House Bill 2717
Sponsored by Representative ZIKA (Presession 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, 2024.

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, 2022, and before January 1, 2028.

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

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

CHILD CARE FACILITIES FOR LARGE EMPLOYERS

SECTION 1. Section 2 of this 2021 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 state funds to support the child care facility, including commitments from the large employer.

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.

LC 1877
(b) The large employer has arranged to provide reduced-price child care at the child care
facility for the children of employees with low or moderate incomes.
(c) A shortage of child care facilities exists in the area where the child care facility will
operate.
(5) The office may provide technical assistance to eligible recipients to assist with the
development of grant proposals under this section.
(6) The office may adopt forms and rules necessary to carry out the provisions of this
section and to best leverage resources to address the shortage of child care facilities.

SECTION 3. Section 2 of this 2021 Act is repealed January 2, 2024.

SECTION 4. In addition to and not in lieu of any other appropriation, there is appropri-
ated to the Office of Child Care, for the biennium beginning July 1, 2021, out of the General
Fund, the amount of $1, to award grants under section 2 of this 2021 Act.

TAX CREDITS

SECTION 5. Sections 6, 7 and 8 of this 2021 Act are added to and made a part of ORS
chapter 315.

SECTION 6. (1) As used in this section:
(a) “Certified child care facility” means a child care facility that is certified by the Office
of Child Care under ORS 329A.280 or has been issued a temporary certification under ORS
329A.300.
(b) “Child care facility” has the meaning given that term in ORS 329A.250.
(2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
payer is a corporation, under ORS chapter 317 or 318, is allowed to the lessor of real property
if the lessee or, if the lessee is not the person that is in possession of the property, the
person that is in possession of the property operates a certified child care facility on the
property.
(3) The credit allowed under this section is equal to 10 percent of the amount of rent paid
to the taxpayer over a 12-month period under the terms of the lease, sublease or lease-
purchase agreement.
(4) The credit allowed under this section may be claimed for the first tax year in which
a child care facility is actually operated on the property and for the next succeeding year,
but no credit is allowed under this section unless a certified child care facility was actually
operated on the property on the last day of the tax year in which the credit is claimed.
(5) The credit allowed under this section may not be claimed by more than one taxpayer
with respect to the same property during a tax year and may not be claimed by a lessor that
is a parent or subsidiary of the lessee or is otherwise closely related to the lessee.
(6) The credit must be claimed on a form prescribed by the Department of Revenue that
contains the information required by the department.
(7) The credit allowed under this section may not exceed the tax liability of the taxpayer
for the tax year.
(8) Any tax credit otherwise allowable under this section that is not used by the taxpayer
in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
year may be carried forward and used in the second succeeding tax year, and likewise any
credit not used in that second succeeding tax year may be carried forward and used in the
third succeeding tax year but may not be carried forward for any tax year thereafter.

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

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

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

SECTION 7. (1) As used in this section:
(a) "Child care" and "child care facility" have the meanings given those terms in ORS
329A.250.
(b) "Staff member" means a person employed by a child care facility who may perform
some child care duties without being supervised by another employee.
(2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
payer is a corporation, under ORS chapter 317 or 318, is allowed in the amount of $1,500 for
each child care facility owned by the taxpayer if on the last day of the tax year:
(a) The child care facility is certified by the Office of Child Care under ORS 329A.280 or
has been issued a temporary certification under ORS 329A.300; and
(b) All of the staff members have received 18 or more clock hours of training related to
child care during the tax year, or any staff member employed for less than one year has
received at least 1.5 clock hours of training related to child care for each month of employ-
ment.
(3) The credit allowed under this section may not exceed the tax liability of the taxpayer
for the tax year.
(4) The credit must be claimed on a form prescribed by the Department of Revenue that
contains the information required by the department.
(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
in a particular tax year may be carried forward and offset against the taxpayer's tax liability
for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
year may be carried forward and used in the second succeeding tax year, and likewise any
credit not used in that second succeeding tax year may be carried forward and used in the
third succeeding tax year but may not be carried forward for any tax year thereafter.
(6) A nonresident is allowed the credit under this section. The credit is computed in the
same manner and subject to the same limitations as the credit granted to a resident. How-
ever, the credit is prorated using the proportion provided in ORS 316.117.
(7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
the credit allowed by this section is prorated or computed in a manner consistent with ORS
314.085.
(8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
ident to resident occurs, the credit allowed by this section is determined in a manner con-
sistent with ORS 316.117.

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

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

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

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

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

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

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

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

SECTION 9. ORS 314.772 is amended to read:

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

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

(3) The character of any item included in a shareholder’s pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.
(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, “business tax credit” means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.589 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 6 of this 2021 Act (leases to certified child care facilities), section 7 of this 2021 Act (child care facility staff member training) and section 8 of this 2021 Act (quality rated child care facilities).

SECTION 10. ORS 318.031 is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and 315.643 and sections 6, 7 and 8 of this 2021 Act (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 11. Sections 6, 7 and 8 of this 2021 Act and the amendments to ORS 314.752 and 318.031 by sections 9 and 10 of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2028.

FALSE REPORTING OF CHILD ABUSE

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

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

(a) Makes a false report of child abuse to the Department of Human Services or a law enforcement agency, knowing that the report is false; or

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

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

LAND USE

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

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

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

(1) A registered or certified family child care home shall be considered a residential use of property for zoning purposes. The registered or certified family child care home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. A city or county may not enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a registered or certified family child care home.

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

(3) A county may:

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

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

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

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

SECTION 14. ORS 329A.250 is amended to read:

329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires otherwise:

(1) “Babysitter” means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) “Certification” means the certification that is issued under ORS 329A.280 by the Office of Child Care to a family child care home, child care center or other child care facility.

(3) “Child” means a child under 13 years of age or a child under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child’s age.

(4)(a) [Subject to ORS 329A.440.] “Child care” means the care, supervision and guidance on a
regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child
during a part of the 24 hours of the day, in a place other than the child's home, with or without
compensation.

(b) “Child care” does not include care provided:

[(a)] (A) In the home of the child;

[(b)] (B) By the child’s parent, guardian, or person acting in loco parentis;

[(c)] (C) By a person related to the child by blood or marriage within the fourth degree as de-
determined by civil law;

[(d)] (D) On an occasional basis by a person not ordinarily engaged in providing child care;

[(e)] (E) By providers of medical services;

[(f)] (F) By a babysitter;

[(g)] (G) By a person who cares for children from only one family other than the person’s own
family;

[(h)] (H) By a person who cares for no more than three children other than the person’s own
children; or

[(i)] (I) By a person who is a member of the child’s extended family, as determined by the office
on a case-by-case basis.

(5) “Child care facility” means any facility that provides child care to children, including a day
nursery, nursery school, child care center, certified or registered family child care home or similar
unit operating under any name, but not including any:

(a) Preschool recorded program.

(b) Facility providing care for school-age children that is primarily a single enrichment activity,
for eight hours or less a week.

(c) Facility providing care that is primarily group athletic or social activities sponsored by or
under the supervision of an organized club or hobby group.

(d) Facility operated by:

(A) A school district as defined in ORS 332.002;

(B) A political subdivision of this state; or

(C) A governmental agency.

(e) Residential facility licensed under ORS 443.400 to 443.455.

(f) Babysitters.

(g) Facility operated as a parent cooperative for no more than four hours a day.

(h) Facility providing care while the child’s parent remains on the premises and is engaged in
an activity offered by the facility or in other nonwork activity.

(i) Facility operated as a school-age recorded program.

(6) “Family” has the meaning given that term in ORS 329.145.

(7) “Occasional” means that care is provided for no more than 70 days in any calendar year.

(8) “Parent cooperative” means a child care program in which:

(a) Care is provided by parents on a rotating basis;

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

(d) A board of directors that includes parents of the children cared for by the cooperative con-
trols the policies and procedures of the program.

(9) “Preschool recorded program” means a facility providing care for preschool children that is
primarily educational for four hours or less per day and where no child is present at the facility for
more than four hours per day.

(10) “Record” means the record that is issued under ORS 329A.255 to a preschool recorded program or under ORS 329A.257 to a school-age recorded program.

(11) “Registration” means the registration that is issued under ORS 329A.330 by the Office of Child Care to a family child care home where care is provided in the family living quarters of the provider’s home.

(12) “School age” means of an age eligible to be enrolled in kindergarten or above on or before the first day of the current school year.

(13) “School-age recorded program” means a program for school-age children:

(a) That is not operated by a school district as defined in ORS 332.002;

(b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330; and

(c) In which youth development activities are provided to children during hours that school is not in session and does not take the place of a parent’s care.

(14) “Youth development activities” means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, music lessons, social activities, sports and recreational activities.

**SECTION 15.** ORS 215.213 is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

(A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

(o) Creation, restoration or enhancement of wetlands.

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

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

(r) Farm stands if:

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

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

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, “armed forces reserve center” includes an armory or National Guard support facility.
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(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator’s cost to maintain the property, buildings and facilities. As used in this paragraph, “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

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

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

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

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

(A) A public right of way;

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

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

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

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

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

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

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

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

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

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

(A) Consists of 20 or more acres; and

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

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

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

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

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

(d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

(k)(A) Commercial dog boarding kennels; or
(B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of this section.

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

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

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

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

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

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

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

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The dwelling or activities associated with the dwelling will not force a significant change in
or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;
(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
applicable; and
(c) The dwelling complies with other conditions considered necessary by the governing body or
its designee.
(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
body shall notify:
(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
tablished; and
(b) Persons who have requested notice of such applications and who have paid a reasonable fee
imposed by the county to cover the cost of such notice.
(6) The notice required in subsection (5) of this section shall specify that persons have 15 days
following the date of postmark of the notice to file a written objection on the grounds only that the
dwelling or activities associated with it would force a significant change in or significantly increase
the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
jection is received, the governing body shall set the matter for hearing in the manner prescribed in
ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
this section.
(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
1948, and July 1, 1983. For the purposes of this section:
(a) Only one lot or parcel exists if:
(A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
scribed in this section; and
(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
or lots and parcels by the same person, spouses or a single partnership or business entity, separately
or in tenancy in common.
(b) “Contiguous” means lots, parcels or lots and parcels that have a common boundary, including
but not limited to, lots, parcels or lots and parcels separated only by a public road.
(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
retain a life estate in a dwelling on that property and in a tract of land under and around the
dwelling.
(9) No final approval of a nonfarm use under this section shall be given unless any additional
taxes imposed upon the change in use have been paid.
(10) Roads, highways and other transportation facilities and improvements not allowed under
subsections (1) and (2) of this section may be established, subject to the approval of the governing
body or its designee, in areas zoned for exclusive farm use subject to:
(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
goal with which the facility or improvement does not comply; or
(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
Commission as provided in section 3, chapter 529, Oregon Laws 1993.
(11) The following agri-tourism and other commercial events or activities that are related to and

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supportive of agriculture may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

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

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

(i) Planned hours of operation;

(ii) Access, egress and parking;

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

(iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

(A) Must be incidental and subordinate to existing farm use on the tract;
(B) May not, individually, exceed a duration of 72 consecutive hours;
(C) May not require that a new permanent structure be built, used or occupied in connection
   with the agri-tourism or other commercial events or activities;
(D) Must comply with ORS 215.296;
(E) May not, in combination with other agri-tourism or other commercial events or activities
   authorized in the area, materially alter the stability of the land use pattern in the area; and
(F) Must comply with conditions established for:
   (i) The types of agri-tourism or other commercial events or activities that are authorized during
       each calendar year, including the number and duration of the agri-tourism or other commercial
       events and activities, the anticipated daily attendance and the hours of operation;
   (ii) The location of existing structures and the location of proposed temporary structures to be
        used in connection with the agri-tourism or other commercial events or activities;
   (iii) The location of access and egress and parking facilities to be used in connection with the
        agri-tourism or other commercial events or activities;
   (iv) Traffic management, including the projected number of vehicles and any anticipated use of
        public roads; and
   (v) Sanitation and solid waste.
(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
or other commercial events or activities that occur more frequently or for a longer period or that
do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
commercial events or activities comply with any local standards that apply and the agri-tourism or
other commercial events or activities:
   (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
       sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
   (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
   (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
   and
   (D) Do not exceed 18 events or activities in a calendar year.
(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must
request review of the permit at four-year intervals. Upon receipt of a request for review, the county
shall:
   (a) Provide public notice and an opportunity for public comment as part of the review process;
   and
   (b) Limit its review to events and activities authorized by the permit, conformance with condi-
       tions of approval required by the permit and the standards established by subsection (11)(d) of this
       section.
(13) For the purposes of subsection (11) of this section:
   (a) A county may authorize the use of temporary structures established in connection with the
       agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
       tion. However, the temporary structures must be removed at the end of the agri-tourism or other
       event or activity. The county may not approve an alteration to the land in connection with an
       agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
       including, but not limited to, grading, filling or paving.
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(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (11)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

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

SECTION 16. ORS 215.283 is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

(A) ORS 215.275; or

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

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

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

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

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

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

(i) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
(j) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

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

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

(m) Creation, restoration or enhancement of wetlands.

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

(o) Farm stands if:

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

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

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

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

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

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

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

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

(A) A public right of way;

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

(C) The property to be served by the utility.
(v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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

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

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

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

(b) Operations conducted for:

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

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

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

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

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

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

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

(f) Golf courses on land:
   (A) Determined not to be high-value farmland, as defined in ORS 195.300 (10); or
   (B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:
      (i) Is not otherwise described in ORS 195.300 (10);
      (ii) Is surrounded on all sides by an approved golf course; and
      (iii) Is west of U.S. Highway 101.

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

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

(i) Home occupations as provided in ORS 215.448.

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

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

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

(m) Transmission towers over 200 feet in height.

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

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

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

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

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

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

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

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

(u) Room and board arrangements for a maximum of five unrelated persons in existing residences.

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

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

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

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

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

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

(z) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
(aa) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

(bb) Equine and equine-affiliated therapeutic and counseling activities, provided:
   (A) The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and
   (B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

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

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

(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:
   (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or
   (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(4) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:
   (a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:
      (A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
      (B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;
      (C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
      (D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
      (E) The agri-tourism or other commercial event or activity complies with ORS 215.296;
      (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
      (G) The agri-tourism or other commercial event or activity complies with conditions established for:
         (i) Planned hours of operation;
         (ii) Access, egress and parking;
         (iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and
         (iv) Sanitation and solid waste.
      (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
tivity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.

To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;
(B) May not begin before 6 a.m. or end after 10 p.m.;
(C) May not involve more than 100 attendees or 50 vehicles;
(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
(G) Must comply with applicable health and fire and life safety requirements.

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

(A) Must be incidental and subordinate to existing farm use on the tract;
(B) May not, individually, exceed a duration of 72 consecutive hours;
(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
(D) Must comply with ORS 215.296;
(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
(F) Must comply with conditions established for:
(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;
(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
(v) Sanitation and solid waste.

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

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

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

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

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

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

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

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

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

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

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

SECTION 17. ORS 329A.030 is amended to read:

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

(2)(a) A subject individual shall apply to and must be enrolled in the Central Background Registry as part of the individual’s application to operate a program or serve in a position described in subsection (10) of this section.

(b) An individual who has been the subject of a founded or substantiated report of child abuse shall apply to and be enrolled in the Central Background Registry prior to providing any of the types of care identified in ORS 329A.250 [(4)(a), (g) or (h)] (4)(a)(A), (G) or (H) if:

(A) The child abuse occurred on or after January 1, 2017, and involved a child who died or suffered serious physical injury, as defined in ORS 161.015; or

(B) The child abuse occurred on or after September 1, 2019, and involved any child for whom the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS 329A.250 [(4)(a), (c), (f), (g), (h) or (i)] (4)(a)(A), (C), (F), (G), (H) or (I).

(c) Notwithstanding paragraph (a) of this subsection, an individual described in paragraph (b)(B) of this subsection is not required to enroll in the Central Background Registry if more than seven years has elapsed since the date of the child abuse determination.
(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:
   (A) A criminal records check under ORS 181A.195;
   (B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;
   (C) A child abuse and neglect records check in accordance with rules adopted by the council; and
   (D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that the office, by rule, determines is relevant to enrollment in the Central Background Registry.

(4)(a) The office shall enroll the individual in the Central Background Registry if the individual:
   (A) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history, or to have dealt with the issues and provided adequate evidence of suitability for the registry;
   (B) Has paid the applicable fee established pursuant to ORS 329A.275; and
   (C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office may enroll an individual in the registry if the Department of Human Services has completed a background check on the individual and the individual has received approval from the department for purposes of providing child care.

(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an individual in the Central Background Registry if:
   (A) The individual has a disqualifying condition as defined in rules adopted by the council; or
   (B) The individual is an exempt prohibited individual, as provided by ORS 329A.252.

(b) If an individual prohibited from enrolling in the registry as provided by this subsection is enrolled in the registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the office for enrollment in the registry.

(b) The office may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) An enrollment in the Central Background Registry may be renewed upon application to the office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council pursuant to this section. However, an individual who is determined to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed or suspended from the registry by the office.

(8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Central Background Registry.

(b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a probationary basis an individual who is conditionally enrolled in the Central Background Registry.

(9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this section, including but not limited to rules regarding expiration and renewal periods and limitations related to the subject individual’s enrollment in the Central Background Registry.
(10) For purposes of this section, “subject individual” means a subject individual as defined by the Early Learning Council by rule, an individual subject to subsection (2)(b) of this section or a person who applies to be:

(a) The operator or an employee of a child care or treatment program;
(b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to 329.200;
(c) The operator or an employee of a federal Head Start program regulated by the United States Department of Health and Human Services;
(d) An individual in a child care facility who may have unsupervised contact with children as identified by the office;
(e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534;
(f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;
(g) A contractor, employee or volunteer of a metropolitan service district organized under ORS chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;
(h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services; or
(i) The operator or an employee of an early learning program as defined in rules adopted by the council.

(11)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (10)(g) of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(c) Information provided to a private agency or organization about the enrollment status of the persons described in subsection (10)(i) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

UNIT CAPTIONS

SECTION 18. The unit captions used in this 2021 Act are provided only for the conven-
ience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EFFECTIVE DATE

SECTION 19. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.