

CONFERENCE COMMITTEE AMENDMENTS TO B-ENGROSSED HOUSE BILL 3280

June 23

Amended Summary

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

Declares emergency, effective on passage.

Mr. Speaker:

Your Conference Committee to whom was referred B-engrossed House Bill 3280, having had the same under consideration, respectfully reports it back with the recommendation that the House concur in the Senate amendments dated June 6 and that the bill be amended as follows and repassed.

- 1 On page 1 of the printed B-engrossed bill, line 2, delete “215.203,”.
- 2 In line 3, delete “, 308A.053 and 308A.056” and insert “and 308A.053”.
- 3 Delete lines 6 through 26 and delete pages 2 through 20 and insert:
- 4 “**SECTION 1. Section 3, chapter 97, Oregon Laws 2010, is repealed.**
- 5 “**SECTION 2.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010, is
- 6 amended to read:
- 7 “215.452. (1) A winery may be established as [*an outright*] a permitted use **under ORS 215.213**
- 8 **(1)(p) and 215.283 (1)(n)** in an area zoned for exclusive farm use [*under ORS 215.213 (1)(p) and*
- 9 *215.283 (1)(n)*] if the winery produces wine with a maximum annual production of:
- 10 “(a) Less than 50,000 gallons and [*that*]:
- 11 “(A) Owns an on-site vineyard of at least 15 acres;
- 12 “(B) Owns a contiguous vineyard of at least 15 acres;
- 13 “(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
- 14 vineyard contiguous to the winery; or
- 15 “(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or
- 16 “(b) At least 50,000 gallons and [*no more than 100,000 gallons and that*] **the winery:**
- 17 “(A) Owns an on-site vineyard of at least 40 acres;
- 18 “(B) Owns a contiguous vineyard of at least 40 acres;
- 19 “(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
- 20 vineyard contiguous to the winery; or
- 21 “(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.
- 22 “(2) A winery described in subsection (1) of this section may [*sell only*]:
- 23 “(a) [*Wines produced in conjunction with the winery; and*] **Market and sell wine produced in**
- 24 **conjunction with the winery, including the following activities:**
- 25 “(A) Wine tours;
- 26 “(B) Wine tastings in a tasting room or other location at the winery;

1 **“(C) Wine clubs; and**
2 **“(D) Similar activities conducted for the primary purpose of promoting wine produced in**
3 **conjunction with the winery;**
4 “(b) **Market and sell** items directly related to the sale [*and*] **or** promotion of wine produced in
5 conjunction with the winery, the **marketing and** sale of which is incidental to retail sale of wine
6 on-site, including food and beverages served by a limited service restaurant, as defined in ORS
7 624.010[.]; **and**
8 **“(c) Provide services, including private events, hosted by the winery or patrons of the**
9 **winery, at which wine produced in conjunction with the winery is featured, that:**
10 **“(A) Are directly related to the sale or promotion of wine produced in conjunction with**
11 **the winery;**
12 **“(B) Are incidental to the retail sale of wine on-site; and**
13 **“(C) Are limited to 25 days or fewer in a calendar year.**
14 **“(3) The gross income of the winery from the sale of incidental items pursuant to sub-**
15 **section (2)(b) of this section and services provided pursuant to subsection (2)(c) of this sec-**
16 **tion may not exceed 25 percent of the gross income from the on-site retail sale of wine**
17 **produced in conjunction with the winery.**
18 **“(4) A winery operating under this section shall provide parking for all activities or uses**
19 **of the lot, parcel or tract on which the winery is established.**
20 “[(3)] **(5)** Prior to the issuance of a permit to establish a winery under this section, the applicant
21 shall show that vineyards described in subsection (1) of this section have been planted or that the
22 contract has been executed, as applicable.
23 “[(4)] **(6)** A local government shall adopt findings for each of the standards described in [*para-*
24 *graphs (a) and (b) of*] this subsection. Standards imposed on the siting of a winery shall be limited
25 solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted
26 farming or forest practices on adjacent lands:
27 “(a) Establishment of a setback[, *not to exceed*] **of at least** 100 feet[,] from all property lines for
28 the winery and all public gathering places; and
29 “(b) Provision of direct road access[,] **and** internal circulation [*and parking*].
30 “[(5)] **(7)** A local government shall [*also*] apply:
31 **“(a)** Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, so-
32 lar access[,] **and** airport safety [*or other*];
33 **“(b) Regulations for the public health and safety; and**
34 **“(c)** Regulations for resource protection acknowledged to comply with any statewide goal re-
35 specting open spaces, scenic and historic areas and natural resources.
36 **“(8)(a) A local government may issue a permit for a winery operating under this section**
37 **to host outdoor concerts for which admission is charged, facility rentals or celebratory**
38 **events if the local government issued permits to wineries operating under this section in**
39 **similar circumstances before the effective date of this 2011 Act.**
40 **“(b) A local government may not issue a permit for a winery operating under this section**
41 **to host outdoor concerts for which admission is charged, facility rentals or celebratory**
42 **events if the local government did not issue permits to wineries operating under this section**
43 **in similar circumstances before the effective date of this 2011 Act.**
44 **“(9) As used in this section, ‘private events’ includes, but is not limited to, facility rentals**
45 **and celebratory gatherings.**

1 “**SECTION 3.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010, and
2 section 2 of this 2011 Act, is amended to read:

3 “215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) and
4 215.283 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum
5 annual production of:

6 “(a) Less than 50,000 gallons and:

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

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

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

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

12 “(b) At least 50,000 gallons and the winery:

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

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

15 “(C) Has a long-term contract for the purchase of all of the grapes from at least 40 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.

18 “(2) A winery described in subsection (1) of this section may:

19 “(a) Market and sell wine produced in conjunction with the winery, including the following ac-
20 tivities:

21 “(A) Wine tours;

22 “(B) Wine tastings in a tasting room or other location at the winery;

23 “(C) Wine clubs; and

24 “(D) Similar activities conducted for the primary purpose of promoting wine produced in con-
25 junction with the winery;

26 “(b) Market and sell items directly related to the sale or promotion of wine produced in con-
27 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
28 including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and

29 “(c) Provide services, including private events, hosted by the winery or patrons of the winery,
30 at which wine produced in conjunction with the winery is featured, that:

31 “(A) Are directly related to the sale or promotion of wine produced in conjunction with the
32 winery;

33 “(B) Are incidental to the retail sale of wine on-site; and

34 “(C) Are limited to 25 days or fewer in a calendar year.

35 “(3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
36 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
37 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
38 the winery.

39 “(b) **At the request of a local government with land use jurisdiction over the site of a**
40 **winery, the winery shall submit to the local government a written statement, prepared by a**
41 **certified public accountant, that certifies compliance with paragraph (a) of this subsection**
42 **for the previous tax year.**

43 “(4) A winery operating under this section shall provide parking for all activities or uses of the
44 lot, parcel or tract on which the winery is established.

45 “(5) Prior to the issuance of a permit to establish a winery under this section, the applicant shall

1 show that vineyards described in subsection (1) of this section have been planted or that the con-
2 tract has been executed, as applicable.

3 “(6) A local government shall adopt findings for each of the standards described in this sub-
4 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
5 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
6 adjacent lands:

7 “(a) Establishment of a setback of at least 100 feet from all property lines for the winery and
8 all public gathering places; and

9 “(b) Provision of direct road access and internal circulation.

10 “(7) A local government shall apply:

11 “(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
12 access and airport safety;

13 “(b) Regulations for the public health and safety; and

14 “(c) Regulations for resource protection acknowledged to comply with any statewide goal re-
15 specting open spaces, scenic and historic areas and natural resources.

16 “(8)(a) A local government may issue a permit for a winery operating under this section to host
17 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
18 government issued permits to wineries operating under this section in similar circumstances before
19 the effective date of this 2011 Act.

20 “(b) A local government may not issue a permit for a winery operating under this section to host
21 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
22 government did not issue permits to wineries operating under this section in similar circumstances
23 before the effective date of this 2011 Act.

24 “(9) As used in this section, ‘private events’ includes, but is not limited to, facility rentals and
25 celebratory gatherings.

26 “**SECTION 3a.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010,
27 and sections 2 and 3 of this 2011 Act, is amended to read:

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

31 “(a) Less than 50,000 gallons and:

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 the winery:

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:

44 “(a) Market and sell wine produced in conjunction with the winery, including the following ac-
45 tivities:

1 “(A) Wine tours;

2 “(B) Wine tastings in a tasting room or other location at the winery;

3 “(C) Wine clubs; and

4 “(D) Similar activities conducted for the primary purpose of promoting wine produced in con-

5 junction with the winery; **and**

6 “(b) Market and sell items directly related to the sale or promotion of wine produced in con-

7 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,

8 including food and beverages served by a limited service restaurant, as defined in ORS 624.010.[:

9 and]

10 “[(c) *Provide services, including private events, hosted by the winery or patrons of the winery, at*

11 *which wine produced in conjunction with the winery is featured, that:*]

12 “[(A) *Are directly related to the sale or promotion of wine produced in conjunction with the*

13 *winery;*]

14 “[(B) *Are incidental to the retail sale of wine on-site; and*]

15 “[(C) *Are limited to 25 days or fewer in a calendar year.*]

16 “[(3)(a) *The gross income of the winery from the sale of incidental items pursuant to subsection*

17 *(2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not exceed*

18 *25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the*

19 *winery.*]

20 “[(b) *At the request of a local government with land use jurisdiction over the site of a winery, the*

21 *winery shall submit to the local government a written statement, prepared by a certified public ac-*

22 *countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.*]

23 “[(4)] **(3)** A winery operating under this section shall provide parking for all activities or uses

24 of the lot, parcel or tract on which the winery is established.

25 “[(5)] **(4)** Prior to the issuance of a permit to establish a winery under this section, the applicant

26 shall show that vineyards described in subsection (1) of this section have been planted or that the

27 contract has been executed, as applicable.

28 “[(6)] **(5)** A local government shall adopt findings for each of the standards described in this

29 subsection. Standards imposed on the siting of a winery shall be limited solely to each of the fol-

30 lowing for the sole purpose of limiting demonstrated conflicts with accepted farming or forest prac-

31 tices on adjacent lands:

32 “(a) Establishment of a setback of at least 100 feet from all property lines for the winery and

33 all public gathering places; and

34 “(b) Provision of direct road access and internal circulation.

35 “[(7)] **(6)** A local government shall apply:

36 “(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar

37 access and airport safety;

38 “(b) Regulations for the public health and safety; and

39 “(c) Regulations for resource protection acknowledged to comply with any statewide goal re-

40 specting open spaces, scenic and historic areas and natural resources.

41 “[(8)(a)] **(7)(a)** A local government may issue a permit for a winery operating under this section

42 to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the

43 local government issued permits to wineries operating under this section in similar circumstances

44 before the effective date of this 2011 Act.

45 “(b) A local government may not issue a permit for a winery operating under this section to host

1 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
2 government did not issue permits to wineries operating under this section in similar circumstances
3 before the effective date of this 2011 Act.

4 *"[(9) As used in this section, 'private events' includes, but is not limited to, facility rentals and*
5 *celebratory gatherings.]*

6 **"SECTION 4. Section 5 of this 2011 Act is added to and made a part of ORS chapter 215.**

7 **"SECTION 5. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p)**
8 **or 215.283 (1)(n) in an area zoned for exclusive farm use if:**

9 **"(a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of**
10 **which is a vineyard;**

11 **"(b) The winery owns at least 80 additional acres of planted vineyards in Oregon that**
12 **need not be contiguous to the acreage described in paragraph (a) of this subsection; and**

13 **"(c) The winery has produced annually, at the same or a different location, at least**
14 **150,000 gallons of wine in at least three of the five calendar years before the winery is es-**
15 **tablished under this section.**

16 **"(2) A winery described in subsection (1) of this section may:**

17 **"(a) Market and sell wine produced in conjunction with the winery, including the follow-**
18 **ing activities:**

19 **"(A) Wine tours;**

20 **"(B) Wine tastings in a tasting room or other location at the winery;**

21 **"(C) Wine clubs; and**

22 **"(D) Similar activities conducted for the primary purpose of promoting wine produced in**
23 **conjunction with the winery;**

24 **"(b) Market and sell items directly related to the sale or promotion of wine produced in**
25 **conjunction with the winery, the marketing and sale of which is incidental to retail sale of**
26 **wine on-site, including food and beverages served by a limited service restaurant, as defined**
27 **in ORS 624.010, wine not produced in conjunction with the winery and gifts; and**

28 **"(c) Provide services, including private events, hosted by the winery or patrons of the**
29 **winery, at which wine produced in conjunction with the winery is featured, that:**

30 **"(A) Are directly related to the sale or promotion of wine produced in conjunction with**
31 **the winery;**

32 **"(B) Are incidental to the retail sale of wine on-site; and**

33 **"(C) Are limited to 25 days or fewer in a calendar year.**

34 **"(3) The gross income of the winery from the sale of incidental items pursuant to sub-**
35 **section (2)(b) of this section and services provided pursuant to subsection (2)(c) of this sec-**
36 **tion may not exceed 25 percent of the gross income from the on-site retail sale of wine**
37 **produced in conjunction with the winery.**

38 **"(4) A winery operating under this section:**

39 **"(a) Shall provide parking for all activities or uses of the lot, parcel or tract on which**
40 **the winery is established.**

41 **"(b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for**
42 **consumption on the premises of the winery.**

43 **"(5)(a) A winery shall obtain a permit from the local government if the winery operates**
44 **a restaurant that is open to the public for more than 25 days in a calendar year or provides**
45 **for private events occurring on more than 25 days in a calendar year.**

1 “(b) In addition to any other requirements, a local government may approve a permit
2 application under this subsection if the local government finds that the authorized activity:

3 “(A) Complies with the standards described in ORS 215.296;

4 “(B) Is incidental and subordinate to the retail sale of wine produced in conjunction with
5 the winery; and

6 “(C) Does not materially alter the stability of the land use pattern in the area.

7 “(c) If the local government issues a permit under this subsection for private events, the
8 local government shall review the permit at least once every five years and, if appropriate,
9 may renew the permit.

10 “(6) A person may not have a substantial ownership interest in more than one winery
11 operating a restaurant under this section.

12 “(7) Prior to the issuance of a permit to establish a winery under this section, the ap-
13 plicant shall show that vineyards described in subsection (1) of this section have been
14 planted.

15 “(8) A local government shall require a winery operating under this section to provide
16 for:

17 “(a) Establishment of a setback of at least 100 feet from all property lines for the winery
18 and all public gathering places; and

19 “(b) Direct road access and internal circulation.

20 “(9) A local government shall apply:

21 “(a) Local criteria regarding floodplains, geologic hazards, the Willamette River
22 Greenway, solar access and airport safety;

23 “(b) Regulations for the public health and safety; and

24 “(c) Regulations for resource protection acknowledged to comply with any statewide goal
25 respecting open spaces, scenic and historic areas and natural resources.

26 “(10) The local government may authorize a winery described in subsection (1) of this
27 section to sell or deliver items or provide services not described in subsection (2)(b) or (c)
28 or (3) of this section under the criteria for a commercial activity in conjunction with farm
29 use under ORS 215.213 (2)(c) or 215.283 (2)(a).

30 “(11)(a) A local government may issue a permit for a winery operating under this section
31 to host outdoor concerts for which admission is charged, facility rentals or celebratory
32 events if the local government issued permits to wineries operating under this section in
33 similar circumstances before the effective date of this 2011 Act.

34 “(b) A local government may not issue a permit for a winery operating under this section
35 to host outdoor concerts for which admission is charged, facility rentals or celebratory
36 events if the local government did not issue permits to wineries operating under this section
37 in similar circumstances before the effective date of this 2011 Act.

38 “(12) As used in this section, ‘private events’ includes, but is not limited to, facility
39 rentals and celebratory gatherings.

40 “**SECTION 5a.** Section 5 of this 2011 Act is amended to read:

41 “**Sec. 5.** (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) or 215.283
42 (1)(n) in an area zoned for exclusive farm use if:

43 “(a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is
44 a vineyard;

45 “(b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not

1 be contiguous to the acreage described in paragraph (a) of this subsection; and

2 “(c) The winery has produced annually, at the same or a different location, at least 150,000
3 gallons of wine in at least three of the five calendar years before the winery is established under
4 this section.

5 “(2) A winery described in subsection (1) of this section may:

6 “(a) Market and sell wine produced in conjunction with the winery, including the following ac-
7 tivities:

8 “(A) Wine tours;

9 “(B) Wine tastings in a tasting room or other location at the winery;

10 “(C) Wine clubs; and

11 “(D) Similar activities conducted for the primary purpose of promoting wine produced in con-
12 junction with the winery;

13 “(b) Market and sell items directly related to the sale or promotion of wine produced in con-
14 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
15 including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine
16 not produced in conjunction with the winery and gifts; and

17 “(c) Provide services, including private events, hosted by the winery or patrons of the winery,
18 at which wine produced in conjunction with the winery is featured, that:

19 “(A) Are directly related to the sale or promotion of wine produced in conjunction with the
20 winery;

21 “(B) Are incidental to the retail sale of wine on-site; and

22 “(C) Are limited to 25 days or fewer in a calendar year.

23 “(3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
24 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
25 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
26 the winery.

27 “(b) **At the request of a local government with land use jurisdiction over the site of a**
28 **winery, the winery shall submit to the local government a written statement, prepared by a**
29 **certified public accountant, that certifies compliance with paragraph (a) of this subsection**
30 **for the previous tax year.**

31 “(4) A winery operating under this section:

32 “(a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the
33 winery is established.

34 “(b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
35 sumption on the premises of the winery.

36 “(5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
37 taurant that is open to the public for more than 25 days in a calendar year or provides for private
38 events occurring on more than 25 days in a calendar year.

39 “(b) In addition to any other requirements, a local government may approve a permit application
40 under this subsection if the local government finds that the authorized activity:

41 “(A) Complies with the standards described in ORS 215.296;

42 “(B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
43 winery; and

44 “(C) Does not materially alter the stability of the land use pattern in the area.

45 “(c) If the local government issues a permit under this subsection for private events, the local

1 government shall review the permit at least once every five years and, if appropriate, may renew
2 the permit.

3 “(6) A person may not have a substantial ownership interest in more than one winery operating
4 a restaurant under this section.

5 “(7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
6 show that vineyards described in subsection (1) of this section have been planted.

7 “(8) A local government shall require a winery operating under this section to provide for:

8 “(a) Establishment of a setback of at least 100 feet from all property lines for the winery and
9 all public gathering places; and

10 “(b) Direct road access and internal circulation.

11 “(9) A local government shall apply:

12 “(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
13 access and airport safety;

14 “(b) Regulations for the public health and safety; and

15 “(c) Regulations for resource protection acknowledged to comply with any statewide goal re-
16 specting open spaces, scenic and historic areas and natural resources.

17 “(10) The local government may authorize a winery described in subsection (1) of this section
18 to sell or deliver items or provide services not described in subsection (2)(b) or (c) or (3) of this
19 section under the criteria for a commercial activity in conjunction with farm use under ORS 215.213
20 (2)(c) or 215.283 (2)(a).

21 “(11)(a) A local government may issue a permit for a winery operating under this section to host
22 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
23 government issued permits to wineries operating under this section in similar circumstances before
24 the effective date of this 2011 Act.

25 “(b) A local government may not issue a permit for a winery operating under this section to host
26 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
27 government did not issue permits to wineries operating under this section in similar circumstances
28 before the effective date of this 2011 Act.

29 “(12) As used in this section, ‘private events’ includes, but is not limited to, facility rentals and
30 celebratory gatherings.

31 **“SECTION 6. (1) A use or structure that is lawfully established at a winery located in
32 an exclusive farm use zone and that exists on the effective date of this 2011 Act, including
33 events and activities that exceed the income limit imposed by ORS 215.452, may be continued,
34 altered, restored or replaced pursuant to ORS 215.130.**

35 **“(2) Subsection (1) of this section does not affect the lawful continuation, alteration,
36 restoration or replacement of the winery sited on the same tract.**

37 **“SECTION 7.** ORS 215.213 is amended to read:

38 “215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
39 Edition), the following uses may be established in any area zoned for exclusive farm use:

40 “(a) Churches and cemeteries in conjunction with churches.

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

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

1 “(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of
2 the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
3 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
4 operator does or will require the assistance of the relative in the management of the farm use and
5 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
6 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
7 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
8 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
9 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
10 shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

39 “(m) Minor betterment of existing public road and highway related facilities, such as mainte-
40 nance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and
41 contiguous public-owned property utilized to support the operation and maintenance of public roads
42 and highways.

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

45 “(o) Creation, restoration or enhancement of wetlands.

1 “(p) A winery, as described in ORS 215.452 or **section 5 of this 2011 Act.**

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

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

4 “(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to

5 a sanitary waste disposal system;

6 “(C) Has interior wiring for interior lights;

7 “(D) Has a heating system; and

8 “(E) In the case of replacement:

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

10 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of

11 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable

12 siting standards. However, the standards shall not be applied in a manner that prohibits the siting

13 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned

14 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the

15 deed records for the county where the property is located a deed restriction prohibiting the siting

16 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless

17 a statement of release is placed in the deed records for the county. The release shall be signed by

18 the county or its designee and state that the provisions of this paragraph regarding replacement

19 dwellings have changed to allow the siting of another dwelling. The county planning director or the

20 director’s designee shall maintain a record of the lots and parcels that do not qualify for the siting

21 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions

22 and release statements filed under this paragraph; and

23 “(ii) For which the applicant has requested a deferred replacement permit, is removed or de-

24 molished within three months after the deferred replacement permit is issued. A deferred replace-

25 ment permit allows construction of the replacement dwelling at any time. If, however, the

26 established dwelling is not removed or demolished within three months after the deferred replace-

27 ment permit is issued, the permit becomes void. The replacement dwelling must comply with appli-

28 cable building codes, plumbing codes, sanitation codes and other requirements relating to health and

29 safety or to siting at the time of construction. A deferred replacement permit may not be trans-

30 ferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

31 “(r) Farm stands if:

32 “(A) The structures are designed and used for the sale of farm crops or livestock grown on the

33 farm operation, or grown on the farm operation and other farm operations in the local agricultural

34 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm

35 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-

36 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;

37 and

38 “(B) The farm stand does not include structures designed for occupancy as a residence or for

39 activity other than the sale of farm crops or livestock and does not include structures for banquets,

40 public gatherings or public entertainment.

41 “(s) An armed forces reserve center, if the center is within one-half mile of a community college.

42 For purposes of this paragraph, ‘armed forces reserve center’ includes an armory or National Guard

43 support facility.

44 “(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as

45 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor

1 area or placed on a permanent foundation unless the building or facility preexisted the use approved
2 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
3 the surface preexisted the use approved under this paragraph. An owner of property used for the
4 purpose authorized in this paragraph may charge a person operating the use on the property rent
5 for the property. An operator may charge users of the property a fee that does not exceed the
6 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, 'model
7 aircraft' means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
8 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
9 ground.

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

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

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

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

23 "(A) A public right of way;

24 "(B) Land immediately adjacent to a public right of way, provided the written consent of all
25 adjacent property owners has been obtained; or

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

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

33 "(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
34 the following uses may be established in any area zoned for exclusive farm use subject to ORS
35 215.296:

36 "(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a
37 forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm
38 operation or woodlot:

39 "(A) Consists of 20 or more acres; and

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

43 "(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a
44 forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than
45 required under paragraph (a) of this subsection, if the lot or parcel:

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

5 “(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross
6 annual income.

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

9 “(d) Operations conducted for:

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

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

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

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

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

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

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

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

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

1 contiguous land where the primary processing facility is located.

2 “(j) A site for the disposal of solid waste approved by the governing body of a city or county
3 or both and for which a permit has been granted under ORS 459.245 by the Department of Envi-
4 ronmental Quality together with equipment, facilities or buildings necessary for its operation.

5 “(k) Dog kennels.

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

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

14 “(n) Home occupations as provided in ORS 215.448.

15 “(o) Transmission towers over 200 feet in height.

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

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

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

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

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

27 “(u) A living history museum related to resource based activities owned and operated by a
28 governmental agency or a local historical society, together with limited commercial activities and
29 facilities that are directly related to the use and enjoyment of the museum and located within au-
30 thentic buildings of the depicted historic period or the museum administration building, if areas
31 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
32 the museum administration buildings and parking lot are located within one quarter mile of the
33 metropolitan urban growth boundary. As used in this paragraph:

34 “(A) ‘Living history museum’ means a facility designed to depict and interpret everyday life and
35 culture of some specific historic period using authentic buildings, tools, equipment and people to
36 simulate past activities and events; and

37 “(B) ‘Local historical society’ means the local historical society, recognized as such by the
38 county governing body and organized under ORS chapter 65.

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

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

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

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

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

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

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

17 “(c) Complies with such other conditions as the governing body or its designee considers nec-
18 essary.

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

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

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

30 “(c) The dwelling complies with other conditions considered necessary by the governing body
31 or its designee.

32 “(5) Upon receipt of an application for a permit under subsection (4) of this section, the gov-
33 erning body shall notify:

34 “(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be
35 established; and

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

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

1 this section.

2 “(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January
3 1, 1948, and July 1, 1983. For the purposes of this section:

4 “(a) Only one lot or parcel exists if:

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

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

10 “(b) ‘Contiguous’ means lots, parcels or lots and parcels that have a common boundary, including
11 but not limited to, lots, parcels or lots and parcels separated only by a public road.

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

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

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

20 “(a) Adoption of an exception to the goal related to agricultural lands and to any other appli-
21 cable goal with which the facility or improvement does not comply; or

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

24 “**SECTION 8.** ORS 215.283 is amended to read:

25 “215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

26 “(a) Churches and cemeteries in conjunction with churches.

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

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

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

42 “(e) Primary or accessory dwellings and other buildings customarily provided in conjunction
43 with farm use.

44 “(f) Operations for the exploration for and production of geothermal resources as defined by
45 ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of

1 compressors, separators and other customary production equipment for an individual well adjacent
2 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
3 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

20 “(m) Creation, restoration or enhancement of wetlands.

21 “(n) A winery, as described in ORS 215.452 **or section 5 of this 2011 Act.**

22 “(o) 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 “(p) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

36 “(C) Has interior wiring for interior lights;

37 “(D) Has a heating system; and

38 “(E) In the case of replacement:

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

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

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

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

27 "(r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
28 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
29 processed at the facility. The building established for the processing facility shall not exceed 10,000
30 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
31 use or devote more than 10,000 square feet to the processing activities within another building
32 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
33 standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

35 "(t) Irrigation canals, delivery lines and those structures and accessory operational facilities
36 associated with a district as defined in ORS 540.505.

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

40 "(A) A public right of way;

41 "(B) Land immediately adjacent to a public right of way, provided the written consent of all
42 adjacent property owners has been obtained; or

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

44 "(v) Subject to the issuance of a license, permit or other approval by the Department of Envi-
45 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with

1 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
2 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
3 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
4 exclusive farm use zone under this chapter.

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

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

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

12 “(b) Operations conducted for:

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

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

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

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

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

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

31 “(e) Community centers owned by a governmental agency or a nonprofit community organization
32 and operated primarily by and for residents of the local rural community. A community center au-
33 thorized under this paragraph may provide services to veterans, including but not limited to emer-
34 gency and transitional shelter, preparation and service of meals, vocational and educational
35 counseling and referral to local, state or federal agencies providing medical, mental health, disability
36 income replacement and substance abuse services, only in a facility that is in existence on January
37 1, 2006. The services may not include direct delivery of medical, mental health, disability income
38 replacement or substance abuse services.

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

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

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

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

5 “(i) Home occupations as provided in ORS 215.448.

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

14 “(k) A site for the disposal of solid waste approved by the governing body of a city or county
15 or both and for which a permit has been granted under ORS 459.245 by the Department of Envi-
16 ronmental Quality together with equipment, facilities or buildings necessary for its operation.

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

25 “(m) Transmission towers over 200 feet in height.

26 “(n) Dog kennels.

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

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

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

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

39 “(s) Improvement of public road and highway related facilities, such as maintenance yards,
40 weigh stations and rest areas, where additional property or right of way is required but not result-
41 ing in the creation of new land parcels.

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

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

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

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

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

11 “(A) ‘Living history museum’ means a facility designed to depict and interpret everyday life and
12 culture of some specific historic period using authentic buildings, tools, equipment and people to
13 simulate past activities and events; and

14 “(B) ‘Local historical society’ means the local historical society recognized by the county gov-
15 erning body and organized under ORS chapter 65.

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

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

22 “(aa) Public or private schools for kindergarten through grade 12, including all buildings es-
23 sential to the operation of a school, primarily for residents of the rural area in which the school is
24 located.

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

28 “(a) Adoption of an exception to the goal related to agricultural lands and to any other appli-
29 cable goal with which the facility or improvement does not comply; or

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

32 “**SECTION 9.** ORS 215.455 is amended to read:

33 “215.455. Any winery approved under ORS 215.213, 215.283, 215.284 and 215.452 **and section 5**
34 **of this 2011 Act** is not a basis for an exception under ORS 197.732 (2)(a) or (b).

35 “**SECTION 10.** ORS 308A.053 is amended to read:

36 “308A.053. As used in ORS 308A.050 to 308A.128:

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

41 “(2) ‘Exclusive farm use zone farmland’ means land that qualifies for special assessment under
42 ORS 308A.062.

43 “(3) ‘Homesite’ means the land, including all tangible improvements to the land under and ad-
44 jacent to a dwelling and other structures, if any, that are customarily provided in conjunction with
45 a dwelling.

1 “(4) ‘Nonexclusive farm use zone farmland’ means land that is not within an exclusive farm use
2 zone but that qualifies for farm use special assessment under ORS 308A.068.

3 “(5) ‘Remediation plan’ means a plan certified by an extension agent of the Oregon State Uni-
4 versity Extension Service to remediate or mitigate severe adverse conditions on farmland.

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

8 “**SECTION 11. (1) The amendments to ORS 215.452 by section 3 of this 2011 Act become**
9 **operative January 1, 2013.**

10 “**(2) The amendments to section 5 of this 2011 Act by section 5a of this 2011 Act become**
11 **operative January 1, 2013.**

12 “**(3) The amendments to ORS 215.452 by section 3a of this 2011 Act become operative**
13 **January 1, 2014.**

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

17 /s/ Kevin Cameron
18 Representative

19 /s/ Paul Holvey
20 Representative

21 /s/ Mark Johnson
22 Representative

23 /s/ Mary Nolan (Dissenting)
24 Representative

25 /s/ Jackie Dingfelder
26 Senator

27 /s/ Floyd Prozanski
28 Senator

29 /s/ Chuck Thomsen
30 Senator

31 _____
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