

House Bill 2735

Sponsored by Representative LEIF (Presession 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 county to authorize dwelling not in conjunction with a resource use on lawful resource lots or parcels.

A BILL FOR AN ACT

1
2 Relating to dwellings on resource lands; amending ORS 183.457, 197.660, 215.236, 215.263, 215.284,
3 215.296, 215.304, 215.306, 215.311, 215.316, 215.402, 215.417, 215.455, 215.705, 215.710, 215.757,
4 215.783 and 308A.053 and section 3, chapter 636, Oregon Laws 2009, and section 4, chapter 433,
5 Oregon Laws 2019; and repealing ORS 215.720, 215.730, 215.740 and 215.750.

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

6 **SECTION 1.** ORS 215.284 is amended to read:

7
8 215.284. (1) *[In the Willamette Valley,]* A single-family residential dwelling not provided in con-
9 junction with farm use may be established[]], *subject to approval of the governing body or its designee,*
10 *in any area* **on any lot or parcel** zoned for exclusive farm use *[upon a finding that:]***if**

11 *[(a) The dwelling or activities associated with the dwelling will not force a significant change in*
12 *or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to*
13 *farm or forest use;]*

14 *[(b) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV*
15 *through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or*
16 *Class II soils;]*

17 *[(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;]*

18 *[(d) The dwelling will not materially alter the stability of the overall land use pattern of the area;*
19 *and]*

20 *[(e) the dwelling complies with such [other] conditions as the [governing body or its designee]*
21 **county** *considers necessary.*

22 *[(2) In counties not described in subsection (1) of this section, a single-family residential dwelling*
23 *not provided in conjunction with farm use may be established, subject to approval of the governing*
24 *body or its designee, in any area zoned for exclusive farm use upon a finding that:]*

25 *[(a) The dwelling or activities associated with the dwelling will not force a significant change in*
26 *or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to*
27 *farm or forest use;]*

28 *[(b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally*
29 *unsuitable land for the production of farm crops and livestock or merchantable tree species, considering*
30 *the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the*
31 *tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of*

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 size or location if it can reasonably be put to farm or forest use in conjunction with other land;]

2 [(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;]

3 [(d) The dwelling will not materially alter the stability of the overall land use pattern of the area;
4 and]

5 [(e) The dwelling complies with such other conditions as the governing body or its designee con-
6 siders necessary.]

7 [(3) In counties in western Oregon, as defined in ORS 321.257, not described in subsection (4) of
8 this section, a single-family residential dwelling not provided in conjunction with farm use may be es-
9 tablished, subject to approval of the governing body or its designee, in any area zoned for exclusive
10 farm use upon a finding that:]

11 [(a) The dwelling or activities associated with the dwelling will not force a significant change in
12 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to
13 farm or forest use;]

14 [(b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally
15 unsuitable land for the production of farm crops and livestock or merchantable tree species, considering
16 the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the
17 tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of
18 size or location if it can reasonably be put to farm or forest use in conjunction with other land;]

19 [(c) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under
20 ORS 215.263 (4);]

21 [(d) The dwelling will not materially alter the stability of the overall land use pattern of the area;
22 and]

23 [(e) The dwelling complies with such other conditions as the governing body or its designee con-
24 siders necessary.]

25 [(4)(a) In the Willamette Valley, a lot or parcel allowed under paragraph (b) of this subsection for
26 a single-family residential dwelling not provided in conjunction with farm use may be established,
27 subject to approval of the governing body or its designee, in any area zoned for exclusive farm use
28 upon a finding that the originating lot or parcel is equal to or larger than the applicable minimum lot
29 or parcel size and:]

30 [(A) Is not stocked to the requirements under ORS 527.610 to 527.770;]

31 [(B) Is composed of at least 95 percent Class VI through Class VIII soils; and]

32 [(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year
33 of wood fiber.]

34 [(b) Any parcel to be created for a dwelling from the originating lot or parcel described in para-
35 graph (a) of this subsection will not be smaller than 20 acres.]

36 [(c) The dwelling or activities associated with the dwelling allowed under this subsection will not
37 force a significant change in or significantly increase the cost of accepted farming or forest practices
38 on nearby lands devoted to farm or forest use.]

39 [(d) The dwelling allowed under this subsection will not materially alter the stability of the overall
40 land use pattern of the area.]

41 [(e) The dwelling allowed under this subsection complies with such other conditions as the gov-
42 erning body or its designee considers necessary.]

43 [(5) (2) [No] Final approval of a nonfarm use under this section [shall] **may not** be given unless
44 any additional taxes imposed upon the change in use have been paid.

45 [(6) (3) If a single-family dwelling is established on a lot or parcel **zoned for exclusive farm**

1 **use** [as set forth in ORS 215.705 to 215.750], no additional dwelling may later be sited under [sub-
2 section (1), (2), (3), (4) or (7) of] this section.

3 [(7) In counties in eastern Oregon, as defined in ORS 321.805, a single-family residential dwelling
4 not provided in conjunction with farm use may be established, subject to the approval of the county
5 governing body or its designee, in any area zoned for exclusive farm use upon a finding that:]

6 [(a) The dwelling or activities associated with the dwelling will not force a significant change in
7 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to
8 farm or forest use;]

9 [(b) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under
10 ORS 215.263 (5);]

11 [(c) The dwelling will not materially alter the stability of the overall land use pattern of the area;
12 and]

13 [(d) The dwelling complies with such other conditions as the governing body or its designee con-
14 siders necessary.]

15 **SECTION 2.** ORS 215.705 is amended to read:

16 215.705. (1) A [governing body of a] county [or its designate] may allow the establishment of a
17 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this
18 section [and ORS 215.710, 215.720, 215.740 and 215.750] after notifying the county assessor that the
19 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

20 (a) The lot or parcel on which the dwelling will be sited was lawfully created [and was acquired
21 by the present owner:]

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

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

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

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

28 [(d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that
29 high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this
30 section.]

31 [(e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in
32 ORS 215.720, 215.740 or 215.750.]

33 [(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in
34 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent
35 with the limitations on density upon which the acknowledged comprehensive plan and land use regu-
36 lations intended to protect the habitat are based.]

37 [(g)] (d) When the lot or parcel on which the dwelling will be sited is part of a tract, the re-
38 maining portions of the tract are consolidated into a single lot or parcel when the dwelling is al-
39 lowed.

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

42 [(A) It meets the other requirements of ORS 215.705 to 215.750;]

43 [(B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1);
44 and]

45 [(C) A hearings officer of a county determines that:]

1 *[(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with*
 2 *other land, due to extraordinary circumstances inherent in the land or its physical setting that do not*
 3 *apply generally to other land in the vicinity.]*

4 *[(ii) The dwelling will comply with the provisions of ORS 215.296 (1).]*

5 *[(iii) The dwelling will not materially alter the stability of the overall land use pattern in the*
 6 *area.]*

7 *[(b) A local government shall provide notice of all applications for dwellings allowed under this*
 8 *subsection to the State Department of Agriculture. Notice shall be provided in accordance with the*
 9 *governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public*
 10 *hearing before the hearings officer under paragraph (a) of this subsection.]*

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

13 *[(a) It meets the other requirements of ORS 215.705 to 215.750.]*

14 *[(b) The tract on which the dwelling will be sited is:]*

15 *[(A) Identified in ORS 215.710 (3) or (4);]*

16 *[(B) Not protected under ORS 215.710 (1); and]*

17 *[(C) Twenty-one acres or less in size.]*

18 *[(c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than*
 19 *21 acres, and at least two such tracts had dwellings on them on January 1, 1993;]*

20 *[(B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that*
 21 *are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter*
 22 *mile of the center of the subject tract. Up to two of the four dwellings may lie within the urban growth*
 23 *boundary, but only if the subject tract abuts an urban growth boundary; or]*

24 *[(C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are*
 25 *smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile*
 26 *of the center of the subject tract and on the same side of the public road that provides access to the*
 27 *subject tract. The governing body of a county must interpret the center of the subject tract as the ge-*
 28 *ographic center of the flaglot if the applicant makes a written request for that interpretation and that*
 29 *interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings*
 30 *may lie within the urban growth boundary, but only if the subject tract abuts an urban growth*
 31 *boundary. As used in this subparagraph:]*

32 *[(i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from*
 33 *the public road to the rest of the tract.]*

34 *[(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines*
 35 *of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to that*
 36 *side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.]*

37 *[(4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance*
 38 *with goals relating to both agriculture and forestry and may qualify as an exclusive farm use zone*
 39 *under this chapter, the county may apply the standards for siting a dwelling under either subsection*
 40 *(1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predominant use of*
 41 *the tract on January 1, 1993.]*

42 **[(5)] (2)** A county may, by application of criteria adopted by ordinance, deny approval of a
 43 dwelling allowed under this section in any area where the county determines that approval of the
 44 dwelling would:

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

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

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

4 [(6) For purposes of subsection (1)(a) of this section, "owner" includes the spouses in a marriage,
 5 son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-
 6 in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a
 7 business entity owned by any one or combination of these family members.]

8 [(7)] (3) When a local government approves an application for a single-family dwelling under the
 9 provisions of this section, the application may be transferred by a person who has qualified under
 10 this section to any other person after the effective date of the land use decision.

11 **SECTION 3.** ORS 183.457 is amended to read:

12 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by an-
 13 other law, a person participating in a contested case hearing conducted by an agency described in
 14 this subsection may be represented by an attorney or by an authorized representative subject to the
 15 provisions of subsection (2) of this section. The Attorney General shall prepare model rules for
 16 proceedings with lay representation that do not have the effect of precluding lay representation.
 17 No rule adopted by a state agency shall have the effect of precluding lay representation. The
 18 agencies before which an authorized representative may appear are:

19 (a) The State Landscape Contractors Board in the administration of the Landscape Contractors
 20 Law.

21 (b) The State Department of Energy and the Energy Facility Siting Council.

22 (c) The Environmental Quality Commission and the Department of Environmental Quality.

23 (d) The Department of Consumer and Business Services for proceedings in which an insured
 24 appears pursuant to ORS 737.505.

25 (e) The Department of Consumer and Business Services and any other agency for the purpose
 26 of proceedings to enforce the state building code, as defined by ORS 455.010.

27 (f) The State Fire Marshal in the Department of State Police.

28 (g) The Department of State Lands for proceedings regarding the issuance or denial of fill or
 29 removal permits under ORS 196.800 to 196.825.

30 (h) The Public Utility Commission.

31 (i) The Water Resources Commission and the Water Resources Department.

32 (j) The Land Conservation and Development Commission and the Department of Land Conser-
 33 vation and Development.

34 [(k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.]

35 [(L)] (k) The Bureau of Labor and Industries.

36 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-
 37 tion may appear by an authorized representative if:

38 (a) The agency conducting the contested case hearing has determined that appearance of such
 39 a person by an authorized representative will not hinder the orderly and timely development of the
 40 record in the type of contested case hearing being conducted;

41 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives
 42 to appear on behalf of such participants in the type of contested case hearing being conducted; and

43 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-
 44 thorized representative's presentation of evidence, examination and cross-examination of witnesses,
 45 or presentation of factual arguments to ensure the orderly and timely development of the hearing

1 record, and shall not allow an authorized representative to present legal arguments except to the
 2 extent authorized under subsection (3) of this section.

3 (3) The officer presiding at a contested case hearing in which an authorized representative ap-
 4 pears under the provisions of this section may allow the authorized representative to present evi-
 5 dence, examine and cross-examine witnesses, and make arguments relating to the:

- 6 (a) Application of statutes and rules to the facts in the contested case;
- 7 (b) Actions taken by the agency in the past in similar situations;
- 8 (c) Literal meaning of the statutes or rules at issue in the contested case;
- 9 (d) Admissibility of evidence; and
- 10 (e) Proper procedures to be used in the contested case hearing.

11 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-
 12 ipation of an authorized representative shall be the basis for reversal or remand of agency action
 13 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the
 14 agency action.

15 (5) For the purposes of this section, “authorized representative” means a member of a partic-
 16 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-
 17 ciation or organized group, or an authorized officer or employee of a participating governmental
 18 authority other than a state agency.

19 **SECTION 4.** ORS 197.660 is amended to read:

20 197.660. As used in ORS 197.660 to 197.670, 215.213, 215.263, 215.283[, 215.284] and 443.422:

21 (1) “Residential facility” means a residential care, residential training or residential treatment
 22 facility, as those terms are defined in ORS 443.400, that provides residential care alone or in con-
 23 junction with treatment or training or a combination thereof for six to fifteen individuals who need
 24 not be related. Staff persons required to meet licensing requirements shall not be counted in the
 25 number of facility residents, and need not be related to each other or to any resident of the resi-
 26 dential facility.

27 (2) “Residential home” means a residential treatment or training home, as defined in ORS
 28 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home li-
 29 censed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with
 30 treatment or training or a combination thereof for five or fewer individuals who need not be related.
 31 Staff persons required to meet licensing requirements shall not be counted in the number of facility
 32 residents, and need not be related to each other or to any resident of the residential home.

33 (3) “Zoning requirement” means any standard, criteria, condition, review procedure, permit re-
 34 quirement or other requirement adopted by a city or county under the authority of ORS chapter 215
 35 or 227 that applies to the approval or siting of a residential facility or residential home. A zoning
 36 requirement does not include a state or local health, safety, building, occupancy or fire code re-
 37 quirement.

38 **SECTION 5.** ORS 215.236 is amended to read:

39 215.236. (1) As used in this section, “dwelling” means a single-family residential dwelling not
 40 provided in conjunction with farm use.

41 (2) The governing body or its designee may not grant final approval of an application made un-
 42 der ORS 215.213 (3) or 215.284 [(1), (2), (3), (4) or (7)] for the establishment of a dwelling on a lot
 43 or parcel in an exclusive farm use zone that is, or has been, receiving special assessment without
 44 evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special
 45 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under

1 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
 2 imposed as the result of disqualification has been paid.

3 (3) The governing body or its designee may grant tentative approval of an application made
 4 under ORS 215.213 (3) or 215.284 [(1), (2), (3), (4) or (7)] for the establishment of a dwelling on a lot
 5 or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS
 6 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 [(1), (2), (3),
 7 (4) or (7)]. An application for the establishment of a dwelling that has been tentatively approved
 8 shall be given final approval by the governing body or its designee upon receipt of evidence that the
 9 lot or parcel upon which establishment of the dwelling is proposed has been disqualified for special
 10 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under
 11 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
 12 imposed as the result of disqualification has been paid.

13 (4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively
 14 approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

15 (a) Notify the county assessor that the lot or parcel is no longer being used as farmland or for
 16 other specially assessed uses described in subsection (2) or (3) of this section;

17 (b) Request that the county assessor disqualify the lot or parcel from special assessment under
 18 ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

19 (c) Pay any additional tax imposed upon disqualification from special assessment.

20 (5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified
 21 pursuant to subsection (4) of this section may not requalify for special assessment unless, when
 22 combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

23 (6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may
 24 requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 or conservation
 25 easement special assessment under ORS 308A.450 to 308A.465 without satisfying the requirements
 26 of subsection (5) of this section.

27 (b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 or dis-
 28 qualification from conservation easement special assessment under ORS 308A.465, the lot or parcel
 29 shall be subject to the requirements of subsection (5) of this section.

30 (7) When the owner of a lot or parcel upon which the establishment of a dwelling has been
 31 tentatively approved notifies the county assessor that the lot or parcel is no longer being used as
 32 farmland and requests disqualification of the lot or parcel for special assessment at value for farm
 33 use, the county assessor shall:

34 (a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050
 35 to 308A.128 or other special assessment by removing the special assessment;

36 (b) Provide the owner of the lot or parcel with written notice of the disqualification; and

37 (c) Impose the additional tax, if any, provided by statute upon disqualification.

38 (8) The Department of Consumer and Business Services, a building official, as defined in ORS
 39 455.715 (1), or any other agency or official responsible for the administration and enforcement of the
 40 state building code, as defined in ORS 455.010, may not issue a building permit for the construction
 41 of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of
 42 the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax,
 43 if any, imposed by the county assessor under subsection (7)(c) of this section.

44 **SECTION 6.** ORS 215.263 is amended to read:

45 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting

1 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
 2 governing body or its designee of the county in which the land is situated. The governing body of
 3 a county by ordinance shall require prior review and approval for divisions of land within exclusive
 4 farm use zones established within the county.

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

7 (A) The proposed division of land is appropriate for the continuation of the existing commercial
 8 agricultural enterprise within the area;

9 (B) The parcels created by the proposed division are not smaller than the minimum size estab-
 10 lished under ORS 215.780; or

11 (C) A portion of a lot or parcel has been included within an urban growth boundary and reded-
 12 icated for urban uses under the applicable acknowledged comprehensive plan and the portion of
 13 the lot or parcel that remains outside the urban growth boundary and zoned for exclusive farm use
 14 is smaller than the minimum lot or parcel size established under ORS 215.780, subject to paragraph
 15 (b) of this subsection.

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

18 (A) If the parcel contains a dwelling, the parcel must be large enough to support continued
 19 residential use.

20 (B) If the parcel does not contain a dwelling, the parcel:

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

22 (ii) May not be considered in approving or denying an application for siting any other dwelling;
 23 and

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

27 (3) The governing body of a county or its designee may approve a proposed division of land in
 28 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (1)(c) or (2)
 29 or 215.283 (1)(c) or (2) if it finds that the parcel for the nonfarm use is not larger than the minimum
 30 size necessary for the use. The governing body may establish other criteria as it considers neces-
 31 sary. Land that is divided under this subsection pursuant to ORS 215.213 (1)(c) or 215.283 (1)(c) may
 32 not later be rezoned by the county for retail, commercial, industrial or other nonresource use, ex-
 33 cept as provided under the statewide land use planning goals or under ORS 197.732.

34 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined
 35 in ORS 215.010, the governing body of a county or its designee:

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

39 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 [(2) or (3)];

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

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

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

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

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

8 (A) The nonfarm dwellings have been approved under ORS 215.284 [(2) or (3)];

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

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

13 (D) The parcels for the nonfarm dwellings are:

14 (i) Not capable of producing more than 50 cubic feet per acre per year of wood fiber; and

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

16 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
 17 and

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

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

24 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
 25 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
 26 vided in conjunction with farm use if:

27 (A) The nonfarm dwellings have been approved under ORS 215.284 [(7)];

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

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

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

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

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

41 (A) The nonfarm dwellings have been approved under ORS 215.284 [(7)];

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

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

- 1 (D) The parcels for the nonfarm dwellings are:
- 2 (i) Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and
- 3 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
- 4 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
- 5 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
- 6 State Department of Agriculture and other interested persons, may establish by rule objective cri-
- 7 teria for identifying units of land that are not capable of producing adequate herbaceous forage for
- 8 grazing livestock. In developing the criteria, the commission shall use the latest information from
- 9 the United States Natural Resources Conservation Service and consider costs required to utilize
- 10 grazing lands that differ in acreage and productivity level;
- 11 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
- 12 and
- 13 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
- 14 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
- 15 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
- 16 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
- 17 forest use in conjunction with other land.
- 18 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
- 19 the boundaries designated for a farm use zone at the time the zone is established.
- 20 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
- 21 of land resulting from foreclosure of recorded contracts for the sale of real property.
- 22 (8) The governing body of a county may not approve any proposed division of a lot or parcel
- 23 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 [(1)], or a proposed division
- 24 that separates a facility for the processing of farm products, as defined in ORS 215.255, from the
- 25 farm operation.
- 26 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
- 27 use zone to create a parcel with an existing dwelling to be used:
- 28 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
- 29 under ORS 215.213 (3) or 215.284 [(1), (2), (3), (4) or (7)]; and
- 30 (b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).
- 31 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
- 32 prove a proposed division of land provided:
- 33 (A) The land division is for the purpose of allowing a provider of public parks or open space,
- 34 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
- 35 and
- 36 (B) A parcel created by the land division that contains a dwelling is large enough to support
- 37 continued residential use of the parcel.
- 38 (b) A parcel created pursuant to this subsection that does not contain a dwelling:
- 39 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
- 40 (B) May not be considered in approving or denying an application for siting any other dwelling;
- 41 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
- 42 redesignation or rezoning to allow a public park, open space or other natural resource use; and
- 43 (D) May not be smaller than 25 acres unless the purpose of the land division is:
- 44 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
- 45 wildlife habitat protection plan; or

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

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

7 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
 8 with the church;

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

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

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

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

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

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

25 **SECTION 7.** ORS 215.296 is amended to read:

26 215.296. (1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved
 27 only where the local governing body or its designee finds that the use will not:

28 (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted
 29 to farm or forest use; or

30 (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands
 31 devoted to farm or forest use.

32 (2) An applicant for a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may dem-
 33 onstrate that the standards for approval set forth in subsection (1) of this section will be satisfied
 34 through the imposition of conditions. Any conditions so imposed shall be clear and objective.

35 (3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file
 36 a complaint with the local governing body or its designee alleging:

37 (a) That a condition imposed pursuant to subsection (2) of this section has been violated;

38 (b) That the violation has:

39 (A) Forced a significant change in accepted farm or forest practices on surrounding lands de-
 40 voted to farm or forest use; or

41 (B) Significantly increased the cost of accepted farm or forest practices on surrounding lands
 42 devoted to farm or forest use; and

43 (c) That the complainant is adversely affected by the violation.

44 (4) Upon receipt of a complaint filed under this section or ORS 215.218, the local governing body
 45 or its designee shall:

1 (a) Forward the complaint to the operator of the use;

2 (b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

3 (c) Determine whether the allegations made in a complaint filed under this section or ORS
4 215.218 are true.

5 (5) Upon a determination that the allegations made in a complaint are true, the local governing
6 body or its designee at a minimum shall notify the violator that a violation has occurred, direct the
7 violator to correct the conditions that led to the violation within a specified time period and warn
8 the violator against the commission of further violations.

9 (6) If the conditions that led to a violation are not corrected within the time period specified
10 pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4)
11 of this section following the receipt of a second complaint that a further violation has occurred, the
12 local governing body or its designee at a minimum shall assess a fine against the violator.

13 (7) If the conditions that led to a violation are not corrected within 30 days after the imposition
14 of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to sub-
15 section (4) of this section following the receipt of a third or subsequent complaint that a further
16 violation has occurred, the local governing body or its designee shall at a minimum order the sus-
17 pension of the use until the violator corrects the conditions that led to the violation.

18 (8) If a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) is initiated without prior
19 approval pursuant to subsection (1) of this section, the local governing body or its designee at a
20 minimum shall notify the user that prior approval is required, direct the user to apply for approval
21 within 21 days and warn the user against the commission of further violations. If the user does not
22 apply for approval within 21 days, the local governing body or its designee shall order the suspen-
23 sion of the use until the user applies for and receives approval. If there is a determination pursuant
24 to subsection (4) of this section following the receipt of a complaint that a further violation occurred
25 after approval was granted, the violation shall be deemed a second violation and the local governing
26 body or its designee at a minimum shall assess a fine against the violator.

27 (9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses
28 conducted within:

29 (A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3),
30 215.284 [(1), (2), (3), (4) or (7)] or 215.705;

31 (B) An exception area approved under ORS 197.732; or

32 (C) An acknowledged urban growth boundary.

33 (b) A person residing in a single-family residential dwelling which was approved under ORS
34 215.213 (3), 215.284 [(1), (2), (3), (4) or (7)] or 215.705, which is within an exception area approved
35 under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a
36 complaint under subsection (3) of this section.

37 (10) This section does not prevent a local governing body approving a use allowed under ORS
38 215.213 (2) or (11) or 215.283 (2) or (4) from establishing standards in addition to those set forth in
39 subsection (1) of this section or from imposing conditions to ensure conformance with the additional
40 standards.

41 **SECTION 8.** ORS 215.304 is amended to read:

42 215.304. (1) The Land Conservation and Development Commission [*shall*] **may** not adopt or im-
43 plement any rule to identify or designate small-scale farmland or secondary land.

44 (2) Amendments required to conform rules to the provisions of subsection (1) of this section and
45 ORS 215.700, **215.705, 215.755, 215.760** or [*to*] 215.780 [*shall*] **must** be adopted by March 1, 1994.

1 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,
 2 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition), [or]
 3 215.700, **215.705, 215.755, 215.760** or [to] 215.780 on March 1, 1994:

- 4 (a) [Shall] **May** not be implemented or enforced; and
- 5 (b) Has no legal effect.

6 (4) Notwithstanding subsection (3) of this section, the uses authorized by ORS 215.283 (1)(x) or
 7 (2)(n) may be established on land in exclusive farm use zones, including high-value farmland.

8 **SECTION 9.** ORS 215.306 is amended to read:

9 215.306. (1) The limitations on uses made of land in exclusive farm use zones described in ORS
 10 215.213, 215.283, 215.284, [and] 215.700, **215.705, 215.755, 215.760** or [to] 215.780 and limitations im-
 11 posed by or adopted pursuant to ORS 197.040 do not apply to activities described in this section.

12 (2) The provisions of this section do not affect the eligibility of a zone for special assessment
 13 as provided in ORS 308A.050 to 308A.128.

14 (3)(a) On-site filming and activities accessory to on-site filming may be conducted in any area
 15 zoned for exclusive farm use without prior approval of local government but subject to ORS 30.930
 16 to 30.947.

17 (b) Notwithstanding paragraph (a) of this subsection, on-site filming and activities accessory to
 18 on-site filming that exceed 45 days on any site within a one-year period or involve erection of sets
 19 that would remain in place for longer than 45 days may be conducted only upon approval of the
 20 governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296. In
 21 addition to other activities described in subsection (4) of this section, these activities may include
 22 office administrative functions such as payroll and scheduling, and the use of campers, truck trailers
 23 or similar temporary facilities. Temporary facilities may be used as temporary housing for security
 24 personnel.

25 (4) For purposes of this section, “on-site filming and activities accessory to on-site filming”:

26 (a) Includes:

27 (A) Filming and site preparation, construction of sets, staging, makeup and support services
 28 customarily provided for on-site filming.

29 (B) Production of advertisements, documentaries, feature film, television services and other film
 30 productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental
 31 way.

32 (b) Does not include:

33 (A) Facilities for marketing, editing and other such activities that are allowed only as a home
 34 occupation; or

35 (B) Construction of new structures that requires a building permit.

36 (5) A decision of local government issuing any permits necessary for activities under subsection
 37 (3)(a) of this section is not a land use decision.

38 **SECTION 10.** ORS 215.311 is amended to read:

39 215.311. (1) The limitations on uses of land in exclusive farm use zones described in ORS 215.283,
 40 215.284, [and] 215.700, **215.705, 215.755, 215.760** or [to] 215.780 and limitations imposed by or adopted
 41 pursuant to ORS 197.040 do not apply to log truck parking under this section.

42 (2) The provisions of this section do not affect the eligibility of a zone for special assessment
 43 as provided in ORS 308A.050 to 308A.128.

44 (3) Notwithstanding any other provision of law except for health and safety provisions, parking
 45 no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local gov-

ernment determines that log truck parking on a lot or parcel will:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(4) The limitations on uses of land zoned for forest use or mixed farm and forest use described in ORS 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to dump truck parking under this section.

(5) The provisions of this section do not affect the eligibility of land for special assessment as provided in ORS 308A.250 to 308A.259, 308A.300 to 308A.330, 308A.350 to 308A.383, 308A.403 to 308A.430 or 308A.450 to 308A.465.

(6) Notwithstanding any other provision of law except for health and safety provisions, parking up to seven dump trucks and up to seven trailers is allowed on land zoned for forest use or mixed farm and forest use unless the local government determines that dump truck parking on a lot or parcel will:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

SECTION 11. ORS 215.316 is amended to read:

215.316. (1) Unless a county applies the provisions of ORS 215.705 [to 215.730] to land zoned for exclusive farm use, a county that adopted marginal lands provisions under ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) may continue to apply those provisions. After January 1, 1993, no county may adopt marginal lands provisions.

(2) If a county that had adopted marginal lands provisions before January 1, 1993, subsequently sites a dwelling under ORS 215.705 [to 215.750] on land zoned for exclusive farm use, the county [shall] **may** not later apply marginal lands provisions, including those set forth in ORS 215.213, to lots or parcels other than those to which the county applied the marginal lands provisions before the county sited a dwelling under ORS 215.705 [to 215.750].

SECTION 12. ORS 215.402 is amended to read:

215.402. As used in ORS 215.402 to 215.438 [and 215.700 to 215.780] unless the context requires otherwise:

(1) “Contested case” means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438, [and] 215.700, **215.705, 215.755, 215.760** or [to] 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) “Hearing” means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438, [and] 215.700, **215.705, 215.755, 215.760** or [to] 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) “Hearings officer” means a planning and zoning hearings officer appointed or designated by

1 the governing body of a county under ORS 215.406.

2 (4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010
 3 to 215.311, 215.317, 215.327, [and] 215.402 to 215.438, [and] 215.700, **215.705, 215.755, 215.760** or [to]
 4 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

5 (a) A limited land use decision as defined in ORS 197.015;

6 (b) A decision which determines the appropriate zoning classification for a particular use by
 7 applying criteria or performance standards defining the uses permitted within the zone, and the de-
 8 termination applies only to land within an urban growth boundary;

9 (c) A decision which determines final engineering design, construction, operation, maintenance,
 10 repair or preservation of a transportation facility which is otherwise authorized by and consistent
 11 with the comprehensive plan and land use regulations; or

12 (d) An expedited land division, as described in ORS 197.360.

13 **SECTION 13.** ORS 215.417 is amended to read:

14 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development
 15 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293
 16 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

17 (2) An extension of a permit described in subsection (1) of this section is valid for two years.
 18 A county may approve no more than five additional one-year extensions of a permit if:

19 (a) The applicant makes a written request for the additional extension prior to the expiration
 20 of an extension;

21 (b) The applicable residential development statute has not been amended following the approval
 22 of the permit[, *except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019*];
 23 and

24 (c) An applicable rule or land use regulation has not been amended following the issuance of the
 25 permit, unless allowed by the county, which may require that the applicant comply with the
 26 amended rule or land use regulation.

27 (3) An extension of a permit under subsection (2) of this section is not a land use decision as
 28 defined in ORS 197.015.

29 (4) As used in this section, "residential development" means dwellings provided for under ORS
 30 215.213 (3) and (4), 215.284, 215.317, 215.705 [(1) to (3), 215.720, 215.740, 215.750] and 215.755 (1) and
 31 (3).

32 **SECTION 14.** ORS 215.417, as amended by section 9, chapter 462, Oregon Laws 2013, and
 33 sections 4 and 4a, chapter 432, Oregon Laws 2019, is amended to read:

34 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development
 35 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293
 36 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

37 (2) An extension of a permit described in subsection (1) of this section is valid for two years.
 38 A county may approve no more than five additional one-year extensions of a permit if:

39 (a) The applicant makes a written request for the additional extension prior to the expiration
 40 of an extension;

41 (b) The applicable residential development statute has not been amended following the approval
 42 of the permit[, *except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019*];
 43 and

44 (c) An applicable rule or land use regulation has not been amended following the issuance of the
 45 permit, unless allowed by the county, which may require that the applicant comply with the

1 amended rule or land use regulation.

2 (3) An extension of a permit under subsection (2) of this section is not a land use decision as
3 defined in ORS 197.015.

4 (4) As used in this section, “residential development” means dwellings provided for under ORS
5 215.213 (1)(q), (3) and (4), 215.283 (1)(p), 215.284, 215.317, 215.705 [(1) to (3), 215.720, 215.740, 215.750]
6 and 215.755 (1) and (3).

7 **SECTION 15.** ORS 215.455 is amended to read:

8 215.455. Any winery approved under ORS 215.213, 215.283, [215.284,] 215.452 and 215.453 is not
9 a basis for an exception under ORS 197.732 (2)(a) or (b).

10 **SECTION 16.** ORS 215.710 is amended to read:

11 215.710. (1) For purposes of [ORS 215.705] **this chapter**, high-value farmland is land in a tract
12 composed predominantly of soils that, at the time the siting of a dwelling is approved for the tract,
13 are:

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

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

16 (2) In addition to that land described in subsection (1) of this section, for purposes of [ORS
17 215.705] **this chapter**, high-value farmland, if outside the Willamette Valley, includes tracts growing
18 specified perennials as demonstrated by the most recent aerial photography of the Agricultural
19 Stabilization and Conservation Service of the United States Department of Agriculture taken prior
20 to November 4, 1993. For purposes of this subsection, “specified perennials” means perennials grown
21 for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts,
22 Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.

23 (3) In addition to that land described in subsection (1) of this section, for purposes of [ORS
24 215.705] **this chapter**, high-value farmland, if in the Willamette Valley, includes tracts composed
25 predominantly of the following soils in Class III or IV or composed predominantly of a combination
26 of soils described in subsection (1) of this section and the following soils:

27 (a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cas-
28 cade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory,
29 Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum,
30 Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

31 (b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick sur-
32 face) and Sifton (occasionally flooded);

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

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

37 (4) In addition to that land described in subsection (1) of this section, for purposes of [ORS
38 215.705] **this chapter**, high-value farmland, if west of the summit of the Coast Range and used in
39 conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of
40 the following soils in Class III or IV or composed predominantly of a combination of soils described
41 in subsection (1) of this section and the following soils:

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

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

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

45 and

1 (d) Subclassification IVw, specifically, Coquille.

2 (5) For purposes of approving a land use application under [ORS 215.705] **this chapter**, the soil
 3 class, soil rating or other soil designation of a specific lot or parcel may be changed if the property
 4 owner:

5 (a) Submits a statement of agreement from the Natural Resources Conservation Service of the
 6 United States Department of Agriculture that the soil class, soil rating or other soil designation
 7 should be adjusted based on new information; or

8 (b)(A) Submits a report from a soils scientist whose credentials are acceptable to the State De-
 9 partment of Agriculture that the soil class, soil rating or other soil designation should be changed;
 10 and

11 (B) Submits a statement from the State Department of Agriculture that the Director of Agri-
 12 culture or the director’s designee has reviewed the report described in subparagraph (A) of this
 13 paragraph and finds the analysis in the report to be soundly and scientifically based.

14 (6) Soil classes, soil ratings or other soil designations used in or made pursuant to this section
 15 are those of the Soil Conservation Service in its most recent publication for that class, rating or
 16 designation before November 4, 1993.

17 **SECTION 17. ORS 215.720, 215.730, 215.740 and 215.750 are repealed.**

18 **SECTION 18.** Sections 4, chapter 433, Oregon Laws 2019, is amended to read:

19 **Sec. 4.** [*Section 2 of this 2019 Act is repealed on January 2, 2024.*] **Sections 2 and 3, chapter**
 20 **433, Oregon Laws 2019 are repealed on the effective date of this 2021 Act.**

21 **SECTION 19.** ORS 215.757 is amended to read:

22 215.757. (1) As used in this section, “owner or a relative” means the owner of the lot or parcel,
 23 or a relative of the owner or the owner’s spouse, including a child, parent, stepparent, grandchild,
 24 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either.

25 (2) A county may approve a new single-family dwelling unit on a lot or parcel zoned for forest
 26 use provided:

27 (a) The new single-family dwelling unit will be on a lot or parcel no smaller than the minimum
 28 size allowed under ORS 215.780;

29 (b) The new single-family dwelling unit will be on a lot or parcel that contains exactly one ex-
 30 isting single-family dwelling unit that was lawfully:

31 (A) In existence before November 4, 1993; or

32 (B) Approved under ORS 215.130 (6), 215.705[, 215.720, 215.740, 215.750] or 215.755;

33 (c) The shortest distance between the new single-family dwelling unit and the existing single-
 34 family dwelling unit is no greater than 200 feet;

35 (d) The lot or parcel is within a rural fire protection district organized under ORS chapter 478;

36 (e) The new single-family dwelling unit complies with the Oregon residential specialty code re-
 37 lating to wildfire hazard mitigation;

38 (f) As a condition of approval of the new single-family dwelling unit, in addition to the require-
 39 ments of ORS 215.293, the property owner agrees to acknowledge and record in the deed records for
 40 the county in which the lot or parcel is located, one or more instruments containing irrevocable
 41 deed restrictions that:

42 (A) Prohibit the owner and the owner’s successors from partitioning the property to separate
 43 the new single-family dwelling unit from the lot or parcel containing the existing single-family
 44 dwelling unit; and

45 (B) Require that the owner and the owner’s successors manage the lot or parcel as a working

1 forest under a written forest management plan, as defined in ORS 526.455, that is attached to the
2 instrument;

3 (g) The existing single-family dwelling unit is occupied by the owner or a relative;

4 (h) The new single-family dwelling unit will be occupied by the owner or a relative; and

5 (i) The owner or a relative occupies the new single-family dwelling unit to allow the relative to
6 assist in the harvesting, processing or replanting of forest products or in the management, operation,
7 planning, acquisition or supervision of forest lots or parcels of the owner.

8 (3) If a new single-family dwelling unit is constructed under this section, a county may not allow
9 the new or existing dwelling unit to be used for vacation occupancy as defined in ORS 90.100.

10 **SECTION 20.** ORS 215.783 is amended to read:

11 215.783. (1) The governing body of a county or its designee may approve a proposed division by
12 partition of land in a forest zone or a mixed farm and forest zone to create one new parcel if the
13 proposed division of land is for the purpose of allowing a provider of public parks or open space,
14 or a not-for-profit land conservation organization, to purchase one of the resulting parcels as pro-
15 vided in this section.

16 (2) A parcel created by the land division that is not sold to a provider of public parks or open
17 space or to a not-for-profit land conservation organization must comply with the following:

18 (a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel
19 must be large enough to support continued residential use or other allowed use of the parcel; or

20 (b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may
21 be authorized under ORS 195.120 or as may be authorized under ORS 215.705 *[to 215.750, based on*
22 *the size and configuration of the parcel]*.

23 (3) Before approving a proposed division of land under this section, the governing body of a
24 county or its designee shall require as a condition of approval that the provider of public parks or
25 open space, or the not-for-profit land conservation organization, present for recording in the deed
26 records for the county in which the parcel retained by the provider or organization is located an
27 irrevocable deed restriction prohibiting the provider or organization and their successors in interest
28 from:

29 (a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in
30 a forest zone or mixed farm and forest zone except park or conservation uses; and

31 (b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest prac-
32 tices for which a claim or action is not allowed under ORS 30.936 or 30.937.

33 (4) If a proposed division of land under this section results in the disqualification of a parcel for
34 a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as
35 riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS
36 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

37 **SECTION 21.** ORS 308A.053 is amended to read:

38 308A.053. As used in ORS 308A.050 to 308A.128:

39 (1) “Exclusive farm use zone” means a zoning district established by a county or a city under
40 the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone pro-
41 visions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.453, 215.455, *[or]* 215.700,
42 **215.705, 215.755, 215.760 or** *[to]* 215.780.

43 (2) “Exclusive farm use zone farmland” means land that qualifies for special assessment under
44 ORS 308A.062.

45 (3) “Homesite” means the land, including all tangible improvements to the land under and ad-

1 jacent to a dwelling and other structures, if any, that are customarily provided in conjunction with
 2 a dwelling.

3 (4) “Nonexclusive farm use zone farmland” means land that is not within an exclusive farm use
 4 zone but that qualifies for farm use special assessment under ORS 308A.068.

5 (5) “Remediation plan” means a plan certified by an extension agent of the Oregon State Uni-
 6 versity Extension Service to remediate or mitigate severe adverse conditions on farmland.

7 (6) “Severe adverse conditions on farmland” means conditions that render impracticable contin-
 8 ued farm use and that are not due to an intentional or negligent act or omission by the owner,
 9 tenant or lessee of the farmland or the applicant for certification of a remediation plan.

10 **SECTION 22.** Section 3, chapter 636, Oregon Laws 2009, is amended to read:

11 **Sec. 3.** (1) Notwithstanding ORS 215.700, **215.705, 215.755, 215.760 or [to]** 215.780, one or two
 12 small-scale recreation communities may be established as specified in sections 2 to 5, chapter 636,
 13 Oregon Laws 2009.

14 (2) The owner of a Metolius resort site may apply to a county for approval of a small-scale re-
 15 creation community within three years after June 29, 2017, if:

16 (a) Prior to June 29, 2010, the owner notified the Department of Land Conservation and Devel-
 17 opment that the owner elected to seek approval of a small-scale recreation community; and

18 (b) The owner renews the election described in paragraph (a) of this subsection within 30 days
 19 after June 29, 2017.

20 (3) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon
 21 Laws 2009, may be established only in conjunction with a transfer of development opportunity from
 22 a Metolius resort site. A transfer of development opportunity must be carried out through an
 23 agreement between the owner of a Metolius resort site and the owner of the site proposed for de-
 24 velopment of a small-scale recreation community. In the agreement, the owner of the Metolius resort
 25 site must:

26 (a) Agree to limit the use of the Metolius resort site, consistent with the management plan in
 27 consideration for the opportunity to participate in the development of the small-scale recreation
 28 community; and

29 (b) Agree to grant a conservation easement pursuant to ORS 271.715 to 271.795 that:

30 (A) Limits the use of the Metolius resort site to be consistent with the management plan;

31 (B) Allows public access to that portion of the site that is not developed; and

32 (C) Contains other provisions, as required by the Department of Land Conservation and Devel-
 33 opment, that are necessary to ensure that the conservation easement is enforceable.

34 (4)(a) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon
 35 Laws 2009, must be sited on land that is within a county described in paragraph (b) of this sub-
 36 section and that is either or both of the following:

37 (A) Planned and zoned for forest use; or

38 (B) Rural and not subject to statewide land use planning goals relating to agricultural lands or
 39 forestlands.

40 (b) A small-scale recreation community may be established in:

41 (A) Baker County;

42 (B) Clatsop County;

43 (C) Columbia County;

44 (D) Coos County;

45 (E) Crook County;

- 1 (F) Curry County;
- 2 (G) Douglas County;
- 3 (H) Grant County;
- 4 (I) Harney County;
- 5 (J) Josephine County;
- 6 (K) Klamath County;
- 7 (L) Lake County;
- 8 (M) Lincoln County;
- 9 (N) Linn County;
- 10 (O) Malheur County;
- 11 (P) Morrow County;
- 12 (Q) Sherman County;
- 13 (R) Umatilla County;
- 14 (S) Wallowa County;
- 15 (T) Wasco County; or
- 16 (U) Wheeler County.

17 (5) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon
18 Laws 2009, may not be sited on land that is:

- 19 (a) Within an area identified as “Area 1” or “Area 2” in the management plan.
- 20 (b) Within an area protected as a significant resource in an acknowledged comprehensive plan
21 provision implementing statewide land use planning goals relating to:
 - 22 (A) Open space and scenic and historic areas;
 - 23 (B) Natural or conservation management unit requirements for estuarine resources; or
 - 24 (C) Beaches and dunes.

25 (6)(a) All land on which a small-scale recreation community authorized under sections 2 to 5,
26 chapter 636, Oregon Laws 2009, is sited must be at least one-quarter mile from the nearest state
27 park.

28 (b) Any buildings or other improvements developed within the boundaries of land on which a
29 small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009,
30 is sited must be located at least one mile from the nearest state park.

31 (7) If a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of this section approves an ap-
32 plication for a small-scale recreation community that also requires a federal license or permit, that
33 approval shall be deemed to constitute an acknowledged exception under ORS 197.732 to any appli-
34 cable statewide land use planning goal with which the use would not otherwise comply.

35