

House Bill 3040

Sponsored by Representative UNGER; Representatives BAILEY, BARNHART, BUCKLEY, DEMBROW, GALLEGOS, GELSER, GOMBERG, GORSEK, GREENLICK, TOMEI

SUMMARY

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

Prohibits specified nonfarm uses on land zoned for exclusive farm use.

A BILL FOR AN ACT

1
2 Relating to nonfarm uses on land zoned for exclusive farm use; amending ORS 92.010, 215.203,
3 215.213, 215.246, 215.249, 215.251, 215.263, 215.283, 215.297, 215.417, 215.452, 215.453, 215.780 and
4 308A.056 and section 6, chapter 567, Oregon Laws 2011; and repealing ORS 215.425.

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

6 **SECTION 1.** ORS 215.213, as amended by section 2, chapter 74, Oregon Laws 2012, is amended
7 to read:

8 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
9 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

31 *[(g) Operations for the exploration for and production of geothermal resources as defined by ORS*

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.

1 522.005 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 to
 3 the wellhead. Any activities or construction relating to such operations shall not be a basis for an ex-
 4 ception under ORS 197.732 (2)(a) or (b).]

5 [(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or con-
 6 struction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or
 7 (b).]

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

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

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

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

23 [(m) (k) Minor betterment of existing public road and highway related facilities, such as main-
 24 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and
 25 contiguous public-owned property utilized to support the operation and maintenance of public roads
 26 and highways.

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

29 [(o) (m) Creation, restoration or enhancement of wetlands.

30 [(p) (n) A winery, as described in ORS 215.452 or 215.453.

31 [(q) (o) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

35 (C) Has interior wiring for interior lights;

36 (D) Has a heating system; and

37 (E) In the case of replacement:

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

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

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

15 [(r)] (p) Farm stands if:

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

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

25 [(s)] (q) An armed forces reserve center, if the center is within one-half mile of a community
 26 college. For purposes of this paragraph, "armed forces reserve center" includes an armory or Na-
 27 tional Guard support facility.

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

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

1 [(v)] (t) Fire service facilities providing rural fire protection services.

2 [(w)] (u) Irrigation reservoirs, canals, delivery lines and those structures and accessory opera-
 3 tional facilities, not including parks or other recreational structures and facilities, associated with
 4 a district as defined in ORS 540.505.

5 [(x)] (v) Utility facility service lines. Utility facility service lines are utility lines and accessory
 6 facilities or structures that end at the point where the utility service is received by the customer
 7 and that are located on one or more of the following:

8 (A) A public right of way;

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

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

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

18 [(z)] (x) Dog training classes or testing trials, which may be conducted outdoors or in preexist-
 19 ing farm buildings, when:

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

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

24 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
 25 the following uses may be established in any area zoned for exclusive farm use subject to ORS
 26 215.296:

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

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

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

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

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

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

43 (c) 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)(K) or subsection [(1)(u)] (1)(s) of this sec-
 45 tion.

1 *[(d) 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)(g) of this section;]*

4 *[(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources*
5 *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 *[(e) (d) Community centers owned by a governmental agency or a nonprofit community organ-*
9 *ization and operated primarily by and for residents of the local rural community, hunting and fishing*
10 *preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the*
11 *county governing body or its designee, a private campground may provide yurts for overnight*
12 *camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include*
13 *a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.*
14 *Upon request of a county governing body, the Land Conservation and Development Commission may*
15 *provide by rule for an increase in the number of yurts allowed on all or a portion of the*
16 *campgrounds in a county if the commission determines that the increase will comply with the stan-*
17 *dards described in ORS 215.296 (1). A public park or campground may be established as provided*
18 *under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or*
19 *canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-*
20 *ance.*

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

22 *[(g) (f) Commercial utility facilities for the purpose of generating power for public use by sale.*

23 *[(h) (g) Personal-use airports for airplanes and helicopter pads, including associated hangar,*
24 *maintenance and service facilities. A personal-use airport as used in this section means an airstrip*
25 *restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occa-*
26 *sional basis, by invited guests, and by commercial aviation activities in connection with agricultural*
27 *operations. No aircraft may be based on a personal-use airport other than those owned or controlled*
28 *by the owner of the airstrip. Exceptions to the activities permitted under this definition may be*
29 *granted through waiver action by the Oregon Department of Aviation in specific instances. A*
30 *personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-*
31 *ject to any applicable rules of the Oregon Department of Aviation.*

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

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

43 *[(k)(A) (j)(A) Commercial dog boarding kennels; or*

44 *(B) Dog training classes or testing trials that cannot be established under subsection [(1)(z)]*
45 *(1)(x) of this section.*

1 [(L)] **(k)** Residential homes as defined in ORS 197.660, in existing dwellings.

2 [(m)] **(L)** The propagation, cultivation, maintenance and harvesting of aquatic species that are
 3 not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect spe-
 4 cies shall not include any species under quarantine by the State Department of Agriculture or the
 5 United States Department of Agriculture. The county shall provide notice of all applications under
 6 this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with
 7 the county's land use regulations but shall be mailed at least 20 calendar days prior to any admin-
 8 istrative decision or initial public hearing on the application.

9 [(n)] **(m)** Home occupations as provided in ORS 215.448.

10 [(o)] **(n)** Transmission towers over 200 feet in height.

11 [(p)] **(o)** Construction of additional passing and travel lanes requiring the acquisition of right
 12 of way but not resulting in the creation of new land parcels.

13 [(q)] **(p)** Reconstruction or modification of public roads and highways involving the removal or
 14 displacement of buildings but not resulting in the creation of new land parcels.

15 [(r)] **(q)** Improvement of public road and highway related facilities such as maintenance yards,
 16 weigh stations and rest areas, where additional property or right of way is required but not result-
 17 ing in the creation of new land parcels.

18 [(s)] **(r)** A destination resort that is approved consistent with the requirements of any statewide
 19 planning goal relating to the siting of a destination resort.

20 [(t)] **(s)** Room and board arrangements for a maximum of five unrelated persons in existing res-
 21 idences.

22 [(u)] **(t)** A living history museum related to resource based activities owned and operated by a
 23 governmental agency or a local historical society, together with limited commercial activities and
 24 facilities that are directly related to the use and enjoyment of the museum and located within au-
 25 thentic buildings of the depicted historic period or the museum administration building, if areas
 26 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
 27 the museum administration buildings and parking lot are located within one quarter mile of the
 28 metropolitan urban growth boundary. As used in this paragraph:

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

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

34 [(v)] *Operations for the extraction and bottling of water.*

35 [(w)] **(u)** An aerial fireworks display business that has been in continuous operation at its cur-
 36 rent location within an exclusive farm use zone since December 31, 1986, and possesses a
 37 wholesaler's permit to sell or provide fireworks.

38 [(x)] **(v)** A landscape contracting business, as defined in ORS 671.520, or a business providing
 39 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-
 40 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

41 [(y)] **(w)** Public or private schools for kindergarten through grade 12, including all buildings
 42 essential to the operation of a school, primarily for residents of the rural area in which the school
 43 is located.

44 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
 45 a single-family residential dwelling not provided in conjunction with farm use may be established

1 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
2 the Agricultural Capability Classification System in use by the United States Department of Agri-
3 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
4 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
5 showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

41 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
42 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (i) Planned hours of operation;

39 (ii) Access, egress and parking;

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

42 (iv) Sanitation and solid waste.

43 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
 44 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
 45 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-

1 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
 2 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
 3 To approve an expedited, single-event license, the governing body of a county or its designee must
 4 determine that the proposed agri-tourism or other commercial event or activity meets any local
 5 standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

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

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

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

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

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

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

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

24 (D) Must comply with ORS 215.296;

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

27 (F) Must comply with conditions established for:

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

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

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

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

37 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

28 **SECTION 2.** ORS 215.283, as amended by section 3, chapter 74, Oregon Laws 2012, is amended
29 to read:

30 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

1 shall operate as a partition of the homesite to create a new parcel.

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

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

9 [(g) *Operations for the exploration for minerals as defined by ORS 517.750. Any activities or con-*
10 *struction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or*
11 *(b).]*

12 [(h)] (f) Climbing and passing lanes within the right of way existing as of July 1, 1987.

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

17 [(j)] (h) Temporary public road and highway detours that will be abandoned and restored to
18 original condition or use at such time as no longer needed.

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

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

25 [(m)] (k) Creation, restoration or enhancement of wetlands.

26 [(n)] (L) A winery, as described in ORS 215.452 or 215.453.

27 [(o)] (m) Farm stands if:

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

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

37 [(p)] (n) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

41 (C) Has interior wiring for interior lights;

42 (D) Has a heating system; and

43 (E) In the case of replacement:

44 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
45 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of

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

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

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

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

39 [(s)] (q) Fire service facilities providing rural fire protection services.

40 [(t)] (r) Irrigation reservoirs, canals, delivery lines and those structures and accessory opera-
 41 tional facilities, not including parks or other recreational structures and facilities, associated with
 42 a district as defined in ORS 540.505.

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

1 (A) A public right of way;

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

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

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

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

14 [(x)] (v) Dog training classes or testing trials, which may be conducted outdoors or in preexist-
15 ing farm buildings, when:

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

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

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

22 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
23 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection [(1)(r)] (1)(p) of this sec-
24 tion.

25 [(b) Operations conducted for:]

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

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

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

31 [(D) Processing of other mineral resources and other subsurface resources.]

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

42 [(d)] (c) Parks and playgrounds. A public park may be established consistent with the provisions
43 of ORS 195.120.

44 [(e)] (d) Community centers owned by a governmental agency or a nonprofit community organ-
45 ization and operated primarily by and for residents of the local rural community. A community

1 center authorized under this paragraph may provide services to veterans, including but not limited
 2 to emergency and transitional shelter, preparation and service of meals, vocational and educational
 3 counseling and referral to local, state or federal agencies providing medical, mental health, disability
 4 income replacement and substance abuse services, only in a facility that is in existence on January
 5 1, 2006. The services may not include direct delivery of medical, mental health, disability income
 6 replacement or substance abuse services.

7 [(f)] (e) Golf courses on land determined not to be high-value farmland, as defined in ORS
 8 195.300.

9 [(g)] (f) Commercial utility facilities for the purpose of generating power for public use by sale.

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

19 [(i)] (h) Home occupations as provided in ORS 215.448.

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

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

31 [(L)] (k) One manufactured dwelling or recreational vehicle, or the temporary residential use
 32 of an existing building, in conjunction with an existing dwelling as a temporary use for the term of
 33 a 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 subsection [(1)(p)] (1)(o) of this section.

39 [(m)] (L) Transmission towers over 200 feet in height.

40 [(n)(A)] (m)(A) Commercial dog boarding kennels; or

41 (B) Dog training classes or testing trials that cannot be established under subsection [(1)(x)]
 42 (1)(v) of this section.

43 [(o)] (n) Residential homes as defined in ORS 197.660, in existing dwellings.

44 [(p)] (o) The propagation, cultivation, maintenance and harvesting of aquatic species that are
 45 not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect spe-

1 cies shall not include any species under quarantine by the State Department of Agriculture or the
 2 United States Department of Agriculture. The county shall provide notice of all applications under
 3 this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with
 4 the county's land use regulations but shall be mailed at least 20 calendar days prior to any admin-
 5 istrative decision or initial public hearing on the application.

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

8 [(r)] (q) Reconstruction or modification of public roads and highways involving the removal or
 9 displacement of buildings but not resulting in the creation of new land parcels.

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

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

15 [(u)] (t) Room and board arrangements for a maximum of five unrelated persons in existing
 16 residences.

17 [(v) *Operations for the extraction and bottling of water.*]

18 [(w)] (u) Expansion of existing county fairgrounds and activities directly relating to county
 19 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

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

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

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

32 [(y)] (w) An aerial fireworks display business that has been in continuous operation at its cur-
 33 rent location within an exclusive farm use zone since December 31, 1986, and possesses a
 34 wholesaler's permit to sell or provide fireworks.

35 [(z)] (x) A landscape contracting business, as defined in ORS 671.520, or a business providing
 36 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-
 37 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (i) Planned hours of operation;

24 (ii) Access, egress and parking;

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

27 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

1 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
 2 use permit that is personal to the applicant and is not transferred by, or transferable with, a
 3 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
 4 local standards that apply, and the agri-tourism or other commercial events or activities:

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

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

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

9 (D) Must comply with ORS 215.296;

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

12 (F) Must comply with conditions established for:

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

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

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

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

22 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

43 (a) A county may authorize the use of temporary structures established in connection with the
 44 agri-tourism or other commercial events or activities authorized under subsection (4) of this section.
 45 However, the temporary structures must be removed at the end of the agri-tourism or other event

1 or activity. The county may not approve an alteration to the land in connection with an agri-tourism
 2 or other commercial event or activity authorized under subsection (4) of this section, including, but
 3 not limited to, grading, filling or paving.

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

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

13 **SECTION 3.** ORS 92.010 is amended to read:

14 92.010. As used in ORS 92.010 to 92.192, unless the context requires otherwise:

15 (1) “Declarant” means the person who files a declaration under ORS 92.075.

16 (2) “Declaration” means the instrument described in ORS 92.075 by which the subdivision or
 17 partition plat was created.

18 (3)(a) “Lawfully established unit of land” means:

19 (A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or

20 (B) Another unit of land created:

21 (i) In compliance with all applicable planning, zoning and subdivision or partition ordinances
 22 and regulations; or

23 (ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision
 24 or partition ordinances or regulations.

25 (b) “Lawfully established unit of land” does not mean a unit of land created solely to establish
 26 a separate tax account.

27 (4) “Lot” means a single unit of land that is created by a subdivision of land.

28 (5) “Negotiate” means any activity preliminary to the execution of a binding agreement for the
 29 sale of land in a subdivision or partition, including but not limited to advertising, solicitation and
 30 promotion of the sale of such land.

31 (6) “Parcel” means a single unit of land that is created by a partition of land.

32 (7) “Partition” means either an act of partitioning land or an area or tract of land partitioned.

33 (8) “Partition plat” includes a final map and other writing containing all the descriptions, lo-
 34 cations, specifications, provisions and information concerning a partition.

35 (9) “Partitioning land” means dividing land to create not more than three parcels of land within
 36 a calendar year, but does not include:

37 (a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale
 38 of real property or the creation of cemetery lots;

39 (b) Adjusting a property line as property line adjustment is defined in this section;

40 (c) Dividing land as a result of the recording of a subdivision or condominium plat;

41 (d) Selling or granting by a person to a public agency or public body of property for state
 42 highway, county road, city street or other right of way purposes if the road or right of way complies
 43 with the applicable comprehensive plan and ORS 215.213 [(2)(p) to (r)] **(2)(o) to (q)** and 215.283 [(2)(q)
 44 to (s)] **(2)(p) to (r)**. However, any property sold or granted for state highway, county road, city
 45 street or other right of way purposes shall continue to be considered a single unit of land until the

1 property is further subdivided or partitioned; or

2 (e) Selling or granting by a public agency or public body of excess property resulting from the
 3 acquisition of land by the state, a political subdivision or special district for highways, county roads,
 4 city streets or other right of way purposes when the sale or grant is part of a property line ad-
 5 justment incorporating the excess right of way into adjacent property. The property line adjustment
 6 shall be approved or disapproved by the applicable local government. If the property line adjustment
 7 is approved, it shall be recorded in the deed records of the county where the property is located.

8 (10) "Plat" includes a final subdivision plat, replat or partition plat.

9 (11) "Property line" means the division line between two units of land.

10 (12) "Property line adjustment" means a relocation or elimination of all or a portion of the
 11 common property line between abutting properties that does not create an additional lot or parcel.

12 (13) "Replat" means the act of platting the lots, parcels and easements in a recorded subdivision
 13 or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to in-
 14 crease or decrease the number of lots in the subdivision.

15 (14) "Road" or "street" means a public or private way that is created to provide ingress or
 16 egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that
 17 is created to provide ingress or egress to such land in conjunction with the use of such land for
 18 forestry, mining or agricultural purposes.

19 (15) "Sale" or "sell" includes every disposition or transfer of land or an interest or estate
 20 therein.

21 (16) "Subdivide land" means to divide land to create four or more lots within a calendar year.

22 (17) "Subdivision" means either an act of subdividing land or an area or a tract of land subdi-
 23 vided.

24 (18) "Subdivision plat" includes a final map and other writing containing all the descriptions,
 25 locations, specifications, dedications, provisions and information concerning a subdivision.

26 (19) "Utility easement" means an easement noted on a subdivision plat or partition plat for the
 27 purpose of installing or maintaining public or private utility infrastructure for the provision of wa-
 28 ter, power, heat or telecommunications to the public.

29 **SECTION 4.** ORS 215.203, as amended by section 1, chapter 74, Oregon Laws 2012, is amended
 30 to read:

31 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
 32 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
 33 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
 34 only when such zoning is consistent with the comprehensive plan.

35 (2)(a) As used in this section, "farm use" means the current employment of land for the primary
 36 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
 37 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
 38 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
 39 use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage
 40 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
 41 man or animal use. "Farm use" also includes the current employment of land for the primary pur-
 42 pose of obtaining a profit in money by stabling or training equines including but not limited to
 43 providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propa-
 44 gation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under
 45 the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules

1 adopted by the commission. “Farm use” includes the on-site construction and maintenance of
2 equipment and facilities used for the activities described in this subsection. “Farm use” does not
3 include the use of land subject to the provisions of ORS chapter 321, except land used exclusively
4 for growing cultured Christmas trees as defined in subsection (3) of this section or land described
5 in ORS 321.267 (3) or 321.824 (3).

6 (b) “Current employment” of land for farm use includes:

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

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

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

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

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

18 (F) Except for land under a single family dwelling, land under buildings supporting accepted
19 farm practices, including the processing facilities allowed by ORS 215.213 [(1)(u)] (1)(s) and 215.283
20 [(1)(r)] (1)(p) and the processing of farm crops into biofuel as commercial activities in conjunction
21 with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

26 (I) Land lying idle for no more than one year where the absence of farming activity is due to
27 the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph,
28 illness includes injury or infirmity whether or not such illness results in death;

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

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

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

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

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

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

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

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

42 (b) Of a marketable species;

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

45 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed

1 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
 2 disease control, stump culture, soil cultivation, irrigation.

3 **SECTION 5.** ORS 215.246 is amended to read:

4 215.246. (1) The uses allowed under ORS 215.213 [(1)(y)] **(1)(w)** and 215.283 [(1)(v)] **(1)(t)**:

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

10 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
 11 215.275 or 215.296.

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

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

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

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

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

19 (A) ORS 215.213 (1)(b), (d) to (f), [(i) to (n), (p) to (r), (u), (w) or (x)] **(g) to (L), (n) to (p), (s),**
 20 **(u) or (v)**;

21 (B) ORS 215.213 (2)(a) to (c), [(i), (m) or (p) to (r)] **(h), (L) or (o) to (q)**;

22 (C) ORS 215.213 (11);

23 (D) ORS 215.283 (1)(b), (d), (e), [(h) to (L), (n) to (p), (r), (t) or (u)] **(f) to (j), (L) to (n), (p), (r)**
 24 **or (s)**;

25 (E) ORS 215.283 (2)(a), [(j), (L) or (p) to (s)] **(i), (k) or (o) to (r)**; or

26 (F) ORS 215.283 (4).

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

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

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

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

43 (c) The establishment and use of facilities, including buildings and equipment, that are not on
 44 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
 45 industrial process water or biosolids to the tract on which the land application occurs if the facili-

ties are located within:

(A) A public right of way; or

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

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

(5) Uses not allowed under this section include:

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

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 [(1)(x)] (1)(v) or 215.283 [(1)(u)] (1)(s).

SECTION 6. ORS 215.249 is amended to read:

215.249. Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land in an exclusive farm use zone for the land application of reclaimed water, agricultural or industrial process water or biosolids described in ORS 215.213 [(1)(y)] (1)(w) or 215.283 [(1)(v)] (1)(t).

SECTION 7. ORS 215.251 is amended to read:

215.251. Nothing in ORS 215.213 [(1)(y)] (1)(w), 215.246 to 215.249 or 215.283 [(1)(v)] (1)(t) affects whether the land application of a substance not described in ORS 215.213 [(1)(y)] (1)(w), 215.246 to 215.249 or 215.283 [(1)(v)] (1)(t) is a farm use as defined in ORS 215.203.

SECTION 8. ORS 215.263 is amended to read:

215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of the county in which the land is situated. The governing body of a county by ordinance shall require prior review and approval for divisions of land within exclusive farm use zones established within the county.

(2) The governing body of a county or its designee may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

(a) That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or

(b) The parcels created by the proposed division are not smaller than the minimum size established under ORS 215.780.

(3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.

(4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined in ORS 215.010, the governing body of a county or its designee:

(a) May approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:

(A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

1 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
 2 the minimum size established under ORS 215.780;

3 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
 4 complies with the minimum size established under ORS 215.780; and

5 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 6 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 7 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 8 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 9 forest use in conjunction with other land.

10 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
 11 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

12 (A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

13 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 14 created prior to July 1, 2001;

15 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
 16 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

17 (D) The parcels for the nonfarm dwellings are:

18 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;
 19 and

20 (ii) Composed of at least 90 percent Class VI through VIII soils;

21 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
 22 and

23 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 24 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 25 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 26 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 27 forest use in conjunction with other land.

28 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

29 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
 30 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
 31 vided in conjunction with farm use if:

32 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

33 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 34 created prior to July 1, 2001;

35 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
 36 the minimum size established under ORS 215.780;

37 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
 38 complies with the minimum size established under ORS 215.780; and

39 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 40 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 41 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 42 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 43 forest use in conjunction with other land.

44 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
 45 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

- 1 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);
- 2 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
3 created prior to July 1, 2001;
- 4 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
5 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;
- 6 (D) The parcels for the nonfarm dwellings are:
- 7 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;
8 and
- 9 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
10 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
11 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
12 State Department of Agriculture and other interested persons, may establish by rule objective cri-
13 teria for identifying units of land that are not capable of producing adequate herbaceous forage for
14 grazing livestock. In developing the criteria, the commission shall use the latest information from
15 the United States Natural Resources Conservation Service and consider costs required to utilize
16 grazing lands that differ in acreage and productivity level;
- 17 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
18 and
- 19 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
20 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
21 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
22 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
23 forest use in conjunction with other land.
- 24 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
25 the boundaries designated for a farm use zone at the time the zone is established.
- 26 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
27 of land resulting from foreclosure of recorded contracts for the sale of real property.
- 28 (8) The governing body of a county may not approve any proposed division of a lot or parcel
29 described in ORS 215.213 (1)(d) or [(i)] (g), 215.283 (1)(d) or [(2)(L)] (2)(k) or 215.284 (1), or a proposed
30 division that separates a processing facility from the farm operation specified in ORS 215.213
31 [(1)(u)] (1)(s) or 215.283 [(1)(r)] (1)(p).
- 32 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
33 use zone to create a parcel with an existing dwelling to be used:
- 34 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
35 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and
- 36 (b) For historic property that meets the requirements of ORS 215.213 [(1)(n)] (1)(L) and 215.283
37 [(1)(L)] (1)(j).
- 38 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
39 prove a proposed division of land provided:
- 40 (A) The land division is for the purpose of allowing a provider of public parks or open space,
41 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
42 and
- 43 (B) A parcel created by the land division that contains a dwelling is large enough to support
44 continued residential use of the parcel.
- 45 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

1 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

2 (B) May not be considered in approving or denying an application for siting any other dwelling;

3 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
4 redesignation or rezoning to allow a public park, open space or other natural resource use; and

5 (D) May not be smaller than 25 acres unless the purpose of the land division is:

6 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
7 wildlife habitat protection plan; or

8 (ii) To allow a transaction in which at least one party is a public park or open space provider,
9 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
10 acres of open space or park property.

11 (11) The governing body of a county or its designee may approve a division of land smaller than
12 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
13 provided:

14 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
15 with the church;

16 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

17 (c) The newly created lot or parcel is not larger than five acres; and

18 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
19 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
20 parcel.

21 (12) Notwithstanding the minimum lot or parcel size described in ORS 215.780 (1) or (2), the
22 governing body of a county or its designee may approve a proposed division of land in an exclusive
23 farm use zone for the nonfarm uses set out in ORS 215.213 [(1)(v)] **(1)(t)** or 215.283 [(1)(s)] **(1)(q)** if
24 it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the
25 use. The governing body may establish other criteria as it considers necessary.

26 (13) The governing body of a county may not approve a division of land for nonfarm use under
27 subsection (3), (4), (5), (9), (10), (11) or (12) of this section unless any additional tax imposed for the
28 change in use has been paid.

29 (14) Parcels used or to be used for training or stabling facilities may not be considered appro-
30 priate to maintain the existing commercial agricultural enterprise in an area where other types of
31 agriculture occur.

32 **SECTION 9.** ORS 215.297 is amended to read:

33 215.297. (1) As part of the conditional use approval process under ORS 215.296, for the purpose
34 of verifying the existence, continuity and nature of the business described in ORS 215.213 [(2)(w)]
35 **(2)(u)** or 215.283 [(2)(y)] **(2)(w)**, representatives of the business may apply to the county and submit
36 evidence including, but not limited to, sworn affidavits or other documentary evidence that the
37 business qualifies.

38 (2) Alteration, restoration or replacement of a use authorized in ORS 215.213 [(2)(w)] **(2)(u)** or
39 215.283 [(2)(y)] **(2)(w)** may be altered, restored or replaced pursuant to ORS 215.130 (5), (6) and (9).

40 **SECTION 10.** ORS 215.417 is amended to read:

41 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development
42 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293
43 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four
44 years.

45 (2) An extension of a permit described in subsection (1) of this section shall be valid for two

1 years.

2 (3) For the purposes of this section, “residential development” only includes the dwellings pro-
 3 vided for under ORS 215.213 [(1)(q)] (1)(o), (3) and (4), 215.283 [(1)(p)] (1)(n), 215.284, 215.317, 215.705
 4 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

5 **SECTION 11.** ORS 215.452, as amended by section 3, chapter 679, Oregon Laws 2011, is
 6 amended to read:

7 215.452. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] (1)(n) and
 8 215.283 [(1)(n)] (1)(L) in an area zoned for exclusive farm use if the winery produces wine with a
 9 maximum annual production of:

10 (a) Less than 50,000 gallons and:

11 (A) Owns an on-site vineyard of at least 15 acres;

12 (B) Owns a contiguous vineyard of at least 15 acres;

13 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
 14 vineyard contiguous to the winery; or

15 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

16 (b) At least 50,000 gallons and the winery:

17 (A) Owns an on-site vineyard of at least 40 acres;

18 (B) Owns a contiguous vineyard of at least 40 acres;

19 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
 20 vineyard contiguous to the winery; or

21 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

22 (2) A winery described in subsection (1) of this section may:

23 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 24 tivities:

25 (A) Wine tours;

26 (B) Wine tastings in a tasting room or other location at the winery;

27 (C) Wine clubs; and

28 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 29 junction with the winery;

30 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 31 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 32 including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and

33 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 34 at which wine produced in conjunction with the winery is featured, that:

35 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 36 winery;

37 (B) Are incidental to the retail sale of wine on-site; and

38 (C) Are limited to 25 days or fewer in a calendar year.

39 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 40 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
 41 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
 42 the winery.

43 (b) At the request of a local government with land use jurisdiction over the site of a winery, the
 44 winery shall submit to the local government a written statement, prepared by a certified public ac-
 45 countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

1 (4) A winery operating under this section shall provide parking for all activities or uses of the
2 lot, parcel or tract on which the winery is established.

3 (5) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
4 show that vineyards described in subsection (1) of this section have been planted or that the con-
5 tract has been executed, as applicable.

6 (6) A local government shall adopt findings for each of the standards described in this sub-
7 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
8 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
9 adjacent lands:

10 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
11 public gathering places; and

12 (b) Provision of direct road access and internal circulation.

13 (7) A local government shall apply:

14 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
15 access and airport safety;

16 (b) Regulations for the public health and safety; and

17 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
18 specting open spaces, scenic and historic areas and natural resources.

19 (8)(a) A local government may issue a permit for a winery operating under this section to host
20 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
21 government issued permits to wineries operating under this section in similar circumstances before
22 August 2, 2011.

23 (b) A local government may not issue a permit for a winery operating under this section to host
24 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
25 government did not issue permits to wineries operating under this section in similar circumstances
26 before August 2, 2011.

27 (9) As used in this section, "private events" includes, but is not limited to, facility rentals and
28 celebratory gatherings.

29 **SECTION 12.** ORS 215.452, as amended by sections 3 and 3a, chapter 679, Oregon Laws 2011,
30 is amended to read:

31 215.452. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] **(1)(n)** and
32 215.283 [(1)(n)] **(1)(L)** in an area zoned for exclusive farm use if the winery produces wine with a
33 maximum annual production of:

34 (a) Less than 50,000 gallons and:

35 (A) Owns an on-site vineyard of at least 15 acres;

36 (B) Owns a contiguous vineyard of at least 15 acres;

37 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
38 vineyard contiguous to the winery; or

39 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

40 (b) At least 50,000 gallons and the winery:

41 (A) Owns an on-site vineyard of at least 40 acres;

42 (B) Owns a contiguous vineyard of at least 40 acres;

43 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
44 vineyard contiguous to the winery; or

45 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

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

2 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
3 tivities:

4 (A) Wine tours;

5 (B) Wine tastings in a tasting room or other location at the winery;

6 (C) Wine clubs; and

7 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
8 junction with the winery; and

9 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
10 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
11 including food and beverages served by a limited service restaurant, as defined in ORS 624.010.

12 (3) A winery operating under this section shall provide parking for all activities or uses of the
13 lot, parcel or tract on which the winery is established.

14 (4) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
15 show that vineyards described in subsection (1) of this section have been planted or that the con-
16 tract has been executed, as applicable.

17 (5) A local government shall adopt findings for each of the standards described in this sub-
18 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
19 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
20 adjacent lands:

21 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
22 public gathering places; and

23 (b) Provision of direct road access and internal circulation.

24 (6) A local government shall apply:

25 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
26 access and airport safety;

27 (b) Regulations for the public health and safety; and

28 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
29 specting open spaces, scenic and historic areas and natural resources.

30 (7)(a) A local government may issue a permit for a winery operating under this section to host
31 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
32 government issued permits to wineries operating under this section in similar circumstances before
33 August 2, 2011.

34 (b) A local government may not issue a permit for a winery operating under this section to host
35 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
36 government did not issue permits to wineries operating under this section in similar circumstances
37 before August 2, 2011.

38 **SECTION 13.** ORS 215.453, as amended by section 5a, chapter 679, Oregon Laws 2011, is
39 amended to read:

40 215.453. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] **(1)(n)** or
41 215.283 [(1)(n)] **(1)(L)** in an area zoned for exclusive farm use if:

42 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is
43 a vineyard;

44 (b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not
45 be contiguous to the acreage described in paragraph (a) of this subsection; and

1 (c) The winery has produced annually, at the same or a different location, at least 150,000 gal-
 2 lons of wine in at least three of the five calendar years before the winery is established under this
 3 section.

4 (2) A winery described in subsection (1) of this section may:

5 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 6 tivities:

7 (A) Wine tours;

8 (B) Wine tastings in a tasting room or other location at the winery;

9 (C) Wine clubs; and

10 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 11 junction with the winery;

12 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 13 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 14 including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine
 15 not produced in conjunction with the winery and gifts; and

16 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 17 at which wine produced in conjunction with the winery is featured, that:

18 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 19 winery;

20 (B) Are incidental to the retail sale of wine on-site; and

21 (C) Are limited to 25 days or fewer in a calendar year.

22 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 23 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
 24 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
 25 the winery.

26 (b) At the request of a local government with land use jurisdiction over the site of a winery, the
 27 winery shall submit to the local government a written statement, prepared by a certified public ac-
 28 countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

29 (4) A winery operating under this section:

30 (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery
 31 is established.

32 (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
 33 sumption on the premises of the winery.

34 (5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
 35 taurant that is open to the public for more than 25 days in a calendar year or provides for private
 36 events occurring on more than 25 days in a calendar year.

37 (b) In addition to any other requirements, a local government may approve a permit application
 38 under this subsection if the local government finds that the authorized activity:

39 (A) Complies with the standards described in ORS 215.296;

40 (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
 41 winery; and

42 (C) Does not materially alter the stability of the land use pattern in the area.

43 (c) If the local government issues a permit under this subsection for private events, the local
 44 government shall review the permit at least once every five years and, if appropriate, may renew
 45 the permit.

1 (6) A person may not have a substantial ownership interest in more than one winery operating
2 a restaurant under this section.

3 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
4 show that vineyards described in subsection (1) of this section have been planted.

5 (8) A local government shall require a winery operating under this section to provide for:

6 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
7 public gathering places; and

8 (b) Direct road access and internal circulation.

9 (9) A local government shall apply:

10 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
11 access and airport safety;

12 (b) Regulations for the public health and safety; and

13 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
14 specting open spaces, scenic and historic areas and natural resources.

15 (10) The local government may authorize a winery described in subsection (1) of this section to
16 sell or deliver items or provide services not described in subsection (2)(b) or (c) or (3) of this section
17 under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c)
18 or 215.283 (2)(a).

19 (11)(a) A local government may issue a permit for a winery operating under this section to host
20 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
21 government issued permits to wineries operating under this section in similar circumstances before
22 August 2, 2011.

23 (b) A local government may not issue a permit for a winery operating under this section to host
24 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
25 government did not issue permits to wineries operating under this section in similar circumstances
26 before August 2, 2011.

27 (12) As used in this section, "private events" includes, but is not limited to, facility rentals and
28 celebratory gatherings.

29 **SECTION 14.** Section 6, chapter 567, Oregon Laws 2011, is amended to read:

30 **Sec. 6.** (1)(a) A use or structure in an area zoned for exclusive farm use that exists on the ef-
31 fective date of this 2011 Act [June 28, 2011] may be lawfully continued, altered, restored or replaced
32 pursuant to ORS 215.130 if the use or structure is located on the same tract, as defined in ORS
33 215.010, as a winery established under ORS 215.213 [(1)(p)] **(1)(n)** or 215.283 [(1)(n)] **(1)(L)** that
34 produced more than 250,000 gallons of wine in calendar year 2010.

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

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

41 **SECTION 15.** ORS 215.780 is amended to read:

42 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
43 parcel sizes apply to all counties:

44 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

45 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

- 1 (c) For land designated forestland, at least 80 acres.
- 2 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
- 3 of this section in any of the following circumstances:
- 4 (a) By demonstrating to the Land Conservation and Development Commission that it can do so
- 5 while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning
- 6 goals adopted under ORS 197.230.
- 7 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed
- 8 farm and forest use, subject to the following requirements:
- 9 (A) The parcel established shall not be larger than five acres, except as necessary to recognize
- 10 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;
- 11 (B) The dwelling existed prior to June 1, 1995;
- 12 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-
- 13 dards of the zone; or
- 14 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and
- 15 together the parcels meet the minimum land division standards of the zone; and
- 16 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-
- 17 sequently authorized by law or goal.
- 18 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for
- 19 mixed farm and forest use the following requirements apply:
- 20 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.
- 21 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for
- 22 special assessment under a program under ORS chapter 321.
- 23 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and
- 24 215.283 that are not allowed on forestland.
- 25 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that
- 26 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this
- 27 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:
- 28 (A) Shall not be eligible for siting of a new dwelling;
- 29 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;
- 30 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of
- 31 resource lands;
- 32 (D) Shall not result in a parcel of less than 35 acres, except:
- 33 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-
- 34 ernmental agency; or
- 35 (ii) Where the purpose of the land division is to allow transactions in which at least one par-
- 36 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and
- 37 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in
- 38 a parcel less than the minimum lot or parcel size of the zone.
- 39 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under
- 40 a statewide planning goal protecting forestland if:
- 41 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- 42 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213
- 43 [(1)(q)] (1)(o) or 215.283 [(1)(p)] (1)(n);
- 44 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two
- 45 and five acres in size;

1 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and

2 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-
3 striction prohibiting the landowner and the landowner's successors in interest from further dividing
4 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel
5 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of
6 release is signed by the county planning director of the county in which the lot or parcel is located
7 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have
8 been changed so that the lot or parcel is no longer subject to statewide planning goals protecting
9 forestland or unless the land division is subsequently authorized by law or by a change in a state-
10 wide planning goal for land zoned for forest use or mixed farm and forest use.

11 (f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as
12 provided in ORS 215.783.

13 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
14 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record
15 shall be readily available to the public.

16 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
17 dwelling on the lot or parcel was approved under:

18 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
19 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

20 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
21 use zone under a statewide planning goal protecting forestland.

22 (5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to
23 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under
24 ORS 197.628 to 197.651 that is smaller than those prescribed in subsection (1) of this section need
25 not comply with subsection (2) of this section.

26 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall
27 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
28 recorded with the county clerk of the county where the property is located. An applicant for the
29 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-
30 striction on the newly created parcel has been recorded with the county clerk of the county where
31 the property is located. The restriction shall allow no dwellings unless authorized by law or goal
32 on land zoned for forest use except as permitted under subsection (2) of this section.

33 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release
34 is signed by the county planning director of the county where the property is located indicating that
35 the comprehensive plan or land use regulations applicable to the property have been changed in
36 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-
37 cultural land or forestland.

38 (c) The county planning director shall maintain a record of parcels that do not qualify for the
39 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily
40 available to the public.

41 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
42 ment that shall be recorded with the county clerk of the county in which the property is located,
43 declaring that the landowner and the landowner's successors in interest will not in the future com-
44 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

45 **SECTION 16.** ORS 308A.056, as amended by section 5, chapter 74, Oregon Laws 2012, is

1 amended to read:

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

4 (a) Raising, harvesting and selling crops.

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

7 (c) Dairying and selling dairy products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 infirmity, regardless of whether the illness results in death;

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

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

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

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

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

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

12 (4) As used in this section:

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

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

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

19 (B) Of a marketable species;

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

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

24 (i) Basal pruning;

25 (ii) Fertilizing;

26 (iii) Insect and disease control;

27 (iv) Stump culture;

28 (v) Soil cultivation; or

29 (vi) Irrigation.

30 **SECTION 17. ORS 215.425 is repealed.**

31
