

A-Engrossed
House Bill 4170

Ordered by the House February 22
Including House Amendments dated February 22

Sponsored by COMMITTEE ON RULES

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 dog training and testing as outright permitted use in exclusive farm use zone under specified circumstances. Modifies authority to establish dog kennels.

Removes from definition of "current employment" of land for farm use, and from provision describing farm use for special assessment of land within exclusive farm use zone, land used to breed, raise, kennel or train greyhounds for profit.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to dog training; amending ORS 215.203, 215.213, 215.283, 215.304 and 308A.056; and pre-
3 scribing an effective date.

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

5 **SECTION 1.** ORS 215.203 is amended to read:

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

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

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

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 (A) Farmland, the operation or use of which is subject to any farm-related government program;
- 2 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural
- 3 husbandry;
- 4 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
- 5 of this paragraph, prior to maturity;
- 6 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special
- 7 farm use value in the year prior to planting the current crop and has been planted in orchards,
- 8 cultured Christmas trees or vineyards for at least three years;
- 9 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
- 10 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
- 11 which is not currently being used for any economic farm use;
- 12 (F) Except for land under a single family dwelling, land under buildings supporting accepted
- 13 farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)
- 14 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
- 15 under ORS 215.213 (2)(c) and 215.283 (2)(a);
- 16 (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- 17 (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
- 18 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
- 19 in conjunction with farm use;
- 20 (I) Land lying idle for no more than one year where the absence of farming activity is due to
- 21 the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph,
- 22 illness includes injury or infirmity whether or not such illness results in death;
- 23 (J) Any land described under ORS 321.267 (3) or 321.824 (3); **and**
- 24 *[(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,*
- 25 *kenneling or training of greyhounds for racing; and]*
- 26 *[(L)]* **(K)** Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
- 27 (i) Only the crops of the landowner are being processed;
- 28 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
- 29 of the landowner; or
- 30 (iii) The landowner is custom processing crops into biofuel from other landowners in the area
- 31 for their use or sale.
- 32 (c) As used in this subsection, "accepted farming practice" means a mode of operation that is
- 33 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
- 34 in money, and customarily utilized in conjunction with farm use.
- 35 (3) "Cultured Christmas trees" means trees:
- 36 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-
- 37 vation methods such as plowing or turning over the soil;
- 38 (b) Of a marketable species;
- 39 (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
- 40 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- 41 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
- 42 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
- 43 disease control, stump culture, soil cultivation, irrigation.
- 44 **SECTION 2.** ORS 215.213 is amended to read:
- 45 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991

1 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

19 (f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction
20 with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as
21 part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum
22 lot size acknowledged under ORS 197.251.

23 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
24 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
25 compressors, separators and other customary production equipment for an individual well adjacent
26 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
27 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

8 (p) A winery, as described in ORS 215.452 or 215.453.

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

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

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

13 (C) Has interior wiring for interior lights;

14 (D) Has a heating system; and

15 (E) In the case of replacement:

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

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

38 (r) Farm stands if:

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

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

1 activity other than the sale of farm crops or livestock and does not include structures for banquets,
2 public gatherings or public entertainment.

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

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

17 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
18 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
19 processed at the facility. The building established for the processing facility shall not exceed 10,000
20 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
21 use or devote more than 10,000 square feet to the processing activities within another building
22 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
23 standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

25 (w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational
26 facilities, not including parks or other recreational structures and facilities, associated with a dis-
27 trict as defined in ORS 540.505.

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

31 (A) A public right of way;

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

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

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

41 **(z) Dog training classes or testing trials, which may be conducted in a preexisting farm**
42 **building when:**

43 **(A) The number of dogs participating in training does not exceed 10 dogs per training**
44 **class and the number of training classes to be held on-site does not exceed six per day; and**

45 **(B) The number of dogs participating in a testing trial does not exceed 60 and the number**

1 **of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.**

2 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
3 the following uses may be established in any area zoned for exclusive farm use subject to ORS
4 215.296:

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

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

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

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

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

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

21 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
22 crops into biofuel not permitted under ORS 215.203 [(2)(b)(L)] **(2)(b)(K)** or subsection (1)(u) of this
23 section.

24 (d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

21 (k)(A) **Commercial dog boarding kennels; or**

22 **(B) Dog training classes or testing trials that cannot be established under subsection**
23 **(1)(z) of this section.**

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

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

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

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

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

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

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

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

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

45 (u) A living history museum related to resource based activities owned and operated by a gov-

1 ernmental agency or a local historical society, together with limited commercial activities and fa-
2 cilities that are directly related to the use and enjoyment of the museum and located within
3 authentic 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 the
6 metropolitan urban 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 as such by the
11 county governing body and organized under ORS chapter 65.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
19 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

1 (A) The agri-tourism or other commercial event or activity is incidental and subordinate to ex-
2 isting farm use on the tract;

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

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

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

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

10 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary
11 structures, or in existing permitted structures, subject to health and fire and life safety require-
12 ments; and

13 (G) The agri-tourism or other commercial event or activity complies with conditions established
14 for:

15 (i) Planned hours of operation;

16 (ii) Access, egress and parking;

17 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-
18 ipated use of public roads; and

19 (iv) Sanitation and solid waste.

20 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
21 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
22 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
23 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
24 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
25 To approve an expedited, single-event license, the governing body of a county or its designee must
26 determine that the proposed agri-tourism or other commercial event or activity meets any local
27 standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

32 (E) May not require or involve the construction or use of a new permanent structure in con-
33 nection with the agri-tourism or other commercial event or activity;

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

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

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

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

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

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

1 (D) Must comply with ORS 215.296;

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

4 (F) Must comply with conditions established for:

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

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

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

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

14 (v) Sanitation and solid waste.

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

20 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
21 sary to support the commercial farm uses or the commercial agricultural enterprises 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 size;
24 and

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

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

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

31 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
32 tions of approval required by the permit and the standards established by subsection (11)(d) of this
33 section.

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

35 (a) A county may authorize the use of temporary structures established in connection with the
36 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
37 tion. However, the temporary structures must be removed at the end of the agri-tourism or other
38 event or activity. The county may not approve an alteration to the land in connection with an
39 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
40 including, but not limited to, grading, filling or paving.

41 (b) The county may issue the limited use permits authorized by subsection (11)(c) of this section
42 for two calendar years. When considering an application for renewal, the county shall ensure com-
43 pliance with the provisions of subsection (11)(c) of this section, any local standards that apply and
44 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
45 authorized by the permit.

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

5 **SECTION 3.** ORS 215.283 is amended to read:

6 215.283. (1) 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 but
10 not including commercial facilities for the purpose of generating electrical power for public use by
11 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 the
14 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) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily
24 provided in conjunction with farm use.

25 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
26 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
27 compressors, separators and other customary production equipment for an individual well adjacent
28 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
29 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

2 (n) A winery, as described in ORS 215.452 or 215.453.

3 (o) Farm stands if:

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

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

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

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

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

17 (C) Has interior wiring for interior lights;

18 (D) Has a heating system; and

19 (E) In the case of replacement:

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

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

42 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
43 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
44 area or placed on a permanent foundation unless the building or facility preexisted the use approved
45 under this paragraph. The site shall not include an aggregate surface or hard surface area unless

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

8 (r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
9 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
10 processed at the facility. The building established for the processing facility shall not exceed 10,000
11 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
12 use or devote more than 10,000 square feet to the processing activities within another building
13 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
14 standards shall not be applied in a manner that prohibits the siting of the processing facility.

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

16 (t) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational
17 facilities, not including parks or other recreational structures and facilities, associated with a dis-
18 trict as defined in ORS 540.505.

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

22 (A) A public right of way;

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

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

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

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

35 **(x) Dog training classes or testing trials, which may be conducted in a preexisting farm**
36 **building when:**

37 **(A) The number of dogs participating in training does not exceed 10 dogs per training**
38 **class and the number of training classes to be held on-site does not exceed six per day; and**

39 **(B) The number of dogs participating in a testing trial does not exceed 60 and the number**
40 **of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.**

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

43 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
44 crops into biofuel not permitted under ORS 215.203 [(2)(b)(L)] **(2)(b)(K)** or subsection (1)(r) of this
45 section.

1 (b) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

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

1 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
2 contiguous land where the primary processing facility is located.

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

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

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

15 (n)(A) **Commercial dog boarding kennels; or**

16 **(B) Dog training classes or testing trials that cannot be established under subsection**
17 **(1)(x) of this section.**

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

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

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

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

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

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

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

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

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

40 (x) A living history museum related to resource based activities owned and operated by a gov-
41 ernmental agency or a local historical society, together with limited commercial activities and fa-
42 cilities that are directly related to the use and enjoyment of the museum and located within
43 authentic buildings of the depicted historic period or the museum administration building, if areas
44 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
45 the museum administration buildings and parking lot are located within one quarter mile of an ur-

1 ban growth boundary. As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

28 (A) The agri-tourism or other commercial event or activity is incidental and subordinate to ex-
29 isting farm use on the tract;

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

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

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

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

37 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary
38 structures, or in existing permitted structures, subject to health and fire and life safety require-
39 ments; and

40 (G) The agri-tourism or other commercial event or activity complies with conditions established
41 for:

42 (i) Planned hours of operation;

43 (ii) Access, egress and parking;

44 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-
45 ipated use of public roads; and

1 (iv) Sanitation and solid waste.

2 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
3 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
4 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
5 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
6 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
7 To approve an expedited, single-event license, the governing body of a county or its designee must
8 determine that the proposed agri-tourism or other commercial event or activity meets any local
9 standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

14 (E) May not require or involve the construction or use of a new permanent structure in con-
15 nection with the agri-tourism or other commercial event or activity;

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

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

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

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

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

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

28 (D) Must comply with ORS 215.296;

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

31 (F) Must comply with conditions established for:

32 (i) The types of agri-tourism or other commercial events or activities that are authorized during
33 each calendar year, including the number and duration of the agri-tourism or other commercial
34 events and activities, the anticipated daily attendance and the hours of operation;

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

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

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

41 (v) Sanitation and solid waste.

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

1 other commercial events or activities:

2 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
3 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

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

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

13 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
14 tions of approval required by the permit and the standards established by subsection (4)(d) of this
15 section.

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

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

23 (b) The county may issue the limited use permits authorized by subsection (4)(c) of this section
24 for two calendar years. When considering an application for renewal, the county shall ensure com-
25 pliance with the provisions of subsection (4)(c) of this section, any local standards that apply and
26 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
27 authorized by the permit.

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

32 **SECTION 4.** ORS 215.304 is amended to read:

33 215.304. (1) The Land Conservation and Development Commission shall not adopt or implement
34 any rule to identify or designate small-scale farmland or secondary land.

35 (2) Amendments required to conform rules to the provisions of subsection (1) of this section and
36 ORS 215.700 to 215.780 shall be adopted by March 1, 1994.

37 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,
38 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700
39 to 215.780 on March 1, 1994:

40 (a) Shall not be implemented or enforced; and

41 (b) Has no legal effect.

42 **(4) Notwithstanding subsection (3) of this section, the uses authorized by ORS 215.283**
43 **(1)(x) or (2)(n) may be established on land in exclusive farm use zones, including high-value**
44 **farmland.**

45 **SECTION 5.** ORS 308A.056 is amended to read:

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

3 (a) Raising, harvesting and selling crops.

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

6 (c) Dairying and selling dairy products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 [(L)] (k) Land subject to a remediation plan previously presented to the assessor for the county
6 in which the land that is the subject of the plan is located; or

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

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

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

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

13 (4) As used in this section:

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

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

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

20 (B) Of a marketable species;

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

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

25 (i) Basal pruning;

26 (ii) Fertilizing;

27 (iii) Insect and disease control;

28 (iv) Stump culture;

29 (v) Soil cultivation; or

30 (vi) Irrigation.

31 **SECTION 6. This 2012 Act takes effect on the 91st day after the date on which the 2012**
32 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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