House Bill 2717

Sponsored by Representative NERON (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.

Establishes oversight of outdoor preschool programs by Office of Child Care. Prescribes requirements for licensure as outdoor preschool program.

A BILL FOR AN ACT


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

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 329A.250 to 329A.450.

SECTION 2. (1) A person may not operate an outdoor preschool program unless the program is licensed with the Office of Child Care as provided in this section.

(2) To obtain a license, the person operating the program must apply to the office by submitting a completed licensure application form and a nonrefundable fee as established by the office. The office shall determine and apply the fee through rules adopted by the Early Learning Council under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS 329A.310 (2).

(3) The office shall issue a license to the applicant if the office determines that the applicant meets the requirements of ORS 329A.250 to 329A.450 and the rules adopted pursuant to ORS 329A.250 to 329A.450 and subsection (9) of this section.

(4) Unless the license is revoked as provided in subsection (8) of this section, the license is valid for a period of two years from the date of issuance.

(5) A license authorizes operation of the program only by the person named in the license.

(6) The office shall create and maintain a database of programs licensed under this section and shall update the database annually. The database must include, but need not be limited to, the following information:

(a) Name and address of the program;

(b) Name of operator; and

(c) Significant program information, as determined by the Early Learning Council by rule.

(7) A program licensed under this section must post, and provide parents with, a notice that the program is not certified under ORS 329A.280 or registered under ORS 329A.330.

(8) An initial application or renewal application for licensure of a program under this

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.

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section may be denied, revoked or suspended, if the office finds:

(a) That the program or its operation does not comply with ORS 329A.250 to 329A.450, with applicable rules and with any term or condition imposed under the license; or

(b) That investigation of the program or its records authorized by ORS 329A.390 has not been permitted.

(9) The Early Learning Council shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a license is subject to a civil penalty not to exceed $100.

SECTION 3. (1) Section 2 of this 2023 Act becomes operative July 1, 2025.

(2) Notwithstanding the operative date set forth in subsection (1) of this section, the Department of Early Learning and Care and the Early Learning Council may take any action before the operative date set forth in subsection (1) of this section that is necessary for the department and the council to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the department and the council by section 2 of this 2023 Act.

SECTION 4. ORS 329A.250, as amended by section 40, chapter 631, Oregon Laws 2021, section 23, chapter 27, Oregon Laws 2022, and section 5, chapter 90, Oregon Laws 2022, is amended to read:

329A.250. As used in ORS 329A.030, 329A.250 to 329A.450 and 329A.500, 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) “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) In the home of the child;

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

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

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

(E) By providers of medical services;

(F) By a babysitter;

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

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

or

(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) Outdoor preschool program.

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

[(c)] (d) 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)] (e) 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)] (f) Residential facility licensed under ORS 443.400 to 443.455.

[(f)] (g) Babysitters.

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

[(h)] (i) 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)] (j) Facility operated as a school-age recorded program.

(6) “Family” has the meaning given that term in ORS 329.155.

(7) “License” means the license that is issued under section 2 of this 2023 Act to an outdoor preschool program.

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

(9) “Outdoor preschool program” means a program offered to preschool children that:

(a) Is not required to be certified under ORS 329A.280 or registered under ORS 329A.330;

(b) Provides early learning services to the enrolled children in an outdoor natural space approved by the Department of Early Learning and Care for the lesser of four hours per day or 50 percent of the daily program hours; and

(c) Teaches a nature-based curriculum to enrolled children.

[(8)] (10) “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 controls the policies and procedures of the program.

[(9)] (11) “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)] (12) “Record” means the record that is issued under ORS 329A.255 to a preschool recorded program or a school-age recorded program.

[(11)] (13) “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)] (14) “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)] (15) “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)(a) (16)(a) “Subsidized 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 a day, paid for in whole or in part by public funds.
(b) “Subsidized care” does not include care provided:
(A) By the child’s parent, guardian or person acting in loco parentis;
(B) By a sibling living in the same home as the child;
(C) By a person on the same subsidized care case of a child in care; or
(D) By a provider of medical services, as determined by the office on a case-by-case basis.

[(15) (17) “Subsidized care facility” means any facility that provides subsidized 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 program or facility identified by the Early Learning Council by rule.

[(16) (18) “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 5, ORS 329A.030, as amended by section 26, chapter 27, Oregon Laws 2022, and section 1, chapter 90, Oregon Laws 2022, is amended to read:

ORS 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 described in subsection (10)(a), (c) or (d) of this section shall apply to and must be enrolled in the Central Background Registry prior to the provision of care.

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

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 successfully completed the criminal records check and the child abuse and neglect records check in this state and in the state of the individual’s residence, if other than Oregon.

(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, preschool recorded program, [or] school-age recorded program or outdoor preschool program may 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, preschool recorded program, [or] school-age recorded program or outdoor preschool program 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 As used in this section, “subject individual” means:

(a) A subject individual as defined by the Early Learning Council by rule;

(b) An individual subject to subsection (2)(b) of this section;

(c) 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, preschool recorded program, [or] school-age recorded program or outdoor preschool program who may have unsupervised contact with children, as determined by the council by rule;

(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;

(I) The operator or an employee of an early learning program as defined in rules adopted by the council; [or]

(J) The operator or an employee of a preschool recorded program or a school-age recorded program; or

(K) The operator or an employee of an outdoor preschool program; or

(d)(A) An individual who operates a subsidized care facility;

(B) An individual who has attained 18 years of age and resides in a subsidized care facility; or

(C) An individual in a subsidized care facility who has attained 18 years of age and who may have unsupervised contact with children, as determined by the council by rule.

(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)(c)(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)(c)(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)(c)(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.

SECTION 6. ORS 329A.252, as amended by section 2, chapter 90, Oregon Laws 2022, is amended to read:

329A.252. (1) As used in this section, “exempt prohibited individual” means:
(a) An individual whose license, record, certification or registration is suspended, has been denied for cause or has been revoked for cause under ORS 329A.255 or 329A.350 or section 2 of this 2023 Act.

(b) An individual whose enrollment in the Central Background Registry established by ORS 329A.030 is suspended, has been denied for cause or has been removed for cause under ORS 329A.030.

(c) An individual whose license, record, certification, registration or enrollment in the Central Background Registry is subject to an emergency order of suspension under ORS 183.430 (2).

(d) An individual who voluntarily surrendered the individual’s license, record, certification, registration or enrollment in the Central Background Registry while under investigation by the Office of Child Care or at any time after the Office of Child Care has given notice of an administrative proceeding against the individual, the individual’s child care facility, the individual’s preschool recorded program, or the individual’s outdoor preschool program.

(e) An individual to whom the Office of Child Care has issued a final order to cease and desist:
   (A) After a contested proceeding; or
   (B) That has become effective because the individual did not request a hearing.

(2) For five years following the date on which an individual becomes an exempt prohibited individual, the exempt prohibited individual:
   (a) Is ineligible for enrollment in the Central Background Registry; and
   (b) May not provide care to a child who is not related to the exempt prohibited individual by blood or marriage within the fourth degree as determined by civil law.

(3) After the five-year period described in subsection (2) of this section, an individual ceases to be an exempt prohibited individual if the individual enrolls in the Central Background Registry.

(4) Notwithstanding the five-year period described in subsection (2) of this section, an individual shall be permanently considered an exempt prohibited individual and shall be permanently subject to the prohibitions described in subsection (2) of this section if the individual:
   (a) Has been convicted of, in any state, a crime in which a child suffered serious physical injury, as defined in ORS 161.015, or death; or
   (b) Is required to report as a sex offender under ORS 163A.010, 163A.015, 163A.020 or 163A.025 or the laws of another jurisdiction.

SECTION 7. ORS 329A.275 is amended to read:


(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Legislative Assembly prior to adopting the fees and charges, the fees and charges established under ORS 181A.195, 329A.030 and 329A.250 to 329A.450 may not exceed the cost of administering the program of the Office of Child Care pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the office.

(3) Notwithstanding subsection (2) of this section and any other provision of this chapter, the following fees established by the Early Learning Council under ORS 329A.030 and 329A.250 to 329A.450 may not exceed:
   (a) For Certified Family Child Care Home Initial Certification, $25;
   (b) For Certified Family Child Care Home Annual Fee Per Certified Space, $2;
   (c) For Child Care Center Initial Certification, $100;
(d) For Child Care Center Annual Fee Per Certified Space, $2;
(e) For Registered Family Child Care Home Registration, $30;
(f) For Preschool Recorded Program Recording, $20;
(g) For School-Age Recorded Program Recording, $20;
(b) For Outdoor Preschool Program Licensure, $20;
(h) (i) For administering a class on child care abuse and neglect issues, $10; and
[i] (j) For enrollment in the Central Background Registry, the cost of administering the pro-
gram, including fees for:
(A) Duplicate enrollment in the Central Background Registry;
(B) Law Enforcement Data System criminal records check; and
(C) Federal Bureau of Investigation fingerprint check.

SECTION 8. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the
registration requirements of ORS 329A.330, without a certification for the facility from the Office
of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home
caring for not more than 16 children. Rules may be adopted specifically for certified child care fa-
cilities operated in a single-family dwelling or other dwelling. Notwithstanding fire and other safety
regulations, the rules that the council adopts for certified child care facilities shall set standards
that can be met without significant architectural modification. In adopting the rules, the council
may consider and set limits according to factors including the age of children in care, the
ambulatory ability of children in care, the number of the provider’s children present, the length of
time a particular child is continuously cared for and the total amount of time a particular child is
cared for within a given unit of time. The rules must require compliance with the provisions of ORS
329A.600.

(3) In addition to rules adopted for and applied to a certified family child care home providing
child care for not more than 16 children, the council shall adopt and apply separate rules appro-
priate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the fa-
cility from the Office of Child Care and receive a certification upon meeting certification require-
ments.

(5) A facility described in ORS 329A.250 [(5)(d)] [(5)(e)] may, but is not required to, apply for a
certification under this section and receive a certification upon meeting certification requirements.

SECTION 9. ORS 329A.390, as amended by section 4, chapter 90, Oregon Laws 2022, is amended
to read:

329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or
has reason to believe that child care that is subject to regulation by the office is being provided
without a certification, registration, [or] record or license, the authorized representative may visit
and conduct an investigation of the facility at any reasonable time to determine whether the facility
is subject to the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

(2) At any reasonable time, an authorized representative of the Office of Child Care may conduct
an investigation of any certified or registered child care facility or program recorded or licensed
under ORS 329A.255 or section 2 of this 2023 Act to determine whether the child care facility or
program is in conformity with ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules
(3) An authorized representative of the Office of Child Care shall conduct an investigation of any certified or registered child care facility, of any program recorded or licensed under ORS 329A.255 or section 2 of this 2023 Act or of any other child care facility that is subject to regulation by the office if the office receives a serious complaint about the child care facility or program.

(4) Complaints, including but not limited to serious complaints, made by individuals or entities regarding certified or registered child care facilities, regulated subsidy facilities, preschool recorded programs, [or] school-age recorded programs or outdoor preschool programs may be received and investigated by the Office of Child Care. The name, address and other identifying information about the individual or entity that made the complaint may not be disclosed.

(5) Any state agency that receives a complaint about a certified or registered child care facility, a regulated subsidy facility, a preschool recorded program, [or] a school-age recorded program or an outdoor preschool program shall notify the Office of Child Care about the complaint and any subsequent action taken by the state agency based on that complaint.

(6) A director or operator of a child care facility, a regulated subsidy facility, a preschool recorded program, [or] a school-age recorded program or an outdoor preschool program shall permit an authorized representative of the Office of Child Care to inspect records of the facility or program and shall furnish promptly reports and information required by the office.

(7) In conducting an investigation under this section, the office may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;

(d) Require answers to interrogatories;

(e) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation;

(f) Issue subpoenas; and

(g) Inspect the premises of the facility under investigation.

(8) The Office of Child Care may share information regarding investigations or inspections conducted under this section with other public entities when the office determines that sharing the information would support the health or safety of children in child care.

(9) The Office of Child Care shall make a reasonable attempt to identify any child care facility or person or place providing child care about which the office receives a complaint, including but not limited to a serious complaint, if the complaint includes, but is not limited to, any of the following information:

(a) The name of a child in the care of the child care facility or person or place providing child care, or the child’s parent;

(b) The name of a child care provider, a child care facility owner, operator or employee, or a person or place providing child care;

(c) The name of the child care facility or person or place providing child care;

(d) The phone number of the child care facility or person or place providing child care; or

(e) The physical address of the child care facility or person or place providing child care.

(10) As used in this section:

(a) “Serious complaint” has the meaning given that term by the Early Learning Council by rule.
(B) “Serious complaint” includes notifications or reports of alleged child abuse received by the Office of Child Care.

(b) “Regulated subsidy facility” has the meaning given that term by the Early Learning Council by rule.

SECTION 10. ORS 181A.195 is amended to read:

ORS 181A.195. (1) As used in this section:

181A.195. (1) As used in this section:

(a) “Authorized agency” means state government as defined in ORS 174.111, the Oregon State Bar or a municipal tax collection agency in a city with a population of 250,000 or more. “Authorized agency” does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) “Subject individual” means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the authorized agency to request a state or nationwide criminal records check.

(2)(a) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for noncriminal justice purposes.

(b) An authorized agency may request that the department conduct a criminal records check on a subject individual who is a contractor or vendor and who provides services to the authorized agency when access to criminal offender information is required to perform noncriminal justice administrative functions on behalf of the authorized agency. Criminal records checks performed under this paragraph are subject to state and federal criminal offender information access policies. An authorized agency shall conduct fitness determinations for contractors and vendors in coordination with the department.

(c) If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the department conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints, except that the Federal Bureau of Investigation may retain the fingerprint cards and records of the fingerprints for purposes described in ORS 181A.205. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing information under ORS 181A.205 and for purposes of data security under subsection (12) of this section.

(6) If only a state criminal records check is conducted, after the criminal records check is completed, the Department of State Police shall destroy the fingerprint cards and the results of the criminal records check provided to the authorized agency and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police
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may retain the fingerprint cards and results or create facsimiles for the purpose of providing infor-

(7) An authorized agency may conduct criminal records checks on subject individuals through

the Law Enforcement Data System maintained by the Department of State Police in accordance with

rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual

for whom a fingerprint-based criminal records check was conducted to inspect the individual’s own

state and national criminal offender records and, if requested by the subject individual, provide the

individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt

rules to implement this section and other statutes relating to criminal offender information obtained

through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Depart-

ment of Administrative Services under ORS 181A.215 who are subject to criminal records checks

by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit

a criminal records check as specified by the Oregon Department of Administrative Services under

ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a pre-

liminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orient-

ation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing

criminal offender information.

(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735,

475C.770 to 475C.919 and 703.090 and paragraph (d) of this subsection, an authorized agency, using

the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall

determine whether a subject individual is fit to hold a position, provide services, be employed or be

granted a license, certification, registration or permit. If a subject individual is determined to be

unfit, then the individual may not hold the position, provide services, be employed or be granted a

license, certification, registration or permit.

(b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness

determination of an individual under this subsection may request results of a previously made fitness

determination from an authorized agency that has already made a fitness determination for the in-

dividual. An authorized agency that receives a request under this paragraph shall provide the re-

quested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license,

certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administra-

tive Services by rule under ORS 181A.215; and

(iii) For whom a fitness determination has already been made.

(c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under
this subsection, the authorized agency shall consider:

(A) The nature of the crime;
(B) The facts that support the conviction or pending indictment or that indicate the making of
a false statement;
(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the
subject individual’s present or proposed position, services, employment, license, certification or reg-
istration; and
(D) Intervening circumstances relevant to the responsibilities and circumstances of the position,
services, employment, license, certification, registration or permit, such as:
(i) The passage of time since the commission of the crime;
(ii) The age of the subject individual at the time of the crime;
(iii) The likelihood of a repetition of offenses or of the commission of another crime;
(iv) The subsequent commission of another relevant crime;
(v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
(vi) The recommendation of an employer.
(d) A subject individual is not entitled to a fitness determination under this subsection if the
subject individual:
(A) Is or seeks to be employed in any capacity having contact with a recipient of support ser-
vices or a resident of a residential facility or adult foster home, as provided in ORS 443.004 (3), and
has been convicted of any crime listed in ORS 443.004 (3) or (5).
(B) Is prohibited by federal law from holding a position, providing services, being employed or
being granted a license, certification, registration or permit for which the fitness determination is
requested by an authorized agency.
(1)(a) In conducting a fitness determination regarding a subject individual other than an individ-
ual described in paragraph (b) of this subsection, the Department of Human Services or the
Oregon Health Authority may not consider:
(A) A conviction that is more than 10 years old unless the conviction is for a crime listed in
ORS 443.004 (3) or (5);
(B) A charge or arrest for which there was no conviction unless the charge or arrest is for a
crime listed in ORS 443.004 (3) or (5);
(C) A conviction on a charge relating to marijuana if the charge is no longer a criminal offense;
(D) A conviction under ORS 813.010 or 830.325, or a misdemeanor conviction under a law in
another jurisdiction that imposes criminal penalties for operating a vehicle or boat while under the
influence of intoxicants, if the subject individual had no more than one conviction described in this
subparagraph in the five-year period prior to the date of the criminal records check;
(E) A deferred sentence, conditional discharge or participation in a diversion program for any
crime unless the crime is listed in ORS 443.004 (3) and (5); and
(F) A pending indictment for a crime unless the crime is listed in ORS 443.004 (3) or (5).
(b) The department or the authority may consider a charge, arrest, conviction, deferred sen-
tence, conditional discharge, participation in a diversion program or pending indictment that may
not be considered under paragraph (a) of this subsection in making a fitness determination for a
subject individual who is:
(A) Described in ORS 418.016;
(B) An employee, volunteer, contractor or provider in, or an agent of, a proctor foster home as
defined in ORS 418.205 or a child-caring agency as defined in ORS 418.205;
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(C) An exempt family child care provider, as defined in ORS 329A.430, the provider’s household members who are 16 years of age or older or a frequent visitor of a provider who is subject to a criminal records check;

(D) An employee or volunteer in a facility that:
   (i) Provides care to children and is operated by:
   (I) A school district, as defined in ORS 332.002[.];
   (II) A political subdivision of this state[.];
   (III) A preschool recorded program, as defined in ORS 329A.250[, or];
   (IV) An outdoor preschool program, as defined in ORS 329A.250; or
   (V) A government agency; and
   (ii) Is not required to be certified under ORS 329A.280; or

(E) An emergency medical services provider, as defined in ORS 682.025, for the purpose of determining the fitness of the emergency medical services provider to receive or hold a license under ORS 670.280.

(12)(a) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(b) For each employee, contractor or vendor of an authorized agency who is required to have access to or review criminal offender information for noncriminal justice purposes, the authorized agency shall:
   (A) Conduct a state and nationwide fingerprint-based criminal records check;
   (B) Ensure that the employee, contractor or vendor meets the security background check requirements of the Federal Bureau of Investigation Criminal Justice Information Services Security Policy for having unescorted access to criminal offender information; and
   (C) Pay fees as required under subsection (9) of this section.

(13) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(14) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 11. 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 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.

(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 op-
eration 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 re-
quired 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 gross an-
nual 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 re-
sources 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 pre-
serves, 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 not to 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 or both 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, preschool recorded programs, [or] school-age recorded programs or outdoor preschool programs that are:

(A) Authorized under ORS 329A.250 to 329A.450;

(B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.
(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 established; 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 received, the governing body or its designee shall approve or disapprove the application. If an objection 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 described 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 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 ap-
plicant 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 con-
nection 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.

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

SECTION 12. 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 dis-

tinct as defined in ORS 540.505.
(u) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
cilities 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 ad-

jacent 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 Envi-

ronmental 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 pro-
duction, 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 authorized under this paragraph may provide services to veterans, including but not limited to emergency 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 replacement 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 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 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 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 study 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 Environmental 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 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 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, preschool recorded programs, [or] school-age recorded programs or outdoor preschool programs that are:

(A) Authorized under ORS 329A.250 to 329A.450;

(B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.

(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 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 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 13. ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child’s health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.
(2) “Child” means an unmarried person who:
   (a) Is under 18 years of age; or
   (b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) “Higher education institution” means:
   (a) A community college as defined in ORS 341.005;
   (b) A public university listed in ORS 352.002;
   (c) The Oregon Health and Science University; and
   (d) A private institution of higher education located in Oregon.

(4)(a) “Investigation” means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.
   (b) “Investigation” does not include screening activities conducted upon the receipt of a report.

(5) “Law enforcement agency” means:
   (a) A city or municipal police department.
   (b) A county sheriff’s office.
   (c) The Oregon State Police.
   (d) A police department established by a university under ORS 352.121 or 353.125.
   (e) A county juvenile department.

(6) “Public or private official” means:
   (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
   (b) Dentist.
   (c) School employee, including an employee of a higher education institution.
   (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
   (e) Employee of the Department of Human Services, Oregon Health Authority, Department of Early Learning and Care, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
   (f) Peace officer.
   (g) Psychologist.
   (h) Member of the clergy.
   (i) Regulated social worker.
   (j) Optometrist.
   (k) Chiropractor.
   (L) Certified provider of foster care, or an employee thereof.
   (m) Attorney.
   (n) Licensed professional counselor.
   (o) Licensed marriage and family therapist.
   (p) Firefighter or emergency medical services provider.
   (q) A court appointed special advocate, as defined in ORS 419A.004.
   (r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
   (s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political
subdivision in this state.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 329A.255.

(z) An operator of a school-age recorded program under ORS 329A.255.

(aa) An operator of an outdoor preschool program under section 2 of this 2023 Act.

(bb) Employee of 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.

(cc) An employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to an employee of a:

(i) Youth group or center;

(ii) Scout group or camp;

(iii) Summer or day camp;

(iv) Survival camp; or

(v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and

(B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(dd) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(ee) Personal support worker, as defined in ORS 410.600.

(ff) Home care worker, as defined in ORS 410.600.

(gg) Animal control officer, as defined in ORS 609.500.

(hh) Member of a school district board, an education service district board or a public charter school governing body.

(ii) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.

(jj) Referral agent, as defined in ORS 418.351.

SECTION 14. ORS 419B.035, as amended by section 10, chapter 27, Oregon Laws 2022, and section 9, chapter 90, Oregon Laws 2022, is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;
(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child’s parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Early Learning Division for the purpose of carrying out the functions of the division, including the certification, registration or regulation of child care facilities and child care providers and the administration of enrollment in the Central Background Registry;

(g) The Office of Children’s Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 339.390 or 342.176 involving any child or any student;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;

(j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(c)(G) to [(J)] (K);

(k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon;

(L) The Department of Education for purposes of investigations conducted under ORS 339.391;

and

(m) An education provider for the purpose of making determinations under ORS 339.388.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public’s interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior
written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect or necessary to determine a claim for crime victim compensation under ORS 147.005 to 147.367.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections, the Oregon Youth Authority or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections, the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) The Department of Corrections and the Oregon Youth Authority may disclose records made available to them under subsection (5) of this section regarding a person in the custody of the Department of Corrections or the Oregon Youth Authority to each other, to the court, to the district attorney and to the person’s attorney for the purpose of the person’s hearing under ORS 420A.200 to 420A.206.

(C) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) Except as provided by ORS 339.389, an officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pur-
suant to subsections (1) to (6) of this section may not release any information not authorized by
subsection (1) to (6) of this section.

(8) As used in this section, “law enforcement agency” has the meaning given that term in ORS
181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

329A.252, 329A.275, 329A.280, 329A.390, 419B.005 and 419B.035 by sections 4 to 14 of this 2023
Act become operative July 1, 2025.

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