

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Although the county’s approval of the boundary line adjustment for the siting of a nonfarm dwelling could effectively undercut the factual predicate for compliance with a statutory-based standard pursuant to ORS 215.263(4) designed to minimize loss of productive resource lands in exclusive farm use zones to non-resource uses, where petitioner has not cited anything in the county ordinance that constitutes an approval standard for a post-partition boundary line adjustment, even if the adjustment undercuts a factual predicate for the partition approval, this argument provides no basis for reversal or remand. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where the county found a boundary line adjustment application is in compliance with a county ordinance that requires that the “resulting parcel sizes do not change the existing land use” because before and after the boundary line adjustment there was one parcel conforming and one parcel non-conforming in size, LUBA will remand the decision. On remand, the county shall consider petitioners’ argument and adopt any necessary findings regarding petitioners’ argument that the ordinance could be interpreted to require the county to consider whether the “existing land use pattern” is changed when the subject parcel—that was previously deemed “generally unsuitable” for farm use due to its size and soil composition—qualifies for a nonfarm dwelling as a result of the boundary line adjustment because the parcel was expanded to include agricultural soils in a manner that possibly renders the resulting parcel suitable for farm use. *Friends of Douglas County v. Douglas County*, 78 Or LUBA 11 (2018).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where four pre-1993 parcels are combined through property line adjustments to meet a local minimum parcel size standard, under OAR 660-033-0020(4) the date the property line adjustments created the new combined parcel is the new “date of creation.” Where that new date of creation post-dates 1993, a county decision approving a nonfarm dwelling on the combined parcel does not comply with the ORS 215.284(2)(c) requirement that a nonfarm dwelling must “be sited on a lot or parcel created before January 1, 1993.” *Central Oregon Landwatch v. Crook County*, 75 Or LUBA 186 (2017).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** ORS 215.780(1)(a) expressly authorizes counties to adopt an 80-acre minimum parcel size in the EFU zone, and ORS 215.263(2)(b) expressly authorizes counties to approve partitions of EFU-zoned land if the resulting parcels “are not smaller than the minimum size established under ORS 215.780.” Additional justification for adopting the statutorily authorized 80-acre minimum parcel size is not required by Goal 3, ORS 215.243 and 215.700. *Friends of Umatilla County v. Umatilla County*, 58 Or LUBA 12 (2008).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** It is not error for a county to amend its code to recognize that under ORS 215.780(2)(a), a minimum parcel size of less than 80 acres may be authorized by LCDC in the future pursuant to OAR 660-033-0100(2) through (9), if the county is able to justify such smaller minimum parcel sizes in the future. *Friends of Umatilla County v. Umatilla County*, 58 Or LUBA 12 (2008).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** ORS 215.263 expressly authorizes a number of different kinds of land divisions of EFU-zoned land for development of

non-farm uses on parcels that are smaller than the minimum parcel size for land divisions for new farm parcels. A county may include such authorization in its EFU zone and Goal 3, ORS 215.243 and 215.700 do not require that a county adopt findings to justify its decision to include such statutory authorizations. *Friends of Umatilla County v. Umatilla County*, 58 Or LUBA 12 (2008).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** A county is not obligated to explain its choice to adopt current statutory standards for land divisions in its EFU zone in place of the previously adopted county standards for such land divisions. *Friends of Umatilla County v. Umatilla County*, 58 Or LUBA 12 (2008).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where the county criteria that govern division of EFU-zoned land require that parcels be 160 acres or larger and require that divisions of EFU-zoned land comply with applicable comprehensive plan policies, and partition opponents argue that dividing an EFU-zoned parcel into parcels that are smaller than 160 acres violates those criteria and plan policies, the county’s decision will be remanded where the county fails to address those arguments. *Friends of Umatilla County v. Umatilla County*, 55 Or LUBA 330 (2007).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where the county criteria that govern division of EFU-zoned land require that parcels be 160 acres or larger, and the county grants a variance to allow an EFU-zoned parcel to be divided into parcels that are smaller than 160 acres, where LUBA finds the county’s justification for the variance is inadequate, the partition approval must be remanded. *Friends of Umatilla County v. Umatilla County*, 55 Or LUBA 330 (2007).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** ORS 215.780(2) authorizes counties to seek Land Conservation and Development Commission approval to impose a smaller minimum lot and parcel size in their exclusive farm use zone than would otherwise be required by ORS 215.780(1). *Thompson v. Umatilla County*, 54 Or LUBA 531 (2007).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** No statute or administrative rule sets out procedures for counties to seek approval from the Land Conservation and Development Commission to impose smaller minimum lot and parcel sizes than would otherwise be required by ORS 215.780(1). *Thompson v. Umatilla County*, 54 Or LUBA 531 (2007).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** As construed in *Dorvinen v. Crook County*, 153 Or App 391, 957 P2d 180 (1998), ORS 215.780(1) applies the statutory minimum lot or parcel size to all parcels resulting from a partition for nonfarm dwellings, including the parcel on which the nonfarm dwelling will be sited. *Friends of Douglas County v. Douglas County*, 39 Or LUBA 156 (2000).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** LUBA will remand rather than reverse a decision approving partitions in conjunction with a nonfarm dwelling, notwithstanding that the resulting partitions violate the minimum parcel size at ORS 215.780(1), where the decision expressly preserves an issue regarding whether the county’s 20-acre minimum

parcel size was adopted under one of the exceptions to ORS 215.780(1), and thus LUBA cannot determine whether the approval is prohibited as a matter of law. *Alliance for Responsible Land Use v. Deschutes Co.*, 37 Or LUBA 215 (1999).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Under ORS 215.284(3) a partition of EFU-zoned land must leave a remainder parcel that meets the applicable minimum parcel size. *Lyle v. Wheeler County*, 33 Or LUBA 746 (1997).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** A new nonfarm parcel is not subject to minimum parcel size under ORS 215.780 where the new nonfarm parcel is created from a parent parcel under ORS 215.263(4) and 215.283(3). *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Taken together, ORS 215.263(2) and legislative history indicate that the legislature intended ORS 215.284(3) to at least mean that where a remaining parcel suitable for farm use is created from a partition under ORS 215.284(3), the remaining farm parcel must meet the minimum parcel size. *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Consistent with the statutory scheme and policy of ORS 215.243, ORS 215.284(3) requires that a partition must leave a remainder parcel that meets the minimum parcel size, whether or not the remainder parcel is suitable for farm use. *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where the county zoning ordinance establishes an array of minimum lot or parcel sizes on EFU land, depending on the proposed commodity or on circumstances that can only be ascertained through a case-by-case review, the ordinance does not satisfy ORS 215.780(3); and the county must either adopt the minimum lot size stated in ORS 215.780(1)(a) or demonstrate satisfaction of the criteria stated in ORS 215.780(2). *DLCD v. Polk County*, 31 Or LUBA 69 (1996).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Unless approval is given by LCDC under ORS 215.780(2) for a smaller minimum lot size or sizes, ORS 215.780(1) requires a county to apply minimum lot sizes of 80 acres (designated forestland and non-range farmland) or 160 acres (designated rangeland) in its farm and forest zones. *DLCD v. Josephine County*, 28 Or LUBA 459 (1994).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** Where a county's EFU zone minimum lot size standard was subject to periodic review by LCDC under the old periodic review provisions of ORS 197.640 to 197.649 (1989), *not* under the new periodic review provisions of ORS 197.628 to 197.636, the county may not apply a minimum lot size less than that required by ORS 215.780(1) to EFU-zoned land without LCDC approval pursuant to ORS 215.780(2). *DLCD v. Wallowa County*, 28 Or LUBA 452 (1994).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** ORS 215.780, Goal 3 and OAR 660-33-100 require a county to adopt one or more minimum parcel sizes of specific

acreages for exclusive farm use zone(s), and do not allow determinations of minimum parcel sizes in EFU zones through the case-by-case application of performance standards. *DLCD v. Wallowa County*, 28 Or LUBA 452 (1994).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** The 1993 legislature adopted specific minimum lot and parcel sizes. For forestland and farmland that is not designated rangeland, the minimum lot or parcel size is 80 acres. ORS 215.780(1)(a) and (c). For land zoned for exclusive farm use and designated as rangeland, the minimum lot or parcel size is 160 acres. ORS 215.780(1)(b). *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

**3.4.2 EFU Statute/Ordinances – Land Divisions – Minimum Lot Sizes.** The ORS 215.780(2) provisions that allow counties to adopt a minimum lot size smaller than would otherwise be required for farmland and forestland by ORS 215.780(1), require that a county obtain LCDC approval for such smaller lot sizes *before* adopting such smaller lot sizes. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).