

HOUSE AMENDMENTS TO HOUSE BILL 2704

By COMMITTEE ON ENERGY AND ENVIRONMENT

April 15

1 In line 2 of the printed bill, after the semicolon delete the rest of the line and insert “creating
2 new provisions; and amending ORS 215.213, 215.246, 215.275, 215.276 and 215.283.”.

3 Delete lines 4 through 14 and insert:

4 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 215.**

5 **“SECTION 2. (1) As used in this section, ‘associated transmission line’ has the meaning**
6 **given that term in ORS 469.300.**

7 **“(2) An associated transmission line is necessary for public service if an applicant for**
8 **approval under ORS 215.213 (1)(c)(B) or 215.283 (1)(c)(B) demonstrates to the governing body**
9 **of a county or its designee that the associated transmission line meets:**

10 **“(a) At least one of the requirements listed in subsection (3) of this section; or**

11 **“(b) The requirements described in subsection (4) of this section.**

12 **“(3) The governing body of a county or its designee shall approve an application under**
13 **this section if an applicant demonstrates that the entire route of the associated transmission**
14 **line meets at least one of the following requirements:**

15 **“(a) The associated transmission line is not located on high-value farmland, as defined**
16 **in ORS 195.300, or on arable land;**

17 **“(b) The associated transmission line is co-located with an existing transmission line;**

18 **“(c) The associated transmission line parallels an existing transmission line corridor with**
19 **the minimum separation necessary for safety; or**

20 **“(d) The associated transmission line is located within an existing right of way for a lin-**
21 **ear facility, such as a transmission line, road or railroad, that is located above the surface**
22 **of the ground.**

23 **“(4)(a) Except as provided in subsection (3) of this section, the governing body of a county**
24 **or its designee shall approve an application under this section if, after an evaluation of rea-**
25 **sonable alternatives, the applicant demonstrates that the entire route of the associated**
26 **transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more**
27 **of the following factors:**

28 **“(A) Technical and engineering feasibility;**

29 **“(B) The associated transmission line is locationally dependent because the associated**
30 **transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land**
31 **to achieve a reasonably direct route or to meet unique geographical needs that cannot be**
32 **satisfied on other lands;**

33 **“(C) Lack of an available existing right of way for a linear facility, such as a transmission**
34 **line, road or railroad, that is located above the surface of the ground;**

35 **“(D) Public health and safety; or**

1 “(E) Other requirements of state or federal agencies.

2 “(b) The applicant shall present findings to the governing body of the county or its
3 designee on how the applicant will mitigate and minimize the impacts, if any, of the associ-
4 ated transmission line on surrounding lands devoted to farm use in order to prevent a sig-
5 nificant change in accepted farm practices or a significant increase in the cost of farm
6 practices on the surrounding farmland.

7 “(c) The governing body of a county or its designee may consider costs associated with
8 any of the factors listed in paragraph (a) of this subsection, but consideration of cost may
9 not be the only consideration in determining whether the associated transmission line is
10 necessary for public service.

11 “**SECTION 3.** ORS 215.213, as amended by section 2, chapter 74, Oregon Laws 2012, is amended
12 to read:

13 “215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
14 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

21 “(A) ORS 215.275[.]; or

22 “(B) **If the utility facility is an associated transmission line, as defined in ORS 469.300,**
23 **section 2 of this 2013 Act.**

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

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

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

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

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

1 (2)(a) or (b).

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

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

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

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

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

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

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

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

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

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

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

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

30 “(D) Has a heating system; and

31 “(E) In the case of replacement:

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

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

9 “(r) Farm stands if:

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

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

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

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

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

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

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

44 “(x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
45 cilities or structures that end at the point where the utility service is received by the customer and

1 that are located on one or more of the following:

2 “(A) A public right of way;

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

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

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

12 “(z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
13 farm buildings, when:

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

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

18 “(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
19 the following uses may be established in any area zoned for exclusive farm use subject to ORS
20 215.296:

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

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

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

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

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

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

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

39 “(d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

35 “(k)(A) Commercial dog boarding kennels; or

36 “(B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of
37 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 “(b) The dwelling is situated upon generally unsuitable land for the production of farm crops

1 and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, lo-
2 cation and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its
3 size or location if it can reasonably be put to farm use in conjunction with other land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 “(i) Planned hours of operation;

32 “(ii) Access, egress and parking;

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

35 “(iv) Sanitation and solid waste.

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

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

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

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

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

3 “(E) May not require or involve the construction or use of a new permanent structure in con-

4 nection with the agri-tourism or other commercial event or activity;

5 “(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining

6 properties consent, in writing, to the location; and

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

8 “(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up

9 to six agri-tourism or other commercial events or activities on a tract in a calendar year by a lim-

10 ited use permit that is personal to the applicant and is not transferred by, or transferable with, a

11 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any

12 local standards that apply, and the agri-tourism or other commercial events or activities:

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

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

15 “(C) May not require that a new permanent structure be built, used or occupied in connection

16 with the agri-tourism or other commercial events or activities;

17 “(D) Must comply with ORS 215.296;

18 “(E) May not, in combination with other agri-tourism or other commercial events or activities

19 authorized in the area, materially alter the stability of the land use pattern in the area; and

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

21 “(i) The types of agri-tourism or other commercial events or activities that are authorized during

22 each calendar year, including the number and duration of the agri-tourism or other commercial

23 events and activities, the anticipated daily attendance and the hours of operation;

24 “(ii) The location of existing structures and the location of proposed temporary structures to

25 be used in connection with the agri-tourism or other commercial events or activities;

26 “(iii) The location of access and egress and parking facilities to be used in connection with the

27 agri-tourism or other commercial events or activities;

28 “(iv) Traffic management, including the projected number of vehicles and any anticipated use

29 of public roads; and

30 “(v) Sanitation and solid waste.

31 “(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism

32 or other commercial events or activities that occur more frequently or for a longer period or that

33 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other

34 commercial events or activities comply with any local standards that apply and the agri-tourism or

35 other commercial events or activities:

36 “(A) Are incidental and subordinate to existing commercial farm use of the tract and are nec-

37 essary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

40 and

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

42 “(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must

43 request review of the permit at four-year intervals. Upon receipt of a request for review, the county

44 shall:

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

1 and

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

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

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

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

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

21 “**SECTION 4.** ORS 215.283, as amended by section 3, chapter 74, Oregon Laws 2012, is amended
22 to read:

23 “215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

30 “(A) ORS 215.275[.]; or

31 “(B) **If the utility facility is an associated transmission line, as defined in ORS 469.300,**
32 **section 2 of this 2013 Act.**

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

43 “(e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily
44 provided in conjunction with farm use.

45 “(f) Operations for the exploration for and production of geothermal resources as defined by

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

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

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

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

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

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

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

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

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

23 “(o) Farm stands if:

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

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

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

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

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

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

38 “(D) Has a heating system; and

39 “(E) In the case of replacement:

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

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

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

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

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

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

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

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

42 “(A) A public right of way;

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

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

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

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

10 “(x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
11 farm buildings, when:

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

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

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

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

20 “(b) Operations conducted for:

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

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

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

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

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

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

39 “(e) Community centers owned by a governmental agency or a nonprofit community organization
40 and operated primarily by and for residents of the local rural community. A community center au-
41 thorized under this paragraph may provide services to veterans, including but not limited to emer-
42 gency and transitional shelter, preparation and service of meals, vocational and educational
43 counseling and referral to local, state or federal agencies providing medical, mental health, disability
44 income replacement and substance abuse services, only in a facility that is in existence on January
45 1, 2006. The services may not include direct delivery of medical, mental health, disability income

1 replacement or substance abuse services.

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

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

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

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

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

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

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

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

34 “(n)(A) Commercial dog boarding kennels; or

35 “(B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of
36 this section.

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

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

45 “(q) Construction of additional passing and travel lanes requiring the acquisition of right of way

1 but not resulting in the creation of new land parcels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 “(a) A county may authorize a single agri-tourism or other commercial event or activity on a
45 tract in a calendar year by an authorization that is personal to the applicant and is not transferred

1 by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event
2 or activity meets any local standards that apply and:

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

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

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

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

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

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

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

17 “(i) Planned hours of operation;

18 “(ii) Access, egress and parking;

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

21 “(iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

3 “(D) Must comply with ORS 215.296;

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

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

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

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

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

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

16 “(v) Sanitation and solid waste.

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

22 “(A) Are incidental and subordinate to existing commercial farm use of the tract and are nec-
23 essary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

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

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

33 “(b) Limit its review to events and activities authorized by the permit, conformance with con-
34 ditions of approval required by the permit and the standards established by subsection (4)(d) of this
35 section.

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

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

43 “(b) The county may issue the limited use permits authorized by subsection (4)(c) of this section
44 for two calendar years. When considering an application for renewal, the county shall ensure com-
45 pliance with the provisions of subsection (4)(c) of this section, any local standards that apply and

1 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
2 authorized by the permit.

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

7 “**SECTION 5.** ORS 215.275 is amended to read:

8 “215.275. (1) A utility facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is
9 necessary for public service if the facility must be sited in an exclusive farm use zone in order to
10 provide the service.

11 “(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS
12 215.213 (1)(c)(A) or 215.283 (1)(c)(A) must show that reasonable alternatives have been considered
13 and that the facility must be sited in an exclusive farm use zone due to one or more of the following
14 factors:

15 “(a) Technical and engineering feasibility;

16 “(b) The proposed facility is locationally dependent. A utility facility is locationally dependent
17 if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a rea-
18 sonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

19 “(c) Lack of available urban and nonresource lands;

20 “(d) Availability of existing rights of way;

21 “(e) Public health and safety; and

22 “(f) Other requirements of state or federal agencies.

23 “(3) Costs associated with any of the factors listed in subsection (2) of this section may be
24 considered, but cost alone may not be the only consideration in determining that a utility facility
25 is necessary for public service. Land costs shall not be included when considering alternative lo-
26 cations for substantially similar utility facilities. The Land Conservation and Development Commis-
27 sion shall determine by rule how land costs may be considered when evaluating the siting of utility
28 facilities that are not substantially similar.

29 “(4) The owner of a utility facility approved under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A)
30 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land
31 and associated improvements that are damaged or otherwise disturbed by the siting, maintenance,
32 repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility
33 facility from requiring a bond or other security from a contractor or otherwise imposing on a con-
34 tractor the responsibility for restoration.

35 “(5) The governing body of the county or its designee shall impose clear and objective conditions
36 on an application for utility facility siting under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) to miti-
37 gate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm
38 use in order to prevent a significant change in accepted farm practices or a significant increase in
39 the cost of farm practices on the surrounding farmlands.

40 “(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas
41 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy
42 Regulatory Commission.

43 “**SECTION 6.** ORS 215.246 is amended to read:

44 “215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

45 “(a) Require a determination by the Department of Environmental Quality, in conjunction with

1 the department's review of a license, permit or approval, that the application rates and site man-
2 agement practices for the land application of reclaimed water, agricultural or industrial process
3 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
4 reduce the productivity of the tract.

5 “(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
6 215.275 or 215.296 **or section 2 of this 2013 Act.**

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

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

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

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

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

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

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

16 “(C) ORS 215.213 (11);

17 “(D) ORS 215.283 (1)(b), (d), (e), (h) to (L), (n) to (p), (r), (t) or (u);

18 “(E) ORS 215.283 (2)(a), (j), (L) or (p) to (s); or

19 “(F) ORS 215.283 (4).

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

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

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

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

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

40 “(A) A public right of way; or

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

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

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

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

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

6 “**SECTION 7.** ORS 215.276 is amended to read:

7 “215.276. (1) As used in this section:

8 “(a) ‘Consult’ means to make an effort to contact for purpose of notifying the record owner of
9 the opportunity to meet.

10 “(b) ‘High-value farmland’ has the meaning given that term in ORS 195.300.

11 “(c) ‘Transmission line’ means a linear utility facility by which a utility provider transfers the
12 utility product in bulk from a point of origin or generation, or between transfer stations, to the point
13 at which the utility product is transferred to distribution lines for delivery to end users.

14 “(2) If the criteria described in ORS 215.275 for siting a utility facility on land zoned for exclu-
15 sive farm use are met for a utility facility that is a transmission line, **or if the criteria described**
16 **in section 2 of this 2013 Act for siting an associated transmission line are met**, the utility
17 provider shall, after the route is approved by the siting authorities and before construction of the
18 transmission line begins, consult the record owner of high-value farmland in the planned route for
19 the purpose of locating and constructing the transmission line in a manner that minimizes the im-
20 pact on farming operations on high-value farmland. If the record owner does not respond within two
21 weeks after the first documented effort to consult the record owner, the utility provider shall notify
22 the record owner by certified mail of the opportunity to consult. If the record owner does not re-
23 spond within two weeks after the certified mail is sent, the utility provider has satisfied the
24 provider’s obligation to consult.

25 “(3) The requirement to consult under this section is in addition to and not in lieu of any other
26 legally required consultation process.”.

27