

HB 2106-1
(LC 1905)
4/4/19 (RLM/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Oregon Property Owners Association)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2106**

1 In line 2 of the printed bill, after “use” insert “; creating new provisions;
2 and amending ORS 215.213”.

3 Delete lines 4 through 7 and insert:

4 **“SECTION 1. Section 2 of this 2019 Act is added to and made a part
5 of ORS chapter 215.**

6 **“SECTION 2. (1) In addition to ORS 215.213 (1)(q) and 215.283 (1)(p)
7 and section 2, chapter 462, Oregon Laws 2013, a county shall permit the
8 establishment of a replacement dwelling for any lawful structure in
9 any area zoned for exclusive farm use, provided that:**

10 **“(a) Notwithstanding any actual use, removal, demolition or non-
11 existence of the structure before, on or after the effective date of this
12 2019 Act, the structure was recognized as an existing dwelling in a
13 final order issued under section 6, 7 or 9, chapter 424, Oregon Laws
14 2007;**

15 **“(b) At no time after the final order described in paragraph (a) of
16 this subsection and before the effective date of this 2019 Act was the
17 structure eligible for a replacement dwelling under ORS 215.213 (1)(q)
18 or 213.283 (1)(p) or section 2, chapter 462, Oregon Laws 2013; and**

19 **“(c) The structure, if any, is removed, demolished or converted into
20 an allowable nonresidential use within three months of the completion
21 of the replacement dwelling.**

1 **“(2) To the extent practicable, a county may condition the siting**
2 **of a replacement dwelling under this section to:**

3 **“(a) Use all or part of the footprint of the replaced structure;**

4 **“(b) Minimize the effects on farm and forest uses; or**

5 **“(c) Make use of any public or private infrastructure serving the**
6 **replaced structure, including highways, driveways, utilities, water**
7 **supply and sewer and storm drainage systems.**

8 **“(3) Except as provided in this section, the establishment of a re-**
9 **placement dwelling authorized under this section is subject to the re-**
10 **quirements of ORS 215.293 and section 11, chapter 424, Oregon Laws**
11 **2007.**

12 **“SECTION 3. Section 2 of this 2019 Act is repealed on January 2,**
13 **2026.**

14 **“SECTION 4. ORS 215.213, as amended by section 1, chapter 119, Oregon**
15 **Laws 2018, is amended to read:**

16 **“215.213. (1) In counties that have adopted marginal lands provisions un-**
17 **der ORS 197.247 (1991 Edition), the following uses may be established in any**
18 **area zoned for exclusive farm use:**

19 **“(a) Churches and cemeteries in conjunction with churches.**

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

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

26 **“(A) ORS 215.275; or**

27 **“(B) If the utility facility is an associated transmission line, as defined**
28 **in ORS 215.274 and 469.300.**

29 **“(d) A dwelling on real property used for farm use if the dwelling is oc-**
30 **cupied by a relative of the farm operator or the farm operator’s spouse,**

1 which means a child, parent, stepparent, grandchild, grandparent,
2 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,
3 if the farm operator does or will require the assistance of the relative in the
4 management of the farm use and the dwelling is located on the same lot or
5 parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to
6 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if
7 the owner of a dwelling described in this paragraph obtains construction fi-
8 nancing or other financing secured by the dwelling and the secured party
9 forecloses on the dwelling, the secured party may also foreclose on the
10 homesite, as defined in ORS 308A.250, and the foreclosure shall operate as
11 a partition of the homesite to create a new parcel.

12 “(e) Nonresidential buildings customarily provided in conjunction with
13 farm use.

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

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

25 “(h) Operations for the exploration for minerals as defined by ORS
26 517.750. Any activities or construction relating to such operations shall not
27 be a basis for an exception under ORS 197.732 (2)(a) or (b).

28 “(i) One manufactured dwelling or recreational vehicle, or the temporary
29 residential use of an existing building, in conjunction with an existing
30 dwelling as a temporary use for the term of a hardship suffered by the ex-

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

9 “(j) Climbing and passing lanes within the right of way existing as of July
10 1, 1987.

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

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

18 “(m) Minor betterment of existing public road and highway related facil-
19 ities, such as maintenance yards, weigh stations and rest areas, within right
20 of way existing as of July 1, 1987, and contiguous public-owned property
21 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
24 the existing dwelling has been listed in a county inventory as historic prop-
25 erty as defined in ORS 358.480.

26 “(o) Creation, restoration or enhancement of wetlands.

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

28 “(q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, res-
29 toration or replacement of a lawfully established dwelling.

30 “(r) Farm stands if:

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

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

12 “(s) An armed forces reserve center, if the center is within one-half mile
13 of a community college. For purposes of this paragraph, ‘armed forces reserve
14 center’ includes an armory or National Guard support facility.

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

29 “(u) A facility for the processing of farm crops or for the production of
30 biofuel, as defined in ORS 315.141, if the facility is located on a farm oper-

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

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

12 “(w) Irrigation reservoirs, canals, delivery lines and those structures and
13 accessory operational facilities, not including parks or other recreational
14 structures and facilities, associated with a district as defined in ORS 540.505.

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

19 “(A) A public right of way;

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

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

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

1 chapter. For the purposes of this paragraph, onsite treatment of septage prior
2 to the land application of biosolids is limited to treatment using treatment
3 facilities that are portable, temporary and transportable by truck trailer, as
4 defined in ORS 801.580, during a period of time within which land applica-
5 tion of biosolids is authorized under the license, permit or other approval.

6 “(z) Dog training classes or testing trials, which may be conducted out-
7 doors or in [*preexisting*] farm buildings **in existence on January 1, 2019**,
8 when:

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

12 “(B) The number of dogs participating in a testing trial does not exceed
13 60 and the number of testing trials to be conducted on-site is limited to four
14 or fewer trials per calendar year.

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

16 “(2) In counties that have adopted marginal lands provisions under ORS
17 197.247 (1991 Edition), the following uses may be established in any area
18 zoned for exclusive farm use subject to ORS 215.296:

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

22 “(A) Consists of 20 or more acres; and

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

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

30 “(A) Has produced at least \$20,000 in annual gross farm income in two

1 consecutive calendar years out of the three calendar years before the year
2 in which the application for the dwelling was made or is planted in peren-
3 nials capable of producing upon harvest an average of at least \$20,000 in
4 annual gross farm income; or

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

7 “(c) Commercial activities that are in conjunction with farm use, includ-
8 ing the processing of farm crops into biofuel not permitted under ORS
9 215.203 (2)(b)(K) or subsection (1)(u) of this section.

10 “(d) Operations conducted for:

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

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

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

18 “(D) Processing of other mineral resources and other subsurface re-
19 sources.

20 “(e) Community centers owned by a governmental agency or a nonprofit
21 community organization and operated primarily by and for residents of the
22 local rural community, hunting and fishing preserves, public and private
23 parks, playgrounds and campgrounds. Subject to the approval of the county
24 governing body or its designee, a private campground may provide yurts for
25 overnight camping. No more than one-third or a maximum of 10 campsites,
26 whichever is smaller, may include a yurt. The yurt shall be located on the
27 ground or on a wood floor with no permanent foundation. Upon request of
28 a county governing body, the Land Conservation and Development Commis-
29 sion may provide by rule for an increase in the number of yurts allowed on
30 all or a portion of the campgrounds in a county if the commission determines

1 that the increase will comply with the standards described in ORS 215.296
2 (1). A public park or campground may be established as provided under ORS
3 195.120. As used in this paragraph, ‘yurt’ means a round, domed shelter of
4 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
5 hookup or internal cooking appliance.

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

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

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

24 “(i) A facility for the primary processing of forest products, provided that
25 such facility is found to not seriously interfere with accepted farming prac-
26 tices and is compatible with farm uses described in ORS 215.203 (2). Such a
27 facility may be approved for a one-year period which is renewable. These
28 facilities are intended to be only portable or temporary in nature. The pri-
29 mary processing of a forest product, as used in this section, means the use
30 of a portable chipper or stud mill or other similar methods of initial treat-

1 ment of a forest product in order to enable its shipment to market. Forest
2 products, as used in this section, means timber grown upon a parcel of land
3 or contiguous land where the primary processing facility is located.

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

8 “(k)(A) Commercial dog boarding kennels; or

9 “(B) Dog training classes or testing trials that cannot be established un-
10 der subsection (1)(z) of this section.

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

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

21 “(n) Home occupations as provided in ORS 215.448.

22 “(o) Transmission towers over 200 feet in height.

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

26 “(q) Reconstruction or modification of public roads and highways involv-
27 ing the removal or displacement of buildings but not resulting in the cre-
28 ation of new land parcels.

29 “(r) Improvement of public road and highway related facilities such as
30 maintenance yards, weigh stations and rest areas, where additional property

1 or right of way is required but not resulting in the creation of new land
2 parcels.

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

6 “(t) Room and board arrangements for a maximum of five unrelated per-
7 sons in existing residences.

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

17 “(A) ‘Living history museum’ means a facility designed to depict and in-
18 terpret everyday life and culture of some specific historic period using au-
19 thentic buildings, tools, equipment and people to simulate past activities and
20 events; and

21 “(B) ‘Local historical society’ means the local historical society, recog-
22 nized as such by the county governing body and organized under ORS chap-
23 ter 65.

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

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

29 “(x) A landscape contracting business, as defined in ORS 671.520, or a
30 business providing landscape architecture services, as described in ORS

1 671.318, if the business is pursued in conjunction with the growing and
2 marketing of nursery stock on the land that constitutes farm use.

3 “(y) Public or private schools for kindergarten through grade 12, includ-
4 ing all buildings essential to the operation of a school, primarily for resi-
5 dents of the rural area in which the school is located.

6 “(z) Equine and equine-affiliated therapeutic and counseling activities,
7 provided:

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

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

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

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

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

30 “(c) Complies with such other conditions as the governing body or its

1 designee considers necessary.

2 “(4) In counties that have adopted marginal lands provisions under ORS
3 197.247 (1991 Edition), one single-family dwelling, not provided in conjunc-
4 tion with farm use, may be established in any area zoned for exclusive farm
5 use on a lot or parcel described in subsection (7) of this section that is not
6 larger than three acres upon written findings showing:

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

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

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

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

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

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

23 “(6) The notice required in subsection (5) of this section shall specify that
24 persons have 15 days following the date of postmark of the notice to file a
25 written objection on the grounds only that the dwelling or activities associ-
26 ated with it would force a significant change in or significantly increase the
27 cost of accepted farming practices on nearby lands devoted to farm use. If
28 no objection is received, the governing body or its designee shall approve or
29 disapprove the application. If an objection is received, the governing body
30 shall set the matter for hearing in the manner prescribed in ORS 215.402 to

1 215.438. The governing body may charge the reasonable costs of the notice
2 required by subsection (5)(a) of this section to the applicant for the permit
3 requested under subsection (4) of this section.

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

7 “(a) Only one lot or parcel exists if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(i) Planned hours of operation;

26 “(ii) Access, egress and parking;

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

29 “(iv) Sanitation and solid waste.

30 “(b) In the alternative to paragraphs (a) and (c) of this subsection, a

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

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

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

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

14 “(D) May not include the artificial amplification of music or voices before
15 8 a.m. or after 8 p.m.;

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

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

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

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

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

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

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

5 “(D) Must comply with ORS 215.296;

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

9 “(F) Must comply with conditions established for:

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

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

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

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

21 “(v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

23 “(b) The county may issue the limited use permits authorized by sub-
24 section (11)(c) of this section for two calendar years. When considering an
25 application for renewal, the county shall ensure compliance with the pro-
26 visions of subsection (11)(c) of this section, any local standards that apply
27 and conditions that apply to the permit or to the agri-tourism or other
28 commercial events or activities authorized by the permit.

29 “(c) The authorizations provided by subsection (11) of this section are in
30 addition to other authorizations that may be provided by law, except that

1 'outdoor mass gathering' and 'other gathering,' as those terms are used in
2 ORS 197.015 (10)(d), do not include agri-tourism or other commercial events
3 and activities.

4 **“SECTION 5.** ORS 215.213, as amended by section 7, chapter 462, Oregon
5 Laws 2013, section 2, chapter 148, Oregon Laws 2017, section 4, chapter 253,
6 Oregon Laws 2017, section 4, chapter 504, Oregon Laws 2017, and section 2,
7 chapter 119, Oregon Laws 2018, is amended to read:

8 “215.213. (1) In counties that have adopted marginal lands provisions un-
9 der ORS 197.247 (1991 Edition), the following uses may be established in any
10 area zoned for exclusive farm use:

11 “(a) Churches and cemeteries in conjunction with churches.

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

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

18 “(A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(o) Creation, restoration or enhancement of wetlands.

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

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

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

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

25 “(C) Has interior wiring for interior lights;

26 “(D) Has a heating system; and

27 “(E) In the case of replacement:

28 “(i) Is removed, demolished or converted to an allowable nonresidential
29 use within three months of the completion of the replacement dwelling. A
30 replacement dwelling may be sited on any part of the same lot or parcel. A

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

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

28 “(r) Farm stands if:

29 “(A) The structures are designed and used for the sale of farm crops or
30 livestock grown on the farm operation, or grown on the farm operation and

1 other farm operations in the local agricultural area, including the sale of
2 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
4 items and fees from promotional activity do not make up more than 25 per-
5 cent of the total annual sales of the farm stand; and

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

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

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

27 “(u) A facility for the processing of farm crops or for the production of
28 biofuel, as defined in ORS 315.141, if the facility is located on a farm oper-
29 ation that provides at least one-quarter of the farm crops processed at the
30 facility, or an establishment for the slaughter, processing or selling of

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

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

10 “(w) Irrigation reservoirs, canals, delivery lines and those structures and
11 accessory operational facilities, not including parks or other recreational
12 structures and facilities, associated with a district as defined in ORS 540.505.

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

17 “(A) A public right of way;

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

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

21 “(y) Subject to the issuance of a license, permit or other approval by the
22 Department of Environmental Quality under ORS 454.695, 459.205, 468B.050,
23 468B.053 or 468B.055, or in compliance with rules adopted under ORS
24 468B.095, and as provided in ORS 215.246 to 215.251, the land application of
25 reclaimed water, agricultural or industrial process water or biosolids, or the
26 onsite treatment of septage prior to the land application of biosolids, for
27 agricultural, horticultural or silvicultural production, or for irrigation in
28 connection with a use allowed in an exclusive farm use zone under this
29 chapter. For the purposes of this paragraph, onsite treatment of septage prior
30 to the land application of biosolids is limited to treatment using treatment

1 facilities that are portable, temporary and transportable by truck trailer, as
2 defined in ORS 801.580, during a period of time within which land applica-
3 tion of biosolids is authorized under the license, permit or other approval.

4 “(z) Dog training classes or testing trials, which may be conducted out-
5 doors or in [*preexisting*] farm buildings **in existence on January 1, 2019**,
6 when:

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

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

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

14 “(2) In counties that have adopted marginal lands provisions under ORS
15 197.247 (1991 Edition), the following uses may be established in any area
16 zoned for exclusive farm use subject to ORS 215.296:

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

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

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

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

28 “(A) Has produced at least \$20,000 in annual gross farm income in two
29 consecutive calendar years out of the three calendar years before the year
30 in which the application for the dwelling was made or is planted in peren-

1 nials capable of producing upon harvest an average of at least \$20,000 in
2 annual gross farm income; or

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

5 “(c) Commercial activities that are in conjunction with farm use, includ-
6 ing the processing of farm crops into biofuel not permitted under ORS
7 215.203 (2)(b)(K) or subsection (1)(u) of this section.

8 “(d) Operations conducted for:

9 “(A) Mining and processing of geothermal resources as defined by ORS
10 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted
11 under subsection (1)(g) of this section;

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

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

16 “(D) Processing of other mineral resources and other subsurface re-
17 sources.

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

1 195.120. As used in this paragraph, ‘yurt’ means a round, domed shelter of
2 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
3 hookup or internal cooking appliance.

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

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

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

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

1 or contiguous land where the primary processing facility is located.

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

6 “(k)(A) Commercial dog boarding kennels; or

7 “(B) Dog training classes or testing trials that cannot be established un-
8 der subsection (1)(z) of this section.

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

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

19 “(n) Home occupations as provided in ORS 215.448.

20 “(o) Transmission towers over 200 feet in height.

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

24 “(q) Reconstruction or modification of public roads and highways involv-
25 ing the removal or displacement of buildings but not resulting in the cre-
26 ation of new land parcels.

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

1 “(s) A destination resort that is approved consistent with the require-
2 ments of any statewide planning goal relating to the siting of a destination
3 resort.

4 “(t) Room and board arrangements for a maximum of five unrelated per-
5 sons in existing residences.

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

15 “(A) ‘Living history museum’ means a facility designed to depict and in-
16 terpret everyday life and culture of some specific historic period using au-
17 thentic buildings, tools, equipment and people to simulate past activities and
18 events; and

19 “(B) ‘Local historical society’ means the local historical society, recog-
20 nized as such by the county governing body and organized under ORS chap-
21 ter 65.

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

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

27 “(x) A landscape contracting business, as defined in ORS 671.520, or a
28 business providing landscape architecture services, as described in ORS
29 671.318, if the business is pursued in conjunction with the growing and
30 marketing of nursery stock on the land that constitutes farm use.

1 “(y) Public or private schools for kindergarten through grade 12, includ-
2 ing all buildings essential to the operation of a school, primarily for resi-
3 dents of the rural area in which the school is located.

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

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

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

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

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

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

28 “(c) Complies with such other conditions as the governing body or its
29 designee considers necessary.

30 “(4) In counties that have adopted marginal lands provisions under ORS

1 197.247 (1991 Edition), one single-family dwelling, not provided in conjunc-
2 tion with farm use, may be established in any area zoned for exclusive farm
3 use on a lot or parcel described in subsection (7) of this section that is not
4 larger than three acres upon written findings showing:

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

8 “(b) If the lot or parcel is located within the Willamette River Greenway,
9 a floodplain or a geological hazard area, the dwelling complies with condi-
10 tions imposed by local ordinances relating specifically to the Willamette
11 River Greenway, floodplains or geological hazard areas, whichever is appli-
12 cable; and

13 “(c) The dwelling complies with other conditions considered necessary by
14 the governing body or its designee.

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

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

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

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

1 requested under subsection (4) of this section.

2 “(7) Subsection (4) of this section applies to a lot or parcel lawfully cre-
3 ated between January 1, 1948, and July 1, 1983. For the purposes of this
4 section:

5 “(a) Only one lot or parcel exists if:

6 “(A) A lot or parcel described in this section is contiguous to one or more
7 lots or parcels described in this section; and

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

11 “(b) ‘Contiguous’ means lots, parcels or lots and parcels that have a
12 common boundary, including but not limited to, lots, parcels or lots and
13 parcels separated only by a public road.

14 “(8) A person who sells or otherwise transfers real property in an exclu-
15 sive farm use zone may retain a life estate in a dwelling on that property
16 and in a tract of land under and around the dwelling.

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

19 “(10) Roads, highways and other transportation facilities and improve-
20 ments not allowed under subsections (1) and (2) of this section may be es-
21 tablished, subject to the approval of the governing body or its designee, in
22 areas zoned for exclusive farm use subject to:

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

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

29 “(11) The following agri-tourism and other commercial events or activities
30 that are related to and supportive of agriculture may be established in any

1 area zoned for exclusive farm use:

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

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

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

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

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

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

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

21 “(G) The agri-tourism or other commercial event or activity complies with
22 conditions established 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
26 vehicles and any anticipated 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
29 county may authorize, through an expedited, single-event license, a single
30 agri-tourism or other commercial event or activity on a tract in a calendar

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(D) Must comply with ORS 215.296;

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

7 “(F) Must comply with conditions established for:

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

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

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

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

19 “(v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

1 and activities.”.

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