

# House Bill 3654

Sponsored by Representative THOMPSON, Senator BOQUIST; Representatives BERGER, BOONE, HOYLE, HUFFMAN, JOHNSON, OLSON, SCHAUFLER, Senator EDWARDS

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies criteria for siting winery in exclusive farm use zone. Authorizes siting of winery in forest zones and mixed farm and forest zones. Modifies authorized activity of winery sited in resource zone.

Authorizes conditional approval of events or activities on tract of resource land that are incidental and subordinate to farm use of, or production of wine on, tract.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to uses of resource land in conjunction with agricultural production; creating new pro-  
3 visions; amending ORS 215.203, 215.213, 215.246, 215.283 and 215.452; repealing section 3, chapter  
4 97, Oregon 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 Section 3, chapter 97, Oregon Laws 2010, is repealed.**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 **licensed under ORS 471.223 or 471.227** may be established as an outright  
10 permitted use in an area zoned:

11 (a) For exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n); **or**

12 (b) **For forest use or for mixed farm and forest use.** [*if the winery produces wine with a*  
13 *maximum annual production of:*]

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

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

16 [(B) *Owens a contiguous vineyard of at least 15 acres;*]

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

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

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

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

22 [(B) *Owens a contiguous vineyard of at least 40 acres;*]

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

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

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

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

28 (b) **Other wines, cider or malt beverages as provided in ORS 471.223 or 471.227; and**

**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           **[(b)] (c)** Items directly related to the sale and promotion of wine produced in conjunction with  
 2 the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages  
 3 served by *[a limited service restaurant, as defined in ORS 624.010.]* **kitchen and dining facilities**  
 4 **licensed as a restaurant under ORS 624.010 to 624.121.**

5           **(3) The use of licensed kitchen and dining facilities pursuant to subsection (2) of this**  
 6 **section is limited:**

7           **(a) For a winery sited under subsection (1) of this section that produces more than**  
 8 **100,000 gallons of wine per calendar year, only by the uses authorized under the restaurant**  
 9 **license issued under ORS 624.010 to 624.121.**

10           **(b) For other wineries sited pursuant to subsection (1) of this section, the preparation**  
 11 **of food and beverages that are:**

12           **(A) Required to be served by other law in conjunction with the on-premises consumption**  
 13 **of wine; or**

14           **(B) Served in conjunction with the consumption of wine at catered events or activities**  
 15 **allowed under this section or section 4 of this 2011 Act.**

16           **(4) A winery sited under subsection (1) of this section may include a tasting room in**  
 17 **which wine is sampled in anticipation of purchase for off-premises consumption.**

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

21           **[(4)] (5)** A local government shall adopt findings for each of the standards described in para-  
 22 graphs (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited  
 23 solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted  
 24 farming or forest practices on adjacent lands:

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

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

28           **[(5)] (6)** A local government shall also apply local criteria regarding floodplains, geologic haz-  
 29 ards, the Willamette River Greenway, solar access, airport safety or other regulations for resource  
 30 protection acknowledged to comply with any statewide goal respecting open spaces, scenic and his-  
 31 toric areas and natural resources.

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

33           **SECTION 4. A farm operator, or an operator of a winery sited pursuant to ORS 215.452**  
 34 **(1), may promote agriculture and agricultural products by conducting on a tract up to 12**  
 35 **agri-tourism or other commercial events or activities in a calendar year that are incidental**  
 36 **and subordinate to farm use of, or production of wine on, the tract. An event or activity**  
 37 **authorized by this subsection is an outright permitted use, but only if the farm operator, or**  
 38 **the winery operator, registers the event or activity with the county at least 30 days in ad-**  
 39 **vance and, in a form acceptable to the county, identifies:**

40           **(1) The date and duration of the event or activity;**

41           **(2) The anticipated number of attendees and motor vehicles at the event or activity;**

42           **(3) Options for ingress and egress to the tract and arrangements for parking;**

43           **(4) A plan for providing sanitation facilities and solid waste management; and**

44           **(5) A plan for traffic management on the tract and on roadways providing access to the**  
 45 **tract.**

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

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

(a) Churches and cemeteries in conjunction with churches.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (C) Has interior wiring for interior lights;

16 (D) Has a heating system; and

17 (E) In the case of replacement:

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

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

40 (r) Farm stands if:

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

1 and

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

5 (s) An armed forces reserve center, if the center is within one-half mile of a community college.  
 6 For purposes of this paragraph, “armed forces reserve center” includes an armory or National  
 7 Guard support facility.

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

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

29 (x) 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 (y) 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 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
 43 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
 44 215.296:

45 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest

1 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-  
 2 eration or woodlot:

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

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

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

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

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

16 (c) Commercial activities that are in conjunction with:

17 (A) Farm use, including the processing of farm crops into biofuel not permitted under ORS  
 18 215.203 (2)(b)(L) or subsection (1)(u) of this section[.]; **and**

19 **(B) Wine production, or a farm use involving the cultivation of a crop used for wine**  
 20 **production, including agri-tourism or other commercial events or activities that are inci-**  
 21 **dental and subordinate to wine production, or the cultivation of the crop used in wine pro-**  
 22 **duction, on a tract as provided in section 4 of this 2011 Act.**

23 (d) Operations conducted for:

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

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

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

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

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

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

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

45 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-

1 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-  
2 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional  
3 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-  
4 erations. No aircraft may be based on a personal-use airport other than those owned or controlled  
5 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be  
6 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
7 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-  
8 ject to any applicable rules of the Oregon Department of Aviation.

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

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

20 (k) Dog kennels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing



1 body shall notify:

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

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

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

15 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
16 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

38 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

45 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the

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

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

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

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

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

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

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

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

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

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

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

35 (o) Farm stands if:

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

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

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

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

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

4 (C) Has interior wiring for interior lights;

5 (D) Has a heating system; and

6 (E) In the case of replacement:

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

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

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

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

standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

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

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

(A) A public right of way;

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

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

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

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

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

(a) Commercial activities that are in conjunction with:

(A) Farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(r) of this section[.]; **and**

**(B) Wine production, or a farm use involving the cultivation of a crop used for wine production, including agri-tourism or other commercial events or activities that are incidental and subordinate to wine production, or the cultivation of the crop used for wine production, on a tract as provided in section 4 of this 2011 Act.**

(b) Operations conducted for:

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

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

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

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

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

1 internal cooking appliance.

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

4 (e) Community centers owned by a governmental agency or a nonprofit community organization  
5 and operated primarily by and for residents of the local rural community. A community center au-  
6 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
7 gency and transitional shelter, preparation and service of meals, vocational and educational  
8 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
9 income replacement and substance abuse services, only in a facility that is in existence on January  
10 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
11 replacement or substance abuse services.

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

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

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

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

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

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

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

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

44 (n) Dog kennels.

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable

1 goal with which the facility or improvement does not comply; or

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

4 **SECTION 7.** ORS 215.203 is amended to read:

5 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the  
6 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use  
7 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established  
8 only when such zoning is consistent with the comprehensive plan.

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

25 (b) "Current employment" of land for farm use includes:

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

27 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural  
28 husbandry;

29 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)  
30 of this paragraph, prior to maturity;

31 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special  
32 farm use value in the year prior to planting the current crop and has been planted in orchards,  
33 cultured Christmas trees or vineyards for at least three years;

34 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically  
35 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and  
36 which is not currently being used for any economic farm use;

37 (F) Except for land under a single family dwelling, land under buildings supporting accepted  
38 farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)  
39 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use  
40 under ORS 215.213 (2)(c)(A) and 215.283 (2)(a)(A);

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

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

45 (I) Land lying idle for no more than one year where the absence of farming activity is due to

1 the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph,  
 2 illness includes injury or infirmity whether or not such illness results in death;

3 (J) Any land described under ORS 321.267 (3) or 321.824 (3);

4 (K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,  
 5 kenneling or training of greyhounds for racing; and

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

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

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

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

12 (c) As used in this subsection, “accepted farming practice” means a mode of operation that is  
 13 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit  
 14 in money, and customarily utilized in conjunction with farm use.

15 (3) “Cultured Christmas trees” means trees:

16 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-  
 17 vation methods such as plowing or turning over the soil;

18 (b) Of a marketable species;

19 (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as  
 20 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

21 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed  
 22 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and  
 23 disease control, stump culture, soil cultivation, irrigation.

24 **SECTION 8.** ORS 215.246 is amended to read:

25 215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

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

31 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS  
 32 215.275 or 215.296.

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

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

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

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

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

40 (A) ORS 215.213 (1)(b), (d) to (f), (i) to (n), (p) to (r), (u), (w) or (x);

41 (B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

42 (C) ORS 215.283 (1)(b), (d), (e), (h) to (L), (n) to (p), (r), (t) or (u); [*or*]

43 (D) ORS 215.283 (2)(a), (j), (L) or (p) to (s)[.]; **or**

44 **(E) Section 4 of this 2011 Act.**

45 (3) When a state agency or a local government makes a land use decision relating to the land



1 application of reclaimed water, agricultural or industrial process water or biosolids under a license,  
 2 permit or approval by the Department of Environmental Quality, the applicant shall explain in  
 3 writing how alternatives identified in public comments on the land use decision were considered and,  
 4 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The  
 5 applicant must consider only those alternatives that are identified with sufficient specificity to af-  
 6 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating  
 7 to the land application of reclaimed water, agricultural or industrial process water or biosolids may  
 8 not be reversed or remanded under this subsection unless the applicant failed to consider identified  
 9 alternatives or to explain in writing the reasons for not using the alternatives.

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

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

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

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

20 (A) A public right of way; or

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

23 (d) The transport by vehicle of reclaimed water or agricultural or industrial process water to  
 24 a tract on which the water will be applied to land.

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

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

29 (b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x)  
 30 or 215.283 (1)(u).

31 **SECTION 9. (1) A use or structure that exists on the effective date of this 2011 Act at**  
 32 **a winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced more than**  
 33 **250,000 gallons of wine in calendar year 2010 may be lawfully continued. The use or structure**  
 34 **may be altered, restored or replaced as provided in ORS 215.130.**

35 **(2) A winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced more**  
 36 **than 150,000 gallons and not more than 250,000 gallons of wine in calendar year 2010 does not**  
 37 **require a permit under ORS 215.213 (2)(c)(B) or 215.283 (2)(a)(B). However, the winery must**  
 38 **comply with ORS 215.452 (2) to (6).**

39 **SECTION 10. This 2011 Act being necessary for the immediate preservation of the public**  
 40 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
 41 **on its passage.**