exist within a
24 160-acre square centered on the center of the subject tract; and

25 "(ii) At least three dwellings existed on January 1, 1993, on the
26 other lots or parcels.

27 "(c) Lots or parcels within urban growth boundaries shall not be
28 used to satisfy the eligibility requirements under this subsection.

29 "(d) A proposed dwelling under this subsection is not allowed:

30 "(A) If it is prohibited by or will not comply with the requirements
31 of an acknowledged comprehensive plan or acknowledged land use

1 regulations or other provisions of law.

2 "(B) Unless it complies with the requirements of section 5 of this
3 1993 Act.

4 "(C) Unless no dwellings are allowed on other lots or parcels that
5 make up the tract and deed restrictions established under subsection
6 (5) of this section for the other lots or parcels that make up the tract
7 are met.

8 "(D) If the tract on which the dwelling will be sited includes a
9 dwelling.

10 "(7) If the tract under subsection (6) of this section abuts a road,
11 the measurement shall be made by creating a 160-acre rectangle that
12 is one mile long and one-fourth mile wide centered on the center of
13 the subject tract and, to the maximum extent possible, along the road.

14 "(8) No dwelling other than those described in this section may be
15 sited on land zoned for forest use under a land use planning goal pro-
16 tecting forestland.

17 "SECTION 5. (1) A local government shall require as a condition
18 of approval of a single-family dwelling allowed under section 2 of this
19 1993 Act on lands zoned forestland that:

20 "(a) The property owner submits a stocking survey report to the
21 assessor and the assessor verifies that the minimum stocking re-
22 quirements adopted under ORS 527.610 to 527.770 have been met.

23 "(b) The dwelling meets the following requirements:

24 "(A) The dwelling has a fire retardant roof.

25 "(B) The dwelling will not be sited on a slope of greater than 40
26 percent.

27 "(C) Evidence is provided that the domestic water supply is from a
28 source authorized by the Water Resources Department and not from
29 a Class II stream as designated by the State Board of Forestry.

30 "(D) The dwelling is located upon a parcel within a fire protection
31 district or is provided with residential fire protection by contract.

1 “(E) If the dwelling is not within a fire protection district, the ap-
2 plicant provides evidence that the applicant has asked to be included
3 in the nearest such district.

4 “(F) If the dwelling has a chimney or chimneys, each chimney has
5 a spark arrester.

6 ~~“(G) The owner provides and maintains primary fuel-free break and
7 secondary break areas.~~

8 “(2)(a) If a governing body determines that meeting the require-
9 ment of subsection (1)(b)(D) of this section would be impracticable, the
10 governing body may provide an alternative means for protecting the
11 dwelling from fire hazards. The means selected may include a fire
12 sprinkling system, onsite equipment and water storage or other
13 methods that are reasonable, given the site conditions.

14 “(b) If a water supply is required under this subsection, it shall be
15 a swimming pool, pond, lake or similar body of water that at all times
16 contains at least 4,000 gallons or a stream that has a minimum flow
17 of at least one cubic foot per second. Road access shall be provided to
18 within 15 feet of the water's edge for fire-fighting pumping units, and
19 the road access shall accommodate a turnaround for fire-fighting
20 equipment.

21 “SECTION 6. As used in sections 2 to 6 of this 1993 Act:

22 “(1) ‘Specified perennials’:

23 “(a) Means perennials grown for market or research purposes in-
24 cluding, but not limited to, nursery stock, berries, fruits, nuts,
25 Christmas trees or vineyards; and

26 “(b) Does not include seed crops, hay, pasture or alfalfa.

27 “(2) ‘Tract’ means one or more contiguous lots or parcels under the
28 same ownership.

29 “SECTION 7. (1) Except as provided in subsection (2) of this section,
30 the following minimum lot or parcel sizes apply to all counties:

31 “(a) For land zoned for exclusive farm use and not designated

1 rangeland, at least 80 acres;

2 “(b) For land zoned for exclusive farm use and designated
3 rangeland, at least 160 acres; and

4 “(c) For land designated forestland, at least 80 acres.

5 “(2) A county may adopt a lower minimum lot or parcel size than
6 that described in subsection (1) of this section by demonstrating to the
7 commission that it can do so while continuing to meet the require-
8 ments of ORS 215.243 and 527.630 and the land use planning goals
9 adopted under ORS 197.230.

10 “(3) A county with a minimum lot or parcel size acknowledged
11 pursuant to periodic review requirements under ORS 197.628 to 197.636
12 that is smaller than those prescribed in subsection (1) of this section
13 need not comply with subsection (2) of this section.

14 “SECTION 8. ORS 215.010 is amended to read:

15 “215.010. (1) As used in ORS chapter 215, the terms defined in ORS 92.010
16 shall have the meanings given therein, except that ‘parcel’:

17 “[~~(1)~~] (a) Includes a unit of land created:

18 “[~~(a)~~] (A) By partitioning land as defined in ORS 92.010;

19 “[~~(b)~~] (B) In compliance with all applicable planning, zoning and parti-
20 tioning ordinances and regulations; or

21 “[~~(c)~~] (C) By deed or land sales contract, if there were no applicable
22 planning, zoning or partitioning ordinances or regulations.

23 “[~~(2)~~] (b) Does not include a unit of land created solely to establish a
24 separate tax account.

25 “(2) As used in ORS chapter 215, the terms defined in ORS chapter
26 197 shall have the meanings given therein.

27 “(3) As used in ORS chapter 215, ‘farm use’ has the meaning given
28 that term in ORS 215.203.

29 “(4) For purposes of this chapter, ‘the Willamette Valley’ is Benton,
30 Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill
31 Counties and the portion of Lane County lying east of the summit of

Exhibit: 2
Date: 7-30-93 Pages: 61
Presented by: STAFF

HB 3661-A93
(LC 3145-1)
7/30/93 (SH/ds)

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3661**

1 On page 1 of the printed A-engrossed bill, line 2, after "ORS" delete the
2 rest of the line and delete lines 3 through 13 and insert "30.930, 30.935, 30.940,
3 92.044, 92.046, 93.040, 197.010, 197.030, 197.040, 197.045, 197.065, 197.175,
4 197.625, 215.010, 215.130, 215.213, 215.236, 215.263, 215.283, 215.296, 215.317,
5 215.327, 308.372 and 451.555 and section 3, chapter _____, Oregon Laws 1993
6 (Enrolled Senate Bill 1057); and repealing ORS 197.247, 215.214, 215.288,
7 215.303, 215.337, 527.800, 527.805 and 527.810 and sections 1 and 2, chapter
8 _____, Oregon Laws 1993 (Enrolled Senate Bill 1057), section 42a, chapter
9 _____, Oregon Laws 1993 (Enrolled House Bill 2438), and sections 1 and 2,
10 chapter _____, Oregon Laws 1993 (Enrolled House Bill 2734)."

11 Delete lines 15 through 24 and delete pages 2 through 84 and insert:

12 **"SECTION 1. Sections 2 to 7, 10 and 29 of this Act are added to and**
13 **made a part of ORS chapter 215.**

14 **"SECTION 2. (1) A governing body of a county or its designate may**
15 **allow the establishment of a single-family dwelling on a lot or parcel**
16 **located within a farm or forest zone as set forth in this section and**
17 **sections 3 and 4 of this 1993 Act after notifying the county assessor**
18 **that the governing body intends to allow the dwelling. A dwelling un-**
19 **der this section may be allowed if:**

20 **"(a) The lot or parcel on which the dwelling will be sited was law-**
21 **fully created and was acquired by the present owner:**

22 **"(A) Prior to January 1, 1985; or**

23 **"(B) By devise or by intestate succession from a person who ac-**
24 **quired the lot or parcel prior to January 1, 1985.**

1 “(b) The tract on which the dwelling will be sited does not include
2 a dwelling.

3 “(c) The proposed dwelling is not prohibited by, and will comply
4 with, the requirements of the acknowledged comprehensive plan and
5 land use regulations and other provisions of law.

6 “(d) The lot or parcel on which the dwelling will be sited, if zoned
7 for farm use, is not on that high-value farmland described in section
8 3 of this 1993 Act except as provided in subsections (2) and (3) of this
9 section.

10 “(e) The lot or parcel on which the dwelling will be sited, if zoned
11 for forest use, is described in section 4 of this 1993 Act.

12 “(f) When the lot or parcel on which the dwelling will be sited lies
13 within an area designated in an acknowledged comprehensive plan as
14 habitat of big game, the siting of the dwelling is consistent with the
15 limitations on density upon which the acknowledged comprehensive
16 plan and land use regulations intended to protect the habitat are
17 based.

18 “(g) When the lot or parcel on which the dwelling will be sited is
19 part of a tract, the remaining portions of the tract are consolidated
20 into a single lot or parcel when the dwelling is allowed.

21 “(2) Notwithstanding the requirements of subsection (1)(d) of this
22 section, a single-family dwelling not in conjunction with farm use may
23 be sited on high-value farmland if:

24 “(a) It meets the other requirements of sections 2 to 5 of this 1993
25 Act;

26 “(b) The lot or parcel is protected as high-value farmland as de-
27 scribed under section 3 (1) of this 1993 Act; and

28 “(c) A hearings officer of the State Department of Agriculture, un-
29 der the provisions of ORS 183.413 to 183.497, determines that:

30 “(A) The lot or parcel cannot practicably be managed for farm use,
31 by itself or in conjunction with other land, due to extraordinary cir-

1 cumstances inherent in the land or its physical setting that do not
2 apply generally to other land in the vicinity.

3 “(B) The dwelling will comply with the provisions of ORS 215.296 (1).

4 “(C) The dwelling will not materially alter the stability of the
5 overall land use pattern in the area.

6 “(3) Notwithstanding the requirements of subsection (1)(d) of this
7 section, a single-family dwelling not in conjunction with farm use may
8 be sited on high-value farmland if:

9 “(a) It meets the other requirements of sections 2 to 5 of this 1993
10 Act.

11 “(b) The tract on which the dwelling will be sited is:

12 “(A) Identified in section 3 (3) or (4) of this 1993 Act;

13 “(B) Not protected under section 3 (1) of this 1993 Act; and

14 “(C) Twenty-one acres or less in size.

15 “(c)(A) The tract is bordered on at least 67 percent of its perimeter
16 by tracts that are smaller than 21 acres, and at least two such tracts
17 had dwellings on them on January 1, 1993; or

18 “(B) The tract is bordered on at least 25 percent of its perimeter by
19 tracts that are smaller than 21 acres, and at least four dwellings ex-
20 isted on January 1, 1993, within one-quarter mile of the center of the
21 subject tract. Up to two of the four dwellings may lie within the urban
22 growth boundary, but only if the subject tract abuts an urban growth
23 boundary.

24 “(4) If land is in a zone that allows both farm and forest uses and
25 is acknowledged to be in compliance with goals relating to both agri-
26 culture and forestry, the county may apply the standards for siting a
27 dwelling under either section 3 or 4 of this 1993 Act as appropriate for
28 the predominant use of the tract on January 1, 1993.

29 “(5) A county may, by application of criteria adopted by ordinance,
30 deny approval of a dwelling allowed under this section in any area
31 where the county determines that approval of the dwelling would:

1 “(a) Exceed the facilities and service capabilities of the area;

2 “(b) Materially alter the stability of the overall land use pattern in
3 the area; or

4 “(c) Create conditions or circumstances that the county determines
5 would be contrary to the purposes or intent of its acknowledged com-
6 prehensive plan or land use regulations.

7 “(6) For purposes of subsection (1)(a) of this section, ‘owner’ in-
8 cludes the wife, husband, son, daughter, mother, father, brother,
9 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,
10 mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent,
11 stepchild, grandparent or grandchild of the owner or a business entity
12 owned by any one or combination of these family members.

13 “SECTION 3. (1) For purposes of section 2 of this Act, high-value
14 farmland is land in a tract composed predominantly of soils that, at
15 the time the siting of a dwelling is approved for the tract, are:

16 “(a) Irrigated and classified prime, unique, Class I or Class II; or

17 “(b) Not irrigated and classified prime, unique, Class I or Class II.

18 “(2) In addition to that land described in subsection (1) of this sec-
19 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
20 if outside the Willamette Valley, includes tracts growing specified
21 perennials as demonstrated by the most recent aerial photography of
22 the Agricultural Stabilization and Conservation Service of the United
23 States Department of Agriculture taken prior to the effective date of
24 this 1993 Act. For purposes of this subsection, ‘specified perennials’
25 means perennials grown for market or research purposes including,
26 but not limited to, nursery stock, berries, fruits, nuts, Christmas trees
27 or vineyards but not including seed crops, hay, pasture or alfalfa.

28 “(3) In addition to that land described in subsection (1) of this sec-
29 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
30 if in the Willamette Valley, includes tracts composed predominantly
31 of the following soils in Class III or IV or composed predominantly of

1 a combination of soils described in subsection (1) of this section and
2 the following soils:

3 “(a) Subclassification IIIe, specifically, Bellpine, Bornstedt,
4 Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius,
5 Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt,
6 Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia,
7 Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton,
8 Veneta, Willakenzie, Woodburn and Yamhill;

9 “(b) Subclassification IIIw, specifically, Concord, Conser, Cornelius
10 Variant, Dayton (thick surface) and Sifton (occasionally flooded);

11 “(c) Subclassification IVe, specifically, Bellpine Silty Clay Loam,
12 Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell,
13 Quatama, Springwater, Willakenzie and Yamhill; and

14 “(d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney,
15 Dayton, Natroy, Noti and Whiteson.

16 “(4) In addition to that land described in subsection (1) of this sec-
17 tion, for purposes of section 2 of this 1993 Act, high-value farmland,
18 if west of the summit of the Coast Range and used in conjunction with
19 a dairy operation on January 1, 1993, includes tracts composed pre-
20 dominantly of the following soils in Class III or IV or composed
21 predominately of a combination of soils described in subsection (1) of
22 this section and the following soils:

23 “(a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa,
24 Meda, Quillayutte and Winema;

25 “(b) Subclassification IIIw, specifically, Brenner and Chitwood;

26 “(c) Subclassification IVe, specifically, Astoria, Hembre, Meda,
27 Nehalan, Neskowin and Winema; and

28 “(d) Subclassification IVw, specifically, Coquille.

29 “(5) The soil class, soil rating or other soil designation of a specific
30 lot or parcel may be changed if the property owner submits a state-
31 ment of agreement from the Soil Conservation Service of the United

1 States Department of Agriculture that the soil class, soil rating or
2 other soil designation should be adjusted based on new information.

3 “(6) Soil classes, soil ratings or other soil designations used in or
4 made pursuant to this section are those of the Soil Conservation Ser-
5 vice in its most recent publication for that class, rating or designation
6 before the effective date of this 1993 Act.

7 “SECTION 4. (1) A dwelling authorized under section 2 of this 1993
8 Act may be allowed on land zoned for forest use under a goal pro-
9 tecting forestland only if:

10 “(a) The tract on which the dwelling will be sited is in western
11 Oregon, as defined in ORS 321.257, and is composed of soils not capable
12 of producing 5,000 cubic feet per year of commercial tree species and
13 is located within 1,500 feet of a public road as defined under ORS
14 368.001. The road shall not be a United States Forest Service road or
15 Bureau of Land Management road and shall be maintained and either
16 paved or surfaced with rock.

17 “(b) The tract on which the dwelling will be sited is in eastern
18 Oregon, as defined in ORS 321.405, and is composed of soils not capable
19 of producing 4,000 cubic feet per year of commercial tree species and
20 is located within 1,500 feet of a public road as defined under ORS
21 368.001. The road shall not be a United States Forest Service road or
22 Bureau of Land Management road and shall be maintained and either
23 paved or surfaced with rock.

24 “(2) If a dwelling is not allowed under subsection (1) of this section,
25 a dwelling may be allowed on land zoned for forest use under a goal
26 protecting forestland if it complies with other provisions of law and
27 is sited on a tract:

28 “(a) In eastern Oregon of at least 240 contiguous acres except as
29 provided in subsection (5) of this section; or

30 “(b) In western Oregon of at least 160 contiguous acres except as
31 provided in subsection (5) of this section.

1 “(3) For purposes of subsection (2) of this section, a tract shall not
2 be considered to consist of less than 240 acres or 160 acres because it
3 is crossed by a public road or a waterway.

4 “(4) For purposes of this section, ‘commercial tree species’ means
5 trees recognized under rules adopted under ORS 527.715 for commercial
6 production.

7 “(5)(a) An owner of tracts that are not contiguous but are in the
8 same county or adjacent counties and zoned for forest use may add
9 together the acreage of two or more tracts to total 320 acres or more
10 in eastern Oregon or 200 acres or more in western Oregon to qualify
11 for a dwelling under subsection (2) of this section.

12 “(b) If an owner totals 320 or 200 acres, as appropriate, under par-
13 agraph (a) of this subsection, the owner shall submit proof of
14 nonrevocable deed restrictions recorded in the deed records for the
15 tracts in the 320 or 200 acres, as appropriate. The deed restrictions
16 shall preclude all future rights to construct a dwelling on the tracts
17 or to use the tracts to total acreage for future siting of dwellings for
18 present and any future owners unless the tract is no longer subject to
19 protection under goals for agricultural lands or forestlands.

20 “(c) The Land Conservation and Development Commission shall
21 adopt rules that prescribe the language of the deed restriction, the
22 procedures for recording, the procedures under which counties shall
23 keep records of lots or parcels used to create the total, the mech-
24 anisms for providing notice to subsequent purchasers of the limita-
25 tions under paragraph (b) of this subsection and other rules to
26 implement this section.

27 “(6)(a) In western Oregon, a governing body of a county or its des-
28 ignate may allow the establishment of a single-family dwelling on a lot
29 or parcel, that existed on January 1, 1993, located within a forest zone
30 if the tract is predominantly composed of soils that are:

31 “(A) Capable of producing 0 to 49 cubic feet per acre per year of

1 wood fiber if:

2 “(i) This tract and all or part of at least three other lots or parcels
3 exist within a 160-acre square centered on the center of the subject
4 tract; and

5 “(ii) At least three dwellings existed on January 1, 1993, on the
6 other lots or parcels;

7 “(B) Capable of producing 50 to 85 cubic feet per acre per year of
8 wood fiber if:

9 “(i) All or part of at least seven other lots or parcels exist within
10 a 160-acre square centered on the center of the subject tract; and

11 “(ii) At least three dwellings existed on January 1, 1993, on the
12 other lots or parcels; or

13 “(C) Capable of producing more than 85 cubic feet per acre per year
14 of wood fiber if:

15 “(i) All or part of at least 11 other lots or parcels exist within a
16 160-acre square centered on the center of the subject tract; and

17 “(ii) At least three dwellings existed on January 1, 1993, on the
18 other lots or parcels.

19 “(b) In eastern Oregon, a governing body of a county or its desig-
20 nate may allow the establishment of a single-family dwelling on a lot
21 or parcel located within a forest zone if the tract is predominantly
22 composed of soils that are:

23 “(A) Capable of producing 0 to 50 cubic feet per acre per year of
24 wood fiber if:

25 “(i) All or part of at least seven other lots or parcels exist within
26 a 160-acre square centered on the center of the subject tract; and

27 “(ii) At least three dwellings existed on January 1, 1993, on the
28 other lots or parcels; or

29 “(B) Capable of producing more than 50 cubic feet per acre per year
30 of wood fiber if:

31 “(i) All or part of at least 11 other lots or parcels exist within a

1 160-acre square centered on the center of the subject tract; and
2 “(ii) At least three dwellings existed on January 1, 1993, on the
3 other lots or parcels.

4 “(c) Lots or parcels within urban growth boundaries shall not be
5 used to satisfy the eligibility requirements under this subsection.

6 “(d) A proposed dwelling under this subsection is not allowed:

7 “(A) If it is prohibited by or will not comply with the requirements
8 of an acknowledged comprehensive plan or acknowledged land use
9 regulations or other provisions of law.

10 “(B) Unless it complies with the requirements of section 5 of this
11 1993 Act.

12 “(C) Unless no dwellings are allowed on other lots or parcels that
13 make up the tract and deed restrictions established under subsection
14 (5) of this section for the other lots or parcels that make up the tract
15 are met.

16 “(D) If the tract on which the dwelling will be sited includes a
17 dwelling.

18 “(7) Except as described in subsection (8) of this section, if the tract
19 under subsection (6) of this section abuts a road, the measurement
20 may be made by creating a 160-acre rectangle that is one mile long and
21 one-fourth mile wide centered on the center of the subject tract and
22 that is to the maximum extent possible, aligned with the road.

23 “(8)(a) If a tract 60 acres or larger described under subsection (6)
24 of this section abuts a road or perennial stream, the measurement
25 shall be made in accordance with subsection (7) of this section. How-
26 ever, one of the three required dwellings shall be on the same side of
27 the road or stream as the tract and:

28 “(A) Be located within a 160-acre rectangle that is one mile long and
29 one-fourth mile wide centered on the center of the subject tract and
30 that is, to the maximum extent possible, aligned with the road or
31 stream; or

1 “(B) Be within one-quarter mile from the edge of the subject tract
2 but not outside the length of the 160-acre rectangle, and on the same
3 side of the road or stream as the tract.

4 “(b) If a road crosses the tract on which the dwelling will be lo-
5 cated, at least one of the three required dwellings shall be on the same
6 side of the road or stream as the proposed dwelling.

7 “(9) No dwelling other than those described in this section may be
8 sited on land zoned for forest use under a land use planning goal pro-
9 tecting forestland.

10 “SECTION 5. (1) A local government shall require as a condition
11 of approval of a single-family dwelling allowed under section 2 of this
12 1993 Act on lands zoned forestland that:

13 “(a) The property owner submits a stocking survey report to the
14 assessor and the assessor verifies that the minimum stocking re-
15 quirements adopted under ORS 527.610 to 527.770 have been met.

16 “(b) The dwelling meets the following requirements:

17 “(A) The dwelling has a fire retardant roof.

18 “(B) The dwelling will not be sited on a slope of greater than 40
19 percent.

20 “(C) Evidence is provided that the domestic water supply is from a
21 source authorized by the Water Resources Department and not from
22 a Class II stream as designated by the State Board of Forestry.

23 “(D) The dwelling is located upon a parcel within a fire protection
24 district or is provided with residential fire protection by contract.

25 “(E) If the dwelling is not within a fire protection district, the ap-
26 plicant provides evidence that the applicant has asked to be included
27 in the nearest such district.

28 “(F) If the dwelling has a chimney or chimneys, each chimney has
29 a spark arrester.

30 “(G) The owner provides and maintains primary fuel-free break and
31 secondary break areas.

1 “(2)(a) If a governing body determines that meeting the require-
2 ment of subsection (1)(b)(D) of this section would be impracticable, the
3 governing body may provide an alternative means for protecting the
4 dwelling from fire hazards. The means selected may include a fire
5 sprinkling system, onsite equipment and water storage or other
6 methods that are reasonable, given the site conditions.

7 “(b) If a water supply is required under this subsection, it shall be
8 a swimming pool, pond, lake or similar body of water that at all times
9 contains at least 4,000 gallons or a stream that has a minimum flow
10 of at least one cubic foot per second. Road access shall be provided to
11 within 15 feet of the water’s edge for fire-fighting pumping units, and
12 the road access shall accommodate a turnaround for fire-fighting
13 equipment.

14 “NOTE: Section 6 was deleted. Subsequent sections were not renumbered.

15 “SECTION 7. (1) Except as provided in subsection (2) of this section,
16 the following minimum lot or parcel sizes apply to all counties:

17 “(a) For land zoned for exclusive farm use and not designated
18 rangeland, at least 80 acres;

19 “(b) For land zoned for exclusive farm use and designated
20 rangeland, at least 160 acres; and

21 “(c) For land designated forestland, at least 80 acres.

22 “(2) A county may adopt a lower minimum lot or parcel size than
23 that described in subsection (1) of this section by demonstrating to the
24 commission that it can do so while continuing to meet the require-
25 ments of ORS 215.243 and 527.630 and the land use planning goals
26 adopted under ORS 197.230.

27 “(3) A county with a minimum lot or parcel size acknowledged by
28 the commission pursuant to ORS 197.251 after January 1, 1987, or ac-
29 knowledged pursuant to periodic review requirements under ORS
30 197.628 to 197.636 that is smaller than those prescribed in subsection
31 (1) of this section need not comply with subsection (2) of this section.

DAR

B-Engrossed House Bill 3661

Ordered by the Senate July 31
Including House Amendments dated June 3 and Senate Amendments
dated July 31

Introduced and printed pursuant to House Rule 13.01

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.

[Establishes three-tier system for identifying large-scale primary, small-scale primary and secondary farm or forest lands. Establishes rural lands policy. Establishes procedures for county adoption, approval by Land Conservation and Development Commission and judicial appeal.]

[Precludes persons from making certain claims for relief against certain resource users. Makes related changes. Limits state agency appeals of land use decision. Establishes standard of review for Land Conservation and Development Commission and Land Use Board of Appeals.]

[In lieu of other provisions of bill, allows adoption of Land Conservation and Development system for identifying and using most rural land.]

[Declares emergency, effective on passage.]

Authorizes governing body of county to allow single-family dwelling on lot or parcel in farm or forest zone, under certain circumstances. Limits dwelling site on high-value farmland or certain forestland. Describes requirements for lots and minimum lot sizes. Defines terms. Allows restoration or replacement of certain existing dwelling on exclusive farm use land. Modifies provisions allowing establishment of dwelling on land unsuited for farm or forest use.

Prohibits Land Conservation and Development Commission from identifying or designating small scale farmland or secondary land. Circumscribes LCDC rulemaking authority. Allows county to continue to apply marginal lands provisions adopted before January 1, 1993, with certain exception. Modifies use of land allowed under marginal lands provisions.

Protects farming and forest practices from certain nuisance and trespassing actions. Defines terms. Makes related changes.

Directs Land Use Board of Appeals to affirm local government's interpretation of its comprehensive plan and land use regulations under certain circumstances.

Modifies other provisions of appeal. Provides for alternative dispute resolution for conflicts between state and local government interests.

Modifies duties and composition of LCDC.

A BILL FOR AN ACT

1
2 Relating to land use; creating new provisions; amending ORS 30.930, 30.935, 30.940, 92.044, 92.046,
3 93.040, 197.010, 197.030, 197.040, 197.045, 197.065, 197.175, 197.625, 215.010, 215.130, 215.213,
4 215.236, 215.263, 215.283, 215.296, 215.317, 215.327, 308.372 and 451.555 and section 3,
5 chapter _____, Oregon Laws 1993 (Enrolled Senate Bill 1057); and repealing ORS 197.247,
6 215.214, 215.288, 215.303, 215.337, 527.800, 527.805 and 527.810 and sections 1 and 2, chapter
7 _____, Oregon Laws 1993 (Enrolled Senate Bill 1057), section 42a, chapter _____, Oregon
8 Laws 1993 (Enrolled House Bill 2438), and sections 1 and 2, chapter _____, Oregon Laws 1993
9 (Enrolled House Bill 2734).

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

11 **SECTION 1.** Sections 2 to 7, 10 and 29 of this Act are added to and made a part of ORS
12 chapter 215.

13 **SECTION 2.** (1) A governing body of a county or its designate may allow the establish-
14 ment of a single-family dwelling on a lot or parcel located within a farm or forest zone as

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 set forth in this section and sections 3 and 4 of this 1993 Act after notifying the county
2 assessor that the governing body intends to allow the dwelling. A dwelling under this section 2
3 may be allowed if:

4 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was
5 acquired by the present owner:

6 (A) Prior to January 1, 1985; or

7 (B) By devise or by intestate succession from a person who acquired the lot or parcel
8 prior to January 1, 1985.

9 (b) The tract on which the dwelling will be sited does not include a dwelling.

10 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements
11 of the acknowledged comprehensive plan and land use regulations and other provisions of
12 law.

13 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on
14 that high-value farmland described in section 3 of this 1993 Act except as provided in sub-
15 sections (2) and (3) of this section.

16 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is de-
17 scribed in section 4 of this 1993 Act.

18 (f) When the lot or parcel on which the dwelling will be sited lies within an area desig-
19 nated in an acknowledged comprehensive plan as habitat of big game, the siting of the
20 dwelling is consistent with the limitations on density upon which the acknowledged compre-
21 hensive plan and land use regulations intended to protect the habitat are based.

22 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the re-
23 maining portions of the tract are consolidated into a single lot or parcel when the dwelling
24 is allowed.

25 (2) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
26 dwelling not in conjunction with farm use may be sited on high-value farmland if:

27 (a) It meets the other requirements of sections 2 to 5 of this 1993 Act;

28 (b) The lot or parcel is protected as high-value farmland as described under section 3 (1)
29 of this 1993 Act; and

30 (c) A hearings officer of the State Department of Agriculture, under the provisions of
31 ORS 183.413 to 183.497, determines that:

32 (A) The lot or parcel cannot practicably be managed for farm use, by itself or in con-
33 junction with other land, due to extraordinary circumstances inherent in the land or its
34 physical setting that do not apply generally to other land in the vicinity.

35 (B) The dwelling will comply with the provisions of ORS 215.296 (1).

36 (C) The dwelling will not materially alter the stability of the overall land use pattern in
37 the area.

38 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
39 dwelling not in conjunction with farm use may be sited on high-value farmland if:

40 (a) It meets the other requirements of sections 2 to 5 of this 1993 Act.

41 (b) The tract on which the dwelling will be sited is:

42 (A) Identified in section 3 (3) or (4) of this 1993 Act;

43 (B) Not protected under section 3 (1) of this 1993 Act; and

44 (C) Twenty-one acres or less in size.

45 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are

1 smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;
2 or

3 (B) The tract is bordered on at least 25 percent of its perimeter by tracts that are
4 smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-
5 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within
6 the urban growth boundary, but only if the subject tract abuts an urban growth boundary.

7 (4) If land is in a zone that allows both farm and forest uses and is acknowledged to be
8 in compliance with goals relating to both agriculture and forestry, the county may apply the
9 standards for siting a dwelling under either section 3 or 4 of this 1993 Act as appropriate for
10 the predominant use of the tract on January 1, 1993.

11 (5) A county may, by application of criteria adopted by ordinance, deny approval of a
12 dwelling allowed under this section in any area where the county determines that approval
13 of the dwelling would:

14 (a) Exceed the facilities and service capabilities of the area;

15 (b) Materially alter the stability of the overall land use pattern in the area; or

16 (c) Create conditions or circumstances that the county determines would be contrary to
17 the purposes or intent of its acknowledged comprehensive plan or land use regulations.

18 (6) For purposes of subsection (1)(a) of this section, "owner" includes the wife, husband,
19 son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law,
20 daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent,
21 stepchild, grandparent or grandchild of the owner or a business entity owned by any one or
22 combination of these family members.

23 **SECTION 3.** (1) For purposes of section 2 of this Act, high-value farmland is land in a
24 tract composed predominantly of soils that, at the time the siting of a dwelling is approved
25 for the tract, are:

26 (a) Irrigated and classified prime, unique, Class I or Class II; or

27 (b) Not irrigated and classified prime, unique, Class I or Class II.

28 (2) In addition to that land described in subsection (1) of this section, for purposes of
29 section 2 of this 1993 Act, high-value farmland, if outside the Willamette Valley, includes
30 tracts growing specified perennials as demonstrated by the most recent aerial photography
31 of the Agricultural Stabilization and Conservation Service of the United States Department
32 of Agriculture taken prior to the effective date of this 1993 Act. For purposes of this sub-
33 section, "specified perennials" means perennials grown for market or research purposes in-
34 cluding, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards
35 but not including seed crops, hay, pasture or alfalfa.

36 (3) In addition to that land described in subsection (1) of this section, for purposes of
37 section 2 of this 1993 Act, high-value farmland, if in the Willamette Valley, includes tracts
38 composed predominantly of the following soils in Class III or IV or composed predominantly
39 of a combination of soils described in subsection (1) of this section and the following soils:

40 (a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton,
41 Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro,
42 Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price,
43 Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and
44 Yamhill;

45 (b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick

1 surface) and Sifton (occasionally flooded);

2 (c) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory,
3 Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

4 (d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti
5 and Whiteson.

6 (4) In addition to that land described in subsection (1) of this section, for purposes of
7 section 2 of this 1993 Act, high-value farmland, if west of the summit of the Coast Range and
8 used in conjunction with a dairy operation on January 1, 1993, includes tracts composed
9 predominantly of the following soils in Class III or IV or composed predominately of a com-
10 bination of soils described in subsection (1) of this section and the following soils:

11 (a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and
12 Winema;

13 (b) Subclassification IIIw, specifically, Brenner and Chitwood;

14 (c) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and
15 Winema; and

16 (d) Subclassification IVw, specifically, Coquille.

17 (5) The soil class, soil rating or other soil designation of a specific lot or parcel may be
18 changed if the property owner submits a statement of agreement from the Soil Conservation
19 Service of the United States Department of Agriculture that the soil class, soil rating or
20 other soil designation should be adjusted based on new information.

21 (6) Soil classes, soil ratings or other soil designations used in or made pursuant to this
22 section are those of the Soil Conservation Service in its most recent publication for that
23 class, rating or designation before the effective date of this 1993 Act.

24 SECTION 4. (1) A dwelling authorized under section 2 of this 1993 Act may be allowed
25 on land zoned for forest use under a goal protecting forestland only if:

26 (a) The tract on which the dwelling will be sited is in western Oregon, as defined in ORS
27 321.257, and is composed of soils not capable of producing 5,000 cubic feet per year of com-
28 mercial tree species and is located within 1,500 feet of a public road as defined under ORS
29 368.001. The road shall not be a United States Forest Service road or Bureau of Land Man-
30 agement road and shall be maintained and either paved or surfaced with rock.

31 (b) The tract on which the dwelling will be sited is in eastern Oregon, as defined in ORS
32 321.405, and is composed of soils not capable of producing 4,000 cubic feet per year of com-
33 mercial tree species and is located within 1,500 feet of a public road as defined under ORS
34 368.001. The road shall not be a United States Forest Service road or Bureau of Land Man-
35 agement road and shall be maintained and either paved or surfaced with rock.

36 (2) If a dwelling is not allowed under subsection (1) of this section, a dwelling may be
37 allowed on land zoned for forest use under a goal protecting forestland if it complies with
38 other provisions of law and is sited on a tract:

39 (a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection
40 (5) of this section; or

41 (b) In western Oregon of at least 160 contiguous acres except as provided in subsection
42 (5) of this section.

43 (3) For purposes of subsection (2) of this section, a tract shall not be considered to con-
44 sist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

45 (4) For purposes of this section, "commercial tree species" means trees recognized under

160 of received

160 Acres

1 rules adopted under ORS 527.715 for commercial production.

2 (5)(a) An owner of tracts that are not contiguous but are in the same county or adjacent
3 counties and zoned for forest use may add together the acreage of two or more tracts to
4 total 320 acres or more in eastern Oregon or 200 acres or more in western Oregon to qualify
5 for a dwelling under subsection (2) of this section.

6 (b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this sub-
7 section, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed
8 records for the tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall
9 preclude all future rights to construct a dwelling on the tracts or to use the tracts to total
10 acreage for future siting of dwellings for present and any future owners unless the tract is
11 no longer subject to protection under goals for agricultural lands or forestlands.

12 (c) The Land Conservation and Development Commission shall adopt rules that prescribe
13 the language of the deed restriction, the procedures for recording, the procedures under
14 which counties shall keep records of lots or parcels used to create the total, the mechanisms
15 for providing notice to subsequent purchasers of the limitations under paragraph (b) of this
16 subsection and other rules to implement this section.

17 (6)(a) In western Oregon, a governing body of a county or its designate may allow the
18 establishment of a single-family dwelling on a lot or parcel located within a forest zone if the
19 lot or parcel is predominantly composed of soils that are:

20 (A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

21 (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are
22 within a 160-acre square centered on the center of the subject tract; and

23 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

24 (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

25 (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are
26 within a 160-acre square centered on the center of the subject tract; and

27 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

28 (C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

29 (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are
30 within a 160-acre square centered on the center of the subject tract; and

31 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

32 (b) In eastern Oregon, a governing body of a county or its designate may allow the es-
33 tablishment of a single-family dwelling on a lot or parcel located within a forest zone if the
34 lot or parcel is predominantly composed of soils that are:

35 (A) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:

36 (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are
37 within a 160-acre square centered on the center of the subject tract; and

38 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

39 (B) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

40 (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are
41 within a 160-acre square centered on the center of the subject tract; and

42 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

43 (C) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

44 (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are
45 within a 160-acre square centered on the center of the subject tract; and



Small Woodlot

1 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
2 (c) Lots or parcels within urban growth boundaries shall not be used to satisfy the el-
3 igibility requirements under this subsection.

4 (d) A proposed dwelling under this subsection is not allowed:

5 (A) If it is prohibited by or will not comply with the requirements of an acknowledged
6 comprehensive plan or acknowledged land use regulations or other provisions of law.

7 (B) Unless it complies with the requirements of section 5 of this 1993 Act.

8 (C) Unless no dwellings are allowed on other lots or parcels that make up the tract and
9 deed restrictions established under subsection (5) of this section for the other lots or parcels
10 that make up the tract are met.

11 (D) If the tract on which the dwelling will be sited includes a dwelling.

12 (7) Except as described in subsection (8) of this section, if the tract under subsection (6)
13 of this section abuts a road that existed on January 1, 1993, the measurement may be made
14 by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on
15 the center of the subject tract and that is to the maximum extent possible, aligned with the
16 road.

17 (8)(a) If a tract 60 acres or larger described under subsection (6) of this section abuts a
18 road or perennial stream, the measurement shall be made in accordance with subsection (7)
19 of this section. However, one of the three required dwellings shall be on the same side of the
20 road or stream as the tract and:

21 (A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide
22 centered on the center of the subject tract and that is, to the maximum extent possible,
23 aligned with the road or stream; or

24 (B) Be within one-quarter mile from the edge of the subject tract but not outside the
25 length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

26 (b) If a road crosses the tract on which the dwelling will be located, at least one of the
27 three required dwellings shall be on the same side of the road as the proposed dwelling.

28 (9) No dwelling other than those described in this section may be sited on land zoned for
29 forest use under a land use planning goal protecting forestland.

30 **SECTION 5.** (1) A local government shall require as a condition of approval of a single-
31 family dwelling allowed under section 2 of this 1993 Act on lands zoned forestland that:

32 (a) The property owner submits a stocking survey report to the assessor and the
33 assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to
34 527.770 have been met.

35 (b) The dwelling meets the following requirements:

36 (A) The dwelling has a fire retardant roof.

37 (B) The dwelling will not be sited on a slope of greater than 40 percent.

38 (C) Evidence is provided that the domestic water supply is from a source authorized by
39 the Water Resources Department and not from a Class II stream as designated by the State
40 Board of Forestry.

41 (D) The dwelling is located upon a parcel within a fire protection district or is provided
42 with residential fire protection by contract.

43 (E) If the dwelling is not within a fire protection district, the applicant provides evidence
44 that the applicant has asked to be included in the nearest such district.

45 (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

*Tract for
Road is for
but some
local history.*

★

★

1 (G) The owner provides and maintains primary fuel-free break and secondary break
2 areas.

3 (2)(a) If a governing body determines that meeting the requirement of subsection
4 (1)(b)(D) of this section would be impracticable, the governing body may provide an alterna-
5 tive means for protecting the dwelling from fire hazards. The means selected may include a
6 fire sprinkling system, onsite equipment and water storage or other methods that are rea-
7 sonable, given the site conditions.

8 (b) If a water supply is required under this subsection, it shall be a swimming pool, pond,
9 lake or similar body of water that at all times contains at least 4,000 gallons or a stream that
10 has a minimum flow of at least one cubic foot per second. Road access shall be provided to
11 within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall
12 accommodate a turnaround for fire-fighting equipment. ★

13 NOTE: Section 6 was deleted by amendment. Subsequent sections were not renumbered.

14 SECTION 7. (1) Except as provided in subsection (2) of this section, the following mini-
15 imum lot or parcel sizes apply to all counties:

16 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

17 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres;
18 and

19 (c) For land designated forestland, at least 80 acres.

20 (2) A county may adopt a lower minimum lot or parcel size than that described in sub-
21 section (1) of this section by demonstrating to the commission that it can do so while con-
22 tinuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals
23 adopted under ORS 197.230.

24 (3) A county with a minimum lot or parcel size acknowledged by the commission pursu-
25 ant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review re-
26 quirements under ORS 197.628 to 197.636 that is smaller than those prescribed in subsection
27 (1) of this section need not comply with subsection (2) of this section.

28 SECTION 8. ORS 215.010 is amended to read:

29 215.010. As used in ORS chapter 215: []

30 (1) The terms defined in ORS 92.010 shall have the meanings given therein, except that
31 "parcel":

32 [(1)] (a) Includes a unit of land created:

33 [(a)] (A) By partitioning land as defined in ORS 92.010;

34 [(b)] (B) In compliance with all applicable planning, zoning and partitioning ordinances and
35 regulations; or

36 [(c)] (C) By deed or land sales contract, if there were no applicable planning, zoning or parti-
37 tioning ordinances or regulations.

38 [(2)] (b) Does not include a unit of land created solely to establish a separate tax account.

39 (2) "Tract" means one or more contiguous lots or parcels under the same ownership.

40 (3) The terms defined in ORS chapter 197 shall have the meanings given therein.

41 (4) "Farm use" has the meaning given that term in ORS 215.203.

42 (5) "The Willamette Valley" is Benton, Clackamas, Linn, Marion, Multnomah, Polk,
43 Washington and Yamhill Counties and the portion of Lane County lying east of the summit
44 of the Coast Range.

45 SECTION 9. ORS 197.065 is amended to read: