

A-Engrossed
Senate Bill 960

Ordered by the Senate May 31
Including Senate Amendments dated May 31

Sponsored by Senator THOMSEN (at the request of Association of Oregon Counties, Oregon Farm Bureau)

SUMMARY

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

[Authorizes conditional approval of temporary promotional events subordinate to agricultural activities on lands zoned for exclusive farm use. Requires periodic review of approved special use permits.]

Creates processes by which county may conditionally approve agri-tourism and other commercial events or activities related to and supportive of agriculture in area zoned for exclusive farm use, including area designated as rural reserve or as urban reserve.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to uses on lands zoned for exclusive farm use; creating new provisions; amending ORS
3 197.015, 215.213, 215.246, 215.283 and 215.296; and declaring an emergency.

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

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

6 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
7 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

14 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
15 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
16 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
17 operator does or will require the assistance of the relative in the management of the farm use and
18 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
19 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
20 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
21 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
22 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
23 shall operate as a partition of the homesite to create a new parcel.

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

25 (f) Primary or accessory dwellings customarily provided in conjunction with farm use. For a

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 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-
2 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-
3 edged under ORS 197.251.

4 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
5 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
6 compressors, separators and other customary production equipment for an individual well adjacent
7 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
8 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

21 (k) 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 (L) 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 (m) 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 (n) 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 (o) Creation, restoration or enhancement of wetlands.

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

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

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

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

39 (C) Has interior wiring for interior lights;

40 (D) Has a heating system; and

41 (E) In the case of replacement:

42 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
43 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
44 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
45 siting standards. However, the standards shall not be applied in a manner that prohibits the siting

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

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

19 (r) Farm stands if:

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

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

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

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

43 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
44 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
45 processed at the facility. The building established for the processing facility shall not exceed 10,000

1 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
2 use or devote more than 10,000 square feet to the processing activities within another building
3 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
4 standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

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

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

11 (A) A public right of way;

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

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

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

21 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
22 the following uses may be established in any area zoned for exclusive farm use subject to ORS
23 215.296:

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

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

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

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

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

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

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

42 (d) Operations conducted for:

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

45 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-

1 sources subject to ORS 215.298;

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

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

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

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

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

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

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

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

39 (k) Dog kennels.

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

41 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
42 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
43 shall not include any species under quarantine by the State Department of Agriculture or the United
44 States Department of Agriculture. The county shall provide notice of all applications under this
45 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the

1 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
2 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
35 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

1 dwelling.

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

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

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

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

11 **(11) The following agri-tourism and other commercial events or activities that are related
12 to and supportive of agriculture may be established in any area zoned for exclusive farm use:**

13 **(a) A county may authorize a single agri-tourism or other commercial event or activity
14 on a tract in a calendar year by an authorization that is personal to the applicant and is not
15 transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other
16 commercial event or activity meets any local standards that apply and:**

17 **(A) The agri-tourism or other commercial event or activity is incidental and subordinate
18 to existing farm use on the tract;**

19 **(B) The duration of the agri-tourism or other commercial event or activity does not ex-
20 ceed 72 consecutive hours;**

21 **(C) The maximum attendance at the agri-tourism or other commercial event or activity
22 does not exceed 500 people;**

23 **(D) The maximum number of motor vehicles parked at the site of the agri-tourism or
24 other commercial event or activity does not exceed 250 vehicles;**

25 **(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;**

26 **(F) The agri-tourism or other commercial event or activity occurs outdoors, in tempo-
27 rary structures, or in existing permitted structures, subject to health and fire and life safety
28 requirements; and**

29 **(G) The agri-tourism or other commercial event or activity complies with conditions es-
30 tablished for:**

31 **(i) Planned hours of operation;**

32 **(ii) Access, egress and parking;**

33 **(iii) A traffic management plan that identifies the projected number of vehicles and any
34 anticipated use of public roads; and**

35 **(iv) Sanitation and solid waste.**

36 **(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may author-
37 ize, through an expedited, single-event license, a single agri-tourism or other commercial
38 event or activity on a tract in a calendar year by an expedited, single-event license that is
39 personal to the applicant and is not transferred by, or transferable with, a conveyance of the
40 tract. A decision concerning an expedited, single-event license is not a land use decision, as
41 defined in ORS 197.015. To approve an expedited, single-event license, the governing body of
42 a county or its designee must determine that the proposed agri-tourism or other commercial
43 event or activity meets any local standards that apply, and the agri-tourism or other com-
44 mercial event or activity:**

45 **(A) Must be incidental and subordinate to existing farm use on the tract;**

- 1 **(B) May not begin before 6 a.m. or end after 10 p.m.;**
2 **(C) May not involve more than 100 attendees or 50 vehicles;**
3 **(D) May not include the artificial amplification of music or voices before 8 a.m. or after**
4 **8 p.m.;**
5 **(E) May not require or involve the construction or use of a new permanent structure in**
6 **connection with the agri-tourism or other commercial event or activity;**
7 **(F) Must be located on a tract of at least 10 acres unless the owners or residents of ad-**
8 **joining properties consent, in writing, to the location; and**
9 **(G) Must comply with applicable health and fire and life safety requirements.**
10 **(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize**
11 **up to six agri-tourism or other commercial events or activities on a tract in a calendar year**
12 **by a limited use permit that is personal to the applicant and is not transferred by, or**
13 **transferable with, a conveyance of the tract. The agri-tourism or other commercial events**
14 **or activities must meet any local standards that apply, and the agri-tourism or other com-**
15 **mercial events or activities:**
16 **(A) Must be incidental and subordinate to existing farm use on the tract;**
17 **(B) May not, individually, exceed a duration of 72 consecutive hours;**
18 **(C) May not require that a new permanent structure be built, used or occupied in con-**
19 **nection with the agri-tourism or other commercial events or activities;**
20 **(D) Must comply with ORS 215.296;**
21 **(E) May not, in combination with other agri-tourism or other commercial events or ac-**
22 **tivities authorized in the area, materially alter the stability of the land use pattern in the**
23 **area; and**
24 **(F) Must comply with conditions established for:**
25 **(i) The types of agri-tourism or other commercial events or activities that are authorized**
26 **during each calendar year, including the number and duration of the agri-tourism or other**
27 **commercial events and activities, the anticipated daily attendance and the hours of opera-**
28 **tion;**
29 **(ii) The location of existing structures and the location of proposed temporary structures**
30 **to be used in connection with the agri-tourism or other commercial events or activities;**
31 **(iii) The location of access and egress and parking facilities to be used in connection with**
32 **the agri-tourism or other commercial events or activities;**
33 **(iv) Traffic management, including the projected number of vehicles and any anticipated**
34 **use of public roads; and**
35 **(v) Sanitation and solid waste.**
36 **(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-**
37 **tourism or other commercial events or activities that occur more frequently or for a longer**
38 **period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the**
39 **agri-tourism or other commercial events or activities comply with any local standards that**
40 **apply and the agri-tourism or other commercial events or activities:**
41 **(A) Are incidental and subordinate to existing commercial farm use of the tract and are**
42 **necessary to support the commercial farm uses or the commercial agricultural enterprises**
43 **in the area;**
44 **(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;**
45 **(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel**

1 size; and

2 (D) Do not exceed 18 events or activities in a calendar year.

3 (12) A holder of a permit authorized by a county under subsection (11)(d) of this section
4 must request review of the permit at four-year intervals. Upon receipt of a request for re-
5 view, the county shall:

6 (a) Provide public notice and an opportunity for public comment as part of the review
7 process; and

8 (b) Limit its review to events and activities authorized by the permit, conformance with
9 conditions of approval required by the permit and the standards established by subsection
10 (11)(d) of this section.

11 (13) For the purposes of subsection (11) of this section:

12 (a) A county may authorize the use of temporary structures established in connection
13 with the agri-tourism or other commercial events or activities authorized under subsection
14 (11) of this section. However, the temporary structures must be removed at the end of the
15 agri-tourism or other event or activity. The county may not approve an alteration to the land
16 in connection with an agri-tourism or other commercial event or activity authorized under
17 subsection (11) of this section, including, but not limited to, grading, filling or paving.

18 (b) The county may issue the limited use permits authorized by subsection (11)(c) of this
19 section for two calendar years. When considering an application for renewal, the county shall
20 ensure compliance with the provisions of subsection (11)(c) of this section, any local stan-
21 dards that apply and conditions that apply to the permit or to the agri-tourism or other
22 commercial events or activities authorized by the permit.

23 (c) The authorizations provided by subsection (11) of this section are in addition to other
24 authorizations that may be provided by law, except that “outdoor mass gathering” and
25 “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism
26 or other commercial events and activities.

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

28 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

45 (e) Primary or accessory dwellings and other buildings customarily provided in conjunction with

1 farm use.

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

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

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

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

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

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

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

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

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

25 (o) Farm stands if:

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

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

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

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

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

39 (C) Has interior wiring for interior lights;

40 (D) Has a heating system; and

41 (E) In the case of replacement:

42 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
43 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
44 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
45 siting standards. However, the standards shall not be applied in a manner that prohibits the siting

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

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

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

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

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

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

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

43 (A) A public right of way;

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

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

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

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

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

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

15 (b) Operations conducted for:

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

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

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

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

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

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

34 (e) Community centers owned by a governmental agency or a nonprofit community organization
35 and operated primarily by and for residents of the local rural community. A community center au-
36 thorized under this paragraph may provide services to veterans, including but not limited to emer-
37 gency and transitional shelter, preparation and service of meals, vocational and educational
38 counseling and referral to local, state or federal agencies providing medical, mental health, disability
39 income replacement and substance abuse services, only in a facility that is in existence on January
40 1, 2006. The services may not include direct delivery of medical, mental health, disability income
41 replacement or substance abuse services.

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

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

44 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
45 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-

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

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

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

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

29 (n) Dog kennels.

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

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

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

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

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

45 (t) A destination resort that is approved consistent with the requirements of any statewide

1 planning goal relating to the siting of a destination resort.

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

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

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

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

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

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

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

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

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

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

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

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

34 **(4) The following agri-tourism and other commercial events or activities that are related**
35 **to and supportive of agriculture may be established in any area zoned for exclusive farm use:**

36 **(a) A county may authorize a single agri-tourism or other commercial event or activity**
37 **on a tract in a calendar year by an authorization that is personal to the applicant and is not**
38 **transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other**
39 **commercial event or activity meets any local standards that apply and:**

40 **(A) The agri-tourism or other commercial event or activity is incidental and subordinate**
41 **to existing farm use on the tract;**

42 **(B) The duration of the agri-tourism or other commercial event or activity does not ex-**
43 **ceed 72 consecutive hours;**

44 **(C) The maximum attendance at the agri-tourism or other commercial event or activity**
45 **does not exceed 500 people;**

1 (D) The maximum number of motor vehicles parked at the site of the agri-tourism or
2 other commercial event or activity does not exceed 250 vehicles;

3 (E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

4 (F) The agri-tourism or other commercial event or activity occurs outdoors, in tempo-
5 rary structures, or in existing permitted structures, subject to health and fire and life safety
6 requirements; and

7 (G) The agri-tourism or other commercial event or activity complies with conditions es-
8 tablished for:

9 (i) Planned hours of operation;

10 (ii) Access, egress and parking;

11 (iii) A traffic management plan that identifies the projected number of vehicles and any
12 anticipated use of public roads; and

13 (iv) Sanitation and solid waste.

14 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may author-
15 ize, through an expedited, single-event license, a single agri-tourism or other commercial
16 event or activity on a tract in a calendar year by an expedited, single-event license that is
17 personal to the applicant and is not transferred by, or transferable with, a conveyance of the
18 tract. A decision concerning an expedited, single-event license is not a land use decision, as
19 defined in ORS 197.015. To approve an expedited, single-event license, the governing body of
20 a county or its designee must determine that the proposed agri-tourism or other commercial
21 event or activity meets any local standards that apply, and the agri-tourism or other com-
22 mercial event or activity:

23 (A) Must be incidental and subordinate to existing farm use on the tract;

24 (B) May not begin before 6 a.m. or end after 10 p.m.;

25 (C) May not involve more than 100 attendees or 50 vehicles;

26 (D) May not include the artificial amplification of music or voices before 8 a.m. or after
27 8 p.m.;

28 (E) May not require or involve the construction or use of a new permanent structure in
29 connection with the agri-tourism or other commercial event or activity;

30 (F) Must be located on a tract of at least 10 acres unless the owners or residents of ad-
31 joining properties consent, in writing, to the location; and

32 (G) Must comply with applicable health and fire and life safety requirements.

33 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize
34 up to six agri-tourism or other commercial events or activities on a tract in a calendar year
35 by a limited use permit that is personal to the applicant and is not transferred by, or
36 transferable with, a conveyance of the tract. The agri-tourism or other commercial events
37 or activities must meet any local standards that apply, and the agri-tourism or other com-
38 mercial events or activities:

39 (A) Must be incidental and subordinate to existing farm use on the tract;

40 (B) May not, individually, exceed a duration of 72 consecutive hours;

41 (C) May not require that a new permanent structure be built, used or occupied in con-
42 nection with the agri-tourism or other commercial events or activities;

43 (D) Must comply with ORS 215.296;

44 (E) May not, in combination with other agri-tourism or other commercial events or ac-
45 tivities authorized in the area, materially alter the stability of the land use pattern in the

1 area; and

2 (F) Must comply with conditions established for:

3 (i) The types of agri-tourism or other commercial events or activities that are authorized
4 during each calendar year, including the number and duration of the agri-tourism or other
5 commercial events and activities, the anticipated daily attendance and the hours of opera-
6 tion;

7 (ii) The location of existing structures and the location of proposed temporary structures
8 to be used in connection with the agri-tourism or other commercial events or activities;

9 (iii) The location of access and egress and parking facilities to be used in connection with
10 the agri-tourism or other commercial events or activities;

11 (iv) Traffic management, including the projected number of vehicles and any anticipated
12 use of public roads; and

13 (v) Sanitation and solid waste.

14 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-
15 tourism or other commercial events or activities that occur more frequently or for a longer
16 period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the
17 agri-tourism or other commercial events or activities comply with any local standards that
18 apply and the agri-tourism or other commercial events or activities:

19 (A) Are incidental and subordinate to existing commercial farm use of the tract and are
20 necessary to support the commercial farm uses or the commercial agricultural enterprises
21 in the area;

22 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

23 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel
24 size; and

25 (D) Do not exceed 18 events or activities in a calendar year.

26 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section
27 must request review of the permit at four-year intervals. Upon receipt of a request for re-
28 view, the county shall:

29 (a) Provide public notice and an opportunity for public comment as part of the review
30 process; and

31 (b) Limit its review to events and activities authorized by the permit, conformance with
32 conditions of approval required by the permit and the standards established by subsection
33 (4)(d) of this section.

34 (6) For the purposes of subsection (4) of this section:

35 (a) A county may authorize the use of temporary structures established in connection
36 with the agri-tourism or other commercial events or activities authorized under subsection
37 (4) of this section. However, the temporary structures must be removed at the end of the
38 agri-tourism or other event or activity. The county may not approve an alteration to the land
39 in connection with an agri-tourism or other commercial event or activity authorized under
40 subsection (4) of this section, including, but not limited to, grading, filling or paving.

41 (b) The county may issue the limited use permits authorized by subsection (4)(c) of this
42 section for two calendar years. When considering an application for renewal, the county shall
43 ensure compliance with the provisions of subsection (4)(c) of this section, any local standards
44 that apply and conditions that apply to the permit or to the agri-tourism or other commer-
45 cial events or activities authorized by the permit.

1 (c) The authorizations provided by subsection (4) of this section are in addition to other
2 authorizations that may be provided by law, except that “outdoor mass gathering” and
3 “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism
4 or other commercial events and activities.

5 **SECTION 3.** If a winery sited on land zoned for exclusive farm use under ORS 215.452
6 conducts events or activities authorized by ORS 215.213 (11) or 215.283 (4), the winery may
7 not conduct events or activities, if any, that are:

- 8 (1) Authorized by ORS 215.452; and
9 (2) Subject to the conditional approval of a county.

10 **SECTION 4.** Notwithstanding ORS 30.938, in an action or claim for relief alleging nui-
11 sance or trespass and arising from a practice that is alleged by either party to be a farming
12 or forest practice, the prevailing party is not entitled to judgment for reasonable attorney
13 fees and costs incurred at trial and on appeal if:

- 14 (1) The party owns, operates or attends an agri-tourism or other commercial event or
15 activity authorized under ORS 215.213 (11) or 215.283 (4); and
16 (2) The action or claim arises from the event or activity.

17 **SECTION 5.** The uses authorized by ORS 215.213 (11) or 215.283 (4) may be allowed on
18 lands that are planned and zoned for exclusive farm use and designated as rural reserves
19 under ORS 195.141 or as urban reserves under ORS 195.145.

20 **SECTION 6.** (1)(a) A use or structure in an area zoned for exclusive farm use that exists
21 on the effective date of this 2011 Act may be lawfully continued, altered, restored or replaced
22 pursuant to ORS 215.130 if the use or structure is located on the same tract, as defined in
23 ORS 215.010, as a winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced
24 more than 250,000 gallons of wine in calendar year 2010.

25 (b) This subsection does not affect the lawful continuation, alteration, restoration or
26 expansion of the winery sited on the same tract.

27 (2) A winery established under ORS 215.213 (1)(p) or 215.283 (1)(n) that produced more
28 than 150,000 gallons and not more than 250,000 gallons of wine in calendar year 2010 does not
29 require a permit under ORS 215.213 (2)(c) or 215.283 (2)(a). However, the winery must comply
30 with all provisions of ORS 215.452 except the annual production requirements.

31 **SECTION 7.** ORS 197.015 is amended to read:

32 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

33 (1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and
34 land use regulations, land use regulation or plan or regulation amendment complies with the goals
35 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
36 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
37 work plan comply with the goals.

38 (2) “Board” means the Land Use Board of Appeals.

39 (3) “Carport” means a stationary structure consisting of a roof with its supports and not more
40 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

41 (4) “Commission” means the Land Conservation and Development Commission.

42 (5) “Comprehensive plan” means a generalized, coordinated land use map and policy statement
43 of the governing body of a local government that interrelates all functional and natural systems and
44 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
45 portation systems, educational facilities, recreational facilities, and natural resources and air and

1 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
2 geographic area covered and functional and natural activities and systems occurring in the area
3 covered by the plan. "General nature" means a summary of policies and proposals in broad cate-
4 gories and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
5 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
6 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
7 water, both surface and subsurface, and the air.

8 (6) "Department" means the Department of Land Conservation and Development.

9 (7) "Director" means the Director of the Department of Land Conservation and Development.

10 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-
11 mission pursuant to ORS chapters 195, 196 and 197.

12 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
13 adoption and implementation of comprehensive plans in compliance with goals and to aid state
14 agencies and special districts in the preparation, adoption and implementation of plans, programs
15 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
16 agencies, cities, counties and special districts to a single approach.

17 (10) "Land use decision":

18 (a) Includes:

19 (A) A final decision or determination made by a local government or special district that con-
20 cerns the adoption, amendment or application of:

21 (i) The goals;

22 (ii) A comprehensive plan provision;

23 (iii) A land use regulation; or

24 (iv) A new land use regulation;

25 (B) A final decision or determination of a state agency other than the commission with respect
26 to which the agency is required to apply the goals; or

27 (C) A decision of a county planning commission made under ORS 433.763;

28 (b) Does not include a decision of a local government:

29 (A) That is made under land use standards that do not require interpretation or the exercise
30 of policy or legal judgment;

31 (B) That approves or denies a building permit issued under clear and objective land use stan-
32 dards;

33 (C) That is a limited land use decision;

34 (D) That determines final engineering design, construction, operation, maintenance, repair or
35 preservation of a transportation facility that is otherwise authorized by and consistent with the
36 comprehensive plan and land use regulations;

37 (E) That is an expedited land division as described in ORS 197.360;

38 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
39 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
40 under ORS 480.410 to 480.460;

41 (G) That approves or denies approval of a final subdivision or partition plat or that determines
42 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
43 partition plan; or

44 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
45 knowledged comprehensive plan and land use regulations implementing the plan, if:

1 (i) The local government has already made a land use decision authorizing a use or activity that
2 encompasses the proposed state agency action;

3 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state
4 agency action is allowed without review under the acknowledged comprehensive plan and land use
5 regulations implementing the plan; or

6 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state
7 agency action requires a future land use review under the acknowledged comprehensive plan and
8 land use regulations implementing the plan;

9 (c) Does not include a decision by a school district to close a school;

10 (d) Does not include, **except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c)**, authorization
11 of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000
12 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

13 (e) Does not include:

14 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

15 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
16 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

17 (C) A state agency action subject to ORS 197.180 (1), if:

18 (i) The local government with land use jurisdiction over a use or activity that would be au-
19 thorized, funded or undertaken by the state agency as a result of the state agency action has already
20 made a land use decision approving the use or activity; or

21 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a
22 result of the state agency action is allowed without review under the acknowledged comprehensive
23 plan and land use regulations implementing the plan.

24 (11) "Land use regulation" means any local government zoning ordinance, land division ordi-
25 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
26 implementing a comprehensive plan.

27 (12) "Limited land use decision":

28 (a) Means a final decision or determination made by a local government pertaining to a site
29 within an urban growth boundary that concerns:

30 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
31 92.040 (1).

32 (B) The approval or denial of an application based on discretionary standards designed to reg-
33 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
34 view and design review.

35 (b) Does not mean a final decision made by a local government pertaining to a site within an
36 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
37 that determines whether a final subdivision or partition plat substantially conforms to the tentative
38 subdivision or partition plan.

39 (13) "Local government" means any city, county or metropolitan service district formed under
40 ORS chapter 268 or an association of local governments performing land use planning functions
41 under ORS 195.025.

42 (14) "Metro" means a metropolitan service district organized under ORS chapter 268.

43 (15) "Metro planning goals and objectives" means the land use goals and objectives that a met-
44 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
45 stitute a comprehensive plan.

1 (16) "Metro regional framework plan" means the regional framework plan required by the 1992
2 Metro Charter or its separate components. Neither the regional framework plan nor its individual
3 components constitute a comprehensive plan.

4 (17) "New land use regulation" means a land use regulation other than an amendment to an
5 acknowledged land use regulation adopted by a local government that already has a comprehensive
6 plan and land regulations acknowledged under ORS 197.251.

7 (18) "Person" means any individual, partnership, corporation, association, governmental subdi-
8 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
9 opment Commission or its designee is considered a person for purposes of appeal under ORS
10 chapters 195 and 197.

11 (19) "Special district" means any unit of local government, other than a city, county, metropol-
12 itan service district formed under ORS chapter 268 or an association of local governments per-
13 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
14 includes but is not limited to water control districts, domestic water associations and water coop-
15 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
16 school districts, hospital districts, mass transit districts and sanitary districts.

17 (20) "Urban unincorporated community" means an area designated in a county's acknowledged
18 comprehensive plan as an urban unincorporated community after December 5, 1994.

19 (21) "Voluntary association of local governments" means a regional planning agency in this
20 state officially designated by the Governor pursuant to the federal Office of Management and Budget
21 Circular A-95 as a regional clearinghouse.

22 (22) "Wetlands" means those areas that are inundated or saturated by surface or ground water
23 at a frequency and duration that are sufficient to support, and that under normal circumstances do
24 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

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

26 215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

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

32 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
33 215.275 or 215.296.

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

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

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

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

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

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

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

43 **(C) ORS 215.213 (11);**

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

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

1 **(F) ORS 215.283 (4).**

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

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

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

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

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

22 (A) A public right of way; or

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

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

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

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

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

33 **SECTION 9.** ORS 215.296 is amended to read:

34 215.296. (1) A use allowed under ORS 215.213 (2) **or (11)** or 215.283 (2) **or (4)** may be approved
35 only where the local governing body or its designee finds that the use will not:

36 (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted
37 to farm or forest use; or

38 (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands
39 devoted to farm or forest use.

40 (2) An applicant for a use allowed under ORS 215.213 (2) **or (11)** or 215.283 (2) **or (4)** may
41 demonstrate that the standards for approval set forth in subsection (1) of this section will be satis-
42 fied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

43 (3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file
44 a complaint with the local governing body or its designee alleging:

45 (a) That a condition imposed pursuant to subsection (2) of this section has been violated;

1 (b) That the violation has:

2 (A) Forced a significant change in accepted farm or forest practices on surrounding lands de-
3 voted to farm or forest use; or

4 (B) Significantly increased the cost of accepted farm or forest practices on surrounding lands
5 devoted to farm or forest use; and

6 (c) That the complainant is adversely affected by the violation.

7 (4) Upon receipt of a complaint filed under this section or ORS 215.218, the local governing body
8 or its designee shall:

9 (a) Forward the complaint to the operator of the use;

10 (b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

11 (c) Determine whether the allegations made in a complaint filed under this section or ORS
12 215.218 are true.

13 (5) Upon a determination that the allegations made in a complaint are true, the local governing
14 body or its designee at a minimum shall notify the violator that a violation has occurred, direct the
15 violator to correct the conditions that led to the violation within a specified time period and warn
16 the violator against the commission of further violations.

17 (6) If the conditions that led to a violation are not corrected within the time period specified
18 pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4)
19 of this section following the receipt of a second complaint that a further violation has occurred, the
20 local governing body or its designee at a minimum shall assess a fine against the violator.

21 (7) If the conditions that led to a violation are not corrected within 30 days after the imposition
22 of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to sub-
23 section (4) of this section following the receipt of a third or subsequent complaint that a further
24 violation has occurred, the local governing body or its designee shall at a minimum order the sus-
25 pension of the use until the violator corrects the conditions that led to the violation.

26 (8) If a use allowed under ORS 215.213 (2) **or** (11) or 215.283 (2) **or** (4) is initiated without prior
27 approval pursuant to subsection (1) of this section, the local governing body or its designee at a
28 minimum shall notify the user that prior approval is required, direct the user to apply for approval
29 within 21 days and warn the user against the commission of further violations. If the user does not
30 apply for approval within 21 days, the local governing body or its designee shall order the suspen-
31 sion of the use until the user applies for and receives approval. If there is a determination pursuant
32 to subsection (4) of this section following the receipt of a complaint that a further violation occurred
33 after approval was granted, the violation shall be deemed a second violation and the local governing
34 body or its designee at a minimum shall assess a fine against the violator.

35 (9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses
36 conducted within:

37 (A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3),
38 215.284 (1), (2), (3), (4) or (7) or 215.705;

39 (B) An exception area approved under ORS 197.732; or

40 (C) An acknowledged urban growth boundary.

41 (b) A person residing in a single-family residential dwelling which was approved under ORS
42 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved un-
43 der ORS 197.732 or which is within an acknowledged urban growth boundary may not file a com-
44 plaint under subsection (3) of this section.

45 (10) *[Nothing in]* This section *[shall]* **does not** prevent a local governing body approving a use

1 allowed under ORS 215.213 (2) **or (11)** or 215.283 (2) **or (4)** from establishing standards in addition
2 to those set forth in subsection (1) of this section or from imposing conditions to [*insure*] **ensure**
3 conformance with [*such*] **the** additional standards.

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

7
