

# Senate Bill 338

Sponsored by Senator JOHNSON (at the request of Oregon Farm Bureau Federation) (Pre-session filed.)

## 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**.

Changes status of activities conducted to create, restore or enhance wetlands on land zoned for exclusive farm use from outright permitted use to conditional use.

Eliminates limitation on liability for damages resulting from certain fish and wildlife habitat improvement projects and watershed or stream restoration or enhancement programs.

Limits purchase price paid for statutory conservation easements and highway scenic preservation easements.

## A BILL FOR AN ACT

1  
2 Relating to resource protection; creating new provisions; and amending ORS 215.203, 215.213,  
3 215.246, 215.249, 215.251, 215.263, 215.283, 215.304, 215.417, 215.452, 215.453, 215.780, 271.715,  
4 271.725, 271.729, 308A.056 and 496.270.

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

**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 lot size acknowledged under ORS 197.251.

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

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

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

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

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

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

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

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

31 [(o) *Creation, restoration or enhancement of wetlands.*]

32 [(p)] (o) A winery, as described in ORS 215.452 or 215.453.

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

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

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

37 (C) Has interior wiring for interior lights;

38 (D) Has a heating system; and

39 (E) In the case of replacement:

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

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

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

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

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

41 *[(u)]* **(t)** A facility for the processing of farm crops, or the production of biofuel as defined in  
 42 ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops  
 43 processed at the facility. The building established for the processing facility shall not exceed 10,000  
 44 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm  
 45 use or devote more than 10,000 square feet to the processing activities within another building

1 supporting farm uses. A processing facility shall comply with all applicable siting standards but the  
 2 standards shall not be applied in a manner that prohibits the siting of the processing facility.

3 [(v)] (u) Fire service facilities providing rural fire protection services.

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

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

10 (A) A public right of way;

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

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

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

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

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

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

26 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
 27 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
 28 215.296:

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

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

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

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

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

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

45 (c) Commercial activities that are in conjunction with farm use, including the processing of farm

1 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection [(1)(u)] (1)(t) of this sec-  
2 tion.

3 (d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

45 (k)(A) Commercial dog boarding kennels; or

1 (B) Dog training classes or testing trials that cannot be established under subsection [(1)(z)]  
2 (1)(y) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 **(z) Creation, restoration or enhancement of wetlands.**

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

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

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

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

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

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

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

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

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

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

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

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

43 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
44 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) Planned hours of operation;

41 (ii) Access, egress and parking;

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

44 (iv) Sanitation and solid waste.

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



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

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

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

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

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

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

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

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

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

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

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

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

26 (D) Must comply with ORS 215.296;

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

29 (F) Must comply with conditions established for:

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

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

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

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

39 (v) Sanitation and solid waste.

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

45 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-

1 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

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

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

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

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

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

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

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

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

32 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

1 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
 2 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
 3 shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

27 *[(m) Creation, restoration or enhancement of wetlands.]*

28 *[(n)]* (m) A winery, as described in ORS 215.452 or 215.453.

29 *[(o)]* (n) Farm stands if:

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

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

39 *[(p)]* (o) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

43 (C) Has interior wiring for interior lights;

44 (D) Has a heating system; and

45 (E) In the case of replacement:

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

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

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

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

41 [(s)] (r) Fire service facilities providing rural fire protection services.

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

45 [(u)] (t) Utility facility service lines. Utility facility service lines are utility lines and accessory

1 facilities or structures that end at the point where the utility service is received by the customer  
2 and that are located on one or more of the following:

3 (A) A public right of way;

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

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

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

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

16 [(x)] (w) Dog training classes or testing trials, which may be conducted outdoors or in preex-  
17 isting farm buildings, when:

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

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

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

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

27 (b) Operations conducted for:

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

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

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

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

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

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

1 (e) Community centers owned by a governmental agency or a nonprofit community organization  
2 and operated primarily by and for residents of the local rural community. A community center au-  
3 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
4 gency and transitional shelter, preparation and service of meals, vocational and educational  
5 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
6 income replacement and substance abuse services, only in a facility that is in existence on January  
7 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
8 replacement or substance abuse services.

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

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

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

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

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

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

32 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
33 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
34 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
35 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
36 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
37 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
38 view of the hardship claimed under this paragraph. A temporary residence approved under this  
39 paragraph is not eligible for replacement under subsection [(1)(p)] **(1)(o)** of this section.

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

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

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

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

45 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **(bb) Creation, restoration or enhancement of wetlands.**

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

45 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable

1 goal with which the facility or improvement does not comply; or

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

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

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

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

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

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

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

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

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

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

24 (i) Planned hours of operation;

25 (ii) Access, egress and parking;

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

28 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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



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

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

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

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

10 (D) Must comply with ORS 215.296;

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

13 (F) Must comply with conditions established for:

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

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

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

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

23 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

44 (a) A county may authorize the use of temporary structures established in connection with the  
 45 agri-tourism or other commercial events or activities authorized under subsection (4) of this section.

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

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

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

14 **SECTION 3.** ORS 496.270 is amended to read:

15 496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to  
 16 encourage [*operators, timber owners and*] landowners to voluntarily improve fish and wildlife habitat.  
 17 In order to carry out this policy, the Legislative Assembly encourages cooperation among [*operators,*  
 18 *timber owners and*] landowners and [*other*] volunteers.

19 (2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in con-  
 20 tract or tort for any personal injury[, **or** death [*or property damage*] that arises out of the use of  
 21 the land by:

22 (a) A volunteer conducting a fish and wildlife habitat improvement project; or

23 (b) A participant of a state-funded or federally funded watershed or stream restoration or en-  
 24 hancement program.

25 [(3) *An operator, timber owner or landowner shall not be held liable for any damages resulting*  
 26 *from:*]

27 [(a) *A fish and wildlife habitat improvement project done in cooperation and consultation with the*  
 28 *State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or conducted as*  
 29 *part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990 and 527.992;*  
 30 *or*]

31 [(b) *Leaving large woody debris within the waters of this state to protect, retain and recruit large*  
 32 *woody debris for the purposes of fish habitat and water quality improvement.*]

33 [(4) **(3)** The limitations [*to*] **on** liability provided by [*subsections (2) and (3)*] **subsection (2)** of  
 34 this section do not apply if the [*damages,*] injury or death was caused by willful, wanton or inten-  
 35 tional conduct on the part of the [*operator, timber owner or*] landowner or by the gross negligence  
 36 of the [*operator, timber owner or*] landowner. As used in this subsection, “gross negligence” means  
 37 negligence which is materially greater than the mere absence of reasonable care under the circum-  
 38 stances, and which is characterized by indifference to or reckless disregard of the rights of others.

39 [(5) *The limitation on liability provided by subsection (3) of this section does not apply to claims*  
 40 *for death or personal injuries.*]

41 **SECTION 4.** ORS 271.715 is amended to read:

42 271.715. As used in ORS 271.715 to 271.795, unless the context otherwise requires:

43 (1) “Conservation easement” means a nonpossessory interest of a holder in real property im-  
 44 posing limitations or affirmative obligations the purposes of which include retaining or protecting  
 45 natural, scenic, or open space values of real property, ensuring its availability for agricultural, for-

1 est, recreational, or open space use, protecting natural resources, maintaining or enhancing air or  
 2 water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real  
 3 property.

4 **(2) “Eligible purchaser” means a public body, as defined in ORS 174.109, described in**  
 5 **subsection (4)(a) of this section.**

6 [(2)] (3) “Highway scenic preservation easement” means a nonpossessory interest of a holder in  
 7 real property imposing limitations or affirmative obligations the purposes of which include retaining  
 8 or protecting natural, scenic or open space values of property.

9 [(3)] (4) “Holder” means:

10 (a) The state, any county, metropolitan service district, soil and water conservation district, city  
 11 or park and recreation district or a county service district established under ORS 451.410 to 451.610  
 12 to construct, maintain and operate service facilities in Washington or Clackamas Counties for the  
 13 purposes specified in ORS 451.010 (1)(a) and (b) and in Washington County for the purpose specified  
 14 in ORS 451.010 (5) acting alone or in cooperation with any federal or state agency, public corpo-  
 15 ration or political subdivision;

16 (b) A charitable corporation, charitable association, charitable trust, the purposes or powers of  
 17 which include retaining or protecting the natural, scenic, or open space values of real property,  
 18 assuring the availability of real property for agricultural, forest, recreational, or open space use,  
 19 protecting natural resources, maintaining or enhancing air or water quality, or preserving the his-  
 20 torical, architectural, archaeological, or cultural aspects of real property; or

21 (c) An Indian tribe as defined in ORS 97.740.

22 **(5) “Lawfully established unit of land” has the meaning given that term in ORS 92.010.**

23 [(4)] (6) “Third-party right of enforcement” means a right provided in a conservation easement  
 24 or highway scenic preservation easement to enforce any of its terms granted to a governmental  
 25 body, charitable corporation, charitable association or charitable trust, which, although eligible to  
 26 be a holder, is not a holder.

27 **SECTION 5.** ORS 271.725 is amended to read:

28 271.725. (1) [*The state, any county, metropolitan service district, soil and water conservation dis-*  
 29 *trict, city or park and recreation district or a county service district established under ORS 451.410 to*  
 30 *451.610 to construct, maintain and operate service facilities in Washington or Clackamas Counties for*  
 31 *the purposes specified in ORS 451.010 (1)(a) and (b) and in Washington County for the purpose speci-*  
 32 *fied in ORS 451.010 (5)] **An eligible purchaser** may acquire by purchase, agreement or donation,*  
 33 *but not by exercise of the power of eminent domain, unless specifically authorized by law, conser-*  
 34 *vation easements in any area within their respective jurisdictions wherever and to the extent that*  
 35 *[a state agency or the governing body of the county, metropolitan service district, soil and water con-*  
 36 *servation district, city, park and recreation district or county service district established under ORS*  
 37 *451.410 to 451.610 to construct, maintain and operate service facilities in Washington or Clackamas*  
 38 *Counties for the purposes specified in ORS 451.010 (1)(a) and (b) and in Washington County for the*  
 39 *purpose specified in ORS 451.010 (5)] **the eligible purchaser** determines that the acquisition will be*  
 40 *in the public interest.*

41 (2) Except as otherwise provided in ORS 271.715 to 271.795, a conservation easement or highway  
 42 scenic preservation easement may be created, conveyed, recorded, assigned, released, modified, ter-  
 43 minated, or otherwise altered or affected in the same manner as other easements.

44 (3) The [*state, any county, metropolitan service district, soil and water conservation district, city*  
 45 *or park and recreation district or a county service district established under ORS 451.410 to 451.610*

1 to construct, maintain and operate service facilities in Washington or Clackamas Counties for the pur-  
 2 poses specified in ORS 451.010 (1)(a) and (b) and in Washington County for the purpose specified in  
 3 ORS 451.010 (5)] **eligible purchaser** may acquire by purchase, agreement or donation, but not by  
 4 exercise of the power of eminent domain unless specifically authorized by law, highway scenic  
 5 preservation easements in land within 100 yards of state, county or city highway rights of way.  
 6 These easements may be acquired only in lands that possess significant scenic value in themselves  
 7 and contribute to the overall scenic beauty of the highway.

8 **(4) The eligible purchaser may not pay more for a conservation easement than five per-**  
 9 **cent of the fair market value of the portion of the lawfully established unit of land, including**  
 10 **improvements in the portion of the lawfully established unit of land, in which the easement**  
 11 **is granted plus the cost, up to \$1,000, for an appraisal provided to the county assessor pur-**  
 12 **suant to ORS 271.729.**

13 [(4)] (5) [No] **Any** right or duty in favor of or against a holder and [no] **any** right in favor of a  
 14 person having a third-party right of enforcement **that** arises under a conservation easement or  
 15 highway scenic preservation easement [before its acceptance by the holder and recordation of the ac-  
 16 ceptance] **arises only after the holder accepts the right or duty and causes the acceptance to**  
 17 **be recorded.**

18 [(5)] (6) Except as provided in ORS 271.755 (2) a conservation easement or highway scenic  
 19 preservation easement is unlimited in duration unless the instrument creating it otherwise provides.

20 [(6)] (7) An interest in real property in existence at the time a conservation easement or high-  
 21 way scenic preservation easement is created is not impaired by it unless the owner of the interest  
 22 is a party to or consents to the conservation easement or highway scenic preservation easement.

23 **SECTION 6.** ORS 271.729 is amended to read:

24 271.729. (1) An owner of real property considering whether to convey a conservation easement  
 25 or a highway scenic preservation easement to [a holder] **an eligible purchaser** may apply to the  
 26 county assessor for a report on the effect of the conveyance of the easement on the assessed value  
 27 of the property upon which the easement is to be granted.

28 (2) The request for the report shall be made in writing to the assessor and shall be accompanied  
 29 by:

30 (a) An appraisal of the property prepared by an appraiser certified or licensed under ORS  
 31 chapter 674. The appraisal shall have been prepared within three months preceding the date that  
 32 application is made to the assessor and shall state the appraiser's opinion of the real market value  
 33 of the property both before and after the easement is conveyed;

34 (b) A copy of the instrument creating the easement; and

35 (c) A fee in an amount determined by the assessor, as reimbursement for the costs of preparing  
 36 the report.

37 (3) Upon receipt of a completed application, the assessor shall determine what the assessed  
 38 value for the property would have been had the easement been accepted and recorded by the [*pro-*  
 39 *posed holder*] **eligible purchaser** for the last tax year in which a property tax statement described  
 40 in ORS 311.250 was sent to the property owner. The assessor shall prepare a written report stating  
 41 the assessor's findings and shall send the report to the property owner.

42 **SECTION 7.** ORS 215.203, as amended by section 1, chapter 74, Oregon Laws 2012, is amended  
 43 to read:

44 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the  
 45 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use

1 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established  
2 only when such zoning is consistent with the comprehensive plan.

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

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

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

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

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

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

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

31 (F) Except for land under a single family dwelling, land under buildings supporting accepted  
32 farm practices, including the processing facilities allowed by ORS 215.213 [(1)(u)] (1)(t) and 215.283  
33 [(1)(r)] (1)(q) and the processing of farm crops into biofuel as commercial activities in conjunction  
34 with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

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

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

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

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

45 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm

1 of the landowner; or

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

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

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

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

10 (b) Of a marketable species;

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

13 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed  
14 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and  
15 disease control, stump culture, soil cultivation, irrigation.

16 **SECTION 8.** ORS 215.246 is amended to read:

17 215.246. (1) The uses allowed under ORS 215.213 [(1)(y)] **(1)(x)** and 215.283 [(1)(v)] **(1)(u)**:

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

23 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS  
24 215.275 or 215.296.

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

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

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

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

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

32 (A) ORS 215.213 (1)(b), (d) to (f), (i) to (n), [(p) to (r), (u), (w) or (x)] **(o) to (q), (t), (v) or (w)**;

33 (B) ORS 215.213 (2)(a) to (c), (i), (m), [or] (p) to (r) **or (z)**;

34 (C) ORS 215.213 (11);

35 (D) ORS 215.283 (1)(b), (d), (e), (h) to (L), [(n) to (p), (r), (t) or (u)] **(m) to (o), (q), (s) or (t)**;

36 (E) ORS 215.283 (2)(a), (j), (L), [or] (p) to (s) **or (bb)**; or

37 (F) ORS 215.283 (4).

38 (3) When a state agency or a local government makes a land use decision relating to the land  
39 application of reclaimed water, agricultural or industrial process water or biosolids under a license,  
40 permit or approval by the Department of Environmental Quality, the applicant shall explain in  
41 writing how alternatives identified in public comments on the land use decision were considered and,  
42 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The  
43 applicant must consider only those alternatives that are identified with sufficient specificity to af-  
44 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating  
45 to the land application of reclaimed water, agricultural or industrial process water or biosolids may

1 not be reversed or remanded under this subsection unless the applicant failed to consider identified  
 2 alternatives or to explain in writing the reasons for not using the alternatives.

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

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

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

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

13 (A) A public right of way; or

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

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

18 (5) Uses not allowed under this section include:

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

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

24 **SECTION 9.** ORS 215.249 is amended to read:

25 215.249. Notwithstanding ORS 215.263, the governing body of a county or its designee may not  
 26 approve a proposed division of land in an exclusive farm use zone for the land application of re-  
 27 claimed water, agricultural or industrial process water or biosolids described in ORS 215.213  
 28 [(1)(y)] (1)(x) or 215.283 [(1)(v)] (1)(u).

29 **SECTION 10.** ORS 215.251 is amended to read:

30 215.251. Nothing in ORS 215.213 [(1)(y)] (1)(x), 215.246 to 215.249 or 215.283 [(1)(v)] (1)(u) affects  
 31 whether the land application of a substance not described in ORS 215.213 [(1)(y)] (1)(x), 215.246 to  
 32 215.249 or 215.283 [(1)(v)] (1)(u) is a farm use as defined in ORS 215.203.

33 **SECTION 11.** ORS 215.263 is amended to read:

34 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting  
 35 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the  
 36 governing body or its designee of the county in which the land is situated. The governing body of  
 37 a county by ordinance shall require prior review and approval for divisions of land within exclusive  
 38 farm use zones established within the county.

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

41 (a) That the proposed division of land is appropriate for the continuation of the existing com-  
 42 mercial agricultural enterprise within the area; or

43 (b) The parcels created by the proposed division are not smaller than the minimum size estab-  
 44 lished under ORS 215.780.

45 (3) The governing body of a county or its designee may approve a proposed division of land in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
45 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 (7);

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 20 cubic feet per acre per year of wood fiber;  
19 and

20 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90  
21 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage  
22 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the  
23 State Department of Agriculture and other interested persons, may establish by rule objective cri-  
24 teria for identifying units of land that are not capable of producing adequate herbaceous forage for  
25 grazing livestock. In developing the criteria, the commission shall use the latest information from  
26 the United States Natural Resources Conservation Service and consider costs required to utilize  
27 grazing lands that differ in acreage and productivity level;

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

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

35 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within  
36 the boundaries designated for a farm use zone at the time the zone is established.

37 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions  
38 of land resulting from foreclosure of recorded contracts for the sale of real property.

39 (8) The governing body of a county may not approve any proposed division of a lot or parcel  
40 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division  
41 that separates a processing facility from the farm operation specified in ORS 215.213 [(1)(u)] (1)(t)  
42 or 215.283 [(1)(r)] (1)(q).

43 (9) The governing body of a county may approve a proposed division of land in an exclusive farm  
44 use zone to create a parcel with an existing dwelling to be used:

45 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved

1 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

2 (b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).

3 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-  
4 prove a proposed division of land provided:

5 (A) The land division is for the purpose of allowing a provider of public parks or open space,  
6 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;  
7 and

8 (B) A parcel created by the land division that contains a dwelling is large enough to support  
9 continued residential use of the parcel.

10 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 **SECTION 12.** ORS 215.304, as amended by section 4, chapter 74, Oregon Laws 2012, is amended  
43 to read:

44 215.304. (1) The Land Conservation and Development Commission shall not adopt or implement  
45 any rule to identify or designate small-scale farmland or secondary land.

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

3 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,  
 4 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700  
 5 to 215.780 on March 1, 1994:

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

7 (b) Has no legal effect.

8 (4) Notwithstanding subsection (3) of this section, the uses authorized by ORS 215.283 [(1)(x)],  
 9 (1)(w) or (2)(n) may be established on land in exclusive farm use zones, including high-value  
 10 farmland.

11 **SECTION 13.** ORS 215.417 is amended to read:

12 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development  
 13 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293  
 14 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four  
 15 years.

16 (2) An extension of a permit described in subsection (1) of this section shall be valid for two  
 17 years.

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

21 **SECTION 14.** ORS 215.452, as amended by section 3, chapter 679, Oregon Laws 2011, is  
 22 amended to read:

23 215.452. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] (1)(o) and  
 24 215.283 [(1)(n)] (1)(m) in an area zoned for exclusive farm use if the winery produces wine with a  
 25 maximum annual production of:

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

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

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

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

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

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

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

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

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

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

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

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

41 (A) Wine tours;

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

43 (C) Wine clubs; and

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (7) A local government shall apply:

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

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

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

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

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

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

45 **SECTION 15.** ORS 215.452, as amended by sections 3 and 3a, chapter 679, Oregon Laws 2011,

1 is amended to read:

2 215.452. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] (1)(o) and  
 3 215.283 [(1)(n)] (1)(m) in an area zoned for exclusive farm use if the winery produces wine with a  
 4 maximum annual production of:

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

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

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

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

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

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

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

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

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

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

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

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

20 (A) Wine tours;

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

22 (C) Wine clubs; and

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

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

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

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

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

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

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

40 (6) A local government shall apply:

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

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

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

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

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

9 **SECTION 16.** ORS 215.453, as amended by section 5a, chapter 679, Oregon Laws 2011, is  
 10 amended to read:

11 215.453. (1) A winery may be established as a permitted use under ORS 215.213 [(1)(p)] **(1)(o)** or  
 12 215.283 [(1)(n)] **(1)(m)** in an area zoned for exclusive farm use if:

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

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

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

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

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

23 (A) Wine tours;

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

25 (C) Wine clubs; and

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

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

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

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

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

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

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

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

45 (4) A winery operating under this section:

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) Direct road access and internal circulation.

25 (9) A local government shall apply:

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

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

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

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

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

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

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

45 **SECTION 17.** ORS 215.780 is amended to read:

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

- 3 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- 4 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- 5 (c) For land designated forestland, at least 80 acres.

6 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)  
 7 of this section in any of the following circumstances:

8 (a) By demonstrating to the Land Conservation and Development Commission that it can do so  
 9 while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning  
 10 goals adopted under ORS 197.230.

11 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed  
 12 farm and forest use, subject to the following requirements:

13 (A) The parcel established shall not be larger than five acres, except as necessary to recognize  
 14 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

15 (B) The dwelling existed prior to June 1, 1995;

16 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-  
 17 dards of the zone; or

18 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and  
 19 together the parcels meet the minimum land division standards of the zone; and

20 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-  
 21 sequently authorized by law or goal.

22 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for  
 23 mixed farm and forest use the following requirements apply:

24 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

25 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for  
 26 special assessment under a program under ORS chapter 321.

27 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and  
 28 215.283 that are not allowed on forestland.

29 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that  
 30 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this  
 31 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

32 (A) Shall not be eligible for siting of a new dwelling;

33 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

34 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of  
 35 resource lands;

36 (D) Shall not result in a parcel of less than 35 acres, except:

37 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-  
 38 ernmental agency; or

39 (ii) Where the purpose of the land division is to allow transactions in which at least one par-  
 40 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

41 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in  
 42 a parcel less than the minimum lot or parcel size of the zone.

43 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under  
 44 a statewide planning goal protecting forestland if:

45 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;



1 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213  
2 [~~(1)(q)~~] **(1)(p)** or 215.283 [~~(1)(p)~~] **(1)(o)**;

3 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two  
4 and five acres in size;

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

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

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

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

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

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

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

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

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

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

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

45 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-

1 ment that shall be recorded with the county clerk of the county in which the property is located,  
 2 declaring that the landowner and the landowner's successors in interest will not in the future com-  
 3 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

4 **SECTION 18.** ORS 308A.056, as amended by section 5, chapter 74, Oregon Laws 2012, is  
 5 amended to read:

6 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment  
 7 of land for the primary purpose of obtaining a profit in money by:

8 (a) Raising, harvesting and selling crops.

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

11 (c) Dairying and selling dairy products.

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (f) Except for land under a single family dwelling, land under buildings supporting accepted  
 41 farming practices, including the processing facilities allowed by ORS 215.213 [(1)(u)] **(1)(t)** and  
 42 215.283 [(1)(r)] **(1)(q)** and the processing of farm crops into biofuel as commercial activities in con-  
 43 junction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

45 (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the

1 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized  
 2 in conjunction with farm use;

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

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

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

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

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

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

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

16 (4) As used in this section:

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

20 (b) “Cultured Christmas trees” means trees:

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

23 (B) Of a marketable species;

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

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

28 (i) Basal pruning;

29 (ii) Fertilizing;

30 (iii) Insect and disease control;

31 (iv) Stump culture;

32 (v) Soil cultivation; or

33 (vi) Irrigation.

34 **SECTION 19. (1) The amendments to ORS 215.213 and 215.283 by sections 1 and 2 of this**  
 35 **2013 Act apply to wetlands creation, restoration or enhancement activities that occur on or**  
 36 **after the effective date of this 2013 Act.**

37 **(2) The amendments to ORS 496.270 by section 3 of this 2013 Act apply to activities that:**

38 **(a) Are conducted as part of a fish and wildlife habitat improvement project or a**  
 39 **watershed or stream restoration or enhancement program; and**

40 **(b) Occur on or after the effective date of this 2013 Act.**

41 **(3) The amendments to ORS 271.715, 271.725 and 271.729 by sections 4 to 6 of this 2013**  
 42 **Act apply to easements obtained by an eligible purchaser on or after the effective date of this**  
 43 **2013 Act.**