

Senate Bill 333

Sponsored by Senator BAERTSCHIGER JR (Pre-session filed.)

SUMMARY

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

Prohibits application of annual farm income standard in defining dwelling or building customarily provided in conjunction with farm use on lands zoned for exclusive farm use.

A BILL FOR AN ACT

1
2 Relating to buildings customarily provided in conjunction with farm use; amending ORS 215.213,
3 215.279 and 215.282.

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

5 **SECTION 1.** ORS 215.279 is amended to read:

6 215.279. (1) **A county may allow the establishment of primary or accessory dwellings or**
7 **other buildings customarily provided in conjunction with farm use on lands zoned for exclu-**
8 **sive farm use under ORS 215.213 (1)(f) or 215.283 (1)(e).**

9 **(2) For a primary dwelling, the dwelling must be on a lot or parcel that is managed as**
10 **part of a farm operation and is not smaller than the minimum lot size in a farm zone with**
11 **a minimum lot size acknowledged under ORS 197.251.**

12 **(3) [In any rule adopted by] The Land Conservation and Development Commission [that estab-**
13 **lishes a] may not establish any farm income standard to determine whether a dwelling is custom-**
14 **arily provided in conjunction with farm use on a tract[, the commission shall allow a farm operator**
15 **to satisfy the income standard by earning the required amount or more of farm income on the tract:]**

16 *[(1) In at least three of the last five years;]*

17 *[(2) In each of the last two years; or]*

18 *[(3) Based on the average farm income earned on the tract in the best three of the last five*
19 *years].*

20 **SECTION 2.** ORS 215.282 is amended to read:

21 215.282. The Land Conservation and Development Commission shall consider the findings of ORS
22 215.281 and adopt rules that provide standards for the review of a primary or accessory dwelling
23 customarily provided in conjunction with a commercial dairy farm. *[Notwithstanding any other ad-*
24 *ministrative rule establishing a gross farm income standard,]* The rules adopted under this section
25 shall allow the siting of a dwelling on a commercial dairy farm prior to the dairy earning any gross
26 farm income.

27 **SECTION 3.** ORS 215.213, as amended by section 1, chapter 119, Oregon Laws 2018, is amended
28 to read:

29 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
30 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

6 (A) ORS 215.275; or

7 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
8 469.300.

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

19 (e) **Subject to ORS 215.279**, nonresidential buildings customarily provided in conjunction with
20 farm use.

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

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

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

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

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

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

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

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

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

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

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

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

13 (r) Farm stands if:

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

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

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

26 (t) 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 (u) 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 (v) Fire service facilities providing rural fire protection services.
- 2 (w) 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 (x) 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 (y) 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, or the onsite treatment of
16 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-
17 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this
18 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application
19 of biosolids is limited to treatment using treatment facilities that are portable, temporary and
20 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land
21 application of biosolids is authorized under the license, permit or other approval.
- 22 (z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
23 farm buildings, when:
- 24 (A) The number of dogs participating in training does not exceed 10 dogs per training class and
25 the number of training classes to be held on-site does not exceed six per day; and
- 26 (B) The number of dogs participating in a testing trial does not exceed 60 and the number of
27 testing trials to be conducted on-site is limited to four or fewer trials per calendar year.
- 28 (aa) A cider business, as described in ORS 215.451.
- 29 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
30 the following uses may be established in any area zoned for exclusive farm use subject to ORS
31 215.296:
- 32 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
33 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
34 eration or woodlot:
- 35 (A) Consists of 20 or more acres; and
- 36 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
37 annual gross income from the crops, livestock or forest products to be raised on the farm operation
38 or woodlot.
- 39 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
40 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
41 quired under paragraph (a) of this subsection, if the lot or parcel:
- 42 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
43 years out of the three calendar years before the year in which the application for the dwelling was
44 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
45 in annual gross farm income; or

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

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

5 (d) Operations conducted for:

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

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

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

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

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

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

26 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the
27 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-
28 cility may be established as a commercial utility facility as provided in ORS 215.447.

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

38 (i) 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 (j) 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 (k)(A) Commercial dog boarding kennels; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
45 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction

1 with the growing and marketing of nursery stock on the land that constitutes farm use.

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

4 (z) Equine and equine-affiliated therapeutic and counseling activities, provided:

5 (A) The activities are conducted in existing buildings that were lawfully constructed on the
 6 property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate
 7 to the farm use on the tract; and

8 (B) All individuals conducting therapeutic or counseling activities are acting within the proper
 9 scope of any licenses required by the state.

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

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

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

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

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

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

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

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

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

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

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

43 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
 44 following the date of postmark of the notice to file a written objection on the grounds only that the
 45 dwelling or activities associated with it would force a significant change in or significantly increase

1 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
2 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
3 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
4 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
5 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
6 this section.

7 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
8 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ments; and

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

4 (i) Planned hours of operation;

5 (ii) Access, egress and parking;

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

8 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

35 (D) Must comply with ORS 215.296;

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

38 (F) Must comply with conditions established for:

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

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

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

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

3 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

39 **SECTION 4.** ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, section 2,
40 chapter 148, Oregon Laws 2017, section 4, chapter 253, Oregon Laws 2017, section 4, chapter 504,
41 Oregon Laws 2017, and section 2, chapter 119, Oregon Laws 2018, is amended to read:

42 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
43 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

5 (A) ORS 215.275; or

6 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
7 469.300.

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

18 (e) **Subject to ORS 215.279**, nonresidential buildings customarily provided in conjunction with
19 farm use.

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

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

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

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

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

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

45 (L) Temporary public road and highway detours that will be abandoned and restored to original

1 condition or use at such time as no longer needed.

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

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

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

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

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

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

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

14 (C) Has interior wiring for interior lights;

15 (D) Has a heating system; and

16 (E) In the case of replacement:

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

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

39 (r) Farm stands if:

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

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

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

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

18 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
19 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
20 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
21 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
22 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
23 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
24 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
25 cable siting standards but the standards may not be applied in a manner that prohibits the siting
26 of the processing facility or establishment.

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

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

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

34 (A) A public right of way;

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

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

38 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
39 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
40 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
41 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of
42 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-
43 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this
44 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application
45 of biosolids is limited to treatment using treatment facilities that are portable, temporary and

1 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land
2 application of biosolids is authorized under the license, permit or other approval.

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

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

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

9 (aa) A cider business, as described in ORS 215.451.

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

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

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

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

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

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

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

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

31 (d) Operations conducted for:

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

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

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

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

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

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

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

7 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the
8 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-
9 cility may be established as a commercial utility facility as provided in ORS 215.447.

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

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

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

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

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

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

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

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

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

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

45 (q) Reconstruction or modification of public roads and highways involving the removal or dis-

1 placement of buildings but not resulting in the creation of new land parcels.

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

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

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

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

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

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

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

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

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

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

30 (z) Equine and equine-affiliated therapeutic and counseling activities, provided:

31 (A) The activities are conducted in existing buildings that were lawfully constructed on the
32 property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate
33 to the farm use on the tract; and

34 (B) All individuals conducting therapeutic or counseling activities are acting within the proper
35 scope of any licenses required by the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (i) Planned hours of operation;

31 (ii) Access, egress and parking;

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

34 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

20
