

House Bill 4096

Sponsored by Representatives ZIKA, HELT, Senator BOLES; Representatives BREESE-IVERSON, DOHERTY, HOLVEY, KENY-GUYER, LEIF, LIVELY, NERON, NOBLE, POWER, REARDON, SMITH DB, Senator KNOPP (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**.

Authorizes Office of Child Care to award grants to child care facilities supporting large employers. Appropriates moneys from General Fund to office for program. Sunsets program January 2, 2022.

Creates income tax credit for lessors of real property leased to certified child care facilities. Creates income tax credit for child care facilities with staff members who received 18 or more clock hours of training related to child care. Creates income tax credit for child care facilities rated three stars or higher with quality rating and improvement system. Applies to tax years beginning on or after January 1, 2021, and before January 1, 2027.

Includes attempts to obtain commercial advantage in provision of child care service as form of false reporting of child abuse.

Allows all residential structures to be used as certified or registered family child care homes. Prohibits conditions on child care facilities that are more restrictive than other uses allowable within land use zone. Allows development of child care facilities as conditional use on lands zoned for exclusive farm use.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to child care; creating new provisions; amending ORS 215.213, 215.283, 314.772, 318.031, 329A.440 and 419B.016; and prescribing an effective date.

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

CHILD CARE FACILITIES FOR LARGE EMPLOYERS

SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS 329A.250 to 329A.450.

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

(a) **"Eligible recipient"** means a child care facility or person proposing to establish a child care facility.

(b) **"Large employer"** means an employer with more than 100 employees who work in a single office, facility, campus or region in this state.

(2) **The Office of Child Care may award grants that support the development of child care facilities to an eligible recipient that has contracted with a large employer to provide child care primarily for the employer's employees.**

(3) **Grants awarded under this section may be used for the acquisition of land, construction, remodeling, system development charges, rent or other costs of acquiring or using space for a child care facility or the financing, refinancing or debt servicing of such costs.**

(4) **The office shall give priority to grant applications in which:**

(a) **The eligible recipient has identified available financial or in-kind resources other than**

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 state funds to support the child care facility, including commitments from the large em-
2 ployer.

3 (b) The large employer has arranged to provide reduced-price child care at the child care
4 facility for the children of employees with low or moderate incomes.

5 (c) A shortage of child care facilities exists in the area where the child care facility will
6 operate.

7 (5) The office may provide technical assistance to eligible recipients to assist with the
8 development of grant proposals under this section.

9 (6) The office may adopt forms and rules necessary to carry out the provisions of this
10 section and to best leverage resources to address the shortage of child care facilities.

11 **SECTION 3.** Section 2 of this 2020 Act is repealed January 2, 2022.

12 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-
13 ated to the Office of Child Care, for the biennium ending June 30, 2021, out of the General
14 Fund, the amount of \$1, to award grants under section 2 of this 2020 Act.

15
16 **TAX CREDITS**
17

18 **SECTION 5.** Sections 6, 7 and 8 of this 2020 Act are added to and made a part of ORS
19 chapter 315.

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

21 (a) "Certified child care facility" means a child care facility that is certified by the Office
22 of Child Care under ORS 329A.280 or has been issued a temporary certification under ORS
23 329A.300.

24 (b) "Child care facility" has the meaning given that term in ORS 329A.250.

25 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
26 payer is a corporation, under ORS chapter 317 or 318, is allowed to the lessor of real property
27 if the lessee or, if the lessee is not the person that is in possession of the property, the
28 person that is in possession of the property operates a certified child care facility on the
29 property.

30 (3) The credit allowed under this section is equal to 10 percent of the amount of rent paid
31 to the taxpayer over a 12-month period under the terms of the lease, sublease or lease-
32 purchase agreement.

33 (4) The credit allowed under this section may be claimed for the first tax year in which
34 a child care facility is actually operated on the property and for the next succeeding year,
35 but no credit is allowed under this section unless a certified child care facility was actually
36 operated on the property on the last day of the tax year in which the credit is claimed.

37 (5) The credit allowed under this section may not be claimed by more than one taxpayer
38 with respect to the same property during a tax year and may not be claimed by a lessor that
39 is a parent or subsidiary of the lessee or is otherwise closely related to the lessee.

40 (6) The credit must be claimed on a form prescribed by the Department of Revenue that
41 contains the information required by the department.

42 (7) The credit allowed under this section may not exceed the tax liability of the taxpayer
43 for the tax year.

44 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer
45 in a particular tax year may be carried forward and offset against the taxpayer's tax liability

1 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
 2 year may be carried forward and used in the second succeeding tax year, and likewise any
 3 credit not used in that second succeeding tax year may be carried forward and used in the
 4 third succeeding tax year but may not be carried forward for any tax year thereafter.

5 (9) A nonresident is allowed the credit under this section. The credit is computed in the
 6 same manner and subject to the same limitations as the credit granted to a resident. How-
 7 ever, the credit is prorated using the proportion provided in ORS 316.117.

8 (10) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 9 or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440,
 10 the credit allowed by this section is prorated or computed in a manner consistent with ORS
 11 314.085.

12 (11) If a change in the status of a taxpayer from resident to nonresident or from non-
 13 resident to resident occurs, the credit allowed by this section is determined in a manner
 14 consistent with ORS 316.117.

15 **SECTION 7.** (1) As used in this section:

16 (a) “Child care” and “child care facility” have the meanings given those terms in ORS
 17 329A.250.

18 (b) “Staff member” means a person employed by a child care facility who may perform
 19 some child care duties without being supervised by another employee.

20 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
 21 payer is a corporation, under ORS chapter 317 or 318, is allowed in the amount of \$1,500 for
 22 each child care facility owned by the taxpayer if on the last day of the tax year:

23 (a) The child care facility is certified by the Office of Child Care under ORS 329A.280 or
 24 has been issued a temporary certification under ORS 329A.300; and

25 (b) All of the staff members have received 18 or more clock hours of training related to
 26 child care during the tax year, or any staff member employed for less than one year has
 27 received at least 1.5 clock hours of training related to child care for each month of employ-
 28 ment.

29 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
 30 for the tax year.

31 (4) The credit must be claimed on a form prescribed by the Department of Revenue that
 32 contains the information required by the department.

33 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 34 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
 35 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
 36 year may be carried forward and used in the second succeeding tax year, and likewise any
 37 credit not used in that second succeeding tax year may be carried forward and used in the
 38 third succeeding tax year but may not be carried forward for any tax year thereafter.

39 (6) A nonresident is allowed the credit under this section. The credit is computed in the
 40 same manner and subject to the same limitations as the credit granted to a resident. How-
 41 ever, the credit is prorated using the proportion provided in ORS 316.117.

42 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 43 or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440,
 44 the credit allowed by this section is prorated or computed in a manner consistent with ORS
 45 314.085.

1 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 2 ident to resident occurs, the credit allowed by this section is determined in a manner con-
 3 sistent with ORS 316.117.

4 **SECTION 8.** (1) As used in this section, “child care facility” has the meaning given that
 5 term in ORS 329A.250.

6 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
 7 payer is a corporation, under ORS chapter 317 or 318, is allowed for each child care facility
 8 owned by a taxpayer that is certified by the Office of Child Care under ORS 329A.280, or has
 9 been issued a temporary certification under ORS 329A.300, and that maintains a three star
 10 or higher rating with the tiered quality rating and improvement system implemented under
 11 ORS 329A.261 on the last day of the tax year in which the credit is claimed. The credit al-
 12 lowed is in the amount of \$50 multiplied by the average number of children cared for at the
 13 child care facility during the last month of the tax year.

14 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
 15 for the tax year.

16 (4) The credit must be claimed on a form prescribed by the Department of Revenue that
 17 contains the information required by the department.

18 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 19 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
 20 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
 21 year may be carried forward and used in the second succeeding tax year, and likewise any
 22 credit not used in that second succeeding tax year may be carried forward and used in the
 23 third succeeding tax year but may not be carried forward for any tax year thereafter.

24 (6) A nonresident is allowed the credit under this section. The credit is computed in the
 25 same manner and subject to the same limitations as the credit granted to a resident. How-
 26 ever, the credit is prorated using the proportion provided in ORS 316.117.

27 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 28 or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440,
 29 the credit allowed by this section is prorated or computed in a manner consistent with ORS
 30 314.085.

31 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 32 ident to resident occurs, the credit allowed by this section is determined in a manner con-
 33 sistent with ORS 316.117.

34 **SECTION 9.** ORS 314.772 is amended to read:

35 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a
 36 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 37 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 38 allowable to the shareholders of the S corporation.

39 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on
 40 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s
 41 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 42 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 43 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 44 manner prescribed under section 1377(a) of the Internal Revenue Code.

45 (3) The character of any item included in a shareholder’s pro rata share under subsection (2)

1 of this section shall be determined as if such item were realized directly from the source from which
 2 realized by the corporation, or incurred in the same manner as incurred by the corporation.

3 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 4 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 5 316.117, then that provision shall apply to the nonresident shareholder.

6 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
 7 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 8 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture
 9 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
 10 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
 11 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
 12 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
 13 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
 14 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
 15 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
 16 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
 17 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS
 18 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643
 19 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account
 20 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone
 21 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research
 22 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,
 23 Oregon Laws 2013 (alternative fuel vehicle contributions), **and section 6 of this 2020 Act (leases**
 24 **to certified child care facilities), section 7 of this 2020 Act (child care facility staff member**
 25 **training) and section 8 of this 2020 Act (quality rated child care facilities).**

26 **SECTION 10.** ORS 318.031 is amended to read:

27 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 28 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 29 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 30 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
 31 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and
 32 315.643 **and sections 6, 7 and 8 of this 2020 Act** (all only to the extent applicable to a corporation)
 33 and ORS chapter 317.

34 **SECTION 11. Sections 6, 7 and 8 of this 2020 Act and the amendments to ORS 314.752 and**
 35 **318.031 by sections 9 and 10 of this 2020 Act apply to tax years beginning on or after January**
 36 **1, 2021, and before January 1, 2027.**

37 38 FALSE REPORTING OF CHILD ABUSE

39
40 **SECTION 12.** ORS 419B.016 is amended to read:

41 419B.016. (1) A person commits the offense of making a false report of child abuse if, with the
 42 intent to influence a custody, parenting time, visitation or child support decision **or with the intent**
 43 **of obtaining any commercial advantage in the provision of child care services**, the person:

44 (a) Makes a false report of child abuse to the Department of Human Services or a law enforce-
 45 ment agency, knowing that the report is false; or

1 (b) With the intent that a public or private official make a report of child abuse to the Depart-
2 ment of Human Services or a law enforcement agency, makes a false report of child abuse to the
3 public or private official, knowing that the report is false.

4 (2) Making a false report of child abuse is a Class A violation.

5
6 **LAND USE**

7
8 **SECTION 13.** ORS 329A.440 is amended to read:

9 329A.440. (1) **A local government, as defined in ORS 197.015, may not restrict the use of**
10 **a lawful dwelling as a certified or registered family child care home in areas zoned to allow**
11 **commercial or residential use. Within lands zoned for exclusive farm use, a county shall al-**
12 **low the use of a lawfully existing dwelling as a certified or registered family child care home**
13 **subject to reasonable conditions under ORS 215.296.**

14 (2) **A local government may not impose conditions on the establishment, development,**
15 **maintenance or use of a property for a certified or registered family child care home or a**
16 **child care facility that are more restrictive than conditions imposed on other lawful uses in**
17 **the same zone.**

18 *[(1) A registered or certified family child care home shall be considered a residential use of prop-*
19 *erty for zoning purposes. The registered or certified family child care home shall be a permitted use*
20 *in all areas zoned for residential or commercial purposes, including areas zoned for single-family*
21 *dwelling. A city or county may not enact or enforce zoning ordinances prohibiting the use of a resi-*
22 *dential dwelling, located in an area zoned for residential or commercial use, as a registered or certified*
23 *family child care home.]*

24 *[(2) A city or county may impose zoning conditions on the establishment and maintenance of a*
25 *registered or certified family child care home in an area zoned for residential or commercial use if the*
26 *conditions are no more restrictive than conditions imposed on other residential dwellings in the same*
27 *zone.]*

28 *[(3) A county may:]*

29 *[(a) Allow a registered or certified family child care home in an existing dwelling in any area*
30 *zoned for farm use, including an exclusive farm use zone established under ORS 215.203;]*

31 *[(b) Impose reasonable conditions on the establishment of a registered or certified family child care*
32 *home in an area zoned for farm use; and]*

33 *[(c) Allow a division of land for a registered or certified family child care home in an exclusive*
34 *farm use zone only as provided in ORS 215.263 (9).]*

35 *[(4) This section applies only to a registered or certified family child care home where child care*
36 *is offered in the home of the provider to not more than 16 children, including children of the provider,*
37 *regardless of full-time or part-time status.]*

38 **SECTION 14.** ORS 215.213 is amended to read:

39 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
40 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

43 (c) Utility facilities necessary for public service, including wetland waste treatment systems but
44 not including commercial facilities for the purpose of generating electrical power for public use by
45 sale or transmission towers over 200 feet in height. A utility facility necessary for public service

1 may be established as provided in:

2 (A) ORS 215.275; or

3 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
4 469.300.

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

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

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

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

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

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

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

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

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

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

1 ways.

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

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

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

6 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS
7 215.291.

8 (r) Farm stands if:

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

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

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

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

32 (u) A facility for the processing of farm products as described in ORS 215.255.

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

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

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

40 (A) A public right of way;

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

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

44 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
45 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with

1 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
 2 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of
 3 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-
 4 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this
 5 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application
 6 of biosolids is limited to treatment using treatment facilities that are portable, temporary and
 7 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land
 8 application of biosolids is authorized under the license, permit or other approval.

9 (z) Dog training classes or testing trials, which may be conducted outdoors or in farm buildings
 10 in existence on January 1, 2019, when:

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

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

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

16 (bb) A farm brewery, as described in ORS 215.449.

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

20 (a) 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 if the farm op-
 22 eration or woodlot:

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

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

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

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

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

36 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
 37 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

38 (d) Operations conducted for:

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

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

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

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

45 (e) Community centers owned by a governmental agency or a nonprofit community organization

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

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

14 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the
 15 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-
 16 cility may be established as a commercial utility facility as provided in ORS 215.447. A renewable
 17 energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

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

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

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

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

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

42 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
 43 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
 44 shall not include any species under quarantine by the State Department of Agriculture or the United
 45 States Department of Agriculture. The county shall provide notice of all applications under this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 **(aa) Child care facilities or preschool recorded program authorized under ORS 329A.250**
45 **to 329A.450.**

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

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

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

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

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

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

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

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

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

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

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

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

43 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
44 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) Planned hours of operation;

41 (ii) Access, egress and parking;

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

44 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (D) Must comply with ORS 215.296;

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

29 (F) Must comply with conditions established for:

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

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

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

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

39 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **SECTION 15.** ORS 215.283 is amended to read:

31 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

38 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (o) Farm stands if:

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

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

41 (p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS
 42 215.291.

43 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
 44 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
 45 area or placed on a permanent foundation unless the building or facility preexisted the use approved

1 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
2 the surface preexisted the use approved under this paragraph. An owner of property used for the
3 purpose authorized in this paragraph may charge a person operating the use on the property rent
4 for the property. An operator may charge users of the property a fee that does not exceed the
5 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
6 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
7 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
8 ground.

9 (r) A facility for the processing of farm products as described in ORS 215.255.

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

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

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

17 (A) A public right of way;

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

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

21 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-
22 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
23 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
24 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of
25 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-
26 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this
27 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application
28 of biosolids is limited to treatment using treatment facilities that are portable, temporary and
29 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land
30 application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

40 (y) A cider business, as described in ORS 215.451.

41 (z) A farm brewery, as described in ORS 215.449.

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

44 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
45 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

1 (b) Operations conducted for:

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

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

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

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

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

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

20 (e) Community centers owned by a governmental agency or a nonprofit community organization
21 and operated primarily by and for residents of the local rural community. A community center au-
22 thorized under this paragraph may provide services to veterans, including but not limited to emer-
23 gency and transitional shelter, preparation and service of meals, vocational and educational
24 counseling and referral to local, state or federal agencies providing medical, mental health, disability
25 income replacement and substance abuse services, only in a facility that is in existence on January
26 1, 2006. The services may not include direct delivery of medical, mental health, disability income
27 replacement or substance abuse services.

28 (f) Golf courses on land:

29 (A) Determined not to be high-value farmland, as defined in ORS 195.300 (10); or

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

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

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

33 (iii) Is west of U.S. Highway 101.

34 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the
35 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-
36 cility may be established as a commercial utility facility as provided in ORS 215.447. A renewable
37 energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

1 ject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (bb) Equine and equine-affiliated therapeutic and counseling activities, provided:

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

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

29 (cc) Guest ranches in eastern Oregon, as described in ORS 215.461.

30 **(dd) Child care facilities or preschool recorded program authorized under ORS 329A.250**
31 **to 329A.450.**

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

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

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

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

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

45 (A) The agri-tourism or other commercial event or activity is incidental and subordinate to ex-

1 isting farm use on the tract;

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

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

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

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

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

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

14 (i) Planned hours of operation;

15 (ii) Access, egress and parking;

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

18 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

45 (D) Must comply with ORS 215.296;

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

3 (F) Must comply with conditions established for:

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

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

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

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

13 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

45 (c) The authorizations provided by subsection (4) of this section are in addition to other au-

1 thorizations that may be provided by law, except that “outdoor mass gathering” and “other gather-
2 ing,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial
3 events and activities.

4
5 **UNIT CAPTIONS**

6
7 **SECTION 16. The unit captions used in this 2020 Act are provided only for the conven-
8 ience of the reader and do not become part of the statutory law of this state or express any
9 legislative intent in the enactment of this 2020 Act.**

10
11 **EFFECTIVE DATE**

12
13 **SECTION 17. This 2020 Act takes effect on the 91st day after the date on which the 2020
14 regular session of the Eightieth Legislative Assembly adjourns sine die.**

15 _____