

Senate Bill 359

Sponsored by Senator BOQUIST (at the request of Jim Bunn) (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 single-family residential dwellings on farms that have been family-owned for at least 100 years on lands zoned for exclusive farm use.

A BILL FOR AN ACT

1
2 Relating to farm dwellings; amending ORS 215.236, 215.263, 215.284 and 215.296.

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

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

5 215.284. (1) In the Willamette Valley, a single-family residential dwelling not provided in con-
6 junction with farm use may be established, subject to approval of the governing body or its designee,
7 in any area zoned for exclusive farm use upon a finding that:

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

11 (b) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV
12 through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or
13 Class II soils;

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

15 (d) The dwelling will not materially alter the stability of the overall land use pattern of the area;
16 and

17 (e) The dwelling complies with such other conditions as the governing body or its designee
18 considers necessary.

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

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

25 (b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally
26 unsuitable land for the production of farm crops and livestock or merchantable tree species, con-
27 sidering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and
28 size of the tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable
29 solely because of size or location if it can reasonably be put to farm or forest use in conjunction
30 with other land;

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

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 (d) The dwelling will not materially alter the stability of the overall land use pattern of the area;
 2 and

3 (e) The dwelling complies with such other conditions as the governing body or its designee
 4 considers necessary.

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

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

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

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

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

22 (e) The dwelling complies with such other conditions as the governing body or its designee
 23 considers necessary.

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

29 (A) Is not stocked to the requirements under ORS 527.610 to 527.770;

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

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

33 (b) Any parcel to be created for a dwelling from the originating lot or parcel described in par-
 34 agraph (a) of this subsection will not be smaller than 20 acres.

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

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

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

42 (5) No final approval of a nonfarm use under this section shall be given unless any additional
 43 taxes imposed upon the change in use have been paid.

44 (6) If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to
 45 215.750, no additional dwelling may later be sited under subsection (1), (2), (3), (4) or (7) of this

1 section.

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

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

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

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

12 (d) The dwelling complies with such other conditions as the governing body or its designee
13 considers necessary.

14 **(8) A single-family residential dwelling not provided in conjunction with farm use may
15 be established, subject to approval of the governing body or its designee, in any area zoned
16 for exclusive farm use upon a finding that:**

17 **(a) The dwelling will be sited on a lot or parcel created before the effective date of this
18 2021 Act;**

19 **(b) The dwelling or activities associated with the dwelling will not force a significant
20 change in or significantly increase the cost of accepted farming or forest practices on nearby
21 lands devoted to farm or forest use;**

22 **(c) The dwelling will not materially alter the stability of the overall land use pattern of
23 the area;**

24 **(d) The dwelling will be sited on a lot or parcel that is, or constitutes part of, a farm that:**

25 **(A) Has been owned and operated continuously for a period of at least 100 years by the
26 same family, including the lineal descendants of the original owners or lineal descendants
27 of the original owner's siblings or cousins;**

28 **(B) Produced a gross income from farm use activities of not less than \$1,000 per year in
29 three out of the five years immediately preceding the application for a dwelling; and**

30 **(C) Has its farm use managed or directly operated by the owners of the lot or parcel; and**

31 **(e) The dwelling will be the primary residence of the owner or the owner's family.**

32 **SECTION 2.** ORS 215.236 is amended to read:

33 215.236. (1) As used in this section, "dwelling" means a single-family residential dwelling not
34 provided in conjunction with farm use.

35 (2) The governing body or its designee may not grant final approval of an application made un-
36 der ORS 215.213 (3) or 215.284 (1), (2), (3), (4), [or] (7) **or (8)** for the establishment of a dwelling on
37 a lot or parcel in an exclusive farm use zone that is, or has been, receiving special assessment
38 without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified
39 for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special as-
40 sessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any
41 additional tax imposed as the result of disqualification has been paid.

42 (3) The governing body or its designee may grant tentative approval of an application made
43 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4), [or] (7) **or (8)** for the establishment of a dwelling
44 on a lot or parcel in an exclusive farm use zone that is specially assessed at value for farm use
45 under ORS 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284

1 (1), (2), (3), (4), [or] (7) **or** (8). An application for the establishment of a dwelling that has been ten-
2 tatively approved shall be given final approval by the governing body or its designee upon receipt
3 of evidence that the lot or parcel upon which establishment of the dwelling is proposed has been
4 disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other
5 special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855
6 and any additional tax imposed as the result of disqualification has been paid.

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

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

11 (b) Request that the county assessor disqualify the lot or parcel from special assessment under
12 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

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

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

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

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

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

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

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

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

32 (8) The Department of Consumer and Business Services, a building official, as defined in ORS
33 455.715 (1), or any other agency or official responsible for the administration and enforcement of the
34 state building code, as defined in ORS 455.010, may not issue a building permit for the construction
35 of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of
36 the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax,
37 if any, imposed by the county assessor under subsection (7)(c) of this section.

38 **SECTION 3.** ORS 215.263 is amended to read:

39 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
40 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
41 governing body or its designee of the county in which the land is situated. The governing body of
42 a county by ordinance shall require prior review and approval for divisions of land within exclusive
43 farm use zones established within the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into

1 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (i) Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and

42 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
43 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
44 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
45 State Department of Agriculture and other interested persons, may establish by rule objective cri-

1 teria for identifying units of land that are not capable of producing adequate herbaceous forage for
 2 grazing livestock. In developing the criteria, the commission shall use the latest information from
 3 the United States Natural Resources Conservation Service and consider costs required to utilize
 4 grazing lands that differ in acreage and productivity level;

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

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

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

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

16 (8) The governing body of a county may not approve any proposed division of a lot or parcel
 17 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division
 18 that separates a facility for the processing of farm products, as defined in ORS 215.255, from the
 19 farm operation.

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

22 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
 23 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4), [or] (7) **or** (8); and

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

25 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
 26 prove a proposed division of land provided:

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

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

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

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

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

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

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

38 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
 39 wildlife habitat protection plan; or

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

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

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

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

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

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

8 (12) Notwithstanding the minimum lot or parcel size described in ORS 215.780 (1) or (2), the
9 governing body of a county or its designee may approve a proposed division of land in an exclusive
10 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
11 parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing
12 body may establish other criteria as it considers necessary.

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

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

19 **SECTION 4.** ORS 215.296 is amended to read:

20 215.296. (1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved
21 only where the local governing body or its designee finds that the use will not:

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

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

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

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

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

32 (b) That the violation has:

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

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

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

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

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

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

42 (c) Determine whether the allegations made in a complaint filed under this section or ORS
43 215.218 are true.

44 (5) Upon a determination that the allegations made in a complaint are true, the local governing
45 body or its designee at a minimum shall notify the violator that a violation has occurred, direct the

1 violator to correct the conditions that led to the violation within a specified time period and warn
2 the violator against the commission of further violations.

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

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

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

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

23 (A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3),
24 215.284 (1), (2), (3), (4), [or] (7) **or** (8) or 215.705;

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

26 (C) An acknowledged urban growth boundary.

27 (b) A person residing in a single-family residential dwelling which was approved under ORS
28 215.213 (3), 215.284 (1), (2), (3), (4), [or] (7) **or** (8) or 215.705, which is within an exception area ap-
29 proved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file
30 a complaint under subsection (3) of this section.

31 (10) This section does not prevent a local governing body approving a use allowed under ORS
32 215.213 (2) or (11) or 215.283 (2) or (4) from establishing standards in addition to those set forth in
33 subsection (1) of this section or from imposing conditions to ensure conformance with the additional
34 standards.

35
