

**A-Engrossed**  
**Senate Bill 508**

Ordered by the Senate May 7  
Including Senate Amendments dated May 7

Sponsored by Senator L GEORGE

**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.

*[Prohibits Land Conservation and Development Commission from adopting or enforcing rules that impose restrictions on or requirements for outright permitted uses in area zoned for exclusive farm use.]*

**Allows freestanding hospice facilities in existing dwellings and one accessory building to locate on land zoned for exclusive farm use if existing dwelling qualifies for alteration, restoration or replacement.**

**A BILL FOR AN ACT**

1  
2 Relating to exclusive farm use zones; amending ORS 215.213 and 215.283.

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

4 **SECTION 1.** ORS 215.213 is amended to read:

5 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
6 Edition), the following uses may be established in any area zoned for exclusive farm use:

7 (a) Public or private schools, including all buildings essential to the operation of a school.

8 (b) Churches and cemeteries in conjunction with churches.

9 (c) The propagation or harvesting of a forest product.

10 (d) Utility facilities necessary for public service, including wetland waste treatment systems but  
11 not including commercial facilities for the purpose of generating electrical power for public use by  
12 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
13 may be established as provided in ORS 215.275.

14 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
15 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,  
16 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
17 operator does or will require the assistance of the relative in the management of the farm use and  
18 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
19 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS  
20 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
21 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
22 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
23 shall operate as a partition of the homesite to create a new parcel.

24 (f) Nonresidential buildings customarily provided in conjunction with farm use.

25 (g) Primary or accessory dwellings customarily provided in conjunction with farm use. For a  
26 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-

**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 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-  
2 edged under ORS 197.251.

3 (h) Operations for the exploration for and production of geothermal resources as defined by ORS  
4 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
5 compressors, separators and other customary production equipment for an individual well adjacent  
6 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
7 an exception under ORS 197.732 (1)(a) or (b).

8 (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or  
9 construction relating to such operations shall not be a basis for an exception under ORS 197.732  
10 (1)(a) or (b).

11 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-  
12 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings  
13 necessary for its operation.

14 (k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
15 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
16 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
17 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
18 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
19 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
20 view of the hardship claimed under this paragraph. A temporary residence approved under this  
21 paragraph is not eligible for replacement under paragraph (t) of this subsection.

22 (L) The breeding, kenneling and training of greyhounds for racing in any county with a popu-  
23 lation of more than 200,000 in which there is located a greyhound racing track or in a county with  
24 a population of more than 200,000 that is contiguous to such a county.

25 (m) Climbing and passing lanes within the right of way existing as of July 1, 1987.

26 (n) Reconstruction or modification of public roads and highways, including the placement of  
27 utility facilities overhead and in the subsurface of public roads and highways along the public right  
28 of way, but not including the addition of travel lanes, where no removal or displacement of buildings  
29 would occur, or no new land parcels result.

30 (o) Temporary public road and highway detours that will be abandoned and restored to original  
31 condition or use at such time as no longer needed.

32 (p) Minor betterment of existing public road and highway related facilities, such as maintenance  
33 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous  
34 public-owned property utilized to support the operation and maintenance of public roads and high-  
35 ways.

36 (q) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has  
37 been listed in a county inventory as historic property as defined in ORS 358.480.

38 (r) Creation of, restoration of or enhancement of wetlands.

39 (s) A winery, as described in ORS 215.452.

40 (t) Alteration, restoration or replacement of a lawfully established dwelling that:

41 (A) Has intact exterior walls and roof structure;

42 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to  
43 a sanitary waste disposal system;

44 (C) Has interior wiring for interior lights;

45 (D) Has a heating system; and

1 (E) In the case of replacement:

2 (i) Is removed, demolished or converted to an allowable nonresidential use within three months  
3 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of  
4 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable  
5 siting standards. However, the standards shall not be applied in a manner that prohibits the siting  
6 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned  
7 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the  
8 deed records for the county where the property is located a deed restriction prohibiting the siting  
9 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless  
10 a statement of release is placed in the deed records for the county. The release shall be signed by  
11 the county or its designee and state that the provisions of this paragraph regarding replacement  
12 dwellings have changed to allow the siting of another dwelling. The county planning director or the  
13 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting  
14 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
15 and release statements filed under this paragraph; and

16 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-  
17 ished within three months after the deferred replacement permit is issued. A deferred replacement  
18 permit allows construction of the replacement dwelling at any time. If, however, the established  
19 dwelling is not removed or demolished within three months after the deferred replacement permit  
20 is issued, the permit becomes void. The replacement dwelling must comply with applicable building  
21 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to  
22 siting at the time of construction. A deferred replacement permit may not be transferred, by sale  
23 or otherwise, except by the applicant to the spouse or a child of the applicant.

24 (u) Farm stands if:

25 (A) The structures are designed and used for the sale of farm crops or livestock grown on the  
26 farm operation, or grown on the farm operation and other farm operations in the local agricultural  
27 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm  
28 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-  
29 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;  
30 and

31 (B) The farm stand does not include structures designed for occupancy as a residence or for  
32 activity other than the sale of farm crops or livestock and does not include structures for banquets,  
33 public gatherings or public entertainment.

34 (v) An armed forces reserve center, if the center is within one-half mile of a community college.  
35 For purposes of this paragraph, "armed forces reserve center" includes an armory or National  
36 Guard support facility.

37 (w) A site for the takeoff and landing of model aircraft, including such buildings or facilities as  
38 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor  
39 area or placed on a permanent foundation unless the building or facility preexisted the use approved  
40 under this paragraph. The site shall not include an aggregate surface or hard surface area unless  
41 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model  
42 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
43 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
44 ground.

45 (x) A facility for the processing of farm crops located on a farm operation that provides at least

1 one-quarter of the farm crops processed at the facility. The building established for the processing  
2 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for  
3 preparation, storage or other farm use or devote more than 10,000 square feet to the processing  
4 activities within another building supporting farm uses. A processing facility shall comply with all  
5 applicable siting standards but the standards shall not be applied in a manner that prohibits the  
6 siting of the processing facility.

7 (y) Fire service facilities providing rural fire protection services.

8 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-  
9 sociated with a district as defined in ORS 540.505.

10 (aa) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-  
11 cilities or structures that end at the point where the utility service is received by the customer and  
12 that are located on one or more of the following:

13 (A) A public right of way;

14 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
15 jacent property owners has been obtained; or

16 (C) The property to be served by the utility.

17 (bb) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
18 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
19 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
20 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
21 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
22 exclusive farm use zone under this chapter.

23 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
24 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
25 215.296:

26 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest  
27 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-  
28 eration or woodlot:

29 (A) Consists of 20 or more acres; and

30 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in  
31 annual gross income from the crops, livestock or forest products to be raised on the farm operation  
32 or woodlot.

33 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest  
34 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-  
35 quired under paragraph (a) of this subsection, if the lot or parcel:

36 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar  
37 years out of the three calendar years before the year in which the application for the dwelling was  
38 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000  
39 in annual gross farm income; or

40 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-  
41 nual income.

42 (c) Commercial activities that are in conjunction with farm use but not including the processing  
43 of farm crops as described in subsection (1)(x) of this section.

44 (d) Operations conducted for:

45 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas

1 as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

2 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-  
3 sources subject to ORS 215.298;

4 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

5 (D) Processing of other mineral resources and other subsurface resources.

6 (e) Community centers owned by a governmental agency or a nonprofit community organization  
7 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
8 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the  
9 county governing body or its designee, a private campground may provide yurts for overnight  
10 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include  
11 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.  
12 Upon request of a county governing body, the Land Conservation and Development Commission may  
13 provide by rule for an increase in the number of yurts allowed on all or a portion of the  
14 campgrounds in a county if the commission determines that the increase will comply with the stan-  
15 dards described in ORS 215.296 (1). A public park or campground may be established as provided  
16 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or  
17 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-  
18 ance.

19 (f) Golf courses.

20 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

21 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-  
22 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-  
23 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional  
24 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-  
25 erations. No aircraft may be based on a personal-use airport other than those owned or controlled  
26 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be  
27 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
28 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-  
29 ject to any applicable rules of the Oregon Department of Aviation.

30 (i) A facility for the primary processing of forest products, provided that such facility is found  
31 to not seriously interfere with accepted farming practices and is compatible with farm uses de-  
32 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is  
33 renewable. These facilities are intended to be only portable or temporary in nature. The primary  
34 processing of a forest product, as used in this section, means the use of a portable chipper or stud  
35 mill or other similar methods of initial treatment of a forest product in order to enable its shipment  
36 to market. Forest products, as used in this section, means timber grown upon a parcel of land or  
37 contiguous land where the primary processing facility is located.

38 (j) A site for the disposal of solid waste approved by the governing body of a city or county or  
39 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-  
40 mental Quality together with equipment, facilities or buildings necessary for its operation.

41 (k) Dog kennels not described in subsection (1)(L) of this section.

42 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

43 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not  
44 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
45 shall not include any species under quarantine by the State Department of Agriculture or the United

1 States Department of Agriculture. The county shall provide notice of all applications under this  
2 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
3 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
4 tive decision or initial public hearing on the application.

5 (n) Home occupations as provided in ORS 215.448.

6 (o) Transmission towers over 200 feet in height.

7 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way  
8 but not resulting in the creation of new land parcels.

9 (q) Reconstruction or modification of public roads and highways involving the removal or dis-  
10 placement of buildings but not resulting in the creation of new land parcels.

11 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh  
12 stations and rest areas, where additional property or right of way is required but not resulting in  
13 the creation of new land parcels.

14 (s) A destination resort that is approved consistent with the requirements of any statewide  
15 planning goal relating to the siting of a destination resort.

16 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
17 dences.

18 (u) A living history museum related to resource based activities owned and operated by a gov-  
19 ernmental agency or a local historical society, together with limited commercial activities and fa-  
20 cilities that are directly related to the use and enjoyment of the museum and located within  
21 authentic buildings of the depicted historic period or the museum administration building, if areas  
22 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
23 the museum administration buildings and parking lot are located within one quarter mile of the  
24 metropolitan urban growth boundary. As used in this paragraph:

25 (A) "Living history museum" means a facility designed to depict and interpret everyday life and  
26 culture of some specific historic period using authentic buildings, tools, equipment and people to  
27 simulate past activities and events; and

28 (B) "Local historical society" means the local historical society, recognized as such by the  
29 county governing body and organized under ORS chapter 65.

30 (v) Operations for the extraction and bottling of water.

31 (w) An aerial fireworks display business that has been in continuous operation at its current  
32 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's  
33 permit to sell or provide fireworks.

34 (x) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-  
35 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the  
36 growing and marketing of nursery stock on the land that constitutes farm use.

37 **(y) Freestanding hospice facilities in existing dwellings and one accessory building, not**  
38 **to exceed 10,000 square feet of total floor area and 12 patient beds if the existing dwelling**  
39 **qualifies for alteration, restoration or replacement under ORS 215.755 (1). As used in this**  
40 **paragraph, "freestanding hospice facility" means a health care facility that complies with**  
41 **ORS 443.860 and that admits only patients who have:**

42 **(A) Been certified by the attending physician to be terminally ill;**

43 **(B) A life expectancy not to exceed 12 months; and**

44 **(C) Given up active treatment aimed at a cure.**

45 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),

1 a single-family residential dwelling not provided in conjunction with farm use may be established  
2 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by  
3 the Agricultural Capability Classification System in use by the United States Department of Agri-  
4 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval  
5 of the governing body or its designee in any area zoned for exclusive farm use upon written findings  
6 showing all of the following:

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

9 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and  
10 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location  
11 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size  
12 or location if it can reasonably be put to farm use in conjunction with other land.

13 (c) Complies with such other conditions as the governing body or its designee considers neces-  
14 sary.

15 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
16 one single-family dwelling, not provided in conjunction with farm use, may be established in any  
17 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that  
18 is not larger than three acres upon written findings showing:

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

21 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a  
22 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating  
23 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is  
24 applicable; and

25 (c) The dwelling complies with other conditions considered necessary by the governing body or  
26 its designee.

27 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing  
28 body shall notify:

29 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-  
30 tablished; and

31 (b) Persons who have requested notice of such applications and who have paid a reasonable fee  
32 imposed by the county to cover the cost of such notice.

33 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days  
34 following the date of postmark of the notice to file a written objection on the grounds only that the  
35 dwelling or activities associated with it would force a significant change in or significantly increase  
36 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-  
37 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-  
38 jection is received, the governing body shall set the matter for hearing in the manner prescribed in  
39 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required  
40 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of  
41 this section.

42 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
43 1948, and July 1, 1983. For the purposes of this section:

44 (a) Only one lot or parcel exists if:

45 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-

1 scribed in this section; and

2 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels  
3 or lots and parcels by the same person, spouses or a single partnership or business entity, separately  
4 or in tenancy in common.

5 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including  
6 but not limited to, lots, parcels or lots and parcels separated only by a public road.

7 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may  
8 retain a life estate in a dwelling on that property and in a tract of land under and around the  
9 dwelling.

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

12 (10) Roads, highways and other transportation facilities and improvements not allowed under  
13 subsections (1) and (2) of this section may be established, subject to the approval of the governing  
14 body or its designee, in areas zoned for exclusive farm use subject to:

15 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable  
16 goal with which the facility or improvement does not comply; or

17 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development  
18 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

19 **SECTION 2.** ORS 215.283 is amended to read:

20 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

21 (a) Public or private schools, including all buildings essential to the operation of a school.

22 (b) Churches and cemeteries in conjunction with churches.

23 (c) The propagation or harvesting of a forest product.

24 (d) Utility facilities necessary for public service, including wetland waste treatment systems but  
25 not including commercial facilities for the purpose of generating electrical power for public use by  
26 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
27 may be established as provided in ORS 215.275.

28 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
29 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,  
30 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
31 operator does or will require the assistance of the relative in the management of the farm use and  
32 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
33 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS  
34 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
35 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
36 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
37 shall operate as a partition of the homesite to create a new parcel.

38 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with  
39 farm use.

40 (g) Operations for the exploration for and production of geothermal resources as defined by ORS  
41 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
42 compressors, separators and other customary production equipment for an individual well adjacent  
43 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
44 an exception under ORS 197.732 (1)(a) or (b).

45 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or

1 construction relating to such operations shall not be a basis for an exception under ORS 197.732  
2 (1)(a) or (b).

3 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-  
4 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings  
5 necessary for its operation.

6 (j) The breeding, kenneling and training of greyhounds for racing.

7 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

8 (L) Reconstruction or modification of public roads and highways, including the placement of  
9 utility facilities overhead and in the subsurface of public roads and highways along the public right  
10 of way, but not including the addition of travel lanes, where no removal or displacement of buildings  
11 would occur, or no new land parcels result.

12 (m) Temporary public road and highway detours that will be abandoned and restored to original  
13 condition or use at such time as no longer needed.

14 (n) Minor betterment of existing public road and highway related facilities such as maintenance  
15 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous  
16 public-owned property utilized to support the operation and maintenance of public roads and high-  
17 ways.

18 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has  
19 been listed in a county inventory as historic property as defined in ORS 358.480.

20 (p) Creation of, restoration of or enhancement of wetlands.

21 (q) A winery, as described in ORS 215.452.

22 (r) Farm stands if:

23 (A) The structures are designed and used for the sale of farm crops or livestock grown on the  
24 farm operation, or grown on the farm operation and other farm operations in the local agricultural  
25 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm  
26 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-  
27 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;  
28 and

29 (B) The farm stand does not include structures designed for occupancy as a residence or for  
30 activity other than the sale of farm crops or livestock and does not include structures for banquets,  
31 public gatherings or public entertainment.

32 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

33 (A) Has intact exterior walls and roof structure;

34 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to  
35 a sanitary waste disposal system;

36 (C) Has interior wiring for interior lights;

37 (D) Has a heating system; and

38 (E) In the case of replacement:

39 (i) Is removed, demolished or converted to an allowable nonresidential use within three months  
40 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of  
41 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable  
42 siting standards. However, the standards shall not be applied in a manner that prohibits the siting  
43 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned  
44 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the  
45 deed records for the county where the property is located a deed restriction prohibiting the siting

1 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless  
2 a statement of release is placed in the deed records for the county. The release shall be signed by  
3 the county or its designee and state that the provisions of this paragraph regarding replacement  
4 dwellings have changed to allow the siting of another dwelling. The county planning director or the  
5 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting  
6 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
7 and release statements filed under this paragraph; and

8 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-  
9 ished within three months after the deferred replacement permit is issued. A deferred replacement  
10 permit allows construction of the replacement dwelling at any time. If, however, the established  
11 dwelling is not removed or demolished within three months after the deferred replacement permit  
12 is issued, the permit becomes void. The replacement dwelling must comply with applicable building  
13 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to  
14 siting at the time of construction. A deferred replacement permit may not be transferred, by sale  
15 or otherwise, except by the applicant to the spouse or a child of the applicant.

16 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as  
17 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor  
18 area or placed on a permanent foundation unless the building or facility preexisted the use approved  
19 under this paragraph. The site shall not include an aggregate surface or hard surface area unless  
20 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model  
21 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
22 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
23 ground.

24 (u) A facility for the processing of farm crops located on a farm operation that provides at least  
25 one-quarter of the farm crops processed at the facility. The building established for the processing  
26 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for  
27 preparation, storage or other farm use or devote more than 10,000 square feet to the processing  
28 activities within another building supporting farm uses. A processing facility shall comply with all  
29 applicable siting standards but the standards shall not be applied in a manner that prohibits the  
30 siting of the processing facility.

31 (v) Fire service facilities providing rural fire protection services.

32 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities  
33 associated with a district as defined in ORS 540.505.

34 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-  
35 cilities or structures that end at the point where the utility service is received by the customer and  
36 that are located on one or more of the following:

37 (A) A public right of way;

38 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
39 jacent property owners has been obtained; or

40 (C) The property to be served by the utility.

41 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
42 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
43 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
44 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
45 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an

1 exclusive farm use zone under this chapter.

2 (z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to  
3 provide rural law enforcement services primarily in rural areas, including parole and post-prison  
4 supervision, but not including a correctional facility as defined under ORS 162.135.

5 (2) The following nonfarm uses may be established, subject to the approval of the governing body  
6 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

7 (a) Commercial activities that are in conjunction with farm use but not including the processing  
8 of farm crops as described in subsection (1)(u) of this section.

9 (b) Operations conducted for:

10 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas  
11 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

12 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-  
13 sources subject to ORS 215.298;

14 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

15 (D) Processing of other mineral resources and other subsurface resources.

16 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the  
17 approval of the county governing body or its designee, a private campground may provide yurts for  
18 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,  
19 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent  
20 foundation. Upon request of a county governing body, the Land Conservation and Development  
21 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion  
22 of the campgrounds in a county if the commission determines that the increase will comply with the  
23 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed  
24 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or  
25 internal cooking appliance.

26 (d) Parks and playgrounds. A public park may be established consistent with the provisions of  
27 ORS 195.120.

28 (e) Community centers owned by a governmental agency or a nonprofit community organization  
29 and operated primarily by and for residents of the local rural community. A community center au-  
30 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
31 gency and transitional shelter, preparation and service of meals, vocational and educational  
32 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
33 income replacement and substance abuse services, only in a facility that is in existence on January  
34 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
35 replacement or substance abuse services.

36 (f) Golf courses.

37 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

38 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-  
39 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-  
40 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional  
41 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-  
42 erations. No aircraft may be based on a personal-use airport other than those owned or controlled  
43 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be  
44 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
45 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-

1 ject to any applicable rules of the Oregon Department of Aviation.

2 (i) Home occupations as provided in ORS 215.448.

3 (j) A facility for the primary processing of forest products, provided that such facility is found  
4 to not seriously interfere with accepted farming practices and is compatible with farm uses de-  
5 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is  
6 renewable. These facilities are intended to be only portable or temporary in nature. The primary  
7 processing of a forest product, as used in this section, means the use of a portable chipper or stud  
8 mill or other similar methods of initial treatment of a forest product in order to enable its shipment  
9 to market. Forest products, as used in this section, means timber grown upon a parcel of land or  
10 contiguous land where the primary processing facility is located.

11 (k) A site for the disposal of solid waste approved by the governing body of a city or county or  
12 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-  
13 mental Quality together with equipment, facilities or buildings necessary for its operation.

14 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
15 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
16 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
17 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
18 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
19 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
20 view of the hardship claimed under this paragraph. A temporary residence approved under this  
21 paragraph is not eligible for replacement under subsection (1)(s) of this section.

22 (m) Transmission towers over 200 feet in height.

23 (n) Dog kennels not described in subsection (1)(j) of this section.

24 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

25 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not  
26 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
27 shall not include any species under quarantine by the State Department of Agriculture or the United  
28 States Department of Agriculture. The county shall provide notice of all applications under this  
29 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
30 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
31 tive decision or initial public hearing on the application.

32 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way  
33 but not resulting in the creation of new land parcels.

34 (r) Reconstruction or modification of public roads and highways involving the removal or dis-  
35 placement of buildings but not resulting in the creation of new land parcels.

36 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh  
37 stations and rest areas, where additional property or right of way is required but not resulting in  
38 the creation of new land parcels.

39 (t) A destination resort that is approved consistent with the requirements of any statewide  
40 planning goal relating to the siting of a destination resort.

41 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
42 dences.

43 (v) Operations for the extraction and bottling of water.

44 (w) Expansion of existing county fairgrounds and activities directly relating to county  
45 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

1 (x) A living history museum related to resource based activities owned and operated by a gov-  
2 ernmental agency or a local historical society, together with limited commercial activities and fa-  
3 cilities that are directly related to the use and enjoyment of the museum and located within  
4 authentic buildings of the depicted historic period or the museum administration building, if areas  
5 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
6 the museum administration buildings and parking lot are located within one quarter mile of an ur-  
7 ban growth boundary. As used in this paragraph:

8 (A) "Living history museum" means a facility designed to depict and interpret everyday life and  
9 culture of some specific historic period using authentic buildings, tools, equipment and people to  
10 simulate past activities and events; and

11 (B) "Local historical society" means the local historical society recognized by the county gov-  
12 erning body and organized under ORS chapter 65.

13 (y) An aerial fireworks display business that has been in continuous operation at its current  
14 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's  
15 permit to sell or provide fireworks.

16 (z) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-  
17 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the  
18 growing and marketing of nursery stock on the land that constitutes farm use.

19 **(aa) Freestanding hospice facilities in existing dwellings and one accessory building, not**  
20 **to exceed 10,000 square feet of total floor area and 12 patient beds if the existing dwelling**  
21 **qualifies for alteration, restoration or replacement under ORS 215.755 (1). As used in this**  
22 **paragraph, "freestanding hospice facility" means a health care facility that complies with**  
23 **ORS 443.860 and that admits only patients who have:**

24 **(A) Been certified by the attending physician to be terminally ill;**

25 **(B) A life expectancy not to exceed 12 months; and**

26 **(C) Given up active treatment aimed at a cure.**

27 (3) Roads, highways and other transportation facilities and improvements not allowed under  
28 subsections (1) and (2) of this section may be established, subject to the approval of the governing  
29 body or its designee, in areas zoned for exclusive farm use subject to:

30 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable  
31 goal with which the facility or improvement does not comply; or

32 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development  
33 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

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