

# House Bill 3121

Sponsored by Representative RICHARDSON

## 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**.

Allows facilities for trucking terminals, freight-forwarding and intermodal transport within one mile of interstate highway interchange on land zoned for exclusive farm use.

## A BILL FOR AN ACT

Relating to authorized uses of land zoned for exclusive farm use; amending ORS 215.283.

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

**SECTION 1.** ORS 215.283, as amended by section 3, chapter 74, Oregon Laws 2012, is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

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

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

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

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

**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 (2)(a) or (b).

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

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

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

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

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

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

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

17 (o) Farm stands if:

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

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

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

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

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

31 (C) Has interior wiring for interior lights;

32 (D) Has a heating system; and

33 (E) In the case of replacement:

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

1 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
2 and release statements filed under this paragraph; and

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

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

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

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

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

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

36 (A) A public right of way;

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

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

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

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

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

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

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

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

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

14 (b) Operations conducted for:

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

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

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

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

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

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

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

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

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

43 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-  
 44 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-  
 45 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional

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

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

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

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

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

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

28 (n)(A) Commercial dog boarding kennels; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **(bb) Facilities for trucking terminals, freight-forwarding and intermodal transport, in-**  
 29 **cluding supporting uses and activities, on a site located within one mile of an interstate**  
 30 **highway interchange.**

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

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

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

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

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

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

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

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

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

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

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

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

13 (i) Planned hours of operation;

14 (ii) Access, egress and parking;

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

17 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

44 (D) Must comply with ORS 215.296;

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

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

2 (F) Must comply with conditions established for:

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

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

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

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

12 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

44 (c) The authorizations provided by subsection (4) of this section are in addition to other au-  
45 thorizations that may be provided by law, except that “outdoor mass gathering” and “other gather-

1 ing,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial  
2 events and activities.

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