

Senate Bill 1517

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

SUMMARY

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

Requires certain findings by local governing body for creation, restoration or enhancement of wetlands in exclusive farm use zones.

Defines operator, timber owner or landowner for purposes of liability limits associated with certain fish and wildlife habitat improvement projects.

Allows for removal of up to 100 cubic yards of material from waters of this state without permit for purposes of maintaining drainage and protecting agricultural land.

A BILL FOR AN ACT

1
2 Relating to land improvement projects; creating new provisions; and amending ORS 196.816, 215.213,
3 215.283 and 496.270.

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

5 6 CREATION, RESTORATION OR ENHANCEMENT 7 OF WETLANDS IN EXCLUSIVE FARM USE ZONES 8

9 **SECTION 1.** ORS 215.213 is amended to read:

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

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

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

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

18 (A) ORS 215.275; or

19 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
20 469.300.

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
2 shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

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

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

37 (o) **Subject to section 5 of this 2016 Act**, creation, restoration or enhancement of wetlands.

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

39 (q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
40 of a lawfully established dwelling.

41 (r) Farm stands if:

42 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
43 farm operation, or grown on the farm operation and other farm operations in the local agricultural
44 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
45 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-

1 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
2 and

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

6 (s) An armed forces reserve center, if the center is within one-half mile of a community college.
7 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
8 Guard support facility.

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

20 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
21 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
22 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
23 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
24 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
25 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
26 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
27 cable siting standards but the standards may not be applied in a manner that prohibits the siting
28 of the processing facility or establishment.

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

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

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

36 (A) A public right of way;

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

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

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

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

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

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

7 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
8 the following uses may be established in any area zoned for exclusive farm use subject to ORS
9 215.296:

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

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

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

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

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

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

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

28 (d) Operations conducted for:

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

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

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

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

35 (e) Community centers owned by a governmental agency or a nonprofit community organization
36 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
37 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
38 county governing body or its designee, a private campground may provide yurts for overnight
39 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
40 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
41 Upon request of a county governing body, the Land Conservation and Development Commission may
42 provide by rule for an increase in the number of yurts allowed on all or a portion of the
43 campgrounds in a county if the commission determines that the increase will comply with the stan-
44 dards described in ORS 215.296 (1). A public park or campground may be established as provided
45 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or

1 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
2 ance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (s) A destination resort that is approved consistent with the requirements of any statewide

1 planning goal relating to the siting of a destination resort.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
23 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) Planned hours of operation;

20 (ii) Access, egress and parking;

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

23 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

- 1 (A) Must be incidental and subordinate to existing farm use on the tract;
- 2 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 3 (C) May not require that a new permanent structure be built, used or occupied in connection
4 with the agri-tourism or other commercial events or activities;
- 5 (D) Must comply with ORS 215.296;
- 6 (E) May not, in combination with other agri-tourism or other commercial events or activities
7 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 8 (F) Must comply with conditions established for:
- 9 (i) The types of agri-tourism or other commercial events or activities that are authorized during
10 each calendar year, including the number and duration of the agri-tourism or other commercial
11 events and activities, the anticipated daily attendance and the hours of operation;
- 12 (ii) The location of existing structures and the location of proposed temporary structures to be
13 used in connection with the agri-tourism or other commercial events or activities;
- 14 (iii) The location of access and egress and parking facilities to be used in connection with the
15 agri-tourism or other commercial events or activities;
- 16 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
17 public roads; and
- 18 (v) Sanitation and solid waste.
- 19 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
20 or other commercial events or activities that occur more frequently or for a longer period or that
21 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
22 commercial events or activities comply with any local standards that apply and the agri-tourism or
23 other commercial events or activities:
- 24 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
25 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 26 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 27 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
28 and
- 29 (D) Do not exceed 18 events or activities in a calendar year.
- 30 (12) A holder of a permit authorized by a county under subsection (11)(d) of this section must
31 request review of the permit at four-year intervals. Upon receipt of a request for review, the county
32 shall:
- 33 (a) Provide public notice and an opportunity for public comment as part of the review process;
34 and
- 35 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
36 tions of approval required by the permit and the standards established by subsection (11)(d) of this
37 section.
- 38 (13) For the purposes of subsection (11) of this section:
- 39 (a) A county may authorize the use of temporary structures established in connection with the
40 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
41 tion. However, the temporary structures must be removed at the end of the agri-tourism or other
42 event or activity. The county may not approve an alteration to the land in connection with an
43 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
44 including, but not limited to, grading, filling or paving.
- 45 (b) The county may issue the limited use permits authorized by subsection (11)(c) of this section

1 for two calendar years. When considering an application for renewal, the county shall ensure com-
2 pliance with the provisions of subsection (11)(c) of this section, any local standards that apply and
3 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
4 authorized by the permit.

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

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

11 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
12 Edition), the following uses may be established in any area 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 treatment systems but
16 not including commercial facilities for the purpose of generating electrical power for public use by
17 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
18 may be established as provided in:

19 (A) ORS 215.275; or

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

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

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

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

37 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
38 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
39 compressors, separators and other customary production equipment for an individual well adjacent
40 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
41 an exception under ORS 197.732 (2)(a) or (b).

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

45 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an

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

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

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

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

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

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

21 (o) **Subject to section 5 of this 2016 Act**, creation, restoration or enhancement of wetlands.

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

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

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

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

27 (C) Has interior wiring for interior lights;

28 (D) Has a heating system; and

29 (E) In the case of replacement:

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

44 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
45 ished within three months after the deferred replacement permit is issued. A deferred replacement

1 permit allows construction of the replacement dwelling at any time. If, however, the established
2 dwelling is not removed or demolished within three months after the deferred replacement permit
3 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
4 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
5 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
6 or otherwise, except by the applicant to the spouse or a child of the applicant.

7 (r) Farm stands if:

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

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

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

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

31 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
32 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
33 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
34 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
35 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
36 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
37 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
38 cable siting standards but the standards may not be applied in a manner that prohibits the siting
39 of the processing facility or establishment.

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

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

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

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

2 (A) A public right of way;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (i) Planned hours of operation;

31 (ii) Access, egress and parking;

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

34 (iv) Sanitation and solid waste.

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

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

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

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

- 1 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 2 (E) May not require or involve the construction or use of a new permanent structure in con-
- 3 nection with the agri-tourism or other commercial event or activity;
- 4 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
- 5 properties consent, in writing, to the location; and
- 6 (G) Must comply with applicable health and fire and life safety requirements.
- 7 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
- 8 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
- 9 use permit that is personal to the applicant and is not transferred by, or transferable with, a
- 10 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
- 11 local standards that apply, and the agri-tourism or other commercial events or activities:
- 12 (A) Must be incidental and subordinate to existing farm use on the tract;
- 13 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 14 (C) May not require that a new permanent structure be built, used or occupied in connection
- 15 with the agri-tourism or other commercial events or activities;
- 16 (D) Must comply with ORS 215.296;
- 17 (E) May not, in combination with other agri-tourism or other commercial events or activities
- 18 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 19 (F) Must comply with conditions established for:
- 20 (i) The types of agri-tourism or other commercial events or activities that are authorized during
- 21 each calendar year, including the number and duration of the agri-tourism or other commercial
- 22 events and activities, the anticipated daily attendance and the hours of operation;
- 23 (ii) The location of existing structures and the location of proposed temporary structures to be
- 24 used in connection with the agri-tourism or other commercial events or activities;
- 25 (iii) The location of access and egress and parking facilities to be used in connection with the
- 26 agri-tourism or other commercial events or activities;
- 27 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
- 28 public roads; and
- 29 (v) Sanitation and solid waste.
- 30 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
- 31 or other commercial events or activities that occur more frequently or for a longer period or that
- 32 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
- 33 commercial events or activities comply with any local standards that apply and the agri-tourism or
- 34 other commercial events or activities:
- 35 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
- 36 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 37 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 38 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
- 39 and
- 40 (D) Do not exceed 18 events or activities in a calendar year.
- 41 (12) A holder of a permit authorized by a county under subsection (11)(d) of this section must
- 42 request review of the permit at four-year intervals. Upon receipt of a request for review, the county
- 43 shall:
- 44 (a) Provide public notice and an opportunity for public comment as part of the review process;
- 45 and

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

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

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

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

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

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

21 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

28 (A) ORS 215.275; or

29 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
30 469.300.

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

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

43 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
44 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
45 compressors, separators and other customary production equipment for an individual well adjacent

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

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

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

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

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

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

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

19 (m) **Subject to section 5 of this 2016 Act**, creation, restoration or enhancement of wetlands.

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

21 (o) Farm stands if:

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

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

31 (p) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
32 of a lawfully established dwelling.

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

44 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
45 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm

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

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

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

12 (u) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
13 cilities or structures that end at the point where the utility service is received by the customer and
14 that are located on one 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 written consent of all ad-
17 jacent property owners has been obtained; or

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

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

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

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

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

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

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

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

38 (b) Operations conducted for:

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

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

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

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

45 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the

1 approval of the county governing body or its designee, a private campground may provide yurts for
2 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
3 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
4 foundation. Upon request of a county governing body, the Land Conservation and Development
5 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
6 of the campgrounds in a county if the commission determines that the increase will comply with the
7 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
8 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
9 internal cooking appliance.

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

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

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

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

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

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

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

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

43 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
44 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
45 hardship suffered by the existing resident or a relative of the resident. Within three months of the

1 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
 2 ished or, in the case of an existing building, the building shall be removed, demolished or returned
 3 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
 4 view of the hardship claimed under this paragraph. A temporary residence approved under this
 5 paragraph is not eligible for replacement under subsection (1)(p) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (y) An aerial fireworks display business that has been in continuous operation at its current
 45 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's

1 permit to sell or provide fireworks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) Planned hours of operation;

35 (ii) Access, egress and parking;

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

38 (iv) Sanitation and solid waste.

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

1 standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

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

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

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

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

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

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

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

20 (D) Must comply with ORS 215.296;

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

23 (F) Must comply with conditions established for:

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

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

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

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

33 (v) Sanitation and solid waste.

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

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

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

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

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

45 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-

1 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county
 2 shall:

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

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

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

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

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

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

24 **SECTION 4.** ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is amended
 25 to read:

26 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

33 (A) ORS 215.275; or

34 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 35 469.300.

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

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

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

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

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

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

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

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

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

24 (m) **Subject to section 5 of this 2016 Act**, creation, restoration or enhancement of wetlands.

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

26 (o) Farm stands if:

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

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

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

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

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

40 (C) Has interior wiring for interior lights;

41 (D) Has a heating system; and

42 (E) In the case of replacement:

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

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

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

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

31 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
32 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
33 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
34 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
35 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
36 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
37 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
38 cable siting standards but the standards may not be applied in a manner that prohibits the siting
39 of the processing facility or establishment.

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

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

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

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

2 (A) A public right of way;

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

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

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

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

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

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

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

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

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

25 (b) Operations conducted for:

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

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

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

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

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

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

44 (e) Community centers owned by a governmental agency or a nonprofit community organization
45 and operated primarily by and for residents of the local rural community. A community center au-

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

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

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

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

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

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

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

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

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

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

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

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

43 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
44 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
45 shall not include any species under quarantine by the State Department of Agriculture or the United

1 States Department of Agriculture. The county shall provide notice of all applications under this
2 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
3 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
4 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (i) Planned hours of operation;

22 (ii) Access, egress and parking;

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

25 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

43 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
44 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
45 use permit that is personal 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 activities must meet any
2 local standards that apply, and the agri-tourism or other commercial events or activities:

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

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

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

7 (D) Must comply with ORS 215.296;

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

10 (F) Must comply with conditions established for:

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

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

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

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

20 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

1 not limited to, grading, filling or paving.

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

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

11 **SECTION 5. Wetlands may be created, restored or enhanced under ORS 215.213 (1)(o) or**
 12 **215.283 (1)(m) if the local governing body or its designee finds that the use will not:**

13 (1) **Force a significant change in accepted farm or forest practices on surrounding lands**
 14 **devoted to farm or forest use;**

15 (2) **Significantly increase the cost of accepted farm or forest practices on surrounding**
 16 **lands devoted to farm or forest use; or**

17 (3) **Materially alter the stability of the agricultural land use pattern in the area or cause**
 18 **a significant change to farming practice alone or in combination with other wetlands in the**
 19 **area that have been created, restored or enhanced or have been approved to be created, re-**
 20 **stored or enhanced by the county, state or federal government.**

21
 22 **FISH AND WILDLIFE HABITAT IMPROVEMENT PROJECTS,**
 23 **LANDOWNER LIABILITY**
 24

25 **SECTION 6.** ORS 496.270 is amended to read:

26 496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to
 27 encourage [*operators, timber owners and landowners to voluntarily improve*] **the voluntary im-**
 28 **provement of** fish and wildlife habitat. [*In order to carry out this policy, the Legislative Assembly*
 29 *encourages cooperation among operators, timber owners and landowners and other volunteers.*]

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

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

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

36 (3) An operator, timber owner or landowner [*shall not*], **as those terms are defined in ORS**
 37 **527.620, may not** be held liable for any damages resulting from:

38 (a) A fish and wildlife habitat improvement project done in cooperation and consultation with
 39 the State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or con-
 40 ducted as part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990
 41 and 527.992; or

42 (b) Leaving large woody debris within the waters of this state to protect, retain and recruit
 43 large woody debris for the purposes of fish habitat and water quality improvement.

44 (4) The limitations to liability provided by subsections (2) and (3) of this section do not apply if
 45 the damages, injury or death was caused by willful, wanton or intentional conduct on the part of the

1 operator, timber owner or landowner or by the gross negligence of the operator, timber owner or
 2 landowner. As used in this subsection “gross negligence” means negligence which is materially
 3 greater than the mere absence of reasonable care under the circumstances, and which is charac-
 4 terized by indifference to or reckless disregard of the rights of others.

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

7
 8 **PROJECTS TO MAINTAIN DRAINAGE,**
 9 **REMOVAL PERMIT EXEMPTION**

10
 11 **SECTION 7.** ORS 196.816 is amended to read:

12 196.816. Notwithstanding ORS 196.810, **and notwithstanding the provisions of ORS 196.800**
 13 **(13)**, *[the Department of State Lands may establish by rule a general permit that allows]* **a permit is**
 14 **not required for** the removal of no more than 100 cubic yards of material from waters of this state,
 15 including in essential indigenous anadromous salmonid habitat, for the purpose of maintaining
 16 drainage and protecting agricultural land. *[The department may waive the fees specified in ORS*
 17 *196.815 for removal taking place under the provisions of this section.]*

18 **SECTION 8. The unit captions used in this 2016 Act are provided only for the convenience**
 19 **of the reader and do not become part of the statutory law of this state or express any leg-**
 20 **islative intent in the enactment of this 2016 Act.**

21 _____