

House Bill 2344

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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 authority for conduct of special events in areas zoned for exclusive farm use or mixed farm and forest use. Modifies authority for activity conducted in wineries or at farm stands established in areas zoned for exclusive farm use.

Establishes standards for consideration of temporary and special use permits for one-time and multiple events in areas zoned for exclusive farm use.

A BILL FOR AN ACT

1
2 Relating to approval of special events on farmlands; creating new provisions; and amending ORS
3 215.213, 215.246, 215.283 and 215.452.

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

5 **SECTION 1. Sections 2, 3 and 4 of this 2011 Act are added to and made a part of ORS**
6 **chapter 215.**

7 **SECTION 2. (1) As used in this section, "event" means an activity on a tract, including**
8 **a concert, festival, race and gathering, that attracts a large number of attendees, either for**
9 **direct participation in the activity or as spectators to the activity, for the purpose of pro-**
10 **moting, marketing and selling farm crops or livestock grown on a farm operation on the**
11 **tract, or grown on the farm operation and other farm operations in the local agricultural**
12 **area, including the sale at retail of incidental items.**

13 **(2) Under the authority of ORS 215.213 (1)(r) or 215.283 (1)(o), the activities an operator**
14 **of a farm stand may host at the farm stand include up to four events per calendar year in-**
15 **tended to draw customers to the farm stand. An event may not last longer than 72 hours.**
16 **Additional events are conditionally allowable as provided by ORS 215.213 (2)(z) or 215.283**
17 **(2)(bb).**

18 **(3) Notwithstanding the limitations imposed by this section and sections 3 and 4 of this**
19 **2011 Act, a winery lawfully established under ORS 215.452 on or before the effective date of**
20 **this 2011 Act may continue to operate and to conduct lawfully approved activities and events.**

21 **(4) Expansion of a lawfully established winery, or the conduct of activities and events**
22 **that are either new or that were previously conducted under an expired or revoked permit,**
23 **on or after the effective date of this 2011 Act is subject to the limitations imposed by this**
24 **section and sections 3 and 4 of this 2011 Act.**

25 **SECTION 3. (1) Pursuant to ORS 215.213 (2)(z) or 215.283 (2)(bb), the governing body of**
26 **a county or its designee may allow one-time events on a tract in areas zoned for exclusive**
27 **farm use or mixed farm and forest use.**

28 **(2) A one-time event may be authorized by issuance of a temporary use permit under this**
29 **section if the one-time event:**

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 (a) Is compatible with surrounding land uses, including farm practices that will be oc-
2 ccurring at the time of the one-time event on adjacent or nearby farm operations and on area
3 roadways;

4 (b) Is incidental and auxiliary to farm use on the tract;

5 (c) Will not exceed a duration of 72 hours over a three-day period;

6 (d) Is located on and confined to a tract of at least 15 acres and all activities will occur
7 at least 100 feet from the property lines of the tract;

8 (e) Takes place in a winery, at a farm stand, outdoors, in a temporary structure or in
9 an existing structure that has not been exempted from building and safety codes; and

10 (f) Meets other applicable requirements of law.

11 (3) An application for a temporary use permit must include:

12 (a) A description of the type of one-time event, the anticipated daily attendance, the
13 hours of operation and a plan for the use of amplified music if the use of amplified music is
14 intended;

15 (b) A site plan identifying the location of existing and temporary structures, activities
16 planned as part of the one-time event, parking facilities and means of ingress to and egress
17 from the site;

18 (c) A plan for providing facilities for and managing sanitation and solid waste; and

19 (d) A plan for traffic management in the area and at the site.

20 (4) A temporary use permit issued under this section is personal to the applicant and not
21 transferable.

22 (5) The governing body of a county or its designee may not approve more than _____
23 temporary use permits for one-time events on the same tract in a calendar year.

24 (6) This section does not authorize the construction of a structure that is not otherwise
25 allowable in areas zoned for exclusive farm use or mixed farm and forest use.

26 **SECTION 4.** (1) Pursuant to ORS 215.213 (2)(z) or 215.283 (2)(bb), the governing body of
27 a county or its designee may allow multiple events on a tract in areas zoned for exclusive
28 farm use or mixed farm and forest use.

29 (2) Multiple events may be authorized pursuant to a special use permit under this section
30 if the events:

31 (a) Are incidental and auxiliary to farm use on the tract;

32 (b) Are compatible with surrounding land uses, including farm practices that will be oc-
33 ccurring at the time of the events on adjacent or nearby farm operations and on area
34 roadways;

35 (c) Will not, in conjunction with existing activities and with proposed and approved tem-
36 porary and special events in the area, impose an unreasonable, cumulative adverse impact
37 on adjacent or nearby farm operations;

38 (d) Will not exceed a duration of 12 hours per event date and a cumulative total of 12
39 event dates per calendar year;

40 (e) Are planned to attract and accommodate _____ or fewer individuals over the course
41 of an event date;

42 (f) Are located on and confined to a tract of at least 40 acres or a tract that grossed at
43 least \$40,000 in the previous calendar year from farm use on the tract;

44 (g) And all activities that are part of the events, will occur at least 150 feet from the
45 property lines of the tract;

1 (h) Are located on a tract that qualifies for special assessment for farm use under ORS
2 308A.056;

3 (i) Take place in a winery, at a farm stand, outdoors, in temporary structures or in ex-
4 isting structures that have not been exempted from building and safety codes and that ex-
5 isted as of January 1, 2011; and

6 (j) Meet other applicable requirements of law.

7 (3) An application for a special use permit must include:

8 (a) A description of the type of multiple events, the anticipated daily attendance, the
9 hours of operation and a plan for the use of amplified music if the use of amplified music is
10 intended;

11 (b) A site plan identifying the location of existing and temporary structures, activities
12 planned as part of the multiple events, parking facilities and the means of ingress to and
13 egress from the site;

14 (c) A plan for providing facilities for and managing sanitation and solid waste; and

15 (d) A plan for traffic management in the area and at the site.

16 (4) A special use permit issued under this section is personal to the applicant and is not
17 transferable;

18 (5) The governing body of a county or its designee:

19 (a) Shall provide for regular review of a special use permit issued under this section and
20 shall, in any case, review the special use permit not later than four years after the date the
21 special use permit was issued.

22 (b) May not issue more than one special use permit under this section for use on a tract
23 at a time.

24 (6) This section does not authorize the construction of a structure that is not otherwise
25 allowable in areas zoned for exclusive farm use or mixed farm and forest use.

26 (7) This section does not apply to events or activities hosted at public gathering places
27 such as churches, community centers, grange halls, schools or public parks in areas zoned
28 for exclusive farm use or mixed farm and forest use.

29 **SECTION 5.** ORS 215.213 is amended to read:

30 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
31 Edition), the following uses may be established in any area zoned for exclusive farm use:

32 (a) Churches and cemeteries in conjunction with churches.

33 (b) The propagation or harvesting of a forest product.

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

38 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
39 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
40 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
41 operator does or will require the assistance of the relative in the management of the farm use and
42 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
43 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
44 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
45 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-

1 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 2 shall operate as a partition of the homesite to create a new parcel.

3 (e) Nonresidential buildings customarily provided in conjunction with farm use.

4 (f) Primary or accessory dwellings customarily provided in conjunction with farm use. For a
 5 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-
 6 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-
 7 edged under ORS 197.251.

8 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
 9 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 10 compressors, separators and other customary production equipment for an individual well adjacent
 11 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 12 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

37 (o) Creation, restoration or enhancement of wetlands.

38 (p) A winery, as described in ORS 215.452.

39 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

43 (C) Has interior wiring for interior lights;

44 (D) Has a heating system; and

45 (E) In the case of replacement:

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

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

23 (r) Farm stands, **subject to section 2 of this 2011 Act**, if:

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

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

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

36 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
37 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
38 area or placed on a permanent foundation unless the building or facility preexisted the use approved
39 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
40 the surface preexisted the use approved under this paragraph. An owner of property used for the
41 purpose authorized in this paragraph may charge a person operating the use on the property rent
42 for the property. An operator may charge users of the property a fee that does not exceed the
43 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
44 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
45 used or intended to be used for flight and is controlled by radio, lines or design by a person on the

1 ground.

2 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
3 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
4 processed at the facility. The building established for the processing facility shall not exceed 10,000
5 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
6 use or devote more than 10,000 square feet to the processing activities within another building
7 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
8 standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

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

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

15 (A) A public right of way;

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

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

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

25 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
26 the following uses may be established in any area zoned for exclusive farm use subject to ORS
27 215.296:

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

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

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

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

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

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

44 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
45 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

- 1 (d) Operations conducted for:
- 2 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
- 3 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;
- 4 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
- 5 sources subject to ORS 215.298;
- 6 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
- 7 (D) Processing of other mineral resources and other subsurface resources.
- 8 (e) Community centers owned by a governmental agency or a nonprofit community organization
- 9 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
- 10 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
- 11 county governing body or its designee, a private campground may provide yurts for overnight
- 12 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
- 13 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
- 14 Upon request of a county governing body, the Land Conservation and Development Commission may
- 15 provide by rule for an increase in the number of yurts allowed on all or a portion of the
- 16 campgrounds in a county if the commission determines that the increase will comply with the stan-
- 17 dards described in ORS 215.296 (1). A public park or campground may be established as provided
- 18 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
- 19 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
- 20 ance.
- 21 (f) Golf courses on land determined not to be high-value farmland as defined in 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) A facility for the primary processing of forest products, provided that such facility is found
- 33 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
- 34 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
- 35 renewable. These facilities are intended to be only portable or temporary in nature. The primary
- 36 processing of a forest product, as used in this section, means the use of a portable chipper or stud
- 37 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
- 38 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
- 39 contiguous land where the primary processing facility is located.
- 40 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
- 41 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
- 42 mental Quality together with equipment, facilities or buildings necessary for its operation.
- 43 (k) Dog kennels.
- 44 (L) Residential homes as defined in ORS 197.660, in existing dwellings.
- 45 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not

1 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
 2 shall not include any species under quarantine by the State Department of Agriculture or the United
 3 States Department of Agriculture. The county shall provide notice of all applications under this
 4 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
 5 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
 6 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

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

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

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

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

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

36 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
 37 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
 38 with the growing and marketing of nursery stock on the land that constitutes farm use.

39 (y) Public or private schools for kindergarten through grade 12, including all buildings essential
 40 to the operation of a school, primarily for residents of the rural area in which the school is located.

41 **(z) Events hosted on the site of a winery or a farm stand subject to section 3 or 4 of this**
 42 **2011 Act.**

43 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
 44 a single-family residential dwelling not provided in conjunction with farm use may be established
 45 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by

1 the Agricultural Capability Classification System in use by the United States Department of Agri-
 2 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
 3 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
 4 showing all of the following:

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

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

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

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

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 practices on nearby lands devoted to farm use;

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

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

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

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

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

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

40 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
 41 1948, and July 1, 1983. For the purposes of this section:

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

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

45 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels

1 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
 2 or in tenancy in common.

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

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

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

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

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

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

17 **SECTION 6.** ORS 215.283 is amended to read:

18 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

19 (a) Churches and cemeteries in conjunction with churches.

20 (b) The propagation or harvesting of a forest product.

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

25 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 26 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
 27 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 28 operator does or will require the assistance of the relative in the management of the farm use and
 29 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 30 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
 31 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
 32 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
 33 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 34 shall operate as a partition of the homesite to create a new parcel.

35 (e) Primary or accessory dwellings and other buildings customarily provided in conjunction with
 36 farm use.

37 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
 38 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 39 compressors, separators and other customary production equipment for an individual well adjacent
 40 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 41 an exception under ORS 197.732 (2)(a) or (b).

42 (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
 43 construction relating to such operations shall not be a basis for an exception under ORS 197.732
 44 (2)(a) or (b).

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

1 (i) Reconstruction or modification of public roads and highways, including the placement of
 2 utility facilities overhead and in the subsurface of public roads and highways along the public right
 3 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
 4 would occur, or no new land parcels result.

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

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

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

13 (m) Creation, restoration or enhancement of wetlands.

14 (n) A winery, as described in ORS 215.452.

15 (o) Farm stands, **subject to section 2 of this 2011 Act**, if:

16 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 17 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 18 area, including the sale *[of]* **at** retail **of** incidental items and fee-based activity to promote the sale
 19 of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from
 20 promotional activity do not make up more than 25 percent of the total annual sales of the farm
 21 stand; and

22 (B) The farm stand does not include structures designed for occupancy as a residence or for
 23 activity other than the sale of farm crops or livestock *[and does not include structures for banquets,*
 24 *public gatherings or public entertainment]*.

25 (p) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

29 (C) Has interior wiring for interior lights;

30 (D) Has a heating system; and

31 (E) In the case of replacement:

32 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
 33 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
 34 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
 35 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
 36 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
 37 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
 38 deed records for the county where the property is located a deed restriction prohibiting the siting
 39 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
 40 a statement of release is placed in the deed records for the county. The release shall be signed by
 41 the county or its designee and state that the provisions of this paragraph regarding replacement
 42 dwellings have changed to allow the siting of another dwelling. The county planning director or the
 43 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
 44 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
 45 and release statements filed under this paragraph; and

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

9 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
 10 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
 11 area or placed on a permanent foundation unless the building or facility preexisted the use approved
 12 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
 13 the surface preexisted the use approved under this paragraph. An owner of property used for the
 14 purpose authorized in this paragraph may charge a person operating the use on the property rent
 15 for the property. An operator may charge users of the property a fee that does not exceed the
 16 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
 17 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
 18 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
 19 ground.

20 (r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
 21 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
 22 processed at the facility. The building established for the processing facility shall not exceed 10,000
 23 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
 24 use or devote more than 10,000 square feet to the processing activities within another building
 25 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
 26 standards shall not be applied in a manner that prohibits the siting of the processing facility.

27 (s) Fire service facilities providing rural fire protection services.

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

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

33 (A) A public right of way;

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

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

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

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

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

3 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
4 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(r) of this section.

5 (b) 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)(f) 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;

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

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

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

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

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

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

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

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

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

44 (j) A facility for the primary processing of forest products, provided that such facility is found
45 to not seriously interfere with accepted farming practices and is compatible with farm uses de-

1 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
 2 renewable. These facilities are intended to be only portable or temporary in nature. The primary
 3 processing of a forest product, as used in this section, means the use of a portable chipper or stud
 4 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
 5 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
 6 contiguous land where the primary processing facility is located.

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

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

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

19 (n) Dog kennels.

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

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

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

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

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

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

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

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

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

42 (x) A living history museum related to resource based activities owned and operated by a gov-
 43 ernmental agency or a local historical society, together with limited commercial activities and fa-
 44 cilities that are directly related to the use and enjoyment of the museum and located within
 45 authentic buildings of the depicted historic period or the museum administration building, if areas

1 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
 2 the museum administration buildings and parking lot are located within one quarter mile of an ur-
 3 ban growth boundary. As used in this paragraph:

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

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

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

12 (z) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
 13 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
 14 with the growing and marketing of nursery stock on the land that constitutes farm use.

15 (aa) Public or private schools for kindergarten through grade 12, including all buildings essential
 16 to the operation of a school, primarily for residents of the rural area in which the school is located.

17 **(bb) Events hosted on the site of a winery or a farm stand subject to section 3 or 4 of**
 18 **this 2011 Act.**

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

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

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

26 **SECTION 7.** ORS 215.452, as amended by section 1, chapter 97, Oregon Laws 2010, is amended
 27 to read:

28 215.452. (1) A winery may be established as an outright permitted use in an area zoned for ex-
 29 clusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a
 30 maximum annual production of:

31 (a) Less than 50,000 gallons and *[that]*:

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

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

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

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

37 (b) At least 50,000 gallons and no more than 100,000 gallons and *[that]*:

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

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

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

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

43 (2) A winery described in subsection (1) of this section may sell only:

44 (a) Wines produced in conjunction with the winery;

45 (b) Items directly related to the sale and promotion of wine produced in conjunction with the

1 winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages
 2 served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction
 3 with the winery and gifts; and

4 (c) Services directly related to the sale and promotion of wine produced in conjunction with the
 5 winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private
 6 events hosted by the winery or by patrons of the winery, at which wine produced in conjunction
 7 with the winery is featured.

8 (3) The gross income from the sale of incidental items and services under subsection (2)(b) and
 9 (c) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine
 10 produced in conjunction with the winery.

11 (4) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
 12 show that vineyards described in subsection (1) of this section have been planted or that the con-
 13 tract has been executed, as applicable.

14 (5) A local government shall adopt findings for each of the standards described in paragraphs
 15 (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely
 16 to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farm-
 17 ing or forest practices on adjacent lands:

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

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

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

25 **(7) Events that are not permitted for a winery that is an outright permitted use under**
 26 **ORS 215.213 (1)(p) or 215.283 (1)(n):**

27 **(a) May be conditionally approved under ORS 215.213 (2)(z) or 215.283 (2)(bb).**

28 **(b) May not be conditionally approved under ORS 215.213 (2)(c) or 215.283 (2)(a).**

29 **(8) As used in this section:**

30 **(a) "Marketing of wine" means promotional activity conducted at a winery that is limited**
 31 **to members of the wine trade, individuals who have an established business related to wine**
 32 **or individuals who have a personal relationship with the winery or the owners of the winery.**

33 **(b) "Winery" means a facility for the production, storage, marketing and sale of wine.**

34 **SECTION 8.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010, is
 35 amended to read:

36 215.452. (1) A winery may be established as an outright permitted use in an area zoned for ex-
 37 clusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a
 38 maximum annual production of:

39 (a) Less than 50,000 gallons and *[that]*:

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

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

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

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

45 (b) At least 50,000 gallons and no more than 100,000 gallons and *[that]*:

- 1 (A) Owns an on-site vineyard of at least 40 acres;
- 2 (B) Owns a contiguous vineyard of at least 40 acres;
- 3 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
4 vineyard contiguous to the winery; or
- 5 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.
- 6 (2) A winery described in subsection (1) of this section may sell only:
- 7 (a) Wines produced in conjunction with the winery; and
- 8 (b) Items directly related to the sale and promotion of wine produced in conjunction with the
9 winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages
10 served by a limited service restaurant, as defined in ORS 624.010.
- 11 (3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
12 show that vineyards described in subsection (1) of this section have been planted or that the con-
13 tract has been executed, as applicable.
- 14 (4) A local government shall adopt findings for each of the standards described in paragraphs
15 (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely
16 to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farm-
17 ing or forest practices on adjacent lands:
- 18 (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and
19 all public gathering places; and
- 20 (b) Provision of direct road access, internal circulation and parking.
- 21 (5) A local government shall also apply local criteria regarding floodplains, geologic hazards, the
22 Willamette River Greenway, solar access, airport safety or other regulations for resource protection
23 acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas
24 and natural resources.
- 25 **(6) Events that are not permitted for a winery that is an outright permitted use under**
26 **ORS 215.213 (1)(p) or 215.283 (1)(n):**
- 27 **(a) May be conditionally approved under ORS 215.213 (2)(z) or 215.283 (2)(bb).**
- 28 **(b) May not be conditionally approved under ORS 215.213 (2)(c) or 215.283 (2)(a).**
- 29 **(7) As used in this section:**
- 30 **(a) “Marketing of wine” means promotional activity conducted at a winery that is limited**
31 **to members of the wine trade, individuals who have an established business related to wine**
32 **or individuals who have a personal relationship with the winery or the owners of the winery.**
- 33 **(b) “Winery” means a facility for the production, storage, marketing and sale of wine.**
- 34 **SECTION 9.** ORS 215.246 is amended to read:
- 35 215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):
- 36 (a) Require a determination by the Department of Environmental Quality, in conjunction with
37 the department’s review of a license, permit or approval, that the application rates and site man-
38 agement practices for the land application of reclaimed water, agricultural or industrial process
39 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
40 reduce the productivity of the tract.
- 41 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
42 215.275 or 215.296.
- 43 (2) The use of a tract of land on which the land application of reclaimed water, agricultural or
44 industrial process water or biosolids has occurred under this section may not be changed to allow
45 a different use unless:

- 1 (a) The tract is included within an acknowledged urban growth boundary;
- 2 (b) The tract is rezoned to a zone other than an exclusive farm use zone;
- 3 (c) The different use of the tract is a farm use as defined in ORS 215.203; or
- 4 (d) The different use of the tract is a use allowed under:
 - 5 (A) ORS 215.213 (1)(b), (d) to (f), (i) to (n), (p) to (r), (u), (w) or (x);
 - 6 (B) ORS 215.213 (2)(a) to (c), (i), (m), [*or*] (p) to (r) **or (z)**;
 - 7 (C) ORS 215.283 (1)(b), (d), (e), (h) to (L), (n) to (p), (r), (t) or (u); or
 - 8 (D) ORS 215.283 (2)(a), (j), (L), [*or*] (p) to (s) **or (bb)**.

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

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

- 20 (a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that
 21 occurs as a result of the land application;
- 22 (b) The establishment and use of facilities, including buildings, equipment, aerated and
 23 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and
 24 reasonably necessary for the land application to occur on the subject tract;
- 25 (c) The establishment and use of facilities, including buildings and equipment, that are not on
 26 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
 27 industrial process water or biosolids to the tract on which the land application occurs if the facili-
 28 ties are located within:
 - 29 (A) A public right of way; or
 - 30 (B) Other land if the landowner provides written consent and the owner of the facility complies
 31 with ORS 215.275 (4); and
 - 32 (d) The transport by vehicle of reclaimed water or agricultural or industrial process water to
 33 a tract on which the water will be applied to land.

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

- 35 (a) The establishment and use of facilities, including buildings or equipment, for the treatment
 36 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment
 37 facilities related to the treatment that occurs as a result of the land application; or
- 38 (b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x)
 39 or 215.283 (1)(u).

40