

Senate Bill 677

Sponsored by Senator OLSEN

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**.

Establishes standards for establishment of cider businesses on land zoned for exclusive farm use or on land zoned for mixed farm and forest use.

A BILL FOR AN ACT

1
2 Relating to establishment of cider businesses; creating new provisions; and amending ORS 215.213
3 and 215.283.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 215.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Agri-tourism or other commercial events" includes outdoor concerts for which ad-**
8 **mission is charged, educational, cultural, health or lifestyle events, facility rentals,**
9 **celebratory gatherings and other events at which the promotion of cider produced in con-**
10 **junction with the cider business is a secondary purpose of the event.**

11 (b) **"Cider" has the meaning given that term in ORS 471.023.**

12 (c) **"Cider business" means a facility used primarily for the commercial production,**
13 **shipping and distribution, wholesale or retail sales, tasting, crushing, brewing, blending,**
14 **storage, bottling, administrative functions or warehousing of cider.**

15 (d) **"Cidermaker" means a person who brews cider.**

16 (e) **"On-site retail sale" includes the retail sale of cider in person at the cider business**
17 **site, through a cider club or over the Internet or telephone.**

18 (f) **"Orchard" means a piece of land planted with apple or pear trees.**

19 (2) **A cider business may be established as a permitted use on land zoned for exclusive**
20 **farm use under ORS 215.213 (1)(aa) and 215.283 (1)(y) or on land zoned for mixed farm and**
21 **forest use if the cider business produces:**

22 (a) **Less than 100,000 gallons of cider annually and the cider business:**

23 (A) **Owens an on-site orchard of at least 15 acres;**

24 (B) **Owens a contiguous orchard of at least 15 acres;**

25 (C) **Has a long-term contract for the purchase of all of the apples or pears from at least**
26 **15 acres of an orchard contiguous to the cider business; or**

27 (D) **Obtains apples or pears from any combination of subparagraph (A), (B) or (C) of this**
28 **paragraph; or**

29 (b) **At least 100,000 gallons of cider annually and the cider business:**

30 (A) **Owens an on-site orchard of at least 40 acres;**

31 (B) **Owens a contiguous orchard of at least 40 acres;**

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 (C) Has a long-term contract for the purchase of all of the apples or pears from at least
 2 40 acres of an orchard contiguous to the cider business;

3 (D) Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns
 4 at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider
 5 business site; or

6 (E) Obtains apples or pears from any combination of subparagraph (A), (B), (C) or (D)
 7 of this paragraph.

8 (3) Prior to local government issuance of a permit to establish a cider business, the ap-
 9 plicant shall submit proof that the applicant meets the qualifications described in subsection
 10 (2) of this section.

11 (4) In addition to any other activities authorized for a cider business, a cider business
 12 established under this section may:

13 (a) Market cider produced in conjunction with the cider business.

14 (b) Conduct operations that are directly related to the sale or marketing of cider
 15 produced in conjunction with the cider business, including:

16 (A) Cider tastings in a tasting room or other location on the premises occupied by the
 17 cider business;

18 (B) Cider club activities;

19 (C) Cidermaker luncheons and dinners;

20 (D) Cider business and orchard tours;

21 (E) Meetings or business activities with cider business suppliers, distributors, wholesale
 22 customers and cider industry members;

23 (F) Cider business staff activities;

24 (G) Open house promotions of cider produced in conjunction with the cider business; and

25 (H) Similar activities conducted for the primary purpose of promoting cider produced in
 26 conjunction with the cider business.

27 (c) Market and sell items directly related to the sale or promotion of cider produced in
 28 conjunction with the cider business, the marketing and sale of which is incidental to on-site
 29 retail sale of cider, including food and beverages:

30 (A) Required to be made available in conjunction with the consumption of cider on the
 31 premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

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

34 (d) Subject to subsections (7) to (10) of this section, carry out agri-tourism or other
 35 commercial events on the tract occupied by the cider business.

36 (e) Host charitable activities for which the cider business does not charge a facility rental
 37 fee.

38 (f) Site a bed and breakfast as a home occupation on the same tract, and in association
 39 with, the cider business.

40 (5) A cider business may include on-site kitchen facilities licensed by the Oregon Health
 41 Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described
 42 in subsection (4)(c) of this section. Food and beverage services authorized under subsection
 43 (4)(c) of this section may not utilize menu options or meal services that cause the kitchen
 44 facilities to function as a cafe or other dining establishment open to the public.

45 (6)(a) The gross income of the cider business from the sale of incidental items or services

1 provided pursuant to subsection (4)(c) to (e) of this section may not exceed 25 percent of the
2 gross income from the on-site retail sale of cider produced in conjunction with the cider
3 business. The gross income of a cider business does not include income received by third
4 parties unaffiliated with the cider business.

5 (b) At the request of a local government with land use jurisdiction over the site of a cider
6 business, the cider business shall submit to the local government a written statement pre-
7 pared by a certified public accountant that certifies the compliance of the cider business with
8 this subsection for the previous tax year.

9 (7) Except as provided by subsections (8) and (9) of this section, a cider business may
10 carry out agri-tourism or other commercial events described in subsection (4)(d) of this
11 section for up to 18 days per calendar year.

12 (8) A cider business in the Willamette Valley may carry out agri-tourism or other com-
13 mercial events as provided in subsection (7) of this section, provided:

14 (a) Events on the first six days of the 18-day limit per calendar year are authorized by
15 the local government through the issuance of a renewable multi-year license that:

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

17 (B) Is subject to an administrative review to determine necessary conditions pursuant
18 to subsection (9) of this section.

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

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

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

24 (c) Events on days seven through 18 of the 18-day limit per calendar year are authorized
25 by the local government through the issuance of a renewable multi-year permit that:

26 (A) Has a term of five years;

27 (B) Is subject to an administrative review to determine necessary conditions pursuant
28 to subsection (9) of this section; and

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

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

32 (A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land
33 Use Board of Appeals.

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

35 (9)(a) A local government with land use jurisdiction over the site of a cider business shall
36 ensure that agri-tourism or other commercial events occurring as described in subsection
37 (4)(d) of this section are subordinate to the production and sale of cider and do not create
38 significant adverse impacts to uses on surrounding land.

39 (b) A local government may impose conditions on a license or permit issued pursuant to
40 subsection (8) of this section as necessary to meet the requirements of paragraph (a) of this
41 subsection. The conditions must be related to:

42 (A) The number of event attendees;

43 (B) The hours of event operation;

44 (C) Access and parking;

45 (D) Traffic management;

1 (E) Noise management; and

2 (F) Sanitation and solid waste.

3 (10) A local government may charge a fee for processing a license or permit under sub-
 4 sections (7) and (8) of this section. The fee may not exceed the actual or average cost of
 5 providing the applicable licensing or permitting service.

6 (11) When a bed and breakfast facility is sited as a home occupation on the same tract
 7 as a cider business as described in subsection (4)(f) of this section:

8 (a) The bed and breakfast facility may prepare and serve two meals per day to the reg-
 9 istered guests of the bed and breakfast facility; and

10 (b) The meals may be served at the bed and breakfast facility or at the cider business.

11 (12) A cider business operating under this section shall provide parking for all activities
 12 or uses of the lot, parcel or tract on which the cider business is situated.

13 (13) A local government with land use jurisdiction over the site of a cider business shall
 14 ensure that the cider business complies with:

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

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

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

20 (14)(a) A local government with land use jurisdiction over the site of a cider business
 21 shall:

22 (A) Except as provided in paragraph (b) of this subsection, establish a setback of at least
 23 100 feet from all property lines for the cider business and all public gathering places; and

24 (B) Require cider businesses to provide direct road access and internal circulation for the
 25 cider business and all public gathering places.

26 (b) A local government may allow a setback of less than 100 feet by granting a cider
 27 business an adjustment or variance to the requirement described in paragraph (a)(A) of this
 28 subsection.

29 **SECTION 3.** ORS 215.213 is amended to read:

30 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
 31 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

38 (A) ORS 215.275; or

39 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 40 469.300.

41 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 42 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
 43 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 44 operator does or will require the assistance of the relative in the management of the farm use and
 45 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

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

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

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

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

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

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

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

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

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

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

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

40 (o) Creation, restoration or enhancement of wetlands.

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

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

44 (r) Farm stands if:

45 (A) The structures are designed and used for the sale of farm crops or livestock grown on the

1 farm operation, or grown on the farm operation and other farm operations in the local agricultural
2 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
3 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
4 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
5 and

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

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

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

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

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

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

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

39 (A) A public right of way;

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

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

43 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
44 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
45 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application

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

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

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

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

10 **(aa) A cider business, as described in section 2 of this 2017 Act.**

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

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

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

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

21 (b) 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 smaller than re-
23 quired under paragraph (a) of this subsection, if the lot or parcel:

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

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

30 (c) 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)(u) of this section.

32 (d) 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)(g) 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 (e) Community centers owned by a governmental agency or a nonprofit community organization
40 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
41 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
42 county governing body or its designee, a private campground may provide yurts for overnight
43 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
44 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
45 Upon request of a county governing body, the Land Conservation and Development Commission may

1 provide by rule for an increase in the number of yurts allowed on all or a portion of the
2 campgrounds in a county if the commission determines that the increase will comply with the stan-
3 dards described in ORS 215.296 (1). A public park or campground may be established as provided
4 under ORS 195.120. As used in this paragraph, “yurt” means a round, domed shelter of cloth or
5 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
6 ance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
45 one single-family dwelling, not provided in conjunction with farm use, may be established in any

1 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
2 is not larger than three acres upon written findings showing:

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

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

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

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

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

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

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

26 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
27 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (i) Planned hours of operation;

24 (ii) Access, egress and parking;

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

27 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

1 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
2 use permit that is personal to the applicant and is not transferred by, or transferable with, a
3 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
4 local standards that apply, and the agri-tourism or other commercial events or activities:

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

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

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

9 (D) Must comply with ORS 215.296;

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

12 (F) Must comply with conditions established for:

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

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

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

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

22 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

43 (a) A county may authorize the use of temporary structures established in connection with the
44 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
45 tion. However, the temporary structures must be removed at the end of the agri-tourism or other

1 event or activity. The county may not approve an alteration to the land in connection with an
2 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
3 including, but not limited to, grading, filling or paving.

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

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

13 **SECTION 4.** ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, is amended
14 to read:

15 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
16 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

23 (A) ORS 215.275; or

24 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
25 469.300.

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

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

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

41 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
42 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
43 compressors, separators and other customary production equipment for an individual well adjacent
44 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
45 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

25 (o) Creation, restoration or enhancement of wetlands.

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

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

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

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

31 (C) Has interior wiring for interior lights;

32 (D) Has a heating system; and

33 (E) In the case of replacement:

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

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

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

11 (r) Farm stands if:

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

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

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

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

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

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

45 (w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational

1 facilities, not including parks or other recreational structures and facilities, associated with a dis-
2 trict as defined in ORS 540.505.

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

6 (A) A public right of way;

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

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

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

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

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

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

22 **(aa) A cider business, as described in section 2 of this 2017 Act.**

23 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
24 the following uses may be established in any area zoned for exclusive farm use subject to ORS
25 215.296:

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

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

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

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

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

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

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

44 (d) Operations conducted for:

45 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas

1 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
42 a single-family residential dwelling not provided in conjunction with farm use may be established
43 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
44 the Agricultural Capability Classification System in use by the United States Department of Agri-
45 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval

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

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

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

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

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

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

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

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

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

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

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

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

38 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
39 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) Planned hours of operation;

36 (ii) Access, egress and parking;

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

39 (iv) Sanitation and solid waste.

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

1 determine that the proposed agri-tourism or other commercial event or activity meets any local
2 standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

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

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

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

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

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

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

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

21 (D) Must comply with ORS 215.296;

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

24 (F) Must comply with conditions established for:

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

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

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

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

34 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

25 **SECTION 5.** ORS 215.283 is amended 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) 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) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
37 of a lawfully established dwelling.

38 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
39 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
40 area or placed on a permanent foundation unless the building or facility preexisted the use approved
41 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
42 the surface preexisted the use approved under this paragraph. An owner of property used for the
43 purpose authorized in this paragraph may charge a person operating the use on the property rent
44 for the property. An operator may charge users of the property a fee that does not exceed the
45 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model

1 aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
 2 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
 3 ground.

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

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

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

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

20 (A) A public right of way;

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

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

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

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

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

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

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

39 **(y) A cider business, as described in section 2 of this 2017 Act.**

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

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

44 (b) Operations conducted for:

45 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas

1 as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;

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

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

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

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

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

18 (e) Community centers owned by a governmental agency or a nonprofit community organization
19 and operated primarily by and for residents of the local rural community. A community center au-
20 thorized under this paragraph may provide services to veterans, including but not limited to emer-
21 gency and transitional shelter, preparation and service of meals, vocational and educational
22 counseling and referral to local, state or federal agencies providing medical, mental health, disability
23 income replacement and substance abuse services, only in a facility that is in existence on January
24 1, 2006. The services may not include direct delivery of medical, mental health, disability income
25 replacement or substance abuse services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) "Living history museum" means a facility designed to depict and interpret everyday life and

1 culture of some specific historic period using authentic buildings, tools, equipment and people to
2 simulate past activities and events; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) Planned hours of operation;

41 (ii) Access, egress and parking;

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

44 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (D) Must comply with ORS 215.296;

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

29 (F) Must comply with conditions established for:

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

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

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

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

39 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **SECTION 6.** ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is amended
31 to read:

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

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

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

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

39 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (o) Farm stands if:

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

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

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

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

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

1 (C) Has interior wiring for interior lights;

2 (D) Has a heating system; and

3 (E) In the case of replacement:

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

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

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

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

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

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

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

8 (A) A public right of way;

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

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

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

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

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

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

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

27 **(y) A cider business, as described in section 2 of this 2017 Act.**

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 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) Home occupations as provided in ORS 215.448.

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

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

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

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

- 1 (n)(A) Commercial dog boarding kennels; or
2 (B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of
3 this section.
- 4 (o) Residential homes as defined in ORS 197.660, in existing dwellings.
- 5 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
6 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
7 shall not include any species under quarantine by the State Department of Agriculture or the United
8 States Department of Agriculture. The county shall provide notice of all applications under this
9 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
10 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
11 tive decision or initial public hearing on the application.
- 12 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
13 but not resulting in the creation of new land parcels.
- 14 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
15 placement of buildings but not resulting in the creation of new land parcels.
- 16 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
17 stations and rest areas, where additional property or right of way is required but not resulting in
18 the creation of new land parcels.
- 19 (t) A destination resort that is approved consistent with the requirements of any statewide
20 planning goal relating to the siting of a destination resort.
- 21 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
22 dences.
- 23 (v) Operations for the extraction and bottling of water.
- 24 (w) Expansion of existing county fairgrounds and activities directly relating to county
25 fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- 26 (x) A living history museum related to resource based activities owned and operated by a gov-
27 ernmental agency or a local historical society, together with limited commercial activities and fa-
28 cilities that are directly related to the use and enjoyment of the museum and located within
29 authentic buildings of the depicted historic period or the museum administration building, if areas
30 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
31 the museum administration buildings and parking lot are located within one quarter mile of an ur-
32 ban growth boundary. As used in this paragraph:
- 33 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
34 culture of some specific historic period using authentic buildings, tools, equipment and people to
35 simulate past activities and events; and
- 36 (B) "Local historical society" means the local historical society recognized by the county gov-
37 erning body and organized under ORS chapter 65.
- 38 (y) An aerial fireworks display business that has been in continuous operation at its current
39 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
40 permit to sell or provide fireworks.
- 41 (z) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
42 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
43 with the growing and marketing of nursery stock on the land that constitutes farm use.
- 44 (aa) Public or private schools for kindergarten through grade 12, including all buildings essential
45 to the operation of a school, primarily for residents of the rural area in which the school is located.

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

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

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

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

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

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

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

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

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

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

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

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

28 (i) Planned hours of operation;

29 (ii) Access, egress and parking;

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

32 (iv) Sanitation and solid waste.

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

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

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

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

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

45 (E) May not require or involve the construction or use of a new permanent structure in con-

1 nection with the agri-tourism or other commercial event or activity;

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

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

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

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

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

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

14 (D) Must comply with ORS 215.296;

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

17 (F) Must comply with conditions established for:

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

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

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

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

27 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

1 section.

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

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

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

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

18
