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March 7, 2025

Sen. Jeff Golden  
Senate Committee on Natural Resources and Wildfire  
State Capitol  
Salem, OR 97301

Re: Support SBs 77 & 78

Dear Chair Golden, Vice-Chair Nash, and Members of the Committee,

1000 Friends of Oregon is a nonprofit, membership organization that works with Oregonians to support livable urban and rural communities, protect family farms, forests and natural areas, and provide transportation and housing choices. Thank you for the opportunity to testify in favor of Senate Bills 77 and 78 and in opposition to Senate Bill 788. We submit these written comments to supplement our verbal testimony at the March 6 hearing.

### I. Oregon's Loss of Land in Farms

The USDA Census of Agriculture reports that between 2017 and 2022, Oregon lost 4.2% of its land in farms.<sup>1</sup> This was the first time Oregon passed California in percentage of land in farms lost during a five-year Census period.

There is no dispute about the Census numbers.

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<sup>1</sup> <https://www.nass.usda.gov/Newsroom/2024/02-13-2024.php>;  
<https://www.opb.org/article/2024/02/14/oregon-farm-land-agriculture-farmers-ranches/>

*Since our founding in 1974, we have worked with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural areas.*

There is also no dispute about the zoning information reported in the Department of Land Conservation and Development (DLCD)'s 2022-2023 Farm and Forest Report.<sup>2</sup> That report observes there has been little percentage change in the amount of land zoned for exclusive farm use in Oregon since 1987.<sup>3</sup> The report also observes, however, that the retention of land in the exclusive farm use zone does not mean that the land continues to be in farms, as land converted to a nonfarm use typically retains its exclusive farm use zoning. The report states:

*It is estimated that several times as much acreage is converted to the non-resource uses as is rezoned out of EFU and forest zones each year. This means that farmland is converted to a nonfarm use even though it is still zoned for exclusive farm use.<sup>4</sup>*

That is precisely our concern. Oregon law authorizes over 60 nonfarm land uses on lands zoned for exclusive farm use. Each Census period, Oregon counties approve thousands of nonfarm residential, commercial and recreational that take farmland out of production, but do not change the land's exclusive farm use zoning. The amount of land zoned for exclusive farm use remains steady, even while the land is converted to nonfarm uses. This is true in the case of both nonfarm replacement dwellings (SB 78) and hotels approved as home occupations (SB 77). The land is converted to a nonfarm use, while the zoning remains EFU.<sup>5</sup>

## II. SB 78 Replacement Dwelling Provisions Clarification

The language of Senate Bill 78 has raised a couple of good questions, presented here, with answers:

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<sup>2</sup> [https://www.oregon.gov/lcd/FF/Documents/Farm\\_Forest\\_Report\\_2022\\_2023.pdf](https://www.oregon.gov/lcd/FF/Documents/Farm_Forest_Report_2022_2023.pdf) (2022-2023 DLCD Oregon Farm and Forest Report).

<sup>3</sup> 2022-2023 DLCD Oregon Farm & Forest Report, supra n. 2, at page 27.

<sup>4</sup> *Ibid.*

<sup>5</sup> There are several over gauges that can be used to monitor the loss of farmland. These include:

- Census of Agriculture, U.S. Department of Agriculture, National Agricultural Statistics Service
- *Forests, Farms & People Land Use Change on Non-Federal Lands in Oregon*, Oregon Department of Forestry and the USDA Forest Service
- *Farms Under Threat 2040, Choosing an Abundant Future*, American Farmland Trust

**Q: What types of dwellings are subject to SB 78's square footage limitations?**

**A: Only replacement dwellings authorized in ORS 215.291 are affected by SB 78.**

Oregon land use law provides numerous avenues to build new houses in farm and forest zones. There are at least **seven ways** to receive authorization to construct a new dwelling in the exclusive farm use zone, and **six different ways** in Oregon's forest zones.<sup>6</sup> New dwellings are authorized for farm and forest operators, their workers and relatives.<sup>7</sup> New dwellings are also authorized for people who are not engaged in agriculture or forest management, including caregivers and those who qualify for "lot-of-record" dwellings based on historic ownership.<sup>8</sup>

SB 78 applies only to replacement dwellings authorized under ORS 215.291. Its square footage limitations do not apply to any of the other avenues for building a new house in the exclusive farm use or forest conservation zones. For example, new homes for farm operators and family forest dwellings would have no limitations on size or scale. The same would be true for a new dwelling unrelated to farm use under ORS 215.284. These new homes can be as large as the owners like.

**Q: What is the meaning of the alternative square footage provisions in SB 78?**

**A: SB 78 requires that the replacement dwelling be either 110% of the original dwelling's square footage, or 2,500 square feet, whichever is larger.**

As drafted, SB 78 amends ORS 215.291(2) to provide that the replacement dwelling authorized in that provision not:

- (i) Exceed the floor area of the dwelling being replaced by more than 10 percent; or**
- (ii) Have a floor area greater than 2,500 square feet.**

The bill's intention is that the two square footage standards are alternatives, so that a replacement dwelling would have to meet one or the other of the standards, **whichever is larger**.

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<sup>6</sup> 2022-2023 DLCD Farm & Forest Report, *supra* n. 2, at pages 41 (farm) and 70 (forest).

<sup>7</sup> ORS 215.213(1)(f) and 215.283(1)(e)(farm operator); ORS 215.278 (farmworker); 215.213(1)(d), 215.283(1)(d) and 215.757 (relative).

<sup>8</sup> ORS 215.213(1)(i), 215.283(1)(L) and 215.755(medical hardship); ORS 215.705 and Measure 49 (lot of record).

However some have interpreted the provision to mean that a replacement dwelling would have to have a floor area that is **BOTH** no more than 110% of the original dwelling size **AND** 2,500 square feet or smaller.

We have requested an amendment to SB 78 to clarify that the two square foot standards are to be read in the alternative, and the replacement dwelling may be either 110% of the original dwelling's square footage, or 2,500 square feet, whichever is larger.

Please let us know if you have any questions, or need additional information.

Thank you for the opportunity to comment.

A handwritten signature in black ink that reads "James Johnson". The signature is fluid and cursive, with "James" on top and "Johnson" below it.

Jim Johnson  
Working Lands Policy Director