

# House Bill 3099

Sponsored by Representative CLEM (at the request of Oregon Farm Bureau)

## 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**.

Modifies conditional and outright permitted uses of land zoned for exclusive farm use. Modifies criteria for uses.

## A BILL FOR AN ACT

1  
2 Relating to use of land zoned for exclusive farm use; creating new provisions; amending ORS 92.010,  
3 197.065, 215.203, 215.213, 215.246, 215.249, 215.251, 215.263, 215.275, 215.283, 215.284, 215.417,  
4 215.452, 215.780, 308A.056 and 459.109; and repealing ORS 215.297.

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

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

7 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
8 Edition), the following uses may be established in any area zoned for exclusive farm use:

9 *[(a) Public or private schools, including all buildings essential to the operation of a school.]*

10 *[(b)]* **(a)** Churches and cemeteries in conjunction with churches.

11 *[(c)]* **(b)** The propagation or harvesting of a forest product.

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

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

26 *[(f)]* **(e)** Nonresidential buildings customarily provided in conjunction with farm use.

27 *[(g)]* **(f)** Primary or accessory dwellings customarily provided in conjunction with farm use. For  
28 a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm op-  
29 eration and is not smaller than the minimum lot size in a farm zone with a minimum lot size ac-  
30 knowledged under ORS 197.251.

31 *[(h)]* **(g)** Operations for the exploration for and production of geothermal resources as defined

**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 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation  
 2 of compressors, separators and other customary production equipment for an individual well adja-  
 3 cent to the wellhead. Any activities or construction relating to such operations shall not be a basis  
 4 for an exception under ORS 197.732 (2)(a) or (b).

5 [(i)] (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities  
 6 or construction relating to such operations shall not be a basis for an exception under ORS 197.732  
 7 (2)(a) or (b).

8 [(j)] *A site for the disposal of solid waste that has been ordered to be established by the Environ-  
 9 mental Quality Commission under ORS 459.049, together with equipment, facilities or buildings neces-  
 10 sary for its operation.*

11 [(k)] (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of  
 12 an existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
 13 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
 14 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
 15 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
 16 to an allowed nonresidential use. *[The governing body or its designee shall provide for periodic review  
 17 of the hardship claimed under this paragraph. A temporary residence approved under this paragraph  
 18 is not eligible for replacement under paragraph (t) of this subsection.]* **A temporary hardship dwell-  
 19 ing approved under this paragraph is not eligible for replacement under paragraph (q) of this  
 20 subsection. The governing body or its designee shall review the approval of a temporary  
 21 hardship dwelling authorized under this paragraph at two-year intervals. At review, the ap-  
 22 plicant for whom the temporary hardship dwelling was approved shall submit a notarized  
 23 statement attesting that either:**

24 **(A) The hardship for which the dwelling was approved is still in effect; or**

25 **(B) The hardship is no longer in effect and the dwelling has been, or will be, removed by  
 26 a date certain as required by this paragraph.**

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

30 [(m)] (j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

31 [(n)] (k) Reconstruction or modification of public roads and highways, including the placement  
 32 of utility facilities overhead and in the subsurface of public roads and highways along the public  
 33 right of way, but not including the addition of travel lanes, where no removal or displacement of  
 34 buildings would occur, or no new land parcels result.

35 [(o)] (L) Temporary public road and highway detours that will be abandoned and restored to  
 36 original condition or use at such time as no longer needed.

37 [(p)] (m) Minor betterment of existing public road and highway related facilities, such as main-  
 38 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and  
 39 contiguous public-owned property utilized to support the operation and maintenance of public roads  
 40 and highways.

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

43 [(r)] (o) Creation [of], restoration [of] or enhancement of wetlands.

44 [(s)] (p) A winery, as described in ORS 215.452.

45 [(t)] (q) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

4 (C) Has interior wiring for interior lights;

5 (D) Has a heating system; and

6 (E) In the case of replacement:

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

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

29 [(u)] (r) Farm stands if:

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

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

39 [(v)] (s) An armed forces reserve center, if the center is within one-half mile of a community  
40 college. For purposes of this paragraph, "armed forces reserve center" includes an armory or Na-  
41 tional Guard support facility.

42 [(w)] *A site for the takeoff and landing of model aircraft, including such buildings or facilities as*  
43 *may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor*  
44 *area or placed on a permanent foundation unless the building or facility preexisted the use approved*  
45 *under this paragraph. The site shall not include an aggregate surface or hard surface area unless the*

1 *surface preexisted the use approved under this paragraph. As used in this paragraph, “model*  
 2 *aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used*  
 3 *or intended to be used for flight and is controlled by radio, lines or design by a person on the*  
 4 *ground.]*

5 [(x)] (t) A facility for the processing of farm crops, or the production of biofuel as defined in  
 6 ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops  
 7 processed at the facility. The building established for the processing facility shall not exceed 10,000  
 8 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm  
 9 use or devote more than 10,000 square feet to the processing activities within another building  
 10 supporting farm uses. A processing facility shall comply with all applicable siting standards but the  
 11 standards shall not be applied in a manner that prohibits the siting of the processing facility.

12 [(y)] (u) Fire service facilities providing rural fire protection services.

13 [(z)] (v) Irrigation canals, delivery lines and those structures and accessory operational facilities  
 14 associated with a district as defined in ORS 540.505.

15 [(aa)] (w) Utility facility service lines. Utility facility service lines are utility lines and accessory  
 16 facilities or structures that end at the point where the utility service is received by the customer  
 17 and that are located on one or more of the following:

18 (A) A public right of way;

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

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

22 [(bb)] (x) Subject to the issuance of a license, permit or other approval by the Department of  
 23 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance  
 24 with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land appli-  
 25 cation of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
 26 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
 27 exclusive farm use zone under this chapter.

28 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
 29 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
 30 215.296:

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

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

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

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

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

45 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-

1 nual income.

2 (c) Commercial activities that are in conjunction with farm use, including the processing of farm  
 3 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection [(1)(x)] (1)(t) of this sec-  
 4 tion.

5 (d) Operations conducted for:

6 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas  
 7 as defined by ORS 520.005, not otherwise permitted under subsection [(1)(h)] (1)(g) of this section;

8 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-  
 9 sources subject to ORS 215.298 **except that these activities may not be conducted on a tract**  
 10 **of land in the Willamette Valley that is zoned for exclusive farm use and that contains five**  
 11 **acres or more of a combination of Class I and Class II prime and unique soils unless there**  
 12 **is a demonstration that the proposed use cannot be reasonably accommodated:**

13 (i) **On land that is identified in an acknowledged comprehensive plan as an exception area**  
 14 **or nonresource land;**

15 (ii) **On resource land that is irrevocably committed to nonresource uses; or**

16 (iii) **In an urban growth boundary;**

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

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

19 (e) Community centers owned by a governmental agency or a nonprofit community organization  
 20 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
 21 serves, public and private parks[, *playgrounds*] and campgrounds. **However, private parks may not**  
 22 **be sited on high-value farmland as defined in ORS 195.300.** Subject to the approval of the county  
 23 governing body or its designee, a private campground may provide yurts for overnight camping. No  
 24 more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The  
 25 yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request  
 26 of a county governing body, the Land Conservation and Development Commission may provide by  
 27 rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a  
 28 county if the commission determines that the increase will comply with the standards described in  
 29 ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120.  
 30 As used in this paragraph[,]:

31 (A) **“Private parks” means privately owned facilities that do not dominate or change the**  
 32 **essential character of the farm environment and that provide either passive outdoor recre-**  
 33 **ational opportunities or, where designed to meet specific, publicly identified rural recre-**  
 34 **ational needs, playgrounds or other small-scale active outdoor recreational opportunities.**

35 (B) **“Yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no**  
 36 **plumbing, sewage disposal hookup or internal cooking appliance.**

37 (f) Golf courses **on land determined to not be high-value farmland as defined in ORS**  
 38 **195.300.**

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

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

1 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
 2 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-  
 3 ject to any applicable rules of the Oregon Department of Aviation.

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

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

15 [(k) (j) Dog kennels [not described in subsection (1)(L) of this section] **other than kennels used**  
 16 **for the breeding, kenneling and training of greyhounds for racing.**

17 [(L) (k) Residential homes as defined in ORS 197.660, in existing dwellings.

18 [(m) (L) The propagation, cultivation, maintenance and harvesting of aquatic species that are  
 19 not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect spe-  
 20 cies shall not include any species under quarantine by the State Department of Agriculture or the  
 21 United States Department of Agriculture. The county shall provide notice of all applications under  
 22 this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with  
 23 the county's land use regulations but shall be mailed at least 20 calendar days prior to any admin-  
 24 istrative decision or initial public hearing on the application.

25 [(n) (m) Home occupations as provided in ORS 215.448.

26 [(o) ] (n) Transmission towers over 200 feet in height.

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

29 [(q) (p) Reconstruction or modification of public roads and highways involving the removal or  
 30 displacement of buildings but not resulting in the creation of new land parcels.

31 [(r) (q) Improvement of public road and highway related facilities such as maintenance yards,  
 32 weigh stations and rest areas, where additional property or right of way is required but not result-  
 33 ing in the creation of new land parcels.

34 [(s) (r) A destination resort that is approved consistent with the requirements of any statewide  
 35 planning goal relating to the siting of a destination resort.

36 [(t) (s) Room and board arrangements for a maximum of five unrelated persons in existing res-  
 37 idences.

38 [(u) A living history museum related to resource based activities owned and operated by a gov-  
 39 ernmental agency or a local historical society, together with limited commercial activities and facilities  
 40 that are directly related to the use and enjoyment of the museum and located within authentic buildings  
 41 of the depicted historic period or the museum administration building, if areas other than an exclusive  
 42 farm use zone cannot accommodate the museum and related activities or if the museum administration  
 43 buildings and parking lot are located within one quarter mile of the metropolitan urban growth  
 44 boundary. As used in this paragraph:]

45 [(A) "Living history museum" means a facility designed to depict and interpret everyday life and

1 *culture of some specific historic period using authentic buildings, tools, equipment and people to simu-*  
 2 *late past activities and events; and]*

3 [(B) "*Local historical society*" means the local historical society, recognized as such by the county  
 4 governing body and organized under ORS chapter 65.]

5 [(v) *Operations for the extraction and bottling of water.*]

6 [(w) *An aerial fireworks display business that has been in continuous operation at its current lo-*  
 7 *cation within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit*  
 8 *to sell or provide fireworks.*]

9 [(x)] (t) A landscape contracting business, as defined in ORS 671.520, or a business providing  
 10 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-  
 11 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

12 (u) **Public or private schools for kindergarten through grade 12, including all buildings**  
 13 **essential to the operation of a school, primarily for residents of the rural community in**  
 14 **which the school is located.**

15 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
 16 a single-family residential dwelling not provided in conjunction with farm use may be established  
 17 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by  
 18 the Agricultural Capability Classification System in use by the United States Department of Agri-  
 19 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval  
 20 of the governing body or its designee in any area zoned for exclusive farm use upon written findings  
 21 showing all of the following:

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 practices on nearby lands devoted to farm use.

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

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

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

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

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

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

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

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

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

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

12 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
 13 1948, and July 1, 1983. For the purposes of this section:

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

15 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-  
 16 scribed in this section; and

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

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

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

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

27 (10) 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.

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

35 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

36 [(a) *Public or private schools, including all buildings essential to the operation of a school.*]

37 [(b)] (a) Churches and cemeteries in conjunction with churches.

38 [(c)] (b) The propagation or harvesting of a forest product.

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

43 [(e)] (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative  
 44 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-  
 45 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if



1 the farm operator does or will require the assistance of the relative in the management of the farm  
 2 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
 3 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS  
 4 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
 5 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
 6 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
 7 shall operate as a partition of the homesite to create a new parcel.

8 [(f)] (e) Primary or accessory dwellings and other buildings customarily provided in conjunction  
 9 with farm use.

10 [(g)] (f) Operations for the exploration for and production of geothermal resources as defined  
 11 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation  
 12 of compressors, separators and other customary production equipment for an individual well adja-  
 13 cent to the wellhead. Any activities or construction relating to such operations shall not be a basis  
 14 for an exception under ORS 197.732 (2)(a) or (b).

15 [(h)] (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities  
 16 or construction relating to such operations shall not be a basis for an exception under ORS 197.732  
 17 (2)(a) or (b).

18 [(i)] *A site for the disposal of solid waste that has been ordered to be established by the Environ-  
 19 mental Quality Commission under ORS 459.049, together with equipment, facilities or buildings neces-  
 20 sary for its operation.*

21 [(j)] *The breeding, kenneling and training of greyhounds for racing.*

22 [(k)] (h) Climbing and passing lanes within the right of way existing as of July 1, 1987.

23 [(L)] (i) Reconstruction or modification of public roads and highways, including the placement  
 24 of utility facilities overhead and in the subsurface of public roads and highways along the public  
 25 right of way, but not including the addition of travel lanes, where no removal or displacement of  
 26 buildings would occur, or no new land parcels result.

27 [(m)] (j) Temporary public road and highway detours that will be abandoned and restored to  
 28 original condition or use at such time as no longer needed.

29 [(n)] (k) Minor betterment of existing public road and highway related facilities such as main-  
 30 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and  
 31 contiguous public-owned property utilized to support the operation and maintenance of public roads  
 32 and highways.

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

35 [(p)] (m) Creation [of], restoration [of] or enhancement of wetlands.

36 [(q)] (n) A winery, as described in ORS 215.452.

37 [(r)] (o) Farm stands if:

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

44 (B) The farm stand does not include structures designed for occupancy as a residence or for  
 45 activity other than the sale of farm crops or livestock and does not include structures for banquets,

1 public gatherings or public entertainment.

2 [(s)] (p) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

6 (C) Has interior wiring for interior lights;

7 (D) Has a heating system; and

8 (E) In the case of replacement:

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

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

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

39 [(u)] (q) A facility for the processing of farm crops, or the production of biofuel as defined in  
40 ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops  
41 processed at the facility. The building established for the processing facility shall not exceed 10,000  
42 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm  
43 use or devote more than 10,000 square feet to the processing activities within another building  
44 supporting farm uses. A processing facility shall comply with all applicable siting standards but the  
45 standards shall not be applied in a manner that prohibits the siting of the processing facility.

- 1        [(v)] (r) Fire service facilities providing rural fire protection services.
- 2        [(w)] (s) Irrigation canals, delivery lines and those structures and accessory operational facili-  
 3 ties associated with a district as defined in ORS 540.505.
- 4        [(x)] (t) Utility facility service lines. Utility facility service lines are utility lines and accessory  
 5 facilities or structures that end at the point where the utility service is received by the customer  
 6 and that are located on one or more of the following:
- 7        (A) A public right of way;
- 8        (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
 9 jacent property owners has been obtained; or
- 10       (C) The property to be served by the utility.
- 11       [(y)] (u) Subject to the issuance of a license, permit or other approval by the Department of  
 12 Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance  
 13 with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land appli-  
 14 cation of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
 15 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
 16 exclusive farm use zone under this chapter.
- 17       [(z)] (v) A county law enforcement facility that lawfully existed on August 20, 2002, and is used  
 18 to provide rural law enforcement services primarily in rural areas, including parole and post-prison  
 19 supervision, but not including a correctional facility as defined under ORS 162.135.
- 20       (2) The following nonfarm uses may be established, subject to the approval of the governing body  
 21 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:
- 22       (a) Commercial activities that are in conjunction with farm use, including the processing of farm  
 23 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection [(1)(u)] (1)(q) of this sec-  
 24 tion.
- 25       (b) Operations conducted for:
- 26       (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas  
 27 as defined by ORS 520.005 not otherwise permitted under subsection [(1)(g)] (1)(f) of this section;
- 28       (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-  
 29 sources subject to ORS 215.298 **except that these activities may not be conducted on a tract**  
 30 **of land in the Willamette Valley that is zoned for exclusive farm use and contains five acres**  
 31 **or more of a combination of Class I and Class II prime and unique soils unless there is a**  
 32 **demonstration that the proposed use cannot be reasonably accommodated:**
- 33       (i) **On land that is identified in an acknowledged comprehensive plan as an exception area**  
 34 **or nonresource land;**
- 35       (ii) **On resource land that is irrevocably committed to nonresource uses; or**
- 36       (iii) **In an urban growth boundary;**
- 37       (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
- 38       (D) Processing of other mineral resources and other subsurface resources.
- 39       (c) Private parks, [playgrounds,] hunting and fishing preserves and campgrounds. **However,**  
 40 **private parks may not be sited on high-value farmland as defined in ORS 195.300.** Subject to  
 41 the approval of the county governing body or its designee, a private campground may provide yurts  
 42 for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,  
 43 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent  
 44 foundation. Upon request of a county governing body, the Land Conservation and Development  
 45 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion

1 of the campgrounds in a county if the commission determines that the increase will comply with the  
 2 standards described in ORS 215.296 (1). As used in this paragraph[,]:

3 **(A) “Private parks” means privately owned facilities that do not dominate or change the**  
 4 **essential character of the farm environment and that provide either passive outdoor recre-**  
 5 **ational opportunities or, where designed to meet specific, publicly identified rural recre-**  
 6 **ational needs, playgrounds or other small-scale active outdoor recreational opportunities.**

7 **(B) “Yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no**  
 8 **plumbing, sewage disposal hookup or internal cooking appliance.**

9 (d) Parks and playgrounds. A public park may:

10 **(A)** Be established consistent with the provisions of ORS 195.120.

11 **(B) Not be established on high-value farmland as defined in ORS 195.300.**

12 (e) Community centers owned by a governmental agency or a nonprofit community organization  
 13 and operated primarily by and for residents of the local rural community. A community center au-  
 14 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
 15 gency and transitional shelter, preparation and service of meals, vocational and educational  
 16 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
 17 income replacement and substance abuse services, only in a facility that is in existence on January  
 18 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
 19 replacement or substance abuse services.

20 (f) Golf courses **on land that is determined to not be high-value farmland, as defined in**  
 21 **ORS 195.300.**

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

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

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

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

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

44 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
 45 existing building, in conjunction with an existing dwelling as a temporary use for the term of a

1 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
 2 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
 3 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
 4 to an allowed nonresidential use. *[The governing body or its designee shall provide for periodic review*  
 5 *of the hardship claimed under this paragraph. A temporary residence approved under this paragraph*  
 6 *is not eligible for replacement under subsection (1)(s) of this section.]* **A temporary hardship dwelling**  
 7 **approved under this paragraph is not eligible for replacement under subsection (1)(p) of this**  
 8 **section. The governing body or its designee shall review the approval of a temporary hardship**  
 9 **dwelling authorized under this paragraph at two-year intervals. At review, the applicant for**  
 10 **whom the temporary hardship dwelling was approved shall submit a notarized statement at-**  
 11 **testing that either:**

12 (A) **The hardship for which the dwelling was approved is still in effect; or**

13 (B) **The hardship is no longer in effect and the dwelling has been, or will be, removed by**  
 14 **a date certain as required by this paragraph.**

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

16 (n) Dog kennels *[not described in subsection (1)(j) of this section]* **other than kennels used for**  
 17 **the breeding, kenneling and training of greyhounds for racing.**

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

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

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

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

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

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

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

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

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

40 *[(x) A living history museum related to resource based activities owned and operated by a gov-*  
 41 *ernmental agency or a local historical society, together with limited commercial activities and facilities*  
 42 *that are directly related to the use and enjoyment of the museum and located within authentic buildings*  
 43 *of the depicted historic period or the museum administration building, if areas other than an exclusive*  
 44 *farm use zone cannot accommodate the museum and related activities or if the museum administration*  
 45 *buildings and parking lot are located within one quarter mile of an urban growth boundary. As used*

1 *in this paragraph:]*

2 [(A) “Living history museum” means a facility designed to depict and interpret everyday life and  
3 culture of some specific historic period using authentic buildings, tools, equipment and people to simu-  
4 late past activities and events; and]

5 [(B) “Local historical society” means the local historical society recognized by the county governing  
6 body and organized under ORS chapter 65.]

7 [(y) An aerial fireworks display business that has been in continuous operation at its current lo-  
8 cation within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler’s permit  
9 to sell or provide fireworks.]

10 [(z)] (x) A landscape contracting business, as defined in ORS 671.520, or a business providing  
11 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-  
12 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

13 (y) **Public or private schools for kindergarten through grade 12, including all buildings**  
14 **essential to the operation of a school, primarily for residents of the rural community in**  
15 **which the school is located.**

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

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

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

23 **SECTION 3.** ORS 92.010, as amended by section 3, chapter 12, Oregon Laws 2008, is amended  
24 to read:

25 92.010. As used in ORS 92.010 to 92.190, unless the context requires otherwise:

26 (1) “Declarant” means the person who files a declaration under ORS 92.075.

27 (2) “Declaration” means the instrument described in ORS 92.075 by which the subdivision or  
28 partition plat was created.

29 (3)(a) “Lawfully established unit of land” means:

30 (A) A lot or parcel created pursuant to ORS 92.010 to 92.190; or

31 (B) Another unit of land created:

32 (i) In compliance with all applicable planning, zoning and subdivision or partition ordinances  
33 and regulations; or

34 (ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision  
35 or partition ordinances or regulations.

36 (b) “Lawfully established unit of land” does not mean a unit of land created solely to establish  
37 a separate tax account.

38 (4) “Lot” means a single unit of land that is created by a subdivision of land.

39 (5) “Negotiate” means any activity preliminary to the execution of a binding agreement for the  
40 sale of land in a subdivision or partition, including but not limited to advertising, solicitation and  
41 promotion of the sale of such land.

42 (6) “Parcel” means a single unit of land that is created by a partition of land.

43 (7) “Partition” means either an act of partitioning land or an area or tract of land partitioned.

44 (8) “Partition plat” includes a final map and other writing containing all the descriptions, lo-  
45 cations, specifications, provisions and information concerning a partition.

1 (9) "Partitioning land" means dividing land to create not more than three parcels of land within  
 2 a calendar year, but does not include:

3 (a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale  
 4 of real property or the creation of cemetery lots;

5 (b) Adjusting a property line as property line adjustment is defined in this section;

6 (c) Dividing land as a result of the recording of a subdivision or condominium plat;

7 (d) Selling or granting by a person to a public agency or public body of property for state  
 8 highway, county road, city street or other right of way purposes if the road or right of way complies  
 9 with the applicable comprehensive plan and ORS 215.213 [(2)(p) to (r)] **(2)(o) to (q)** and 215.283 (2)(q)  
 10 to (s). However, any property sold or granted for state highway, county road, city street or other  
 11 right of way purposes shall continue to be considered a single unit of land until the property is  
 12 further subdivided or partitioned; or

13 (e) Selling or granting by a public agency or public body of excess property resulting from the  
 14 acquisition of land by the state, a political subdivision or special district for highways, county roads,  
 15 city streets or other right of way purposes when the sale or grant is part of a property line ad-  
 16 justment incorporating the excess right of way into adjacent property. The property line adjustment  
 17 shall be approved or disapproved by the applicable local government. If the property line adjustment  
 18 is approved, it shall be recorded in the deed records of the county where the property is located.

19 (10) "Plat" includes a final subdivision plat, replat or partition plat.

20 (11) "Property line" means the division line between two units of land.

21 (12) "Property line adjustment" means a relocation or elimination of all or a portion of the  
 22 common property line between abutting properties that does not create an additional lot or parcel.

23 (13) "Replat" means the act of platting the lots, parcels and easements in a recorded subdivision  
 24 or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to in-  
 25 crease or decrease the number of lots in the subdivision.

26 (14) "Road" or "street" means a public or private way that is created to provide ingress or  
 27 egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that  
 28 is created to provide ingress or egress to such land in conjunction with the use of such land for  
 29 forestry, mining or agricultural purposes.

30 (15) "Sale" or "sell" includes every disposition or transfer of land or an interest or estate  
 31 therein.

32 (16) "Subdivide land" means to divide land to create four or more lots within a calendar year.

33 (17) "Subdivision" means either an act of subdividing land or an area or a tract of land subdi-  
 34 vided.

35 (18) "Subdivision plat" includes a final map and other writing containing all the descriptions,  
 36 locations, specifications, dedications, provisions and information concerning a subdivision.

37 (19) "Utility easement" means an easement noted on a subdivision plat or partition plat for the  
 38 purpose of installing or maintaining public or private utility infrastructure for the provision of wa-  
 39 ter, power, heat or telecommunications to the public.

40 **SECTION 4.** ORS 197.065 is amended to read:

41 197.065. (1) Prior to each legislative session, the Land Conservation and Development Commis-  
 42 sion shall submit to the appropriate legislative committee a written report analyzing applications  
 43 approved and denied for:

44 (a) New and replacement dwellings under:

45 (A) ORS 215.213 [(1)(e) and (g)] **(1)(d) and (f)**, (2)(a) and (b), (3) and (4), 215.283 [(1)(e) and (f)]

1 (1)(d) and (e), 215.284 and 215.705; and

2 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

3 (b) Divisions of land under:

4 (A) ORS 215.263 (2), (4) and (5); and

5 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

6 (c) Dwellings and land divisions approved for marginal lands under:

7 (A) ORS 215.317 or 215.327; and

8 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

9 and

10 (d) Such other matters pertaining to protection of agricultural or forest land as the commission  
11 deems appropriate.

12 (2) The governing body of each county shall provide the Department of Land Conservation and  
13 Development with a report of its actions involving those dwellings, land divisions and land desig-  
14 nations upon which the commission must report to the appropriate legislative committee under  
15 subsection (1) of this section. The department shall establish, after consultation with county gov-  
16 erning bodies, an annual reporting period and may establish a schedule for receiving county reports  
17 at intervals within the reporting period. The report shall be on a standard form with a standardized  
18 explanation adopted by the commission and shall be eligible for grants by the commission. The re-  
19 port shall include the findings for each action except actions involving:

20 (a) Dwellings authorized by ORS 215.213 [(1)(e)] (1)(d) or 215.283 [(1)(e)] (1)(d); or

21 (b) Land divisions authorized by ORS 215.263 (2) creating parcels as large as or larger than a  
22 minimum size established by the commission under ORS 215.780.

23 (3) The governing body of each county shall, upon request by the department, provide the de-  
24 partment with other information necessary to carry out subsection (1) of this section.

25 **SECTION 5.** ORS 215.203 is amended to read:

26 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the  
27 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use  
28 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established  
29 only when such zoning is consistent with the comprehensive plan.

30 (2)(a) As used in this section, "farm use" means the current employment of land for the primary  
31 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,  
32 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or  
33 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural  
34 use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage  
35 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-  
36 man or animal use. "Farm use" also includes the current employment of land for the primary pur-  
37 pose of obtaining a profit in money by stabling or training equines including but not limited to  
38 providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propa-  
39 gation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under  
40 the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules  
41 adopted by the commission. "Farm use" includes the on-site construction and maintenance of  
42 equipment and facilities used for the activities described in this subsection. "Farm use" does not  
43 include the use of land subject to the provisions of ORS chapter 321, except land used exclusively  
44 for growing cultured Christmas trees as defined in subsection (3) of this section or land described  
45 in ORS 321.267 (3) or 321.824 (3).



- 1 (b) “Current employment” of land for farm use includes:
- 2 (A) Farmland, the operation or use of which is subject to any farm-related government program;
- 3 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural
- 4 husbandry;
- 5 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
- 6 of this paragraph, prior to maturity;
- 7 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special
- 8 farm use value in the year prior to planting the current crop and has been planted in orchards,
- 9 cultured Christmas trees or vineyards for at least three years;
- 10 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
- 11 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
- 12 which is not currently being used for any economic farm use;
- 13 (F) Except for land under a single family dwelling, land under buildings supporting accepted
- 14 farm practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(t) and 215.283
- 15 [(1)(u)] (1)(q) and the processing of farm crops into biofuel as commercial activities in conjunction
- 16 with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
- 17 (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- 18 (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
- 19 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
- 20 in conjunction with farm use;
- 21 (I) Land lying idle for no more than one year where the absence of farming activity is due to
- 22 the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph,
- 23 illness includes injury or infirmity whether or not such illness results in death;
- 24 (J) Any land described under ORS 321.267 (3) or 321.824 (3);
- 25 (K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
- 26 kenneling or training of greyhounds for racing; and
- 27 (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
- 28 (i) Only the crops of the landowner are being processed;
- 29 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
- 30 of the landowner; or
- 31 (iii) The landowner is custom processing crops into biofuel from other landowners in the area
- 32 for their use or sale.
- 33 (c) As used in this subsection, “accepted farming practice” means a mode of operation that is
- 34 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
- 35 in money, and customarily utilized in conjunction with farm use.
- 36 (3) “Cultured Christmas trees” means trees:
- 37 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-
- 38 vation methods such as plowing or turning over the soil;
- 39 (b) Of a marketable species;
- 40 (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
- 41 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- 42 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
- 43 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
- 44 disease control, stump culture, soil cultivation, irrigation.
- 45 **SECTION 6.** ORS 215.246 is amended to read:

1 215.246. (1) The uses allowed under ORS 215.213 [(1)(bb)] **(1)(x)** and 215.283 [(1)(y)] **(1)(u)**:

2 (a) Require a determination by the Department of Environmental Quality, in conjunction with  
 3 the department's review of a license, permit or approval, that the application rates and site man-  
 4 agement practices for the land application of reclaimed water, agricultural or industrial process  
 5 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not  
 6 reduce the productivity of the tract.

7 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS  
 8 215.275 or 215.296.

9 (2) The use of a tract of land on which the land application of reclaimed water, agricultural or  
 10 industrial process water or biosolids has occurred under this section may not be changed to allow  
 11 a different use unless:

12 (a) The tract is included within an acknowledged urban growth boundary;

13 (b) The tract is rezoned to a zone other than an exclusive farm use zone;

14 (c) The different use of the tract is a farm use as defined in ORS 215.203; or

15 (d) The different use of the tract is a use allowed under:

16 (A) ORS 215.213 [(1)(c), (e) to (g), (k), (m) to (q), (s) to (u), (x), (z) or (aa)] **(1)(b), (d) to (f), (i) to**  
 17 **(n), (p) to (r), (t), (v) or (w)**;

18 (B) ORS 215.213 (2)(a) to (c), (i), [(m) or (p) to (r)] **(L) or (o) to (q)**;

19 (C) ORS 215.283 [(1)(c), (e), (f), (k) to (o), (q) to (s), (u), (w) or (x)] **(1)(b), (d), (e), (h) to (L), (n)**  
 20 **to (q), (s) or (t)**; or

21 (D) ORS 215.283 (2)(a), (j), (L) or (p) to (s).

22 (3) When a state agency or a local government makes a land use decision relating to the land  
 23 application of reclaimed water, agricultural or industrial process water or biosolids under a license,  
 24 permit or approval by the Department of Environmental Quality, the applicant shall explain in  
 25 writing how alternatives identified in public comments on the land use decision were considered and,  
 26 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The  
 27 applicant must consider only those alternatives that are identified with sufficient specificity to af-  
 28 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating  
 29 to the land application of reclaimed water, agricultural or industrial process water or biosolids may  
 30 not be reversed or remanded under this subsection unless the applicant failed to consider identified  
 31 alternatives or to explain in writing the reasons for not using the alternatives.

32 (4) The uses allowed under this section include:

33 (a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that  
 34 occurs as a result of the land application;

35 (b) The establishment and use of facilities, including buildings, equipment, aerated and  
 36 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and  
 37 reasonably necessary for the land application to occur on the subject tract;

38 (c) The establishment and use of facilities, including buildings and equipment, that are not on  
 39 the tract on which the land application occurs for the transport of reclaimed water, agricultural or  
 40 industrial process water or biosolids to the tract on which the land application occurs if the facili-  
 41 ties are located within:

42 (A) A public right of way; or

43 (B) Other land if the landowner provides written consent and the owner of the facility complies  
 44 with ORS 215.275 (4); and

45 (d) The transport by vehicle of reclaimed water or agricultural or industrial process water to

1 a tract on which the water will be applied to land.

2 (5) Uses not allowed under this section include:

3 (a) The establishment and use of facilities, including buildings or equipment, for the treatment  
4 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment  
5 facilities related to the treatment that occurs as a result of the land application; or

6 (b) The establishment and use of utility facility service lines allowed under ORS 215.213  
7 [(1)(aa)] (1)(w) or 215.283 [(1)(x)] (1)(t).

8 **SECTION 7.** ORS 215.249 is amended to read:

9 215.249. Notwithstanding ORS 215.263, the governing body of a county or its designee may not  
10 approve a proposed division of land in an exclusive farm use zone for the land application of re-  
11 claimed water, agricultural or industrial process water or biosolids described in ORS 215.213  
12 [(1)(bb)] (1)(x) or 215.283 [(1)(y)] (1)(u).

13 **SECTION 8.** ORS 215.251 is amended to read:

14 215.251. Nothing in ORS 215.213 [(1)(bb)] (1)(x), 215.246 to 215.249 or 215.283 [(1)(y)] (1)(u) af-  
15 fects whether the land application of a substance not described in ORS 215.213 [(1)(bb)] (1)(x),  
16 215.246 to 215.249 or 215.283 [(1)(y)] (1)(u) is a farm use as defined in ORS 215.203.

17 **SECTION 9.** ORS 215.263 is amended to read:

18 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting  
19 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the  
20 governing body or its designee of the county in which the land is situated. The governing body of  
21 a county by ordinance shall require such prior review and approval for such divisions of land within  
22 exclusive farm use zones established within the county.

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

25 (a) That the proposed division of land is appropriate for the continuation of the existing com-  
26 mercial agricultural enterprise within the area; or

27 (b) The parcels created by the proposed division are not smaller than the minimum size estab-  
28 lished under ORS 215.780.

29 (3) The governing body of a county or its designee may approve a proposed division of land in  
30 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283  
31 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for  
32 the use. The governing body may establish other criteria as it considers necessary.

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

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

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

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

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

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

45 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;

3 and

4 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90  
5 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage  
6 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the  
7 State Department of Agriculture and other interested persons, may establish by rule objective cri-  
8 teria for identifying units of land that are not capable of producing adequate herbaceous forage for  
9 grazing livestock. In developing the criteria, the commission shall use the latest information from  
10 the United States Natural Resources Conservation Service and consider costs required to utilize  
11 grazing lands that differ in acreage and productivity level;

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

13 and

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

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

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

23 (8) The governing body of a county may not approve any proposed division of a lot or parcel  
24 described in ORS 215.213 [(1)(e) or (k)] **(1)(d) or (i)**, 215.283 [(1)(e)] **(1)(d)** or (2)(L) or 215.284 (1), or  
25 a proposed division that separates a processing facility from the farm operation specified in ORS  
26 215.213 [(1)(x)] **(1)(t)** or 215.283 [(1)(u)] **(1)(q)**.

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

29 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved  
30 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

31 (b) For historic property that meets the requirements of ORS 215.213 [(1)(q)] **(1)(n)** and 215.283  
32 [(1)(o)] **(1)(L)**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **SECTION 10.** ORS 215.275 is amended to read:

23 215.275. (1) A utility facility established under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)] (1)(c)  
24 is necessary for public service if the facility must be sited in an exclusive farm use zone in order  
25 to provide the service.

26 (2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS  
27 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)] (1)(c) must show that reasonable alternatives have been  
28 considered and that the facility must be sited in an exclusive farm use zone due to one or more of  
29 the following factors:

30 (a) Technical and engineering feasibility;

31 (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if  
32 it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reason-  
33 ably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

34 (c) Lack of available urban and nonresource lands;

35 (d) Availability of existing rights of way;

36 (e) Public health and safety; and

37 (f) Other requirements of state or federal agencies.

38 (3) Costs associated with any of the factors listed in subsection (2) of this section may be con-  
39 sidered, but cost alone may not be the only consideration in determining that a utility facility is  
40 necessary for public service. Land costs shall not be included when considering alternative locations  
41 for substantially similar utility facilities. The Land Conservation and Development Commission shall  
42 determine by rule how land costs may be considered when evaluating the siting of utility facilities  
43 that are not substantially similar.

44 (4) The owner of a utility facility approved under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)]  
45 (1)(c) shall be responsible for restoring, as nearly as possible, to its former condition any agricul-

1 tural land and associated improvements that are damaged or otherwise disturbed by the siting,  
 2 maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner  
 3 of the utility facility from requiring a bond or other security from a contractor or otherwise im-  
 4 posing on a contractor the responsibility for restoration.

5 (5) The governing body of the county or its designee shall impose clear and objective conditions  
 6 on an application for utility facility siting under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)] (1)(c)  
 7 to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted  
 8 to farm use in order to prevent a significant change in accepted farm practices or a significant in-  
 9 crease in the cost of farm practices on the surrounding farmlands.

10 (6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas  
 11 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy  
 12 Regulatory Commission.

13 **SECTION 11.** ORS 215.284 is amended to read:

14 215.284. (1) In the Willamette Valley, a single-family residential dwelling not provided in con-  
 15 junction with farm use may be established, subject to approval of the governing body or its designee,  
 16 in any area zoned for exclusive farm use upon a finding that:

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

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

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

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

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

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

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

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

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

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

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

45 (3) In counties in western Oregon, as defined in ORS 321.257, not described in subsection (4) of

1 this section, a single-family residential dwelling not provided in conjunction with farm use may be  
2 established, subject to approval of the governing body or its designee, in any area zoned for exclu-  
3 sive farm use upon a finding that:

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

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

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

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

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

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

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

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

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

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

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

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

39 (6) If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to  
40 215.750, no additional dwelling may later be sited under subsection (1), (2), (3), (4) [or], (7) **or** (8)  
41 of this section.

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

45 (a) The dwelling or activities associated with the dwelling will not force a significant change in



1 or significantly increase the cost of accepted farming or forest practices on nearby lands devoted  
 2 to farm or forest use;

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

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

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

9 **(8) A dwelling approved under this section must be sited to maximize the suitability of**  
 10 **the remaining lot or parcel for farm or forest use.**

11 **SECTION 12.** ORS 215.417 is amended to read:

12 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development  
 13 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293  
 14 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four  
 15 years.

16 (2) An extension of a permit described in subsection (1) of this section shall be valid for two  
 17 years.

18 (3) For the purposes of this section, “residential development” only includes the dwellings pro-  
 19 vided for under ORS 215.213 [(1)(t)] **(1)(q)**, (3) and (4), 215.283 [(1)(s)] **(1)(p)**, 215.284, 215.317, 215.705  
 20 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

21 **SECTION 13.** ORS 215.452 is amended to read:

22 215.452. (1) A winery, authorized under ORS 215.213 [(1)(s)] **(1)(p)** and 215.283 [(1)(q)] **(1)(n)**, is  
 23 a facility that produces wine with a maximum annual production of:

24 (a) Less than 50,000 gallons and that:

25 (A) Owns an on-site vineyard of at least 15 acres;

26 (B) Owns a contiguous vineyard of at least 15 acres;

27 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a  
 28 vineyard contiguous to the winery; or

29 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

30 (b) At least 50,000 gallons and no more than 100,000 gallons and that:

31 (A) Owns an on-site vineyard of at least 40 acres;

32 (B) Owns a contiguous vineyard of at least 40 acres;

33 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a  
 34 vineyard contiguous to the winery; or

35 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

36 (2) The winery described in subsection (1)(a) or (b) of this section shall allow only the sale of:

37 (a) Wines produced in conjunction with the winery; and

38 (b) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site.

39 Such items include those served by a limited service restaurant, as defined in ORS 624.010.

40 (3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall  
 41 show that vineyards, described in subsection (1)(a) and (b) of this section, have been planted or that  
 42 the contract has been executed, as applicable.

43 (4) A local government shall adopt findings for each of the standards described in paragraphs  
 44 (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely  
 45 to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farm-

1 ing or forest practices on adjacent lands:

2 (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and  
3 all public gathering places; and

4 (b) Provision of direct road access, internal circulation and parking.

5 (5) A local government shall also apply local criteria regarding floodplains, geologic hazards, the  
6 Willamette River Greenway, solar access, airport safety or other regulations for resource protection  
7 acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas  
8 and natural resources.

9 **SECTION 14.** ORS 215.780 is amended to read:

10 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or  
11 parcel sizes apply to all counties:

12 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

13 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

14 (c) For land designated forestland, at least 80 acres.

15 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)  
16 of this section in any of the following circumstances:

17 (a) By demonstrating to the Land Conservation and Development Commission that it can do so  
18 while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning  
19 goals adopted under ORS 197.230.

20 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed  
21 farm and forest use, subject to the following requirements:

22 (A) The parcel established shall not be larger than five acres, except as necessary to recognize  
23 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

24 (B) The dwelling existed prior to June 1, 1995;

25 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-  
26 dards of the zone; or

27 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and  
28 together the parcels meet the minimum land division standards of the zone; and

29 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-  
30 sequently authorized by law or goal.

31 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for  
32 mixed farm and forest use the following requirements apply:

33 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

34 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for  
35 special assessment under a program under ORS chapter 321.

36 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and  
37 215.283 that are not allowed on forestland.

38 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that  
39 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this  
40 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

41 (A) Shall not be eligible for siting of a new dwelling;

42 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

43 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of  
44 resource lands;

45 (D) Shall not result in a parcel of less than 35 acres, except:

1 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-  
 2 ernmental agency; or

3 (ii) Where the purpose of the land division is to allow transactions in which at least one par-  
 4 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

5 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in  
 6 a parcel less than the minimum lot or parcel size of the zone.

7 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under  
 8 a statewide planning goal protecting forestland if:

9 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

10 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213  
 11 [(1)(t)] **(1)(q)** or 215.283 [(1)(s)] **(1)(p)**;

12 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two  
 13 and five acres in size;

14 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and

15 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-  
 16 striction prohibiting the landowner and the landowner's successors in interest from further dividing  
 17 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel  
 18 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of  
 19 release is signed by the county planning director of the county in which the lot or parcel is located  
 20 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have  
 21 been changed so that the lot or parcel is no longer subject to statewide planning goals protecting  
 22 forestland or unless the land division is subsequently authorized by law or by a change in a state-  
 23 wide planning goal for land zoned for forest use or mixed farm and forest use.

24 (f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as  
 25 provided in ORS 215.783.

26 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for  
 27 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record  
 28 shall be readily available to the public.

29 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing  
 30 dwelling on the lot or parcel was approved under:

31 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that  
 32 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

33 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest  
 34 use zone under a statewide planning goal protecting forestland.

35 (5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to  
 36 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under  
 37 ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section need  
 38 not comply with subsection (2) of this section.

39 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall  
 40 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been  
 41 recorded with the county clerk of the county where the property is located. An applicant for the  
 42 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-  
 43 striction on the newly created parcel has been recorded with the county clerk of the county where  
 44 the property is located. The restriction shall allow no dwellings unless authorized by law or goal  
 45 on land zoned for forest use except as permitted under subsection (2) of this section.

1 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release  
 2 is signed by the county planning director of the county where the property is located indicating that  
 3 the comprehensive plan or land use regulations applicable to the property have been changed in  
 4 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-  
 5 cultural land or forestland.

6 (c) The county planning director shall maintain a record of parcels that do not qualify for the  
 7 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily  
 8 available to the public.

9 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-  
 10 ment that shall be recorded with the county clerk of the county in which the property is located,  
 11 declaring that the landowner and the landowner's successors in interest will not in the future com-  
 12 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

13 **SECTION 15.** ORS 308A.056 is amended to read:

14 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment  
 15 of land for the primary purpose of obtaining a profit in money by:

16 (a) Raising, harvesting and selling crops;

17 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees  
 18 or the produce thereof;

19 (c) Dairying and selling dairy products;

20 (d) Stabling or training equines, including but not limited to providing riding lessons, training  
 21 clinics and schooling shows;

22 (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal  
 23 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

24 (f) On-site constructing and maintaining equipment and facilities used for the activities described  
 25 in this subsection;

26 (g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products  
 27 raised for human or animal use on land described in this section; or

28 (h) Using land described in this section for any other agricultural or horticultural use or animal  
 29 husbandry or any combination thereof.

30 (2) "Farm use" does not include the use of land subject to timber and forestland taxation under  
 31 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-  
 32 scribed in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber,  
 33 including hybrid cottonwood).

34 (3) For purposes of this section, land is currently employed for farm use if the land is:

35 (a) Farmland, the operation or use of which is subject to any farm-related government program;

36 (b) Land lying fallow for one year as a normal and regular requirement of good agricultural  
 37 husbandry;

38 (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of  
 39 this subsection, prior to maturity;

40 (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special  
 41 farm use value in the year prior to planting the current crop and has been planted in orchards,  
 42 cultured Christmas trees or vineyards for at least three years;

43 (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically  
 44 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that  
 45 is not currently being used for any economic farm use;

1 (f) Except for land under a single family dwelling, land under buildings supporting accepted  
 2 farming practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(t) and  
 3 215.283 [(1)(u)] (1)(q) and the processing of farm crops into biofuel as commercial activities in con-  
 4 junction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

5 (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

6 (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the  
 7 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized  
 8 in conjunction with farm use;

9 (i) Land lying idle for no more than one year when the absence of farming activity is the result  
 10 of the illness of the farmer or a member of the farmer’s immediate family, including injury or  
 11 infirmity, regardless of whether the illness results in death;

12 (j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain  
 13 hardwood timber, including hybrid cottonwood);

14 (k) Land used for the primary purpose of obtaining a profit in money by breeding, raising,  
 15 kenneling or training greyhounds for racing; or

16 (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

17 (i) Only the crops of the landowner are being processed;

18 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm  
 19 of the landowner; or

20 (iii) The landowner is custom processing crops into biofuel from other landowners in the area  
 21 for their use or sale.

22 (4) As used in this section:

23 (a) “Accepted farming practice” means a mode of operation that is common to farms of a similar  
 24 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-  
 25 arily utilized in conjunction with farm use.

26 (b) “Cultured Christmas trees” means trees:

27 (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-  
 28 tivation methods such as plowing or turning over the soil;

29 (B) Of a marketable species;

30 (C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as  
 31 specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

32 (D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed  
 33 and brush control and one or more of the following practices:

34 (i) Basal pruning;

35 (ii) Fertilizing;

36 (iii) Insect and disease control;

37 (iv) Stump culture;

38 (v) Soil cultivation; or

39 (vi) Irrigation.

40 **SECTION 16.** ORS 459.109 is amended to read:

41 459.109. Nothing in ORS 215.203, [215.213,] 215.283, 308A.056, 315.141, 315.144, 469.320 and  
 42 469.790:

43 (1) Supersedes any authority under ORS chapter 459 or 459A for cities and counties to regulate  
 44 the collection of solid waste; or

45 (2) Authorizes the collection of solid waste within a city or county without permission of the

1 city or county.

2 **SECTION 17. ORS 215.297 is repealed.**

3 **SECTION 18. (1) The amendments to ORS 215.213 and 215.283 by sections 1 and 2 of this**  
4 **2009 Act apply to uses established on or after the effective date of this 2009 Act.**

5 **(2) The amendments to ORS 215.284 by section 11 of this 2009 Act apply to dwellings ap-**  
6 **proved on or after the effective date of this 2009 Act.**

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