

**B-Engrossed**  
**House Bill 3280**

Ordered by the Senate June 6  
Including House Amendments dated April 26 and Senate Amendments  
dated June 6

Sponsored by Representative HOLVEY, Senator PROZANSKI; Representative BARNHART

**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.

Modifies authority for establishment of winery and for winery sales and services in exclusive farm use zone. [*Creates alternative authority for such establishment.*] **Modifies authority for conditional approval for establishment of winery in exclusive farm use zone.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to wineries in exclusive farm use zones; creating new provisions; amending ORS 215.203,  
3 215.213, 215.283, 215.452, 215.455, 308A.053 and 308A.056; repealing section 3, chapter 97, Oregon  
4 Laws 2010; and declaring an emergency.

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

6 **SECTION 1. Section 3, chapter 97, Oregon Laws 2010, is repealed.**

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

9 215.452. [*(1) A winery may be established as an outright permitted use in an area zoned for ex-*  
10 *clusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a*  
11 *maximum annual production of:]*

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

13 [*(A) Owns an on-site vineyard of at least 15 acres;]*

14 [*(B) Owns a contiguous vineyard of at least 15 acres;]*

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

17 [*(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or]*

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

19 [*(A) Owns an on-site vineyard of at least 40 acres;]*

20 [*(B) Owns a contiguous vineyard of at least 40 acres;]*

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

23 [*(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.]*

24 [*(2) A winery described in subsection (1) of this section may sell only:]*

25 [*(a) Wines produced in conjunction with the winery; and]*

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

**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 winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served  
2 by a limited service restaurant, as defined in ORS 624.010.]

3 [(3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall  
4 show that vineyards described in subsection (1) of this section have been planted or that the contract  
5 has been executed, as applicable.]

6 [(4) A local government shall adopt findings for each of the standards described in paragraphs (a)  
7 and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely to each  
8 of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest  
9 practices on adjacent lands:]

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

12 [(b) Provision of direct road access, internal circulation and parking.]

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

17 **(1) As used in this section:**

18 **(a) “Contiguous vineyards” means vineyards located:**

19 **(A) On the same tract as a winery; or**

20 **(B) On a different tract that is contiguous to the tract on which a winery is sited.**

21 **(b) “Production” means the process of:**

22 **(A) On-site fermenting of grapes into wine;**

23 **(B) Changing the class or type of wine by blending wine with distilled liquor, flavors,**  
24 **colors or artificial carbonation; or**

25 **(C) Making sparkling wine by secondary fermentation.**

26 **(c) “Winery” means one or more structures used for the production of wine.**

27 **(2) A winery may be operated as a permitted use in an area zoned for exclusive farm use**  
28 **pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n) if the winery is located on a tract of at least**  
29 **20 acres of land, at least 10 acres of which are planted in vineyards, and the winery produces**  
30 **at least 1,000 gallons of wine in a calendar year from the vineyards.**

31 **(3) A winery allowed under subsection (2) of this section may include the following uses:**

32 **(a) The production of wine;**

33 **(b) The wholesale or retail sale of wine produced in conjunction with the winery, includ-**  
34 **ing wine tastings; and**

35 **(c) When the activity occurs by appointment only, activities that are directly related to**  
36 **the sale or promotion of wine produced in conjunction with the winery, including but not**  
37 **limited to:**

38 **(A) Wine tours;**

39 **(B) Consumer education;**

40 **(C) Private events or activities at which wine produced in conjunction with the winery**  
41 **is featured; and**

42 **(D) The service of food required by state law to be served in conjunction with the con-**  
43 **sumption of wine on the premises.**

44 **(4) A winery allowed under subsection (2) of this section may not include kitchen facili-**  
45 **ties.**

1       **(5) A winery may be operated as a permitted use in an area zoned for exclusive farm use**  
2 **pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n) if:**

3       **(a) The winery is located on a tract of at least 20 acres of land;**

4       **(b) The winery produces at least 10,000 gallons of wine in a calendar year; and**

5       **(c) The owner of the winery owns or holds under a long-term lease, or holds under a**  
6 **long-term contract the right to purchase all grapes from, vineyards of at least 25 acres, at**  
7 **least 15 acres of which must be contiguous vineyards.**

8       **(6) A winery allowed under subsection (5) of this section may include the following uses:**

9       **(a) The production of wine;**

10       **(b) The wholesale and retail sale of wine produced in conjunction with the winery;**

11       **(c) Activities that are directly related to the sale or promotion of wine produced in con-**  
12 **junction with the winery, including but not limited to wine tours and tastings and consumer**  
13 **education;**

14       **(d) The sale of items that support the sale and promotion of wine produced in conjunction**  
15 **with the winery, including gifts and merchandise and wine produced by other wineries;**

16       **(e) The preparation and sale of food and beverages in kitchen facilities licensed under**  
17 **ORS 624.010 to 624.121 when food is:**

18       **(A) Required by state law to be served in conjunction with the consumption of wine on**  
19 **premises; or**

20       **(B) Served in conjunction with the consumption of wine at events or activities permitted**  
21 **under this subsection;**

22       **(f) Public and private events or activities, the primary purpose of which is to promote**  
23 **the winery or the Oregon wine industry;**

24       **(g) Outdoor concerts for which admission is charged, facility rentals or celebratory**  
25 **events that are approved by issuance of a multiyear temporary permit that is reviewed at**  
26 **least once each five years for compliance with the following standards:**

27       **(A) The events or activities must comply with ORS 215.296;**

28       **(B) The events or activities may not materially alter the stability of the land use pattern**  
29 **in the area; and**

30       **(C) If the events or activities include food service, the food service is not functioning as**  
31 **a restaurant or a facility providing off-site catering; and**

32       **(h) A restaurant or other food service facility for the sale of food not allowed under**  
33 **paragraph (e) of this subsection may be established in conjunction with a winery when ap-**  
34 **proved by issuance of a permit that requires compliance with the following standards:**

35       **(A) In the calendar year immediately preceding issuance of the permit, the winery**  
36 **produced at least 250,000 gallons of wine;**

37       **(B) The winery is located on the same tract of land as a vineyard of at least 50 acres;**

38       **(C) The restaurant or other facility must comply with ORS 215.296;**

39       **(D) The restaurant or other facility will not materially alter the stability of the land use**  
40 **pattern in the area; and**

41       **(E) The restaurant or other facility must be incidental and subordinate to the production**  
42 **and sale of wine.**

43       **(7) The uses authorized under subsection (3)(c) or (6)(c) to (g) of this section must be:**

44       **(a) Incidental and subordinate to the production of wine and the on-site retail sale of**  
45 **wine; and**

1       **(b) Limited such that the annual gross income from the activities and uses, collectively,**  
2 **does not exceed 25 percent of the annual gross income from the on-site retail sale of wine**  
3 **produced in conjunction with the winery.**

4       **(8) A winery that includes the uses authorized under subsections (3)(c) and (6)(c) to (g)**  
5 **of this section must submit an annual written report documenting compliance with sub-**  
6 **section (7)(b) of this section to the local government with land use jurisdiction over the**  
7 **winery and to the Department of Land Conservation and Development.**

8       **(9) Before issuance of a permit to establish a winery, the applicant must show that any**  
9 **vineyards required by subsection (2) or (5) of this section have been planted or that a con-**  
10 **tract to purchase grapes from contiguous vineyards has been executed, as applicable.**

11       **(10) A local government shall impose the following conditions on the operation of a**  
12 **winery under this section:**

13       **(a) A setback of at least 100 feet from the property line of the tract for public gathering**  
14 **places;**

15       **(b) Provision of direct road access, internal circulation and sufficient off-street parking**  
16 **to accommodate the uses authorized;**

17       **(c) Measures related to floodplains, geologic hazards, the Willamette River Greenway,**  
18 **solar access, airport safety and other measures for resource protection acknowledged in the**  
19 **comprehensive plan and land use regulations to comply with a statewide land use planning**  
20 **goal related to open spaces, scenic and historic areas and natural resources; and**

21       **(d) Measures to ensure compliance with public health and safety laws and regulations.**

22       **SECTION 3. Section 4 of this 2011 Act is added to and made a part of ORS chapter 215.**

23       **SECTION 4. (1) If a winery does not meet the requirements of ORS 215.452, the winery**  
24 **may be operated as a conditional use in an area zoned for exclusive farm use pursuant to**  
25 **ORS 215.213 (2)(c)(B) or 215.283 (2)(a)(B).**

26       **(2) A winery allowed under this section may conduct the uses authorized by ORS 215.452**  
27 **(3), subject to the limitations that apply to the uses.**

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

29       215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
30 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

37       (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
38 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,  
39 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
40 operator does or will require the assistance of the relative in the management of the farm use and  
41 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
42 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS  
43 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
44 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
45 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure

1 shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (C) Has interior wiring for interior lights;

43 (D) Has a heating system; and

44 (E) In the case of replacement:

45 (i) Is removed, demolished or converted to an allowable nonresidential use within three months

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

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

22 (r) Farm stands if:

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

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

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

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

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

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

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

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

14 (A) A public right of way;

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

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

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

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

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

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

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

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

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

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

43 (c) Commercial activities that are in conjunction with farm use, including:

44 (A) The processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or sub-  
45 section (1)(u) of this section[.]; **and**

1       **(B) A winery, as described in section 4 of this 2011 Act.**

2       (d) Operations conducted for:

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

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

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

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

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

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

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

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

33       (i) 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       (j) 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       (k) Dog kennels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval  
2 of the governing body or its designee in any area zoned for exclusive farm use upon written findings  
3 showing all of the following:

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 practices on nearby lands devoted to farm use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or in tenancy in common.

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

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

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

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

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

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

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

17 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

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

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

45 (i) Reconstruction or modification of public roads and highways, including the placement of

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

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

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

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

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

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

14 (o) Farm stands if:

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

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

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

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

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

28 (C) Has interior wiring for interior lights;

29 (D) Has a heating system; and

30 (E) In the case of replacement:

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

45 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-

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

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

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

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

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

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

32 (A) A public right of way;

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

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

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

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

45 (2) The following nonfarm uses may be established, subject to the approval of the governing body

1 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

2 (a) Commercial activities that are in conjunction with farm use, including:

3 (A) The processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or sub-  
4 section (1)(r) of this section[.]; **and**

5 **(B) A winery, as described in section 4 of this 2011 Act.**

6 (b) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

45 (j) A facility for the primary processing of forest products, provided that such facility is found

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

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

11 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
12 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 re-  
17 view of the hardship claimed under this paragraph. A temporary residence approved under this  
18 paragraph is not eligible for replacement under subsection (1)(p) of this section.

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

20 (n) Dog kennels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **SECTION 7.** 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)(u) and 215.283 (1)(r)  
15 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use  
16 under ORS 215.213 [(2)(c)] (2)(c)(A) and 215.283 [(2)(a)] (2)(a)(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 8.** ORS 215.455 is amended to read:

1 215.455. Any winery approved under ORS 215.213, 215.283, 215.284 and 215.452 **and section 4**  
2 **of this 2011 Act** is not a basis for an exception under ORS 197.732 (2)(a) or (b).

3 **SECTION 9.** ORS 308A.053 is amended to read:

4 308A.053. As used in ORS 308A.050 to 308A.128:

5 (1) "Exclusive farm use zone" means a zoning district established by a county or a city under  
6 the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone pro-  
7 visions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.455 or 215.700 to 215.780  
8 **or section 4 of this 2011 Act.**

9 (2) "Exclusive farm use zone farmland" means land that qualifies for special assessment under  
10 ORS 308A.062.

11 (3) "Homesite" means the land, including all tangible improvements to the land under and ad-  
12 jacent to a dwelling and other structures, if any, that are customarily provided in conjunction with  
13 a dwelling.

14 (4) "Nonexclusive farm use zone farmland" means land that is not within an exclusive farm use  
15 zone but that qualifies for farm use special assessment under ORS 308A.068.

16 (5) "Remediation plan" means a plan certified by an extension agent of the Oregon State Uni-  
17 versity Extension Service to remediate or mitigate severe adverse conditions on farmland.

18 (6) "Severe adverse conditions on farmland" means conditions that render impracticable contin-  
19 ued farm use and that are not due to an intentional or negligent act or omission by the owner,  
20 tenant or lessee of the farmland or the applicant for certification of a remediation plan.

21 **SECTION 10.** ORS 308A.056 is amended to read:

22 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment  
23 of land for the primary purpose of obtaining a profit in money by:

24 (a) Raising, harvesting and selling crops.

25 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees  
26 or the produce thereof.

27 (c) Dairying and selling dairy products.

28 (d) Stabling or training equines, including but not limited to providing riding lessons, training  
29 clinics and schooling shows.

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

32 (f) On-site constructing and maintaining equipment and facilities used for the activities described  
33 in this subsection.

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

36 (h) Implementing a remediation plan previously presented to the assessor for the county in  
37 which the land that is the subject of the plan is located.

38 (i) Using land described in this section for any other agricultural or horticultural use or animal  
39 husbandry or any combination thereof.

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

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

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

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

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

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

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

11 (f) Except for land under a single family dwelling, land under buildings supporting accepted  
12 farming practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)  
13 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use  
14 under ORS 215.213 [(2)(c)] **(2)(c)(A)** and 215.283 [(2)(a)] **(2)(a)(A)**;

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

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

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

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

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

26 (L) Land subject to a remediation plan previously presented to the assessor for the county in  
27 which the land that is the subject of the plan is located; or

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

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

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

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

34 (4) As used in this section:

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

38 (b) "Cultured Christmas trees" means trees:

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

41 (B) Of a marketable species;

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

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

- 1 (i) Basal pruning;
- 2 (ii) Fertilizing;
- 3 (iii) Insect and disease control;
- 4 (iv) Stump culture;
- 5 (v) Soil cultivation; or
- 6 (vi) Irrigation.

7 **SECTION 11. (1) A use or structure lawfully established at a winery before the effective**  
8 **date of this 2011 Act may be continued, including but not limited to events and activities that**  
9 **exceed the income limit imposed by ORS 215.452.**

10 (2) A use or structure continued pursuant to this section may be altered, restored or  
11 expanded as provided in ORS 215.130.

12 **SECTION 12. This 2011 Act being necessary for the immediate preservation of the public**  
13 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
14 **on its passage.**

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