

D R A F T

SUMMARY

Requires that creation, restoration or enhancement of wetlands in any area zoned for exclusive farm use be subject to certain standards of approval by local governing body.

A BILL FOR AN ACT

Relating to wetlands; creating new provisions; and amending ORS 215.203, 215.213, 215.246, 215.249, 215.251, 215.263, 215.283, 215.304, 215.417, 215.452, 215.453, 215.454, 215.780 and 308A.056 and sections 2 and 3, chapter 462, Oregon Laws 2013.

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

CREATION, RESTORATION OR ENHANCEMENT OF WETLANDS IN EXCLUSIVE FARM USE ZONES

SECTION 1. ORS 215.213 is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

1 be established as provided in:

2 (A) ORS 215.275; or

3 (B) If the utility facility is an associated transmission line, as defined in
4 ORS 215.274 and 469.300.

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

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

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

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

31 (h) Operations for the exploration for minerals as defined by ORS 517.750.

1 Any activities or construction relating to such operations shall not be a ba-
2 sis for an exception under ORS 197.732 (2)(a) or (b).

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

14 (j) Climbing and passing lanes within the right of way existing as of July
15 1, 1987.

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

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

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

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

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

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

2 ~~[(q)]~~ **(p)** Subject to section 2, chapter 462, Oregon Laws 2013, alteration,
3 restoration or replacement of a lawfully established dwelling.

4 ~~[(r)]~~ **(q)** Farm stands if:

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

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

16 ~~[(s)]~~ **(r)** An armed forces reserve center, if the center is within one-half
17 mile of a community college. For purposes of this paragraph, “armed forces
18 reserve center” includes an armory or National Guard support facility.

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

1 on the ground.

2 [(u)] (t) A facility for the processing of farm crops or for the production
3 of biofuel, as defined in ORS 315.141, if the facility is located on a farm op-
4 eration that provides at least one-quarter of the farm crops processed at the
5 facility, or an establishment for the slaughter, processing or selling of
6 poultry or poultry products pursuant to ORS 603.038. If a building is estab-
7 lished or used for the processing facility or establishment, the farm operator
8 may not devote more than 10,000 square feet of floor area to the processing
9 facility or establishment, exclusive of the floor area designated for prepara-
10 tion, storage or other farm use. A processing facility or establishment must
11 comply with all applicable siting standards but the standards may not be
12 applied in a manner that prohibits the siting of the processing facility or
13 establishment.

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

15 [(w)] (v) Irrigation reservoirs, canals, delivery lines and those structures
16 and accessory operational facilities, not including parks or other recre-
17 ational structures and facilities, associated with a district as defined in ORS
18 540.505.

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

23 (A) A public right of way;

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

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

27 [(y)] (x) Subject to the issuance of a license, permit or other approval by
28 the Department of Environmental Quality under ORS 454.695, 459.205,
29 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under
30 ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
31 of reclaimed water, agricultural or industrial process water or biosolids for

1 agricultural, horticultural or silvicultural production, or for irrigation in
2 connection with a use allowed in an exclusive farm use zone under this
3 chapter.

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

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

9 (B) The number of dogs participating in a testing trial does not exceed
10 60 and the number of testing trials to be conducted on-site is limited to four
11 or fewer trials per calendar year.

12 (2) In counties that have adopted marginal lands provisions under ORS
13 197.247 (1991 Edition), the following uses may be established in any area
14 zoned for exclusive farm use subject to ORS 215.296:

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

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

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

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

26 (A) Has produced at least \$20,000 in annual gross farm income in two
27 consecutive calendar years out of the three calendar years before the year
28 in which the application for the dwelling was made or is planted in peren-
29 nials capable of producing upon harvest an average of at least \$20,000 in
30 annual gross farm income; or

31 (B) Is a woodlot capable of producing an average over the growth cycle

1 of \$20,000 in gross annual income.

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

5 (d) Operations conducted for:

6 (A) Mining and processing of geothermal resources as defined by ORS
7 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted
8 under subsection (1)(g) of this section;

9 (B) Mining, crushing or stockpiling of aggregate and other mineral and
10 other subsurface resources subject to ORS 215.298;

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

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

14 (e) Community centers owned by a governmental agency or a nonprofit
15 community organization and operated primarily by and for residents of the
16 local rural community, hunting and fishing preserves, public and private
17 parks, playgrounds and campgrounds. Subject to the approval of the county
18 governing body or its designee, a private campground may provide yurts for
19 overnight camping. No more than one-third or a maximum of 10 campsites,
20 whichever is smaller, may include a yurt. The yurt shall be located on the
21 ground or on a wood floor with no permanent foundation. Upon request of
22 a county governing body, the Land Conservation and Development Commis-
23 sion may provide by rule for an increase in the number of yurts allowed on
24 all or a portion of the campgrounds in a county if the commission determines
25 that the increase will comply with the standards described in ORS 215.296
26 (1). A public park or campground may be established as provided under ORS
27 195.120. As used in this paragraph, "yurt" means a round, domed shelter of
28 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
29 hookup or internal cooking appliance.

30 (f) Golf courses on land determined not to be high-value farmland as de-
31 fined in ORS 195.300.

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

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

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

25 (j) A site for the disposal of solid waste approved by the governing body
26 of a city or county or both and for which a permit has been granted under
27 ORS 459.245 by the Department of Environmental Quality together with
28 equipment, facilities or buildings necessary for its operation.

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

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

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

2 (m) The propagation, cultivation, maintenance and harvesting of aquatic
3 species that are not under the jurisdiction of the State Fish and Wildlife
4 Commission or insect species. Insect species shall not include any species
5 under quarantine by the State Department of Agriculture or the United
6 States Department of Agriculture. The county shall provide notice of all
7 applications under this paragraph to the State Department of Agriculture.
8 Notice shall be provided in accordance with the county's land use regu-
9 lations but shall be mailed at least 20 calendar days prior to any adminis-
10 trative 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 ac-
14 quisition of right of way but not resulting in the creation of new land par-
15 cels.

16 (q) Reconstruction or modification of public roads and highways involving
17 the removal or displacement of buildings but not resulting in the creation
18 of new land parcels.

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

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

25 (t) Room and board arrangements for a maximum of five unrelated persons
26 in existing residences.

27 (u) A living history museum related to resource based activities owned
28 and operated by a governmental agency or a local historical society, together
29 with limited commercial activities and facilities that are directly related to
30 the use and enjoyment of the museum and located within authentic buildings
31 of the depicted historic period or the museum administration building, if

1 areas other than an exclusive farm use zone cannot accommodate the mu-
2 seum and related activities or if the museum administration buildings and
3 parking lot are located within one quarter mile of the metropolitan urban
4 growth boundary. As used in this paragraph:

5 (A) "Living history museum" means a facility designed to depict and in-
6 terpret everyday life and culture of some specific historic period using au-
7 thentic buildings, tools, equipment and people to simulate past activities and
8 events; and

9 (B) "Local historical society" means the local historical society, recog-
10 nized as such by the county governing body and organized under ORS chap-
11 ter 65.

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

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

17 (x) A landscape contracting business, as defined in ORS 671.520, or a
18 business providing landscape architecture services, as described in ORS
19 671.318, if the business is pursued in conjunction with the growing and
20 marketing of nursery stock on the land that constitutes farm use.

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

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

25 (3) In counties that have adopted marginal lands provisions under ORS
26 197.247 (1991 Edition), a single-family residential dwelling not provided in
27 conjunction with farm use may be established on a lot or parcel with soils
28 predominantly in capability classes IV through VIII as determined by the
29 Agricultural Capability Classification System in use by the United States
30 Department of Agriculture Soil Conservation Service on October 15, 1983. A
31 proposed dwelling is subject to approval of the governing body or its

1 designee in any area zoned for exclusive farm use upon written findings
2 showing all of the following:

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

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

11 (c) Complies with such other conditions as the governing body or its
12 designee considers necessary.

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

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

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

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

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

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

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

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

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

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

17 (A) A lot or parcel described in this section is contiguous to one or more
18 lots or parcels described in this section; and

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

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

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

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

30 (10) Roads, highways and other transportation facilities and improvements
31 not allowed under subsections (1) and (2) of this section may be established,

1 subject to the approval of the governing body or its designee, in areas zoned
2 for exclusive farm use subject to:

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

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

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

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

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

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

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

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

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

28 (F) The agri-tourism or other commercial event or activity occurs out-
29 doors, in temporary structures, or in existing permitted structures, subject
30 to health and fire and life safety requirements; and

31 (G) The agri-tourism or other commercial event or activity complies with

1 conditions established for:

2 (i) Planned hours of operation;

3 (ii) Access, egress and parking;

4 (iii) A traffic management plan that identifies the projected number of
5 vehicles and any anticipated use of public roads; and

6 (iv) Sanitation and solid waste.

7 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
8 county may authorize, through an expedited, single-event license, a single
9 agri-tourism or other commercial event or activity on a tract in a calendar
10 year by an expedited, single-event license that is personal to the applicant
11 and is not transferred by, or transferable with, a conveyance of the tract. A
12 decision concerning an expedited, single-event license is not a land use de-
13 cision, as defined in ORS 197.015. To approve an expedited, single-event li-
14 cense, the governing body of a county or its designee must determine that
15 the proposed agri-tourism or other commercial event or activity meets any
16 local standards that apply, and the agri-tourism or other commercial event
17 or activity:

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

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

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

21 (D) May not include the artificial amplification of music or voices before
22 8 a.m. or after 8 p.m.;

23 (E) May not require or involve the construction or use of a new perma-
24 nent structure in connection with the agri-tourism or other commercial event
25 or activity;

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

28 (G) Must comply with applicable health and fire and life safety require-
29 ments.

30 (c) In the alternative to paragraphs (a) and (b) of this subsection, a
31 county may authorize up to six agri-tourism or other commercial events or

1 activities on a tract in a calendar year by a limited use permit that is per-
2 sonal to the applicant and is not transferred by, or transferable with, a
3 conveyance of the tract. The agri-tourism or other commercial events or
4 activities must meet any local standards that apply, and the agri-tourism or
5 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
9 occupied in connection with the agri-tourism or other commercial events or
10 activities;

11 (D) Must comply with ORS 215.296;

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

15 (F) Must comply with conditions established for:

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

20 (ii) The location of existing structures and the location of proposed tem-
21 porary structures to be used in connection with the agri-tourism or other
22 commercial events or activities;

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

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

27 (v) Sanitation and solid waste.

28 (d) In addition to paragraphs (a) to (c) of this subsection, a county may
29 authorize agri-tourism or other commercial events or activities that occur
30 more frequently or for a longer period or that do not otherwise comply with
31 paragraphs (a) to (c) of this subsection if the agri-tourism or other commer-

1 cial events or activities comply with any local standards that apply and the
2 agri-tourism or other commercial events or activities:

3 (A) Are incidental and subordinate to existing commercial farm use of the
4 tract and are necessary to support the commercial farm uses or the com-
5 mercial agricultural enterprises in the area;

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

8 (C) Occur on a lot or parcel that complies with the acknowledged mini-
9 mum lot or parcel size; and

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

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

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

16 (b) Limit its review to events and activities authorized by the permit,
17 conformance with conditions of approval required by the permit and the
18 standards established by subsection (11)(d) of this section.

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

20 (a) A county may authorize the use of temporary structures established
21 in connection with the agri-tourism or other commercial events or activities
22 authorized under subsection (11) of this section. However, the temporary
23 structures must be removed at the end of the agri-tourism or other event or
24 activity. The county may not approve an alteration to the land in connection
25 with an agri-tourism or other commercial event or activity authorized under
26 subsection (11) of this section, including, but not limited to, grading, filling
27 or paving.

28 (b) The county may issue the limited use permits authorized by subsection
29 (11)(c) of this section for two calendar years. When considering an applica-
30 tion for renewal, the county shall ensure compliance with the provisions of
31 subsection (11)(c) of this section, any local standards that apply and condi-

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

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

8 **SECTION 2.** ORS 215.213, as amended by section 7, chapter 462, Oregon
9 Laws 2013, is amended to read:

10 215.213. (1) In counties that have adopted marginal lands provisions under
11 ORS 197.247 (1991 Edition), the following uses may be established in any area
12 zoned for exclusive farm use:

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

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

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

20 (A) ORS 215.275; or

21 (B) If the utility facility is an associated transmission line, as defined in
22 ORS 215.274 and 469.300.

23 (d) A dwelling on real property used for farm use if the dwelling is oc-
24 cupied by a relative of the farm operator or the farm operator’s spouse,
25 which means a child, parent, stepparent, grandchild, grandparent,
26 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,
27 if the farm operator does or will require the assistance of the relative in the
28 management of the farm use and the dwelling is located on the same lot or
29 parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to
30 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if
31 the owner of a dwelling described in this paragraph obtains construction fi-

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

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

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

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

18 (h) Operations for the exploration for minerals as defined by ORS 517.750.
19 Any activities or construction relating to such operations shall not be a ba-
20 sis for an exception under ORS 197.732 (2)(a) or (b).

21 (i) One manufactured dwelling or recreational vehicle, or the temporary
22 residential use of an existing building, in conjunction with an existing
23 dwelling as a temporary use for the term of a hardship suffered by the ex-
24 isting resident or a relative of the resident. Within three months of the end
25 of the hardship, the manufactured dwelling or recreational vehicle shall be
26 removed or demolished or, in the case of an existing building, the building
27 shall be removed, demolished or returned to an allowed nonresidential use.
28 The governing body or its designee shall provide for periodic review of the
29 hardship claimed under this paragraph. A temporary residence approved un-
30 der this paragraph is not eligible for replacement under paragraph [(q)] (p)
31 of this subsection.

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

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

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

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

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

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

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

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

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

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

25 (C) Has interior wiring for interior lights;

26 (D) Has a heating system; and

27 (E) In the case of replacement:

28 (i) Is removed, demolished or converted to an allowable nonresidential use
29 within three months of the completion of the replacement dwelling. A re-
30 placement dwelling may be sited on any part of the same lot or parcel. A
31 dwelling established under this paragraph shall comply with all applicable

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

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

27 [(r)] (q) Farm stands if:

28 (A) The structures are designed and used for the sale of farm crops or
29 livestock grown on the farm operation, or grown on the farm operation and
30 other farm operations in the local agricultural area, including the sale of
31 retail incidental items and fee-based activity to promote the sale of farm

1 crops or livestock sold at the farm stand if the annual sale of incidental
2 items and fees from promotional activity do not make up more than 25 per-
3 cent of the total annual sales of the farm stand; and

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

8 [(s)] (r) An armed forces reserve center, if the center is within one-half
9 mile of a community college. For purposes of this paragraph, “armed forces
10 reserve center” includes an armory or National Guard support facility.

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

25 [(u)] (t) A facility for the processing of farm crops or for the production
26 of biofuel, as defined in ORS 315.141, if the facility is located on a farm op-
27 eration that provides at least one-quarter of the farm crops processed at the
28 facility, or an establishment for the slaughter, processing or selling of
29 poultry or poultry products pursuant to ORS 603.038. If a building is estab-
30 lished or used for the processing facility or establishment, the farm operator
31 may not devote more than 10,000 square feet of floor area to the processing

1 facility or establishment, exclusive of the floor area designated for prepara-
2 tion, storage or other farm use. A processing facility or establishment must
3 comply with all applicable siting standards but the standards may not be
4 applied in a manner that prohibits the siting of the processing facility or
5 establishment.

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

7 [(w)] **(v)** Irrigation reservoirs, canals, delivery lines and those structures
8 and accessory operational facilities, not including parks or other recre-
9 ational structures and facilities, associated with a district as defined in ORS
10 540.505.

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

15 (A) A public right of way;

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

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

19 [(y)] **(x)** Subject to the issuance of a license, permit or other approval by
20 the Department of Environmental Quality under ORS 454.695, 459.205,
21 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under
22 ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
23 of reclaimed water, agricultural or industrial process water or biosolids for
24 agricultural, horticultural or silvicultural production, or for irrigation in
25 connection with a use allowed in an exclusive farm use zone under this
26 chapter.

27 [(z)] **(y)** Dog training classes or testing trials, which may be conducted
28 outdoors or in preexisting farm buildings, when:

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

1 (B) The number of dogs participating in a testing trial does not exceed
2 60 and the number of testing trials to be conducted on-site is limited to four
3 or fewer trials per calendar year.

4 (2) In counties that have adopted marginal lands provisions under ORS
5 197.247 (1991 Edition), the following uses may be established in any area
6 zoned for exclusive farm use subject to ORS 215.296:

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

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

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

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

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

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

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

28 (d) Operations conducted for:

29 (A) Mining and processing of geothermal resources as defined by ORS
30 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted
31 under subsection (1)(g) of this section;

1 (B) Mining, crushing or stockpiling of aggregate and other mineral and
2 other subsurface resources subject to ORS 215.298;

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

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

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

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

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

26 (h) Personal-use airports for airplanes and helicopter pads, including as-
27 sociated hangar, maintenance and service facilities. A personal-use airport
28 as used in this section means an airstrip restricted, except for aircraft
29 emergencies, to use by the owner, and, on an infrequent and occasional basis,
30 by invited guests, and by commercial aviation activities in connection with
31 agricultural operations. No aircraft may be based on a personal-use airport

1 other than those owned or controlled by the owner of the airstrip. Ex-
2 ceptions to the activities permitted under this definition may be granted
3 through waiver action by the Oregon Department of Aviation in specific in-
4 stances. A personal-use airport lawfully existing as of September 13, 1975,
5 shall continue to be permitted subject to any applicable rules of the Oregon
6 Department of Aviation.

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

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

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

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

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

25 (m) The propagation, cultivation, maintenance and harvesting of aquatic
26 species that are not under the jurisdiction of the State Fish and Wildlife
27 Commission or insect species. Insect species shall not include any species
28 under quarantine by the State Department of Agriculture or the United
29 States Department of Agriculture. The county shall provide notice of all
30 applications under this paragraph to the State Department of Agriculture.
31 Notice shall be provided in accordance with the county's land use regu-

1 lations but shall be mailed at least 20 calendar days prior to any adminis-
2 trative decision or initial public hearing on the application.

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

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

5 (p) Construction of additional passing and travel lanes requiring the ac-
6 quisition of right of way but not resulting in the creation of new land par-
7 cels.

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

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

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

17 (t) Room and board arrangements for a maximum of five unrelated persons
18 in existing residences.

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

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

1 (B) “Local historical society” means the local historical society, recog-
2 nized as such by the county governing body and organized under ORS chap-
3 ter 65.

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

5 (w) An aerial fireworks display business that has been in continuous op-
6 eration at its current location within an exclusive farm use zone since De-
7 cember 31, 1986, and possesses a wholesaler’s permit to sell or provide
8 fireworks.

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

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

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

17 (3) In counties that have adopted marginal lands provisions under ORS
18 197.247 (1991 Edition), a single-family residential dwelling not provided in
19 conjunction with farm use may be established on a lot or parcel with soils
20 predominantly in capability classes IV through VIII as determined by the
21 Agricultural Capability Classification System in use by the United States
22 Department of Agriculture Soil Conservation Service on October 15, 1983. A
23 proposed dwelling is subject to approval of the governing body or its
24 designee in any area zoned for exclusive farm use upon written findings
25 showing all of the following:

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

29 (b) The dwelling is situated upon generally unsuitable land for the pro-
30 duction of farm crops and livestock, considering the terrain, adverse soil or
31 land conditions, drainage and flooding, location and size of the tract. A lot

1 or parcel shall not be considered unsuitable solely because of its size or lo-
2 cation if it can reasonably be put to farm use in conjunction with other land.

3 (c) Complies with such other conditions as the governing body or its
4 designee considers necessary.

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

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

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

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

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

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

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

26 (6) The notice required in subsection (5) of this section shall specify that
27 persons have 15 days following the date of postmark of the notice to file a
28 written objection on the grounds only that the dwelling or activities associ-
29 ated with it would force a significant change in or significantly increase the
30 cost of accepted farming practices on nearby lands devoted to farm use. If
31 no objection is received, the governing body or its designee shall approve or

1 disapprove the application. If an objection is received, the governing body
2 shall set the matter for hearing in the manner prescribed in ORS 215.402 to
3 215.438. The governing body may charge the reasonable costs of the notice
4 required by subsection (5)(a) of this section to the applicant for the permit
5 requested under subsection (4) of this section.

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

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

9 (A) A lot or parcel described in this section is contiguous to one or more
10 lots or parcels described in this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (F) The agri-tourism or other commercial event or activity occurs out-
21 doors, in temporary structures, or in existing permitted structures, subject
22 to health and fire and life safety requirements; and

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

25 (i) Planned hours of operation;

26 (ii) Access, egress and parking;

27 (iii) A traffic management plan that identifies the projected number of
28 vehicles and any anticipated use of public roads; and

29 (iv) Sanitation and solid waste.

30 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
31 county may authorize, through an expedited, single-event license, a single

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

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

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

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

13 (D) May not include the artificial amplification of music or voices before
14 8 a.m. or after 8 p.m.;

15 (E) May not require or involve the construction or use of a new perma-
16 nent structure in connection with the agri-tourism or other commercial event
17 or activity;

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

20 (G) Must comply with applicable health and fire and life safety require-
21 ments.

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

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

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

31 (C) May not require that a new permanent structure be built, used or

1 occupied in connection with the agri-tourism or other commercial events or
2 activities;

3 (D) Must comply with ORS 215.296;

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

7 (F) Must comply with conditions established for:

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

12 (ii) The location of existing structures and the location of proposed tem-
13 porary structures to be used in connection with the agri-tourism or other
14 commercial events or activities;

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

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

19 (v) Sanitation and solid waste.

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

26 (A) Are incidental and subordinate to existing commercial farm use of the
27 tract and are necessary to support the commercial farm uses or the com-
28 mercial agricultural enterprises in the area;

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

31 (C) Occur on a lot or parcel that complies with the acknowledged mini-

1 mum lot or parcel size; and

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (A) ORS 215.275; or

11 (B) If the utility facility is an associated transmission line, as defined in
12 ORS 215.274 and 469.300.

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

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

28 (f) Operations for the exploration for and production of geothermal re-
29 sources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005,
30 including the placement and operation of compressors, separators and other
31 customary production equipment for an individual well adjacent to the

1 wellhead. Any activities or construction relating to such operations shall not
2 be a basis for an exception under ORS 197.732 (2)(a) or (b).

3 (g) Operations for the exploration for minerals as defined by ORS 517.750.
4 Any activities or construction relating to such operations shall not be a ba-
5 sis for an exception under ORS 197.732 (2)(a) or (b).

6 (h) Climbing and passing lanes within the right of way existing as of July
7 1, 1987.

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

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

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

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

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

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

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

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

1 cent of the total annual sales of the farm stand; and

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

6 [(p)] (o) Subject to section 2, chapter 462, Oregon Laws 2013, alteration,
7 restoration or replacement of a lawfully established dwelling.

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

22 [(r)] (q) A facility for the processing of farm crops or for the production
23 of biofuel, as defined in ORS 315.141, if the facility is located on a farm op-
24 eration that provides at least one-quarter of the farm crops processed at the
25 facility, or an establishment for the slaughter, processing or selling of
26 poultry or poultry products pursuant to ORS 603.038. If a building is estab-
27 lished or used for the processing facility or establishment, the farm operator
28 may not devote more than 10,000 square feet of floor area to the processing
29 facility or establishment, exclusive of the floor area designated for prepara-
30 tion, storage or other farm use. A processing facility or establishment must
31 comply with all applicable siting standards but the standards may not be

1 applied in a manner that prohibits the siting of the processing facility or
2 establishment.

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

4 [(t)] (s) Irrigation reservoirs, canals, delivery lines and those structures
5 and accessory operational facilities, not including parks or other recre-
6 ational structures and facilities, associated with a district as defined in ORS
7 540.505.

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

12 (A) A public right of way;

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

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

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

24 [(w)] (v) A county law enforcement facility that lawfully existed on Au-
25 gust 20, 2002, and is used to provide rural law enforcement services primarily
26 in rural areas, including parole and post-prison supervision, but not includ-
27 ing a correctional facility as defined under ORS 162.135.

28 [(x)] (w) Dog training classes or testing trials, which may be conducted
29 outdoors or in preexisting farm buildings, when:

30 (A) The number of dogs participating in training does not exceed 10 dogs
31 per training class and the number of training classes to be held on-site does

1 not exceed six per day; and

2 (B) The number of dogs participating in a testing trial does not exceed
3 60 and the number of testing trials to be conducted on-site is limited to four
4 or fewer trials per calendar year.

5 (2) The following nonfarm uses may be established, subject to the ap-
6 proval of the governing body or its designee in any area zoned for exclusive
7 farm use subject to ORS 215.296:

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

11 (b) Operations conducted for:

12 (A) Mining and processing of geothermal resources as defined by ORS
13 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted
14 under subsection (1)(f) of this section;

15 (B) Mining, crushing or stockpiling of aggregate and other mineral and
16 other subsurface resources subject to ORS 215.298;

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

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

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

1 cooking appliance.

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

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

14 (f) Golf courses on land determined not to be high-value farmland, as de-
15 fined in ORS 195.300.

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

18 (h) Personal-use airports for airplanes and helicopter pads, including as-
19 sociated hangar, maintenance and service facilities. A personal-use airport,
20 as used in this section, means an airstrip restricted, except for aircraft
21 emergencies, to use by the owner, and, on an infrequent and occasional basis,
22 by invited guests, and by commercial aviation activities in connection with
23 agricultural operations. No aircraft may be based on a personal-use airport
24 other than those owned or controlled by the owner of the airstrip. Ex-
25 ceptions to the activities permitted under this definition may be granted
26 through waiver action by the Oregon Department of Aviation in specific in-
27 stances. A personal-use airport lawfully existing as of September 13, 1975,
28 shall continue to be permitted subject to any applicable rules of the Oregon
29 Department of Aviation.

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

31 (j) A facility for the primary processing of forest products, provided that

1 such facility is found to not seriously interfere with accepted farming prac-
 2 tices and is compatible with farm uses described in ORS 215.203 (2). Such a
 3 facility may be approved for a one-year period which is renewable. These
 4 facilities are intended to be only portable or temporary in nature. The pri-
 5 mary processing of a forest product, as used in this section, means the use
 6 of a portable chipper or stud mill or other similar methods of initial treat-
 7 ment of a forest product in order to enable its shipment to market. Forest
 8 products, as used in this section, means timber grown upon a parcel of land
 9 or contiguous land where the primary processing facility is located.

10 (k) A site for the disposal of solid waste approved by the governing body
 11 of a city or county or both and for which a permit has been granted under
 12 ORS 459.245 by the Department of Environmental Quality together with
 13 equipment, facilities or buildings necessary for its operation.

14 (L) One manufactured dwelling or recreational vehicle, or the temporary
 15 residential use of an existing building, in conjunction with an existing
 16 dwelling as a temporary use for the term of a hardship suffered by the ex-
 17 isting resident or a relative of the resident. Within three months of the end
 18 of the hardship, the manufactured dwelling or recreational vehicle shall be
 19 removed or demolished or, in the case of an existing building, the building
 20 shall be removed, demolished or returned to an allowed nonresidential use.
 21 The governing body or its designee shall provide for periodic review of the
 22 hardship claimed under this paragraph. A temporary residence approved un-
 23 der this paragraph is not eligible for replacement under subsection [(1)(p)]
 24 **(1)(o)** of this section.

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

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

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

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

30 (p) The propagation, cultivation, maintenance and harvesting of aquatic
 31 species that are not under the jurisdiction of the State Fish and Wildlife

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

8 (q) Construction of additional passing and travel lanes requiring the ac-
9 quisition of right of way but not resulting in the creation of new land par-
10 cels.

11 (r) Reconstruction or modification of public roads and highways involving
12 the removal or displacement of buildings but not resulting in the creation
13 of new land parcels.

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

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

20 (u) Room and board arrangements for a maximum of five unrelated per-
21 sons in existing residences.

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

23 (w) Expansion of existing county fairgrounds and activities directly re-
24 lating to county fairgrounds governed by county fair boards established
25 pursuant to ORS 565.210.

26 (x) A living history museum related to resource based activities owned
27 and operated by a governmental agency or a local historical society, together
28 with limited commercial activities and facilities that are directly related to
29 the use and enjoyment of the museum and located within authentic buildings
30 of the depicted historic period or the museum administration building, if
31 areas other than an exclusive farm use zone cannot accommodate the mu-

1 seum and related activities or if the museum administration buildings and
2 parking lot are located within one quarter mile of an urban growth bound-
3 ary. As used in this paragraph:

4 (A) “Living history museum” means a facility designed to depict and in-
5 terpret everyday life and culture of some specific historic period using au-
6 thentic buildings, tools, equipment and people to simulate past activities and
7 events; and

8 (B) “Local historical society” means the local historical society recog-
9 nized by the county governing body and organized under ORS chapter 65.

10 (y) An aerial fireworks display business that has been in continuous op-
11 eration at its current location within an exclusive farm use zone since De-
12 cember 31, 1986, and possesses a wholesaler’s permit to sell or provide
13 fireworks.

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

18 (aa) Public or private schools for kindergarten through grade 12, includ-
19 ing all buildings essential to the operation of a school, primarily for resi-
20 dents of the rural area in which the school is located.

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

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

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

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

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

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

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

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

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

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

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

20 (F) The agri-tourism or other commercial event or activity occurs out-
21 doors, in temporary structures, or in existing permitted structures, subject
22 to health and fire and life safety requirements; and

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

25 (i) Planned hours of operation;

26 (ii) Access, egress and parking;

27 (iii) A traffic management plan that identifies the projected number of
28 vehicles and any anticipated use of public roads; and

29 (iv) Sanitation and solid waste.

30 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
31 county may authorize, through an expedited, single-event license, a single

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

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

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

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

13 (D) May not include the artificial amplification of music or voices before
14 8 a.m. or after 8 p.m.;

15 (E) May not require or involve the construction or use of a new perma-
16 nent structure in connection with the agri-tourism or other commercial event
17 or activity;

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

20 (G) Must comply with applicable health and fire and life safety require-
21 ments.

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

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

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

31 (C) May not require that a new permanent structure be built, used or

1 occupied in connection with the agri-tourism or other commercial events or
2 activities;

3 (D) Must comply with ORS 215.296;

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

7 (F) Must comply with conditions established for:

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

12 (ii) The location of existing structures and the location of proposed tem-
13 porary structures to be used in connection with the agri-tourism or other
14 commercial events or activities;

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

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

19 (v) Sanitation and solid waste.

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

26 (A) Are incidental and subordinate to existing commercial farm use of the
27 tract and are necessary to support the commercial farm uses or the com-
28 mercial agricultural enterprises in the area;

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

31 (C) Occur on a lot or parcel that complies with the acknowledged mini-

1 mum lot or parcel size; and

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

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

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

8 (b) Limit its review to events and activities authorized by the permit,
9 conformance with conditions of approval required by the permit and the
10 standards established by subsection (4)(d) of this section.

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

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

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

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

31 **SECTION 4.** ORS 215.283, as amended by section 8, chapter 462, Oregon

1 Laws 2013, is amended to read:

2 215.283. (1) The following uses may be established in any area zoned for
3 exclusive farm use:

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

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

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

11 (A) ORS 215.275; or

12 (B) If the utility facility is an associated transmission line, as defined in
13 ORS 215.274 and 469.300.

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

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

29 (f) Operations for the exploration for and production of geothermal re-
30 sources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005,
31 including the placement and operation of compressors, separators and other

1 customary production equipment for an individual well adjacent to the
2 wellhead. Any activities or construction relating to such operations shall not
3 be a basis for an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

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

27 (A) The structures are designed and used for the sale of farm crops or
28 livestock grown on the farm operation, or grown on the farm operation and
29 other farm operations in the local agricultural area, including the sale of
30 retail incidental items and fee-based activity to promote the sale of farm
31 crops or livestock sold at the farm stand if the annual sale of incidental

1 items and fees from promotional activity do not make up more than 25 per-
2 cent of the total annual sales of the farm stand; and

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

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

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

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

12 (C) Has interior wiring for interior lights;

13 (D) Has a heating system; and

14 (E) In the case of replacement:

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

1 of the deed restrictions and release statements filed under this paragraph;
2 and

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

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

28 [(r)] (q) A facility for the processing of farm crops or for the production
29 of biofuel, as defined in ORS 315.141, if the facility is located on a farm op-
30 eration that provides at least one-quarter of the farm crops processed at the
31 facility, or an establishment for the slaughter, processing or selling of

1 poultry or poultry products pursuant to ORS 603.038. If a building is estab-
2 lished or used for the processing facility or establishment, the farm operator
3 may not devote more than 10,000 square feet of floor area to the processing
4 facility or establishment, exclusive of the floor area designated for prepara-
5 tion, storage or other farm use. A processing facility or establishment must
6 comply with all applicable siting standards but the standards may not be
7 applied in a manner that prohibits the siting of the processing facility or
8 establishment.

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

10 [(t)] (s) Irrigation reservoirs, canals, delivery lines and those structures
11 and accessory operational facilities, not including parks or other recre-
12 ational structures and facilities, associated with a district as defined in ORS
13 540.505.

14 [(u)] (t) Utility facility service lines. Utility facility service lines are
15 utility lines and accessory facilities or structures that end at the point where
16 the utility service is received by the customer and that are located on one
17 or more of the following:

18 (A) A public right of way;

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

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

22 [(v)] (u) Subject to the issuance of a license, permit or other approval by
23 the Department of Environmental Quality under ORS 454.695, 459.205,
24 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under
25 ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
26 of reclaimed water, agricultural or industrial process water or biosolids for
27 agricultural, horticultural or silvicultural production, or for irrigation in
28 connection with a use allowed in an exclusive farm use zone under this
29 chapter.

30 [(w)] (v) A county law enforcement facility that lawfully existed on Au-
31 gust 20, 2002, and is used to provide rural law enforcement services primarily

1 in rural areas, including parole and post-prison supervision, but not includ-
2 ing a correctional facility as defined under ORS 162.135.

3 ~~[(x)]~~ **(w)** Dog training classes or testing trials, which may be conducted
4 outdoors or in preexisting farm buildings, when:

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

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

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

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

17 (b) Operations conducted for:

18 (A) Mining and processing of geothermal resources as defined by ORS
19 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted
20 under subsection (1)(f) of this section;

21 (B) Mining, crushing or stockpiling of aggregate and other mineral and
22 other subsurface resources subject to ORS 215.298;

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

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

26 (c) Private parks, playgrounds, hunting and fishing preserves and
27 campgrounds. Subject to the approval of the county governing body or its
28 designee, a private campground may provide yurts for overnight camping.
29 No more than one-third or a maximum of 10 campsites, whichever is smaller,
30 may include a yurt. The yurt shall be located on the ground or on a wood
31 floor with no permanent foundation. Upon request of a county governing

1 body, the Land Conservation and Development Commission may provide by
2 rule for an increase in the number of yurts allowed on all or a portion of
3 the campgrounds in a county if the commission determines that the increase
4 will comply with the standards described in ORS 215.296 (1). As used in this
5 paragraph, “yurt” means a round, domed shelter of cloth or canvas on a
6 collapsible frame with no plumbing, sewage disposal hookup or internal
7 cooking appliance.

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

10 (e) Community centers owned by a governmental agency or a nonprofit
11 community organization and operated primarily by and for residents of the
12 local rural community. A community center authorized under this paragraph
13 may provide services to veterans, including but not limited to emergency and
14 transitional shelter, preparation and service of meals, vocational and educa-
15 tional counseling and referral to local, state or federal agencies providing
16 medical, mental health, disability income replacement and substance abuse
17 services, only in a facility that is in existence on January 1, 2006. The ser-
18 vices may not include direct delivery of medical, mental health, disability
19 income replacement or substance abuse services.

20 (f) Golf courses on land determined not to be high-value farmland, as de-
21 fined in ORS 195.300.

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

24 (h) Personal-use airports for airplanes and helicopter pads, including as-
25 sociated hangar, maintenance and service facilities. A personal-use airport,
26 as used in this section, means an airstrip restricted, except for aircraft
27 emergencies, to use by the owner, and, on an infrequent and occasional basis,
28 by invited guests, and by commercial aviation activities in connection with
29 agricultural operations. No aircraft may be based on a personal-use airport
30 other than those owned or controlled by the owner of the airstrip. Ex-
31 ceptions to the activities permitted under this definition may be granted

1 through waiver action by the Oregon Department of Aviation in specific in-
2 stances. A personal-use airport lawfully existing as of September 13, 1975,
3 shall continue to be permitted subject to any applicable rules of the Oregon
4 Department of Aviation.

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

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

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

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

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

1 (n)(A) Commercial dog boarding kennels; or
2 (B) Dog training classes or testing trials that cannot be established under
3 subsection [(1)(x)] (1)(w) of this section.

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

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

14 (q) Construction of additional passing and travel lanes requiring the ac-
15 quisition of right of way but not resulting in the creation of new land par-
16 cels.

17 (r) Reconstruction or modification of public roads and highways involving
18 the removal or displacement of buildings but not resulting in the creation
19 of new land parcels.

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

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

26 (u) Room and board arrangements for a maximum of five unrelated per-
27 sons in existing residences.

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

29 (w) Expansion of existing county fairgrounds and activities directly re-
30 lating to county fairgrounds governed by county fair boards established
31 pursuant to ORS 565.210.

1 (x) A living history museum related to resource based activities owned
2 and operated by a governmental agency or a local historical society, together
3 with limited commercial activities and facilities that are directly related to
4 the use and enjoyment of the museum and located within authentic buildings
5 of the depicted historic period or the museum administration building, if
6 areas other than an exclusive farm use zone cannot accommodate the mu-
7 seum and related activities or if the museum administration buildings and
8 parking lot are located within one quarter mile of an urban growth bound-
9 ary. As used in this paragraph:

10 (A) "Living history museum" means a facility designed to depict and in-
11 terpret everyday life and culture of some specific historic period using au-
12 thentic buildings, tools, equipment and people to simulate past activities and
13 events; and

14 (B) "Local historical society" means the local historical society recog-
15 nized by the county governing body and organized under ORS chapter 65.

16 (y) An aerial fireworks display business that has been in continuous op-
17 eration at its current location within an exclusive farm use zone since De-
18 cember 31, 1986, and possesses a wholesaler's permit to sell or provide
19 fireworks.

20 (z) A landscape contracting business, as defined in ORS 671.520, or a
21 business providing landscape architecture services, as described in ORS
22 671.318, if the business is pursued in conjunction with the growing and
23 marketing of nursery stock on the land that constitutes farm use.

24 (aa) Public or private schools for kindergarten through grade 12, includ-
25 ing all buildings essential to the operation of a school, primarily for resi-
26 dents of the rural area in which the school is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (i) Planned hours of operation;

1 (ii) Access, egress and parking;

2 (iii) A traffic management plan that identifies the projected number of
3 vehicles and any anticipated use of public roads; and

4 (iv) Sanitation and solid waste.

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

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

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

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

19 (D) May not include the artificial amplification of music or voices before
20 8 a.m. or after 8 p.m.;

21 (E) May not require or involve the construction or use of a new perma-
22 nent structure in connection with the agri-tourism or other commercial event
23 or activity;

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

26 (G) Must comply with applicable health and fire and life safety require-
27 ments.

28 (c) In the alternative to paragraphs (a) and (b) of this subsection, a
29 county may authorize up to six agri-tourism or other commercial events or
30 activities on a tract in a calendar year by a limited use permit that is per-
31 sonal to the applicant and is not transferred by, or transferable with, a

1 conveyance of the tract. The agri-tourism or other commercial events or
2 activities must meet any local standards that apply, and the agri-tourism or
3 other commercial events or activities:

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

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

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

9 (D) Must comply with ORS 215.296;

10 (E) May not, in combination with other agri-tourism or other commercial
11 events or activities authorized in the area, materially alter the stability of
12 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
15 are authorized during each calendar year, including the number and duration
16 of the agri-tourism or other commercial events and activities, the anticipated
17 daily attendance and the hours of operation;

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

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

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

25 (v) Sanitation and solid waste.

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

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

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

6 (C) Occur on a lot or parcel that complies with the acknowledged mini-
7 mum lot or parcel size; and

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

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

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

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

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

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

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

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

6

7

CONFORMING AMENDMENTS

8

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

10 215.203. (1) Zoning ordinances may be adopted to zone designated areas
11 of land within the county as exclusive farm use zones. Land within such
12 zones shall be used exclusively for farm use except as otherwise provided in
13 ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only
14 when such zoning is consistent with the comprehensive plan.

15 (2)(a) As used in this section, “farm use” means the current employment
16 of land for the primary purpose of obtaining a profit in money by raising,
17 harvesting and selling crops or the feeding, breeding, management and sale
18 of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or
19 for dairying and the sale of dairy products or any other agricultural or
20 horticultural use or animal husbandry or any combination thereof. “Farm
21 use” includes the preparation, storage and disposal by marketing or other-
22 wise of the products or by-products raised on such land for human or animal
23 use. “Farm use” also includes the current employment of land for the pri-
24 mary purpose of obtaining a profit in money by stabling or training equines
25 including but not limited to providing riding lessons, training clinics and
26 schooling shows. “Farm use” also includes the propagation, cultivation,
27 maintenance and harvesting of aquatic, bird and animal species that are
28 under the jurisdiction of the State Fish and Wildlife Commission, to the ex-
29 tent allowed by the rules adopted by the commission. “Farm use” includes
30 the on-site construction and maintenance of equipment and facilities used for
31 the activities described in this subsection. “Farm use” does not include the

1 use of land subject to the provisions of ORS chapter 321, except land used
2 exclusively for growing cultured Christmas trees as defined in subsection (3)
3 of this section or land described in ORS 321.267 (3) or 321.824 (3).

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

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

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

9 (C) Land planted in orchards or other perennials, other than land speci-
10 fied in subparagraph (D) of this paragraph, prior to maturity;

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

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

19 (F) Except for land under a single family dwelling, land under buildings
20 supporting accepted farm practices, including the processing facilities al-
21 lowed by ORS 215.213 [(1)(u)] (1)(t) and 215.283 [(1)(r)] (1)(q) and the pro-
22 cessing of farm crops into biofuel as commercial activities in conjunction
23 with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

24 (G) Water impoundments lying in or adjacent to and in common owner-
25 ship with farm use land;

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

29 (I) Land lying idle for no more than one year where the absence of
30 farming activity is due to the illness of the farmer or member of the farmer’s
31 immediate family. For purposes of this paragraph, illness includes injury or

1 infirmity whether or not such illness results in death;

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

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

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

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

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

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

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

15 (a) Grown on lands used exclusively for that purpose, capable of prepa-
16 ration by intensive cultivation methods such as plowing or turning over the
17 soil;

18 (b) Of a marketable species;

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

22 (d) Evidencing periodic maintenance practices of shearing for Douglas fir
23 and pine species, weed and brush control and one or more of the following
24 practices: Basal pruning, fertilizing, insect and disease control, stump cul-
25 ture, soil cultivation, irrigation.

26 **SECTION 6.** ORS 215.246 is amended to read:

27 215.246. (1) The uses allowed under ORS [*215.213 (1)(y) and 215.283 (1)(v)*]
28 **215.213 (1)(x) and 215.283 (1)(u)**:

29 (a) Require a determination by the Department of Environmental Quality,
30 in conjunction with the department’s review of a license, permit or approval,
31 that the application rates and site management practices for the land appli-

1 cation of reclaimed water, agricultural or industrial process water or
2 biosolids ensure continued agricultural, horticultural or silvicultural pro-
3 duction and do not reduce the productivity of the tract.

4 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the
5 provisions of ORS 215.274, 215.275 or 215.296.

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

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

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

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

12 or

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

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

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

17 (C) ORS 215.213 (11);

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

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

21 (F) ORS 215.283 (4).

22 (3) When a state agency or a local government makes a land use decision
23 relating to the land application of reclaimed water, agricultural or industrial
24 process water or biosolids under a license, permit or approval by the De-
25 partment of Environmental Quality, the applicant shall explain in writing
26 how alternatives identified in public comments on the land use decision were
27 considered and, if the alternatives are not used, explain in writing the rea-
28 sons for not using the alternatives. The applicant must consider only those
29 alternatives that are identified with sufficient specificity to afford the ap-
30 plicant an adequate opportunity to consider the alternatives. A land use de-
31 cision relating to the land application of reclaimed water, agricultural or

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

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

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

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

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

16 (A) A public right of way; or

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

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

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

22 (a) The establishment and use of facilities, including buildings or equip-
23 ment, for the treatment of reclaimed water, agricultural or industrial process
24 water or biosolids other than those treatment facilities related to the treat-
25 ment that occurs as a result of the land application; or

26 (b) The establishment and use of utility facility service lines allowed un-
27 der ORS [215.213 (1)(x) or 215.283 (1)(u)] **215.213 (1)(w) or 215.283 (1)(t)**.

28 **SECTION 7.** ORS 215.249 is amended to read:

29 215.249. Notwithstanding ORS 215.263, the governing body of a county or
30 its designee may not approve a proposed division of land in an exclusive farm
31 use zone for the land application of reclaimed water, agricultural or indus-

1 trial process water or biosolids described in ORS [215.213 (1)(y) or 215.283
2 (1)(v)] **215.213 (1)(x) or 215.283 (1)(u)**.

3 **SECTION 8.** ORS 215.251 is amended to read:

4 215.251. Nothing in ORS 215.213 [(1)(y)] **(1)(x)**, 215.246 to 215.249 or 215.283
5 [(1)(v)] **(1)(u)** affects whether the land application of a substance not de-
6 scribed in ORS 215.213 [(1)(y)] **(1)(x)**, 215.246 to 215.249 or 215.283 [(1)(v)]
7 **(1)(u)** is a farm use as defined in ORS 215.203.

8 **SECTION 9.** ORS 215.263 is amended to read:

9 215.263. (1) Any proposed division of land included within an exclusive
10 farm use zone resulting in the creation of one or more parcels of land shall
11 be reviewed and approved or disapproved by the governing body or its
12 designee of the county in which the land is situated. The governing body of
13 a county by ordinance shall require prior review and approval for divisions
14 of land within exclusive farm use zones established within the county.

15 (2) The governing body of a county or its designee may approve a pro-
16 posed division of land to create parcels for farm use as defined in ORS
17 215.203 if it finds:

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

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

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

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

31 (a) May approve a division of land in an exclusive farm use zone to create

1 up to two new parcels smaller than the minimum size established under ORS
2 215.780, each to contain a dwelling not provided in conjunction with farm
3 use if:

4 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or
5 215.284 (2) or (3);

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

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

10 (D) The remainder of the original lot or parcel that does not contain the
11 nonfarm dwellings complies with the minimum size established under ORS
12 215.780; and

13 (E) The parcels for the nonfarm dwellings are generally unsuitable for the
14 production of farm crops and livestock or merchantable tree species consid-
15 ering the terrain, adverse soil or land conditions, drainage or flooding, veg-
16 etation, location and size of the tract. A parcel may not be considered
17 unsuitable based solely on size or location if the parcel can reasonably be
18 put to farm or forest use in conjunction with other land.

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

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

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

26 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel
27 that is equal to or smaller than the minimum size established under ORS
28 215.780 but equal to or larger than 40 acres;

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

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

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

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

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

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

12 (a) May approve a division of land in an exclusive farm use zone to create
13 up to two new parcels smaller than the minimum size established under ORS
14 215.780, each to contain a dwelling not provided in conjunction with farm
15 use if:

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

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

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

21 (D) The remainder of the original lot or parcel that does not contain the
22 nonfarm dwellings complies with the minimum size established under ORS
23 215.780; and

24 (E) The parcels for the nonfarm dwellings are generally unsuitable for the
25 production of farm crops and livestock or merchantable tree species consid-
26 ering the terrain, adverse soil or land conditions, drainage or flooding, veg-
27 etation, location and size of the tract. A parcel may not be considered
28 unsuitable based solely on size or location if the parcel can reasonably be
29 put to farm or forest use in conjunction with other land.

30 (b) May approve a division of land in an exclusive farm use zone to divide
31 a lot or parcel into two parcels, each to contain one dwelling not provided

1 in conjunction with farm use if:

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

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

5 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel
6 that is equal to or smaller than the minimum size established under ORS
7 215.780 but equal to or larger than 40 acres;

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

9 (i) Not capable of producing more than at least 20 cubic feet per acre per
10 year of wood fiber; and

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

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

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

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

1 (7) This section does not apply to divisions of land resulting from lien
2 foreclosures or divisions of land resulting from foreclosure of recorded con-
3 tracts for the sale of real property.

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

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

12 (a) As a residential home as described in ORS 197.660 (2) only if the
13 dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3), (4)
14 or (7); and

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

17 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or
18 its designee may approve a proposed division of land provided:

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

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

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

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

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

30 (C) May not be considered in approving a redesignation or rezoning of
31 forestlands except for a redesignation or rezoning to allow a public park,

1 open space or other natural resource use; and

2 (D) May not be smaller than 25 acres unless the purpose of the land di-
3 vision is:

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

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

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

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

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

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

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

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

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

31 (14) Parcels used or to be used for training or stabling facilities may not

1 be considered appropriate to maintain the existing commercial agricultural
2 enterprise in an area where other types of agriculture occur.

3 **SECTION 10.** ORS 215.304 is amended to read:

4 215.304. (1) The Land Conservation and Development Commission shall
5 not adopt or implement any rule to identify or designate small-scale farmland
6 or secondary land.

7 (2) Amendments required to conform rules to the provisions of subsection
8 (1) of this section and ORS 215.700 to 215.780 shall be adopted by March 1,
9 1994.

10 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247
11 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317,
12 215.327 and 215.337 (1991 Edition) or 215.700 to 215.780 on March 1, 1994:

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

14 (b) Has no legal effect.

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

18 **SECTION 11.** Section 2, chapter 462, Oregon Laws 2013, is amended to
19 read:

20 **Sec. 2.** (1) A lawfully established dwelling may be altered, restored or
21 replaced under ORS [215.213 (1)(q) or 215.283 (1)(p)] **215.213 (1)(p) or 215.283**
22 **(1)(o)** in the manner provided by either subsection (2) or (3) of this section.

23 (2) The dwelling may be altered, restored or replaced if, when an appli-
24 cation for a permit is submitted, the permitting authority:

25 (a) Finds to the satisfaction of the permitting authority that the dwelling
26 to be altered, restored or replaced has, or formerly had:

27 (A) Intact exterior walls and roof structure;

28 (B) Indoor plumbing consisting of a kitchen sink, toilet and bathing fa-
29 cilities connected to a sanitary waste disposal system;

30 (C) Interior wiring for interior lights; and

31 (D) A heating system; and

1 (b) Finds that the dwelling was assessed as a dwelling for purposes of ad
2 valorem taxation for the lesser of:

3 (A) The previous five property tax years unless the value of the dwelling
4 was eliminated as a result of the destruction, or demolition in the case of
5 restoration, of the dwelling; or

6 (B) From the time when the dwelling was erected upon or affixed to the
7 land and became subject to assessment as described in ORS 307.010 unless
8 the value of the dwelling was eliminated as a result of the destruction, or
9 demolition in the case of restoration, of the dwelling.

10 (3) The dwelling may be altered, restored or replaced if, when an appli-
11 cation for a permit is submitted, the dwelling meets the requirements of
12 subsection (2)(a) of this section, the dwelling does not meet the requirement
13 of subsection (2)(b) of this section, and the applicant establishes to the sat-
14 isfaction of the permitting authority that the dwelling was improperly re-
15 moved from the tax roll by a person other than the current owner.

16 (4) For replacement of a lawfully established dwelling under ORS [215.213
17 (1)(q) or 215.283 (1)(p)] **215.213 (1)(p) or 215.283 (1)(o)**:

18 (a) The dwelling to be replaced must be removed, demolished or converted
19 to an allowable nonresidential use:

20 (A) Within one year after the date the replacement dwelling is certified
21 for occupancy pursuant to ORS 455.055; or

22 (B) If the dwelling to be replaced is, in the discretion of the permitting
23 authority, in such a state of disrepair that the structure is unsafe for occu-
24 pancy or constitutes an attractive nuisance, on or before a date set by the
25 permitting authority that is not less than 90 days after the replacement
26 permit is issued.

27 (b) The replacement dwelling:

28 (A) May be sited on any part of the same lot or parcel.

29 (B) Must comply with applicable siting standards. However, the standards
30 may not be applied in a manner that prohibits the siting of the replacement
31 dwelling.

1 (c) As a condition of approval, if the dwelling to be replaced is located
2 on a portion of the lot or parcel that is not zoned for exclusive farm use, the
3 applicant shall execute and cause to be recorded in the deed records of the
4 county in which the property is located a deed restriction prohibiting the
5 siting of another dwelling on that portion of the lot or parcel. The re-
6 striction imposed is irrevocable unless the county planning director, or the
7 director's designee, places a statement of release in the deed records of the
8 county to the effect that the provisions of this section and either ORS
9 215.213 or 215.283 regarding replacement dwellings have changed to allow the
10 lawful siting of another dwelling.

11 (5)(a) Notwithstanding subsection (4)(b)(A) of this section, paragraph (b)
12 of this subsection applies when a replacement dwelling under ORS [215.213
13 (1)(q) or 215.283 (1)(p)] **215.213 (1)(p) or 215.283 (1)(o)** qualifies for replace-
14 ment:

15 (A) Under subsection (2) of this section because the dwelling formerly had
16 the features described in subsection (2) of this section;

17 (B) Under subsection (3) of this section; or

18 (C) Under a permit described in section 3, **chapter 462, Oregon Laws**
19 **2013** [of this 2013 Act].

20 (b) The replacement dwelling must be sited on the same lot or parcel:

21 (A) Using all or part of the footprint of the replaced dwelling or near a
22 road, ditch, river, property line, forest boundary or another natural boundary
23 of the lot or parcel; and

24 (B) If possible, for the purpose of minimizing the adverse impacts on re-
25 source use of land in the area, within a concentration or cluster of structures
26 or within 500 yards of another structure.

27 (6) The county planning director, or the director's designee, shall main-
28 tain a record of the lots and parcels that do not qualify for the siting of a
29 new dwelling under subsection (4) of this section, including a copy of the
30 deed restrictions filed under subsection (4) of this section.

31 (7) If an applicant is granted a deferred replacement permit under this

1 section:

2 (a) The deferred replacement permit:

3 (A) Does not expire but, notwithstanding subsection (4)(a)(A) of this sec-
4 tion, the permit becomes void unless the dwelling to be replaced is removed
5 or demolished within three months after the deferred replacement permit is
6 issued; and

7 (B) May not be transferred, by sale or otherwise, except by the applicant
8 to the spouse or a child of the applicant.

9 (b) The replacement dwelling must comply with applicable building codes,
10 plumbing codes, sanitation codes and other requirements relating to health
11 and safety or to siting at the time of construction. However, the standards
12 may not be applied in a manner that prohibits the siting of the replacement
13 dwelling.

14 (8) As used in this section, “improperly removed” means, with respect to
15 a dwelling removed from the tax roll, that:

16 (a) The dwelling has taxable value in its present state, or had taxable
17 value when the dwelling:

18 (A) Was first removed from the tax roll; or

19 (B) Was destroyed by fire or other act of God; and

20 (b) The county stopped assessing the dwelling even though the current
21 owner did not request removal of the dwelling from the tax roll.

22 **SECTION 12.** Section 3, chapter 462, Oregon Laws 2013, is amended to
23 read:

24 **Sec. 3.** A permit for a replacement dwelling that was issued under ORS
25 [215.213 (1)(q) or 215.283 (1)(p)] **215.213 (1)(p) or 215.283 (1)(o)** and became
26 void before [the effective date of this 2013 Act] **January 1, 2014**, shall be
27 deemed to be valid and effective if, within one year after [the effective date
28 of this 2013 Act] **January 1, 2014**, the holder of the permit:

29 (1) Removes, demolishes or converts to an allowable nonresidential use
30 the dwelling to be replaced; and

31 (2) Causes to be recorded in the deed records of the county a statement

1 that the dwelling to be replaced has been removed, demolished or converted.

2 **SECTION 13.** ORS 215.417, as amended by section 9, chapter 462, Oregon
3 Laws 2013, is amended to read:

4 215.417. (1) If a permit is approved under ORS 215.416 for a proposed res-
5 idential development on agricultural or forest land outside of an urban
6 growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under
7 county legislation or regulation, the permit shall be valid for four years.

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

10 (3) For the purposes of this section, “residential development” only in-
11 cludes the dwellings provided for under ORS 215.213 [(1)(q)] **(1)(p)**, (3) and
12 (4), 215.283 [(1)(p)] **(1)(o)**, 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740,
13 215.750 and 215.755 (1) and (3).

14 **SECTION 14.** ORS 215.452 is amended to read:

15 215.452. (1) A winery may be established as a permitted use on land zoned
16 for exclusive farm use under ORS [215.213 (1)(p) and 215.283 (1)(n)] **215.213**
17 **(1)(o) and 215.283 (1)(m)** or on land zoned for mixed farm and forest use if
18 the winery produces wine with a maximum annual production of:

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

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

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

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

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

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

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

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

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

31 (D) Owns an on-site vineyard of at least 15 acres on a tract of at least

1 40 acres and owns at least 40 additional acres of vineyards in Oregon that
2 are located within 15 miles of the winery site; or

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

5 (2) In addition to producing and distributing wine, a winery established
6 under this section may:

7 (a) Market and sell wine produced in conjunction with the winery.

8 (b) Conduct operations that are directly related to the sale or marketing
9 of wine produced in conjunction with the winery, including:

10 (A) Wine tastings in a tasting room or other location on the premises
11 occupied by the winery;

12 (B) Wine club activities;

13 (C) Winemaker luncheons and dinners;

14 (D) Winery and vineyard tours;

15 (E) Meetings or business activities with winery suppliers, distributors,
16 wholesale customers and wine-industry members;

17 (F) Winery staff activities;

18 (G) Open house promotions of wine produced in conjunction with the
19 winery; and

20 (H) Similar activities conducted for the primary purpose of promoting
21 wine produced in conjunction with the winery.

22 (c) Market and sell items directly related to the sale or promotion of wine
23 produced in conjunction with the winery, the marketing and sale of which
24 is incidental to on-site retail sale of wine, including food and beverages:

25 (A) Required to be made available in conjunction with the consumption
26 of wine on the premises by the Liquor Control Act or rules adopted under
27 the Liquor Control Act; or

28 (B) Served in conjunction with an activity authorized by paragraph (b),
29 (d) or (e) of this subsection.

30 (d) Carry out agri-tourism or other commercial events on the tract occu-
31 pied by the winery subject to subsections (5), (6), (7) and (8) of this section.

1 (e) Host charitable activities for which the winery does not charge a fa-
2 cility rental fee.

3 (3) A winery may include on-site kitchen facilities licensed by the Oregon
4 Health Authority under ORS 624.010 to 624.121 for the preparation of food
5 and beverages described in subsection (2)(c) of this section. Food and
6 beverage services authorized under subsection (2)(c) of this section may not
7 utilize menu options or meal services that cause the kitchen facilities to
8 function as a café or other dining establishment open to the public.

9 (4) The gross income of the winery from the sale of incidental items or
10 services provided pursuant to subsection (2)(c) to (e) of this section may not
11 exceed 25 percent of the gross income from the on-site retail sale of wine
12 produced in conjunction with the winery. The gross income of a winery does
13 not include income received by third parties unaffiliated with the winery.
14 At the request of a local government with land use jurisdiction over the site
15 of a winery, the winery shall submit to the local government a written
16 statement that is prepared by a certified public accountant and certifies the
17 compliance of the winery with this subsection for the previous tax year.

18 (5) A winery may carry out up to 18 days of agri-tourism or other com-
19 mercial events annually on the tract occupied by the winery.

20 (6) For events described in subsection (5) of this section for a winery in
21 the Willamette Valley:

22 (a) Events on the first six days of the 18-day limit per calendar year must
23 be authorized by the local government through the issuance of a renewable
24 multi-year license that:

25 (A) Has a term of five years; and

26 (B) Is subject to an administrative review to determine necessary condi-
27 tions pursuant to subsection (7) of this section.

28 (b) The local government's decision on a license under paragraph (a) of
29 this subsection is not:

30 (A) A land use decision, as defined in ORS 197.015, and is not subject to
31 review by the Land Use Board of Appeals.

1 (B) A permit, as defined in ORS 215.402 or 227.160.

2 (c) Events on days seven through 18 of the 18-day limit per calendar year
3 must be authorized by the local government through the issuance of a
4 renewable multi-year permit that:

5 (A) Has a term of five years;

6 (B) Is subject to an administrative review to determine necessary condi-
7 tions pursuant to subsection (7) of this section; and

8 (C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

9 (d) The local government's decision on a permit under paragraph (c) of
10 this subsection is:

11 (A) A land use decision, as defined in ORS 197.015, and is subject to re-
12 view by the Land Use Board of Appeals.

13 (B) A permit, as defined in ORS 215.402 or 227.160.

14 (7) As necessary to ensure that agri-tourism or other commercial events
15 on a tract occupied by a winery are subordinate to the production and sale
16 of wine and do not create significant adverse impacts to uses on surrounding
17 land, the local government may impose conditions on a license or permit is-
18 sued pursuant to subsection (6) of this section related to:

19 (a) The number of event attendees;

20 (b) The hours of event operation;

21 (c) Access and parking;

22 (d) Traffic management;

23 (e) Noise management; and

24 (f) Sanitation and solid waste.

25 (8) A local government may charge a fee for processing a license or permit
26 under subsections (6) and (7) of this section. A fee may not exceed the actual
27 or average cost of providing the applicable licensing or permitting service.

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

31 (10) Prior to the issuance of a permit to establish a winery under this

1 section, the applicant shall show that vineyards described in subsection (1)
2 of this section have been planted or that the contract has been executed, as
3 applicable.

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

8 (a) Establishment of a setback of at least 100 feet from all property lines
9 for the winery and all public gathering places unless the local government
10 grants an adjustment or variance allowing a setback of less than 100 feet;
11 and

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

13 (12) A local government shall apply:

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

16 (b) Regulations of general applicability for the public health and safety;
17 and

18 (c) Regulations for resource protection acknowledged to comply with any
19 statewide goal respecting open spaces, scenic and historic areas and natural
20 resources.

21 (13) When a bed and breakfast facility is sited as a home occupation on
22 the same tract as a winery established under this section and in association
23 with the winery:

24 (a) The bed and breakfast facility may prepare and serve two meals per
25 day to the registered guests of the bed and breakfast facility; and

26 (b) The meals may be served at the bed and breakfast facility or at the
27 winery.

28 (14) As used in this section:

29 (a) "Agri-tourism or other commercial events" includes outdoor concerts
30 for which admission is charged, educational, cultural, health or lifestyle
31 events, facility rentals, celebratory gatherings and other events at which the

1 promotion of wine produced in conjunction with the winery is a secondary
2 purpose of the event.

3 (b) "On-site retail sale" includes the retail sale of wine in person at the
4 winery site, through a wine club or over the Internet or telephone.

5 **SECTION 15.** ORS 215.453 is amended to read:

6 215.453. (1) A winery may be established as a permitted use on land zoned
7 for exclusive farm use under ORS [215.213 (1)(p) or 215.283 (1)(n)] **215.213**
8 **(1)(o) or 215.283 (1)(m)** or on land zoned for mixed farm and forest use if:

9 (a) The winery owns and is sited on a tract of 80 acres or more, at least
10 50 acres of which is a vineyard;

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

14 (c) The winery has produced annually, at the same or a different location,
15 at least 150,000 gallons of wine in at least three of the five calendar years
16 before the winery is established under this section.

17 (2) In addition to producing and distributing wine, a winery described in
18 subsection (1) of this section may:

19 (a) Market and sell wine produced in conjunction with the winery;

20 (b) Conduct operations that are directly related to the sale or marketing
21 of wine produced in conjunction with the winery, including:

22 (A) Wine tastings in a tasting room or other location on the premises
23 occupied by the winery;

24 (B) Wine club activities;

25 (C) Winemaker luncheons and dinners;

26 (D) Winery and vineyard tours;

27 (E) Meetings or business activities with winery suppliers, distributors,
28 wholesale customers and wine-industry members;

29 (F) Winery staff activities;

30 (G) Open house promotions of wine produced in conjunction with the
31 winery; and

1 (H) Similar activities conducted for the primary purpose of promoting
2 wine produced in conjunction with the winery;

3 (c) Market and sell items directly related to the sale or promotion of wine
4 produced in conjunction with the winery, the marketing and sale of which
5 is incidental to retail sale of wine on-site, including food and beverages:

6 (A) Required to be made available in conjunction with the consumption
7 of wine on the premises by the Liquor Control Act or rules adopted under
8 the Liquor Control Act; or

9 (B) Served in conjunction with an activity authorized by paragraph (b),
10 (d) or (e) of this subsection;

11 (d) Provide services, including agri-tourism or other commercial events,
12 hosted by the winery or patrons of the winery, at which wine produced in
13 conjunction with the winery is featured, that:

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

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

17 (C) Are limited to 25 days or fewer in a calendar year; and

18 (e) Host charitable activities for which the winery does not charge a fa-
19 cility rental fee.

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

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

29 (4) A winery operating under this section:

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

1 (b) May operate a restaurant, as defined in ORS 624.010, in which food
2 is prepared for consumption on the premises of the winery.

3 (5)(a) A winery shall obtain a permit from the local government if the
4 winery operates a restaurant that is open to the public for more than 25 days
5 in a calendar year or provides for agri-tourism or other commercial events
6 authorized under subsection (2)(d) of this section occurring on more than 25
7 days in a calendar year.

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

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

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

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

16 (c) If the local government issues a permit under this subsection for
17 agri-tourism or other commercial events, the local government shall review
18 the permit at least once every five years and, if appropriate, may renew the
19 permit.

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

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

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

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

29 (b) Direct road access and internal circulation.

30 (9) A local government shall apply:

31 (a) Local criteria regarding floodplains, geologic hazards, the Willamette

1 River Greenway, solar access and airport safety;

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

3 (c) Regulations for resource protection acknowledged to comply with any
4 statewide goal respecting open spaces, scenic and historic areas and natural
5 resources.

6 (10) The local government may authorize a winery described in subsection
7 (1) of this section to sell or deliver items or provide services not described
8 in subsection (2)(c) or (d) or (3) of this section under the criteria for a com-
9 mercial activity in conjunction with farm use under ORS 215.213 (2)(c) or
10 215.283 (2)(a) or under other provisions of law.

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

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

21 (12) When a bed and breakfast facility is sited as a home occupation on
22 the same tract as a winery established under this section and in association
23 with the winery:

24 (a) The bed and breakfast facility may prepare and serve two meals per
25 day to the registered guests of the bed and breakfast facility; and

26 (b) The meals may be served at the bed and breakfast facility or at the
27 winery.

28 (13) As used in this section:

29 (a) "Agri-tourism or other commercial events" includes outdoor concerts
30 for which admission is charged, educational, cultural, health or lifestyle
31 events, facility rentals, celebratory gatherings and other events at which the

1 promotion of wine produced in conjunction with the winery is a secondary
2 purpose of the event.

3 (b) "On-site retail sale" includes the retail sale of wine in person at the
4 winery site, through a wine club or over the Internet or telephone.

5 **SECTION 16.** ORS 215.454 is amended to read:

6 215.454. (1)(a) A use or structure in an area zoned for exclusive farm use
7 that exists on June 28, 2011, may be lawfully continued, altered, restored or
8 replaced pursuant to ORS 215.130 if the use or structure is located on the
9 same tract, as defined in ORS 215.010, as a winery established under ORS
10 [215.213 (1)(p) or 215.283 (1)(n)] **215.213 (1)(o) or 215.283 (1)(m)** that produced
11 more than 250,000 gallons of wine in calendar year 2010.

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

14 (2) A winery established under ORS [215.213 (1)(p) or 215.283 (1)(n)]
15 **215.213 (1)(o) or 215.283 (1)(m)** that produced more than 150,000 gallons and
16 not more than 250,000 gallons of wine in calendar year 2010 does not require
17 a permit under ORS 215.213 (2)(c) or 215.283 (2)(a). However, the winery must
18 comply with all provisions of ORS 215.452 except the annual production re-
19 quirements.

20 (3) A use or structure that is lawfully established at a winery located in
21 an exclusive farm use zone and that exists on August 2, 2011, including
22 events and activities that exceed the income limit imposed by ORS 215.452,
23 may be continued, altered, restored or replaced pursuant to ORS 215.130.

24 (4) Subsection (3) of this section does not affect the lawful continuation,
25 alteration, restoration or replacement of the winery sited on the same tract.

26 (5) A use or structure that is lawfully established at a winery located in
27 an exclusive farm use zone and that exists on June 28, 2013, including events
28 and activities that exceed the income limit imposed by ORS 215.452, may be
29 continued, altered, restored or replaced pursuant to ORS 215.130.

30 (6) Subsection (5) of this section does not affect the lawful continuation,
31 alteration, restoration or replacement of the winery sited on the same tract.

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

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

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

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

8 (c) For land designated forestland, at least 80 acres.

9 (2) A county may adopt a lower minimum lot or parcel size than that
10 described in subsection (1) of this section in any of the following circum-
11 stances:

12 (a) When the county can demonstrate to the Land Conservation and De-
13 velopment Commission that the county can adopt a lower minimum lot or
14 parcel size while continuing to meet the requirements of ORS 215.243 and
15 527.630 and the land use planning goals adopted under ORS 197.230.

16 (b) To divide an area of land zoned for forest use to establish a parcel for
17 a dwelling that has existed since before June 1, 1995, subject to the following
18 requirements:

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

22 (B) The parcel that does not contain the dwelling is not entitled to a
23 dwelling unless subsequently authorized by law or goal and the parcel either:

24 (i) Meets the minimum land division standards of the zone; or

25 (ii) Is consolidated with another parcel, and together the parcels meet the
26 minimum land division standards of the zone.

27 (c) To divide an area of land zoned for mixed farm and forest use to es-
28 tablish a parcel for a dwelling that has existed since before June 1, 1995,
29 subject to the following requirements:

30 (A) The parcel established may not be larger than five acres, except as
31 necessary to recognize physical factors such as roads or streams, in which

1 case the parcel shall be no larger than 10 acres;

2 (B) The parcel that does not contain the dwelling is not entitled to a
3 dwelling unless subsequently authorized by law or goal and the parcel either:

4 (i) Meets the minimum land division standards of the zone; or

5 (ii) Is consolidated with another parcel, and together the parcels meet the
6 minimum land division standards of the zone;

7 (C) The minimum tract eligible under this paragraph is 40 acres;

8 (D) The tract shall be predominantly in forest use and that portion in
9 forest use qualified for special assessment under a program under ORS
10 chapter 321; and

11 (E) The remainder of the tract does not qualify for any uses allowed under
12 ORS 215.213 and 215.283 that are not allowed on forestland.

13 (d) To allow a division of forestland to facilitate a forest practice as de-
14 fined in ORS 527.620 that results in a parcel that does not meet the minimum
15 area requirements of subsection (1)(c) of this section or paragraph (a) of this
16 subsection. Parcels created pursuant to this subsection:

17 (A) Are not eligible for siting of a new dwelling;

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

20 (C) May not, as a result of the land division, be used to justify redesi-
21 gnation or rezoning of resource lands; and

22 (D) May not result in a parcel of less than 35 acres, unless the purpose
23 of the land division is to:

24 (i) Facilitate an exchange of lands involving a governmental agency; or

25 (ii) Allow transactions in which at least one participant is a person with
26 a cumulative ownership of at least 2,000 acres of forestland.

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

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

31 (B) Each dwelling complies with the criteria for a replacement dwelling

1 under ORS [215.213 (1)(q) or 215.283 (1)(p)] **215.213 (1)(p) or 215.283 (1)(o)**;

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

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

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

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

20 (3) A county planning director shall maintain a record of lots and parcels
21 that do not qualify for division under the restrictions imposed under sub-
22 sections (2)(e) and (4) of this section. The record shall be readily available
23 to the public.

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

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

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

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

6 (6)(a) An applicant for the creation of a parcel pursuant to subsection
7 (2)(b) and (c) of this section shall provide evidence that a restriction on the
8 remaining parcel, not containing the dwelling, has been recorded with the
9 county clerk of the county where the property is located. An applicant for
10 the creation of a parcel pursuant to subsection (2)(d) of this section shall
11 provide evidence that a restriction on the newly created parcel has been re-
12 corded with the county clerk of the county where the property is located.
13 The restriction shall allow no dwellings unless authorized by law or goal on
14 land zoned for forest use except as permitted under subsection (2) of this
15 section.

16 (b) A restriction imposed under this subsection shall be irrevocable unless
17 a statement of release is signed by the county planning director of the
18 county where the property is located indicating that the comprehensive plan
19 or land use regulations applicable to the property have been changed in such
20 a manner that the parcel is no longer subject to statewide planning goals
21 pertaining to agricultural land or forestland.

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

25 (7) A landowner allowed a land division under subsection (2) of this sec-
26 tion shall sign a statement that shall be recorded with the county clerk of
27 the county in which the property is located, declaring that the landowner
28 and the landowner's successors in interest will not in the future complain
29 about accepted farming or forest practices on nearby lands devoted to farm
30 or forest use.

31 **SECTION 18.** ORS 308A.056 is amended to read:

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

4 (a) Raising, harvesting and selling crops.

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

7 (c) Dairying and selling dairy products.

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

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

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

15 (g) Preparing, storing or disposing of, by marketing, donation to a local
16 food bank or school or otherwise, the products or by-products raised for hu-
17 man or animal use on land described in this section.

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

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

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

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

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

31 (b) Land lying fallow for one year as a normal and regular requirement

1 of good agricultural husbandry;

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

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

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

12 (f) Except for land under a single family dwelling, land under buildings
13 supporting accepted farming practices, including the processing facilities al-
14 lowed by ORS [215.213 (1)(u) and 215.283 (1)(r)] **215.213 (1)(t) and 215.283**
15 **(1)(q)** and the processing of farm crops into biofuel as commercial activities
16 in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

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

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

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

31 (L) Land used for the processing of farm crops into biofuel, as defined in

1 ORS 315.141, if:

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

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

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

7 (4) As used in this section:

8 (a) "Accepted farming practice" means a mode of operation that is com-
9 mon to farms of a similar nature, necessary for the operation of these similar
10 farms to obtain a profit in money and customarily utilized in conjunction
11 with farm use.

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

13 (A) Grown on lands used exclusively for that purpose, capable of prepa-
14 ration by intensive cultivation methods such as plowing or turning over the
15 soil;

16 (B) Of a marketable species;

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

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

23 (i) Basal pruning;

24 (ii) Fertilizing;

25 (iii) Insect and disease control;

26 (iv) Stump culture;

27 (v) Soil cultivation; or

28 (vi) Irrigation.

29

30

UNIT CAPTIONS

31

1 **SECTION 19. The unit captions used in this 2015 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2015 Act.**

5
