

# House Bill 2798

Sponsored by Representatives SMITH DB, ZIKA (Pre-session filed.)

## 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 **as introduced**.

Allows counties to authorize subdivision of land zoned for exclusive farm use or forestland into parcels no smaller than the average size of county parcels of the same type.

## A BILL FOR AN ACT

1  
2 Relating to parcel sizes of resource lands; amending ORS 215.780.

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

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

5 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or  
6 parcel sizes apply to all counties:

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

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

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

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

17 (A) The parcel created may not be larger than five acres, except as necessary to recognize  
18 physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;  
19 and

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

22 (i) Meets the minimum lot or parcel size of the zone; or

23 (ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel  
24 size of the zone.

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

27 (A) The parcel created may not be larger than five acres, except as necessary to recognize  
28 physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;

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

31 (i) Meets the minimum lot or parcel size of the zone; or

**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 (ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel  
2 size of the zone;

3 (C) The minimum tract eligible under this paragraph is 40 acres;

4 (D) The tract must be predominantly in forest use and that portion in forest use qualified for  
5 special assessment under a program under ORS chapter 321; and

6 (E) The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and  
7 215.283 that are not allowed on forestland.

8 (d) To allow a division by partition of forestland to facilitate a forest practice as defined in ORS  
9 527.620 that results in a parcel that does not meet the minimum area requirements of subsection  
10 (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

11 (A) Are not eligible for siting of a new dwelling;

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

13 (C) May not, as a result of the land division, be used to justify redesignation or rezoning of re-  
14 source lands; and

15 (D) May not result in a parcel of less than 35 acres, unless the purpose of the land division is  
16 to:

17 (i) Facilitate an exchange of lands involving a governmental agency; or

18 (ii) Allow transactions in which at least one participant is a person with a cumulative ownership  
19 of at least 2,000 acres of forestland.

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

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

23 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.291;

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

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

27 (E) The landowner of a parcel created under this paragraph provides evidence that a restriction  
28 prohibiting the landowner and the landowner's successors in interest from further dividing the par-  
29 cel has been recorded with the county clerk of the county in which the parcel is located. A re-  
30 striction imposed under this paragraph is irrevocable unless a statement of release is signed by the  
31 county planning director of the county in which the parcel is located indicating that the compre-  
32 hensive plan or land use regulations applicable to the parcel have been changed so that the parcel  
33 is no longer subject to statewide planning goals protecting forestland or unless the land division is  
34 subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest  
35 use or mixed farm and forest use.

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

38 **(g) To allow a division of land resulting in parcels, all of which must be subject to a re-**  
39 **striction prohibiting the landowner and the landowner's successors in interest from further**  
40 **dividing the parcel as described in paragraph (e)(E) of this subsection, to parcels with a**  
41 **maximum size of:**

42 **(A) For land zoned for exclusive farm use and not designated rangeland, no less than the**  
43 **average size of lots and parcels in the county zoned for exclusive farm use and not desig-**  
44 **nated rangeland;**

45 **(B) For land zoned for exclusive farm use and designated rangeland, no less than the**

1 **average size of lots and parcels in the county zoned for exclusive farm use and designated**  
2 **rangeland; and**

3 **(C) For land designated forestland, no less than the average size of lots and parcels in**  
4 **the county designated forestland.**

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

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

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

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

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

18 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) and (c) of this sec-  
19 tion shall provide evidence that a restriction on the remaining parcel, not containing the dwelling,  
20 has been recorded with the county clerk of the county where the property is located. An applicant  
21 for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that  
22 a restriction on the newly created parcel has been recorded with the county clerk of the county  
23 where the property is located. The restriction may not allow a dwelling unless authorized by law  
24 or goal on land zoned for forest use except as permitted under subsection (2) of this section.

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

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

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

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