

## SENATE AMENDMENTS TO SENATE BILL 960

By COMMITTEE ON RULES

May 31

1 On page 1 of the printed bill, delete line 3 and insert “197.015, 215.213, 215.246, 215.283 and  
2 215.296; and declaring an emergency.”.

3 Delete lines 5 through 30 and delete pages 2 through 18 and insert:

4 “**SECTION 1.** ORS 215.213 is amended to read:

5 “215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
6 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29           “(D) Has a heating system; and

30           “(E) In the case of replacement:

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

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

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

8 “(r) Farm stands if:

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

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

18 “(s) An armed forces reserve center, if the center is within one-half mile of a community college.  
19 For purposes of this paragraph, ‘armed forces reserve center’ includes an armory or National Guard  
20 support facility.

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

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

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

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

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

45 “(A) A public right of way;

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

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

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

10 “(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
11 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
12 215.296:

13 “(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a  
14 forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm  
15 operation or woodlot:

16 “(A) Consists of 20 or more acres; and

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

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

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

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

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

31 “(d) Operations conducted for:

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

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

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

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

38 “(e) Community centers owned by a governmental agency or a nonprofit community organization  
39 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
40 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the  
41 county governing body or its designee, a private campground may provide yurts for overnight  
42 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include  
43 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.  
44 Upon request of a county governing body, the Land Conservation and Development Commission may  
45 provide by rule for an increase in the number of yurts allowed on all or a portion of the

1 campgrounds in a county if the commission determines that the increase will comply with the stan-  
2 dards described in ORS 215.296 (1). A public park or campground may be established as provided  
3 under ORS 195.120. As used in this paragraph, ‘yurt’ means a round, domed shelter of cloth or can-  
4 vas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

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

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

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

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

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

27 “(k) Dog kennels.

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

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

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

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

38 “(p) 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 “(q) 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 “(r) 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 “(s) 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 “(t) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
3 dences.

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

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

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

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

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

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

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

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

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

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

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

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

45 “(a) The dwelling or activities associated with the dwelling will not force a significant change

1 in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm  
2 use;

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

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

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

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

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

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

24 “(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January  
25 1, 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

1       “(11) The following agri-tourism and other commercial events or activities that are re-  
2 lated to and supportive of agriculture may be established in any area zoned for exclusive  
3 farm use:

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

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

10       “(B) The duration of the agri-tourism or other commercial event or activity does not  
11 exceed 72 consecutive hours;

12       “(C) The maximum attendance at the agri-tourism or other commercial event or activity  
13 does not exceed 500 people;

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

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

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

20       “(G) The agri-tourism or other commercial event or activity complies with conditions  
21 established for:

22       “(i) Planned hours of operation;

23       “(ii) Access, egress and parking;

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

26       “(iv) Sanitation and solid waste.

27       “(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may au-  
28 thorize, through an expedited, single-event license, a single agri-tourism or other commercial  
29 event or activity on a tract in a calendar year by an expedited, single-event license that is  
30 personal to the applicant and is not transferred by, or transferable with, a conveyance of the  
31 tract. A decision concerning an expedited, single-event license is not a land use decision, as  
32 defined in ORS 197.015. To approve an expedited, single-event license, the governing body of  
33 a county or its designee must determine that the proposed agri-tourism or other commercial  
34 event or activity meets any local standards that apply, and the agri-tourism or other com-  
35 mercial event or activity:

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

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

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

39       “(D) May not include the artificial amplification of music or voices before 8 a.m. or after  
40 8 p.m.;

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

43       “(F) Must be located on a tract of at least 10 acres unless the owners or residents of  
44 adjoining properties consent, in writing, to the location; and

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



1       “(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may au-  
2       thorize up to six agri-tourism or other commercial events or activities on a tract in a cal-  
3       endar year by a limited use permit that is personal to the applicant and is not transferred  
4       by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial  
5       events or activities must meet any local standards that apply, and the agri-tourism or other  
6       commercial events or activities:

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

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

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

11      “(D) Must comply with ORS 215.296;

12      “(E) May not, in combination with other agri-tourism or other commercial events or  
13      activities authorized in the area, materially alter the stability of the land use pattern in the  
14      area; and

15      “(F) Must comply with conditions established for:

16      “(i) The types of agri-tourism or other commercial events or activities that are author-  
17      ized during each calendar year, including the number and duration of the agri-tourism or  
18      other commercial events and activities, the anticipated daily attendance and the hours of  
19      operation;

20      “(ii) The location of existing structures and the location of proposed temporary struc-  
21      tures to be used in connection with the agri-tourism or other commercial events or activ-  
22      ities;

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

25      “(iv) Traffic management, including the projected number of vehicles and any anticipated  
26      use of public roads; and

27      “(v) Sanitation and solid waste.

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

33      “(A) Are incidental and subordinate to existing commercial farm use of the tract and are  
34      necessary to support the commercial farm uses or the commercial agricultural enterprises  
35      in the area;

36      “(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this sub-  
37      section;

38      “(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel  
39      size; and

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

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

44      “(a) Provide public notice and an opportunity for public comment as part of the review  
45      process; and

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

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

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

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

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

20           “**SECTION 2.** ORS 215.283 is amended to read:

21           “215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

45           “(g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or

1 construction relating to such operations shall not be a basis for an exception under ORS 197.732  
2 (2)(a) or (b).

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

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

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

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

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

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

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

18 “(o) Farm stands if:

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

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

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

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

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

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

33 “(D) Has a heating system; and

34 “(E) In the case of replacement:

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

1 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting  
2 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
3 and release statements filed under this paragraph; and

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

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

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

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

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

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

36 "(A) A public right of way;

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

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

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

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

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

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

8       “(b) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

- 1       “(i) Home occupations as provided in ORS 215.448.
- 2       “(j) A facility for the primary processing of forest products, provided that such facility is found  
3 to not seriously interfere with accepted farming practices and is compatible with farm uses de-  
4 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is  
5 renewable. These facilities are intended to be only portable or temporary in nature. The primary  
6 processing of a forest product, as used in this section, means the use of a portable chipper or stud  
7 mill or other similar methods of initial treatment of a forest product in order to enable its shipment  
8 to market. Forest products, as used in this section, means timber grown upon a parcel of land or  
9 contiguous land where the primary processing facility is located.
- 10       “(k) A site for the disposal of solid waste approved by the governing body of a city or county  
11 or both and for which a permit has been granted under ORS 459.245 by the Department of Envi-  
12 ronmental Quality together with equipment, facilities or buildings necessary for its operation.
- 13       “(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
14 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
15 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
16 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
17 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
18 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
19 view of the hardship claimed under this paragraph. A temporary residence approved under this  
20 paragraph is not eligible for replacement under subsection (1)(p) of this section.
- 21       “(m) Transmission towers over 200 feet in height.
- 22       “(n) Dog kennels.
- 23       “(o) Residential homes as defined in ORS 197.660, in existing dwellings.
- 24       “(p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not  
25 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
26 shall not include any species under quarantine by the State Department of Agriculture or the United  
27 States Department of Agriculture. The county shall provide notice of all applications under this  
28 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
29 county’s land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
30 tive decision or initial public hearing on the application.
- 31       “(q) 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       “(r) 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       “(s) Improvement of public road and highway related facilities, such as maintenance yards,  
36 weigh stations and rest areas, where additional property or right of way is required but not result-  
37 ing in the creation of new land parcels.
- 38       “(t) 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       “(u) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
41 dences.
- 42       “(v) Operations for the extraction and bottling of water.
- 43       “(w) Expansion of existing county fairgrounds and activities directly relating to county  
44 fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- 45       “(x) A living history museum related to resource based activities owned and operated by a

1 governmental agency or a local historical society, together with limited commercial activities and  
2 facilities that are directly related to the use and enjoyment of the museum and located within au-  
3 thentic buildings of the depicted historic period or the museum administration building, if areas  
4 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
5 the museum administration buildings and parking lot are located within one quarter mile of an ur-  
6 ban growth boundary. As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

36 “(B) **The duration of the agri-tourism or other commercial event or activity does not**  
37 **exceed 72 consecutive hours;**

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

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

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

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

1       “(G) The agri-tourism or other commercial event or activity complies with conditions  
2 established for:

3       “(i) Planned hours of operation;

4       “(ii) Access, egress and parking;

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

7       “(iv) Sanitation and solid waste.

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

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

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

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

20       “(D) May not include the artificial amplification of music or voices before 8 a.m. or after  
21 8 p.m.;

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

24       “(F) Must be located on a tract of at least 10 acres unless the owners or residents of  
25 adjoining properties consent, in writing, to the location; and

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

27       “(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may au-  
28 thorize up to six agri-tourism or other commercial events or activities on a tract in a cal-  
29 endar year by a limited use permit that is personal to the applicant and is not transferred  
30 by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial  
31 events or activities must meet any local standards that apply, and the agri-tourism or other  
32 commercial events or activities:

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

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

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

37       “(D) Must comply with ORS 215.296;

38       “(E) May not, in combination with other agri-tourism or other commercial events or  
39 activities authorized in the area, materially alter the stability of the land use pattern in the  
40 area; and

41       “(F) Must comply with conditions established for:

42       “(i) The types of agri-tourism or other commercial events or activities that are author-  
43 ized during each calendar year, including the number and duration of the agri-tourism or  
44 other commercial events and activities, the anticipated daily attendance and the hours of  
45 operation;



1       “(ii) The location of existing structures and the location of proposed temporary struc-  
2       tures to be used in connection with the agri-tourism or other commercial events or activ-  
3       ities;

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

6       “(iv) Traffic management, including the projected number of vehicles and any anticipated  
7       use of public roads; and

8       “(v) Sanitation and solid waste.

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

14       “(A) Are incidental and subordinate to existing commercial farm use of the tract and are  
15       necessary to support the commercial farm uses or the commercial agricultural enterprises  
16       in the area;

17       “(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this sub-  
18       section;

19       “(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel  
20       size; and

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

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

25       “(a) Provide public notice and an opportunity for public comment as part of the review  
26       process; and

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

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

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

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

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

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

4       **“(1) Authorized by ORS 215.452; and**

5       **“(2) Subject to the conditional approval of a county.**

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

10       **“(1) The party owns, operates or attends an agri-tourism or other commercial event or**  
11 **activity authorized under ORS 215.213 (11) or 215.283 (4); and**

12       **“(2) The action or claim arises from the event or activity.**

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

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

21       **“(b) This subsection does not affect the lawful continuation, alteration, restoration or**  
22 **expansion of the winery sited on the same tract.**

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

27       **“SECTION 7. ORS 197.015 is amended to read:**

28       **“197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:**

29       **“(1) ‘Acknowledgment’ means a commission order that certifies that a comprehensive plan and**  
30 **land use regulations, land use regulation or plan or regulation amendment complies with the goals**  
31 **or certifies that Metro land use planning goals and objectives, Metro regional framework plan,**  
32 **amendments to Metro planning goals and objectives or amendments to the Metro regional frame-**  
33 **work plan comply with the goals.**

34       **“(2) ‘Board’ means the Land Use Board of Appeals.**

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

37       **“(4) ‘Commission’ means the Land Conservation and Development Commission.**

38       **“(5) ‘Comprehensive plan’ means a generalized, coordinated land use map and policy statement**  
39 **of the governing body of a local government that interrelates all functional and natural systems and**  
40 **activities relating to the use of lands, including but not limited to sewer and water systems, trans-**  
41 **portation systems, educational facilities, recreational facilities, and natural resources and air and**  
42 **water quality management programs. ‘Comprehensive’ means all-inclusive, both in terms of the ge-**  
43 **ographic area covered and functional and natural activities and systems occurring in the area cov-**  
44 **ered by the plan. ‘General nature’ means a summary of policies and proposals in broad categories**  
45 **and does not necessarily indicate specific locations of any area, activity or use. A plan is ‘coordi-**

1 nated' when the needs of all levels of governments, semipublic and private agencies and the citizens  
2 of Oregon have been considered and accommodated as much as possible. 'Land' includes water, both  
3 surface and subsurface, and the air.

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

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

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

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

13 "(10) 'Land use decision':

14 "(a) Includes:

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

17 "(i) The goals;

18 "(ii) A comprehensive plan provision;

19 "(iii) A land use regulation; or

20 "(iv) A new land use regulation;

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

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

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

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

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

29 "(C) That is a limited land use decision;

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

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

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

37 "(G) That approves or denies approval of a final subdivision or partition plat or that determines  
38 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or  
39 partition plan; or

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

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

44 "(ii) The use or activity that would be authorized, funded or undertaken by the proposed state  
45 agency action is allowed without review under the acknowledged comprehensive plan and land use

1 regulations implementing the plan; or

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

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

6 “(d) Does not include, **except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c)**, authori-  
7 zation of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than  
8 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period;  
9 and

10 “(e) Does not include:

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

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

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

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

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

21 “(11) ‘Land use regulation’ means any local government zoning ordinance, land division ordi-  
22 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for  
23 implementing a comprehensive plan.

24 “(12) ‘Limited land use decision’:

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

27 “(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS  
28 92.040 (1).

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

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

36 “(13) ‘Local government’ means any city, county or metropolitan service district formed under  
37 ORS chapter 268 or an association of local governments performing land use planning functions  
38 under ORS 195.025.

39 “(14) ‘Metro’ means a metropolitan service district organized under ORS chapter 268.

40 “(15) ‘Metro planning goals and objectives’ means the land use goals and objectives that a met-  
41 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-  
42 stitute a comprehensive plan.

43 “(16) ‘Metro regional framework plan’ means the regional framework plan required by the 1992  
44 Metro Charter or its separate components. Neither the regional framework plan nor its individual  
45 components constitute a comprehensive plan.

1 “(17) ‘New land use regulation’ means a land use regulation other than an amendment to an  
2 acknowledged land use regulation adopted by a local government that already has a comprehensive  
3 plan and land regulations acknowledged under ORS 197.251.

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

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

14 “(20) ‘Urban unincorporated community’ means an area designated in a county’s acknowledged  
15 comprehensive plan as an urban unincorporated community after December 5, 1994.

16 “(21) ‘Voluntary association of local governments’ means a regional planning agency in this  
17 state officially designated by the Governor pursuant to the federal Office of Management and Budget  
18 Circular A-95 as a regional clearinghouse.

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

22 “**SECTION 8.** ORS 215.246 is amended to read:

23 “215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

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

29 “(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS  
30 215.275 or 215.296.

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

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

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

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

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

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

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

40 “(C) **ORS 215.213 (11)**;

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

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

43 “**(F) ORS 215.283 (4)**.

44 “(3) When a state agency or a local government makes a land use decision relating to the land  
45 application of reclaimed water, agricultural or industrial process water or biosolids under a license,

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

9 “(4) The uses allowed under this section include:

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

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

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

19 “(A) A public right of way; or

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

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

24 “(5) Uses not allowed under this section include:

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

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

30 “**SECTION 9.** ORS 215.296 is amended to read:

31 “215.296. (1) A use allowed under ORS 215.213 (2) **or (11)** or 215.283 (2) **or (4)** may be approved  
32 only where the local governing body or its designee finds that the use will not:

33 “(a) Force a significant change in accepted farm or forest practices on surrounding lands de-  
34 voted to farm or forest use; or

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

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

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

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

43 “(b) That the violation has:

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

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

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

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

6 “(a) Forward the complaint to the operator of the use;

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

8 “(c) Determine whether the allegations made in a complaint filed under this section or ORS  
9 215.218 are true.

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

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

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

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

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

34 “(A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3),  
35 215.284 (1), (2), (3), (4) or (7) or 215.705;

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

37 “(C) An acknowledged urban growth boundary.

38 “(b) A person residing in a single-family residential dwelling which was approved under ORS  
39 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved un-  
40 der ORS 197.732 or which is within an acknowledged urban growth boundary may not file a com-  
41 plaint under subsection (3) of this section.

42 “(10) [Nothing in] This section [shall] **does not** prevent a local governing body approving a use  
43 allowed under ORS 215.213 (2) **or (11)** or 215.283 (2) **or (4)** from establishing standards in addition  
44 to those set forth in subsection (1) of this section or from imposing conditions to [insure] **ensure**  
45 conformance with [such] **the** additional standards.

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

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