

A-Engrossed
House Bill 2730

Ordered by the House April 24
Including House Amendments dated April 24

Sponsored by Representatives CLEM, SMITH DB

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.

[Makes form and style changes to statute regarding responsibilities and powers of State Department of Agriculture.]

Makes golf course on high-value farmland meeting certain criteria conditional use in area zoned for exclusive farm use.

A BILL FOR AN ACT

1
2 Relating to agriculture; amending ORS 215.283.

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

4 **SECTION 1.** ORS 215.283 is amended to read:

5 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

12 (A) ORS 215.275; or

13 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
14 469.300.

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

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

27 (f) Operations for the exploration for and production of geothermal resources as defined by ORS

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

1 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
2 compressors, separators and other customary production equipment for an individual well adjacent
3 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
4 an exception under ORS 197.732 (2)(a) or (b).

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

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

9 (i) 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 (j) 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 (k) 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 (L) 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 (m) Creation, restoration or enhancement of wetlands.

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

23 (o) Farm stands if:

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

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

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

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

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

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

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

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

17 (A) A public right of way;

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

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

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

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

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

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

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

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

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

40 (b) Operations conducted for:

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

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

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

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

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

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

14 (e) Community centers owned by a governmental agency or a nonprofit community organization
15 and operated primarily by and for residents of the local rural community. A community center au-
16 thorized under this paragraph may provide services to veterans, including but not limited to emer-
17 gency and transitional shelter, preparation and service of meals, vocational and educational
18 counseling and referral to local, state or federal agencies providing medical, mental health, disability
19 income replacement and substance abuse services, only in a facility that is in existence on January
20 1, 2006. The services may not include direct delivery of medical, mental health, disability income
21 replacement or substance abuse services.

22 (f) Golf courses on land:

23 **(A) Determined not to be high-value farmland, as defined in ORS 195.300[.] (10); or**

24 **(B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:**

25 **(i) Is not otherwise described in ORS 195.300 (10);**

26 **(ii) Is surrounded on all sides by an approved golf course; and**

27 **(iii) Is west of U.S. Highway 101.**

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

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

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

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

1 contiguous land where the primary processing facility is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (i) Planned hours of operation;

42 (ii) Access, egress and parking;

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

45 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

27 (D) Must comply with ORS 215.296;

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

30 (F) Must comply with conditions established for:

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

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

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

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

40 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

31 **SECTION 2.** ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is amended
32 to read:

33 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

40 (A) ORS 215.275; or

41 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
42 469.300.

43 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
44 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
45 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm

1 operator does or will require the assistance of the relative in the management of the farm use and
2 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
3 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
4 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
5 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
6 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
7 shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

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

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

33 (o) Farm stands if:

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

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

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

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

45 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to

1 a sanitary waste disposal system;

2 (C) Has interior wiring for interior lights;

3 (D) Has a heating system; and

4 (E) In the case of replacement:

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

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

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

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

1 of the processing facility or establishment.

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

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

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

9 (A) A public right of way;

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

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

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

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

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

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

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

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

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

32 (b) Operations conducted for:

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

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

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

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

39 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
40 approval of the county governing body or its designee, a private campground may provide yurts for
41 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
42 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
43 foundation. Upon request of a county governing body, the Land Conservation and Development
44 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
45 of the campgrounds in a county if the commission determines that the increase will comply with the

1 standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed
 2 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
 3 internal cooking appliance.

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

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

14 (f) Golf courses on land:

15 **(A) Determined not to be high-value farmland, as defined in ORS 195.300[.] (10); or**

16 **(B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:**

17 **(i) Is not otherwise described in ORS 195.300 (10);**

18 **(ii) Is surrounded on all sides by an approved golf course; and**

19 **(iii) Is west of U.S. Highway 101.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (i) Planned hours of operation;

34 (ii) Access, egress and parking;

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

37 (iv) Sanitation and solid waste.

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

- 1 (A) Must be incidental and subordinate to existing farm use on the tract;
- 2 (B) May not begin before 6 a.m. or end after 10 p.m.;
- 3 (C) May not involve more than 100 attendees or 50 vehicles;
- 4 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 5 (E) May not require or involve the construction or use of a new permanent structure in con-
- 6 nection with the agri-tourism or other commercial event or activity;
- 7 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
- 8 properties consent, in writing, to the location; and
- 9 (G) Must comply with applicable health and fire and life safety requirements.
- 10 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
- 11 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
- 12 use permit that is personal to the applicant and is not transferred by, or transferable with, a
- 13 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
- 14 local standards that apply, and the agri-tourism or other commercial events or activities:
- 15 (A) Must be incidental and subordinate to existing farm use on the tract;
- 16 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 17 (C) May not require that a new permanent structure be built, used or occupied in connection
- 18 with the agri-tourism or other commercial events or activities;
- 19 (D) Must comply with ORS 215.296;
- 20 (E) May not, in combination with other agri-tourism or other commercial events or activities
- 21 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 22 (F) Must comply with conditions established for:
- 23 (i) The types of agri-tourism or other commercial events or activities that are authorized during
- 24 each calendar year, including the number and duration of the agri-tourism or other commercial
- 25 events and activities, the anticipated daily attendance and the hours of operation;
- 26 (ii) The location of existing structures and the location of proposed temporary structures to be
- 27 used in connection with the agri-tourism or other commercial events or activities;
- 28 (iii) The location of access and egress and parking facilities to be used in connection with the
- 29 agri-tourism or other commercial events or activities;
- 30 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
- 31 public roads; and
- 32 (v) Sanitation and solid waste.
- 33 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
- 34 or other commercial events or activities that occur more frequently or for a longer period or that
- 35 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
- 36 commercial events or activities comply with any local standards that apply and the agri-tourism or
- 37 other commercial events or activities:
- 38 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
- 39 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 40 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 41 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
- 42 and
- 43 (D) Do not exceed 18 events or activities in a calendar year.
- 44 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-
- 45 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county

1 shall:

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

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

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

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

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

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

23
