

House Bill 3463

Sponsored by Representative MANNIX; Representative OWENS

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**.

Removes restrictions related to agri-tourism from land use laws.

A BILL FOR AN ACT

Relating to agri-tourism; amending ORS 30.673, 197.015, 215.213, 215.238, 215.239, 215.246, 215.283, 215.296, 215.449, 215.451, 215.452, 215.453 and 433.763; and repealing ORS 215.237.

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

SECTION 1. ORS 215.213 is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

(A) ORS 215.275; or

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

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

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

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

(g) Operations for the exploration for and production of geothermal resources as defined by ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 2 compressors, separators and other customary production equipment for an individual well adjacent
 3 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 4 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

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

31 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS
 32 215.291.

33 (r) Farm stands if:

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

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

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

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

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

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

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

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

20 (A) A public right of way;

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

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

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

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

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

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

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

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

42 **(cc) Agri-tourism and other commercial events or activities that are related to and sup-**
 43 **portive of agriculture.**

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

1 215.296:

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

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

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

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

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

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

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

20 (d) Operations conducted for:

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

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

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

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

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

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

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

45 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-

1 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
2 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
3 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
4 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
5 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
6 granted through waiver action by the Oregon Department of Aviation in specific instances. A
7 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
8 ject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (u) A living history museum related to resource based activities owned and operated by a gov-
45 ernmental agency or a local historical society, together with limited commercial activities and fa-

1 cilities that are directly related to the use and enjoyment of the museum and located within
 2 authentic buildings of the depicted historic period or the museum administration building, if areas
 3 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
 4 the museum administration buildings and parking lot are located within one quarter mile of the
 5 metropolitan urban growth boundary. As used in this paragraph:

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

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

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

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

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

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

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

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

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

26 (aa) Child care facilities, preschool recorded programs or school-age recorded programs that are:

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

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

30 (C) Colocated with a community center or a public or private school allowed under this sub-
 31 section.

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

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

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

45 (c) Complies with such other conditions as the governing body or its designee considers neces-

1 sary.

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

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

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

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

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

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

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

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

29 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
 30 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

44 (10) Roads, highways and other transportation facilities and improvements not allowed under
 45 subsections (1) and (2) of this section may be established, subject to the approval of the governing

1 body or its designee, in areas zoned for exclusive farm use subject to:

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

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

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

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

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

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

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

18 *[(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other com-
19 mercial event or activity does not exceed 250 vehicles;]*

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

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

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

25 *[(i) Planned hours of operation;]*

26 *[(ii) Access, egress and parking;]*

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

29 *[(iv) Sanitation and solid waste.]*

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

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

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

40 *[(C) May not involve more than 100 attendees or 50 vehicles;]*

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

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

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

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

1 *However, the temporary structures must be removed at the end of the agri-tourism or other event or*
 2 *activity. The county may not approve an alteration to the land in connection with an agri-tourism or*
 3 *other commercial event or activity authorized under subsection (11) of this section, including, but not*
 4 *limited to, grading, filling or paving.]*

5 *[(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section*
 6 *for two calendar years. When considering an application for renewal, the county shall ensure compli-*
 7 *ance with the provisions of subsection (11)(c) of this section, any local standards that apply and con-*
 8 *ditions that apply to the permit or to the agri-tourism or other commercial events or activities*
 9 *authorized by the permit.]*

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

14 **SECTION 2.** ORS 215.283 is amended to read:

15 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

22 (A) ORS 215.275; or

23 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 24 469.300.

25 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 26 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
 27 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 28 operator does or will require the assistance of the relative in the management of the farm use and
 29 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 30 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
 31 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
 32 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
 33 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 34 shall operate as a partition of the homesite to create a new parcel.

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

37 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
 38 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 39 compressors, separators and other customary production equipment for an individual well adjacent
 40 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 41 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

15 (o) Farm stands if:

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

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

25 (p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS
 26 215.291.

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

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

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

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

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

- 1 (A) A public right of way;
- 2 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
- 3 jacent property owners has been obtained; or
- 4 (C) The property to be served by the utility.
- 5 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-
- 6 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
- 7 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
- 8 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of
- 9 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-
- 10 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this
- 11 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application
- 12 of biosolids is limited to treatment using treatment facilities that are portable, temporary and
- 13 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land
- 14 application of biosolids is authorized under the license, permit or other approval.
- 15 (w) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
- 16 provide rural law enforcement services primarily in rural areas, including parole and post-prison
- 17 supervision, but not including a correctional facility as defined under ORS 162.135.
- 18 (x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
- 19 farm buildings, when:
 - 20 (A) The number of dogs participating in training does not exceed 10 dogs per training class and
 - 21 the number of training classes to be held on-site does not exceed six per day; and
 - 22 (B) The number of dogs participating in a testing trial does not exceed 60 and the number of
 - 23 testing trials to be conducted on-site is limited to four or fewer trials per calendar year.
 - 24 (y) A cider business, as described in ORS 215.451.
 - 25 (z) A farm brewery, as described in ORS 215.449.
 - 26 **(aa) Agri-tourism and other commercial events or activities that are related to and sup-**
 - 27 **portive of agriculture.**
 - 28 (2) The following nonfarm uses may be established, subject to the approval of the governing body
 - 29 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:
 - 30 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
 - 31 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.
 - 32 (b) Operations conducted for:
 - 33 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
 - 34 as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;
 - 35 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
 - 36 sources subject to ORS 215.298;
 - 37 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
 - 38 (D) Processing of other mineral resources and other subsurface resources.
 - 39 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
 - 40 approval of the county governing body or its designee, a private campground may provide yurts for
 - 41 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
 - 42 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
 - 43 foundation. Upon request of a county governing body, the Land Conservation and Development
 - 44 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
 - 45 of the campgrounds in a county if the commission determines that the increase will comply with the

1 standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed
2 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
3 internal cooking appliance.

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

6 (e) Community centers owned by a governmental agency or a nonprofit community organization
7 and operated primarily by and for residents of the local rural community. A community center au-
8 thorized under this paragraph may provide services to veterans, including but not limited to emer-
9 gency and transitional shelter, preparation and service of meals, vocational and educational
10 counseling and referral to local, state or federal agencies providing medical, mental health, disability
11 income replacement and substance abuse services, only in a facility that is in existence on January
12 1, 2006. The services may not include direct delivery of medical, mental health, disability income
13 replacement or substance abuse services.

14 (f) Golf courses on land:

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

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

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

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

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

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

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

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

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

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

45 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (dd) Child care facilities, preschool recorded programs or school-age recorded programs that are:

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

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

20 (C) Colocated with a community center or a public or private school allowed under this sub-
 21 section.

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

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

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

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

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

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

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

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

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

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

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

1 [(G) *The agri-tourism or other commercial event or activity complies with conditions established*
2 *for:*]

3 [(i) *Planned hours of operation;*]

4 [(ii) *Access, egress and parking;*]

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

7 [(iv) *Sanitation and solid waste.*]

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

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

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

18 [(C) *May not involve more than 100 attendees or 50 vehicles;*]

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

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

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

24 [(G) *Must comply with applicable health and fire and life safety requirements.*]

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

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

31 [(B) *May not, individually, exceed a duration of 72 consecutive hours;*]

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

34 [(D) *Must comply with ORS 215.296;*]

35 [(E) *May not, in combination with other agri-tourism or other commercial events or activities au-*
36 *thorized in the area, materially alter the stability of the land use pattern in the area; and*]

37 [(F) *Must comply with conditions established for:*]

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

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

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

45 [(iv) *Traffic management, including the projected number of vehicles and any anticipated use of*

1 *public roads; and]*

2 *[(v) Sanitation and solid waste.]*

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

8 *[(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary*
 9 *to support the commercial farm uses or the commercial agricultural enterprises in the area;]*

10 *[(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;]*

11 *[(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;*
 12 *and]*

13 *[(D) Do not exceed 18 events or activities in a calendar year.]*

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

16 *[(a) Provide public notice and an opportunity for public comment as part of the review process;*
 17 *and]*

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

20 *[(6) For the purposes of subsection (4) of this section:]*

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

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

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

36 **SECTION 3.** ORS 215.449 is amended to read:

37 215.449. (1) As used in this section:

38 (a) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is
 39 charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and
 40 other events at which the promotion of malt beverages produced in conjunction with the farm
 41 brewery is a secondary purpose of the event.

42 (b) “Brewer” means a person who makes malt beverages.

43 (c) “Farm brewery” means a facility, located on or contiguous to a hop farm, used primarily for
 44 the commercial production, shipping and distribution, wholesale or retail sales, or tasting of malt
 45 beverages made with ingredients grown on the hop farm.

- 1 (d) "Hop farm" means a tract of land planted with hops.
- 2 (e) "Malt beverage" has the meaning given that term in ORS 471.001.
- 3 (f) "On-site retail sale" includes the retail sale of malt beverages in person at the farm brewery
4 site, through a club or over the Internet or telephone.
- 5 (2)(a) A farm brewery may be established as a permitted use on land zoned for exclusive farm
6 use under ORS 215.213 (1)(bb) and 215.283 (1)(z) or on land zoned for mixed farm and forest use if
7 the farm brewery:
- 8 (A) Produces less than 150,000 barrels of malt beverages annually, inclusive of malt beverages
9 produced by the farm brewery's owners or operators at the farm brewery or elsewhere, through any
10 entity owned or affiliated with the farm brewery;
- 11 (B) Produces less than 15,000 barrels of malt beverages annually on the farm brewery site; and
- 12 (C)(i) Owns an on-site hop farm of at least 15 acres;
- 13 (ii) Owns a contiguous hop farm of at least 15 acres;
- 14 (iii) Has a long-term contract for the purchase of all of the hops from at least 15 acres of a hop
15 farm contiguous to the farm brewery; or
- 16 (iv) Obtains hops from a total of 15 acres from any combination of sources described in sub-
17 subparagraph (i), (ii) or (iii) of this subparagraph.
- 18 (b) For purposes of this subsection, land planted with other ingredients used in malt beverages
19 produced by the farm brewery counts towards the acreage minimums.
- 20 (3) In addition to any other activities authorized for a farm brewery, a farm brewery established
21 under this section may:
- 22 (a) Market malt beverages produced in conjunction with the farm brewery.
- 23 (b) Conduct operations that are directly related to the sale or marketing of malt beverages
24 produced in conjunction with the farm brewery, including:
- 25 (A) Malt beverage tastings in a tasting room or other location on the premises occupied by the
26 farm brewery;
- 27 (B) Malt beverage club activities;
- 28 (C) Brewer luncheons and dinners;
- 29 (D) Farm brewery and hop farm tours;
- 30 (E) Meetings or business activities with farm brewery suppliers, distributors, wholesale custom-
31 ers and malt beverage industry members;
- 32 (F) Farm brewery staff activities;
- 33 (G) Open house promotions of malt beverages produced in conjunction with the farm brewery;
34 and
- 35 (H) Similar activities conducted for the primary purpose of promoting malt beverages produced
36 in conjunction with the farm brewery.
- 37 (c) Market and sell items directly related to the sale or promotion of malt beverages produced
38 in conjunction with the farm brewery, the marketing and sale of which is incidental to on-site retail
39 sale of malt beverages, including food and beverages:
- 40 (A) Required to be made available in conjunction with the consumption of malt beverages on the
41 premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
- 42 (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this sub-
43 section.
- 44 (d) [*Subject to subsections (6) to (9) of this section,*] Carry out agri-tourism or other commercial
45 events on the tract occupied by the farm brewery.

1 (e) Host charitable activities for which the farm brewery does not charge a facility rental fee.

2 (f) Site a bed and breakfast as a home occupation on the same tract as, and in association with,
3 the farm brewery.

4 (4) A farm brewery may include on-site kitchen facilities licensed by the Oregon Health Au-
5 thority under ORS 624.010 to 624.121 for the preparation of food and beverages described in sub-
6 section (3)(c) of this section. Food and beverage services authorized under subsection (3)(c) of this
7 section may not utilize menu options or meal services that cause the kitchen facilities to function
8 as a cafe or other dining establishment open to the public.

9 (5)(a) The gross income of the farm brewery from the sale of incidental items or services pro-
10 vided pursuant to subsection (3)(c) to (e) of this section may not exceed 25 percent of the gross in-
11 come from the on-site retail sale of malt beverages produced in conjunction with the farm brewery.
12 The gross income of a farm brewery does not include income received by third parties unaffiliated
13 with the farm brewery.

14 (b) At the request of a local government with land use jurisdiction over the site of a farm
15 brewery, the farm brewery shall submit to the local government a written statement prepared by a
16 certified public accountant that certifies the compliance of the farm brewery with this subsection
17 for the previous tax year.

18 *[(6) Except as provided by subsections (7) and (8) of this section, a farm brewery may carry out*
19 *agri-tourism or other commercial events described in subsection (3)(d) of this section for up to 18 days*
20 *per calendar year.]*

21 *[(7) A farm brewery in the Willamette Valley may carry out agri-tourism or other commercial*
22 *events as provided in subsection (6) of this section, provided:]*

23 *[(a) Events on the first six days of the 18-day limit per calendar year are authorized by the local*
24 *government through the issuance of a renewable multiyear license that:]*

25 *[(A) Has a term of five years; and]*

26 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection*
27 *(8) of this section.]*

28 *[(b) The local government's decision on a license under paragraph (a) of this subsection is not:]*

29 *[(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use*
30 *Board of Appeals.]*

31 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

32 *[(c) Events on days seven through 18 of the 18-day limit per calendar year are authorized by the*
33 *local government through the issuance of a renewable multiyear permit that:]*

34 *[(A) Has a term of five years;]*

35 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection*
36 *(8) of this section; and]*

37 *[(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).]*

38 *[(d) The local government's decision on a permit under paragraph (c) of this subsection is:]*

39 *[(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use*
40 *Board of Appeals.]*

41 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

42 *[(8)(a) A local government with land use jurisdiction over the site of a farm brewery shall ensure*
43 *that agri-tourism or other commercial events occurring as described in subsection (3)(d) of this section*
44 *are subordinate to the production and sale of malt beverages and do not create significant adverse*
45 *impacts to uses on surrounding land.]*

1 *[(b) A local government may impose conditions on a license or permit issued pursuant to subsection*
 2 *(7) of this section as necessary to meet the requirements of paragraph (a) of this subsection. The con-*
 3 *ditions must be related to:]*

4 *[(A) The number of event attendees;]*

5 *[(B) The hours of event operation;]*

6 *[(C) Access and parking;]*

7 *[(D) Traffic management;]*

8 *[(E) Noise management; and]*

9 *[(F) Sanitation and solid waste.]*

10 *[(9) A local government may charge a fee for processing a license or permit under subsections (6)*
 11 *and (7) of this section. The fee may not exceed the actual or average cost of providing the applicable*
 12 *licensing or permitting service.]*

13 *[(10)] (6)* When a bed and breakfast facility is sited as a home occupation on the same tract as
 14 a farm brewery as described in subsection (3)(f) of this section:

15 (a) The bed and breakfast facility may prepare and serve two meals per day to the registered
 16 guests of the bed and breakfast facility; and

17 (b) The meals may be served at the bed and breakfast facility or at the farm brewery.

18 *[(11)] (7)* A farm brewery operating under this section shall provide parking for all activities or
 19 uses of the tract on which the farm brewery is situated.

20 *[(12)] (8)* A local government with land use jurisdiction over the site of a farm brewery shall
 21 ensure that the farm brewery complies with:

22 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
 23 access and airport safety;

24 (b) Regulations of general applicability for the public health and safety; and

25 (c) Regulations for resource protection acknowledged to comply with any statewide goal relating
 26 to open spaces, scenic and historic areas and natural resources.

27 *[(13)(a)] (9)(a)* For the purpose of limiting demonstrated conflicts with accepted farm and forest
 28 practices on adjacent lands, a local government with land use jurisdiction over the site of a farm
 29 brewery shall:

30 (A) Except as provided in paragraph (b) of this subsection, establish a setback of at least 100
 31 feet from all property lines for the farm brewery and all public gathering places; and

32 (B) Require farm breweries to provide direct road access and internal circulation for the farm
 33 brewery and all public gathering places.

34 (b) A local government may allow a setback of less than 100 feet by granting a farm brewery
 35 an adjustment or variance to the requirement described in paragraph (a)(A) of this subsection.

36 **SECTION 4.** ORS 215.451 is amended to read:

37 215.451. (1) As used in this section:

38 (a) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is
 39 charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and
 40 other events at which the promotion of cider produced in conjunction with the cider business is a
 41 secondary purpose of the event.

42 (b)(A) “Cider” means an alcoholic beverage made from the fermentation of the juice of apples
 43 or pears.

44 (B) “Cider” includes but is not limited to flavored cider, sparkling cider and carbonated cider.

45 (c) “Cider business” means a facility used primarily for the commercial production, shipping and

1 distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, admin-
2 istrative functions or warehousing of cider.

3 (d) "Cidermaker" means a person who makes cider.

4 (e) "On-site retail sale" includes the retail sale of cider in person at the cider business site,
5 through a cider club or over the Internet or telephone.

6 (f) "Orchard" means a piece of land planted with apple or pear trees.

7 (2) A cider business may be established as a permitted use on land zoned for exclusive farm use
8 under ORS 215.213 (1)(aa) and 215.283 (1)(y) or on land zoned for mixed farm and forest use if the
9 cider business produces:

10 (a) Less than 100,000 gallons of cider annually and the cider business:

11 (A) Owns an on-site orchard of at least 15 acres;

12 (B) Owns a contiguous orchard of at least 15 acres;

13 (C) Has a long-term contract for the purchase of all of the apples or pears from at least 15 acres
14 of an orchard contiguous to the cider business; or

15 (D) Obtains apples or pears from any combination of subparagraph (A), (B) or (C) of this para-
16 graph; or

17 (b) At least 100,000 gallons of cider annually and the cider business:

18 (A) Owns an on-site orchard of at least 40 acres;

19 (B) Owns a contiguous orchard of at least 40 acres;

20 (C) Has a long-term contract for the purchase of all of the apples or pears from at least 40 acres
21 of an orchard contiguous to the cider business;

22 (D) Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns at least
23 40 additional acres of orchards in Oregon that are located within 15 miles of the cider business site;
24 or

25 (E) Obtains apples or pears from any combination of subparagraph (A), (B), (C) or (D) of this
26 paragraph.

27 (3) In addition to any other activities authorized for a cider business, a cider business estab-
28 lished under this section may:

29 (a) Market cider produced in conjunction with the cider business.

30 (b) Conduct operations that are directly related to the sale or marketing of cider produced in
31 conjunction with the cider business, including:

32 (A) Cider tastings in a tasting room or other location on the premises occupied by the cider
33 business;

34 (B) Cider club activities;

35 (C) Cidermaker luncheons and dinners;

36 (D) Cider business and orchard tours;

37 (E) Meetings or business activities with cider business suppliers, distributors, wholesale cus-
38 tomers and cider industry members;

39 (F) Cider business staff activities;

40 (G) Open house promotions of cider produced in conjunction with the cider business; and

41 (H) Similar activities conducted for the primary purpose of promoting cider produced in con-
42 junction with the cider business.

43 (c) Market and sell items directly related to the sale or promotion of cider produced in con-
44 junction with the cider business, the marketing and sale of which is incidental to on-site retail sale
45 of cider, including food and beverages:

1 (A) Required to be made available in conjunction with the consumption of cider on the premises
 2 by the Liquor Control Act or rules adopted under the Liquor Control Act; or

3 (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this sub-
 4 section.

5 (d) *[Subject to subsections (6) to (9) of this section,]* Carry out agri-tourism or other commercial
 6 events on the tract occupied by the cider business.

7 (e) Host charitable activities for which the cider business does not charge a facility rental fee.

8 (f) Site a bed and breakfast as a home occupation on the same tract, and in association with,
 9 the cider business.

10 (4) A cider business may include on-site kitchen facilities licensed by the Oregon Health Au-
 11 thority under ORS 624.010 to 624.121 for the preparation of food and beverages described in sub-
 12 section (3)(c) of this section. Food and beverage services authorized under subsection (3)(c) of this
 13 section may not utilize menu options or meal services that cause the kitchen facilities to function
 14 as a cafe or other dining establishment open to the public.

15 (5)(a) The gross income of the cider business from the sale of incidental items or services pro-
 16 vided pursuant to subsection (3)(c) to (e) of this section may not exceed 25 percent of the gross in-
 17 come from the on-site retail sale of cider produced in conjunction with the cider business. The gross
 18 income of a cider business does not include income received by third parties unaffiliated with the
 19 cider business.

20 (b) At the request of a local government with land use jurisdiction over the site of a cider
 21 business, the cider business shall submit to the local government a written statement prepared by
 22 a certified public accountant that certifies the compliance of the cider business with this subsection
 23 for the previous tax year.

24 *[(6) Except as provided by subsections (7) and (8) of this section, a cider business may carry out*
 25 *agri-tourism or other commercial events described in subsection (3)(d) of this section for up to 18 days*
 26 *per calendar year.]*

27 *[(7) A cider business in the Willamette Valley may carry out agri-tourism or other commercial*
 28 *events as provided in subsection (6) of this section, provided:]*

29 *[(a) Events on the first six days of the 18-day limit per calendar year are authorized by the local*
 30 *government through the issuance of a renewable multi-year license that:]*

31 *[(A) Has a term of five years; and]*

32 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection*
 33 *(8) of this section.]*

34 *[(b) The local government's decision on a license under paragraph (a) of this subsection is not:]*

35 *[(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use*
 36 *Board of Appeals.]*

37 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

38 *[(c) Events on days seven through 18 of the 18-day limit per calendar year are authorized by the*
 39 *local government through the issuance of a renewable multi-year permit that:]*

40 *[(A) Has a term of five years;]*

41 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection*
 42 *(8) of this section; and]*

43 *[(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).]*

44 *[(d) The local government's decision on a permit under paragraph (c) of this subsection is:]*

45 *[(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use*

1 *Board of Appeals.]*

2 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

3 *[(8)(a) A local government with land use jurisdiction over the site of a cider business shall ensure*
 4 *that agri-tourism or other commercial events occurring as described in subsection (3)(d) of this section*
 5 *are subordinate to the production and sale of cider and do not create significant adverse impacts to*
 6 *uses on surrounding land.]*

7 *[(b) A local government may impose conditions on a license or permit issued pursuant to subsection*
 8 *(7) of this section as necessary to meet the requirements of paragraph (a) of this subsection. The con-*
 9 *ditions must be related to:]*

10 *[(A) The number of event attendees;]*

11 *[(B) The hours of event operation;]*

12 *[(C) Access and parking;]*

13 *[(D) Traffic management;]*

14 *[(E) Noise management; and]*

15 *[(F) Sanitation and solid waste.]*

16 *[(9) A local government may charge a fee for processing a license or permit under subsections (6)*
 17 *and (7) of this section. The fee may not exceed the actual or average cost of providing the applicable*
 18 *licensing or permitting service.]*

19 *[(10)] (6) When a bed and breakfast facility is sited as a home occupation on the same tract as*
 20 *a cider business as described in subsection (3)(f) of this section:*

21 *(a) The bed and breakfast facility may prepare and serve two meals per day to the registered*
 22 *guests of the bed and breakfast facility; and*

23 *(b) The meals may be served at the bed and breakfast facility or at the cider business.*

24 *[(11)] (7) A cider business operating under this section shall provide parking for all activities*
 25 *or uses of the lot, parcel or tract on which the cider business is situated.*

26 *[(12)] (8) A local government with land use jurisdiction over the site of a cider business shall*
 27 *ensure that the cider business complies with:*

28 *(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar*
 29 *access and airport safety;*

30 *(b) Regulations of general applicability for the public health and safety; and*

31 *(c) Regulations for resource protection acknowledged to comply with any statewide goal re-*
 32 *specting open spaces, scenic and historic areas and natural resources.*

33 *[(13)(a)] (9)(a) For the purpose of limiting demonstrated conflicts with accepted farm and forest*
 34 *practices on adjacent lands, a local government with land use jurisdiction over the site of a cider*
 35 *business shall:*

36 *(A) Except as provided in paragraph (b) of this subsection, establish a setback of at least 100*
 37 *feet from all property lines for the cider business and all public gathering places; and*

38 *(B) Require cider businesses to provide direct road access and internal circulation for the cider*
 39 *business and all public gathering places.*

40 *(b) A local government may allow a setback of less than 100 feet by granting a cider business*
 41 *an adjustment or variance to the requirement described in paragraph (a)(A) of this subsection.*

42 **SECTION 5.** ORS 215.452 is amended to read:

43 215.452. (1) A winery may be established as a permitted use on land zoned for exclusive farm
 44 use under ORS 215.213 (1)(p) and 215.283 (1)(n) or on land zoned for mixed farm and forest use if the
 45 winery produces wine with a maximum annual production of:

- 1 (a) Less than 50,000 gallons and:
 2 (A) Owns an on-site vineyard of at least 15 acres;
 3 (B) Owns a contiguous vineyard of at least 15 acres;
 4 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
 5 vineyard contiguous to the winery; or
 6 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or
 7 (b) At least 50,000 gallons and the winery:
 8 (A) Owns an on-site vineyard of at least 40 acres;
 9 (B) Owns a contiguous vineyard of at least 40 acres;
 10 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
 11 vineyard contiguous to the winery;
 12 (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at
 13 least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site;
 14 or
 15 (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.
 16 (2) In addition to producing and distributing wine, a winery established under this section may:
 17 (a) Market and sell wine produced in conjunction with the winery.
 18 (b) Conduct operations that are directly related to the sale or marketing of wine produced in
 19 conjunction with the winery, including:
 20 (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 21 (B) Wine club activities;
 22 (C) Winemaker luncheons and dinners;
 23 (D) Winery and vineyard tours;
 24 (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and
 25 wine-industry members;
 26 (F) Winery staff activities;
 27 (G) Open house promotions of wine produced in conjunction with the winery; and
 28 (H) Similar activities conducted for the primary purpose of promoting wine produced in con-
 29 junction with the winery.
 30 (c) Market and sell items directly related to the sale or promotion of wine produced in con-
 31 junction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine,
 32 including food and beverages:
 33 (A) Required to be made available in conjunction with the consumption of wine on the premises
 34 by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 35 (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this sub-
 36 section.
 37 (d) Carry out agri-tourism or other commercial events on the tract occupied by the winery.
 38 *[subject to subsections (5), (6), (7) and (8) of this section.]*
 39 (e) Host charitable activities for which the winery does not charge a facility rental fee.
 40 (3) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority un-
 41 der ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c)
 42 of this section. Food and beverage services authorized under subsection (2)(c) of this section may
 43 not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or
 44 other dining establishment open to the public.
 45 (4) The gross income of the winery from the sale of incidental items or services provided pur-

1 suant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from
2 the on-site retail sale of wine produced in conjunction with the winery. The gross income of a
3 winery does not include income received by third parties unaffiliated with the winery. At the request
4 of a local government with land use jurisdiction over the site of a winery, the winery shall submit
5 to the local government a written statement that is prepared by a certified public accountant and
6 certifies the compliance of the winery with this subsection for the previous tax year.

7 *[(5) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on
8 the tract occupied by the winery.]*

9 *[(6) For events described in subsection (5) of this section for a winery in the Willamette Valley:]*

10 *[(a) Events on the first six days of the 18-day limit per calendar year must be authorized by the
11 local government through the issuance of a renewable multi-year license that:]*

12 *[(A) Has a term of five years; and]*

13 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection
14 (7) of this section.]*

15 *[(b) The local government's decision on a license under paragraph (a) of this subsection is not:]*

16 *[(A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use
17 Board of Appeals.]*

18 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

19 *[(c) Events on days seven through 18 of the 18-day limit per calendar year must be authorized by
20 the local government through the issuance of a renewable multi-year permit that:]*

21 *[(A) Has a term of five years;]*

22 *[(B) Is subject to an administrative review to determine necessary conditions pursuant to subsection
23 (7) of this section; and]*

24 *[(C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).]*

25 *[(d) The local government's decision on a permit under paragraph (c) of this subsection is:]*

26 *[(A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use
27 Board of Appeals.]*

28 *[(B) A permit, as defined in ORS 215.402 or 227.160.]*

29 *[(7) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a
30 winery are subordinate to the production and sale of wine and do not create significant adverse impacts
31 to uses on surrounding land, the local government may impose conditions on a license or permit issued
32 pursuant to subsection (6) of this section related to:]*

33 *[(a) The number of event attendees;]*

34 *[(b) The hours of event operation;]*

35 *[(c) Access and parking;]*

36 *[(d) Traffic management;]*

37 *[(e) Noise management; and]*

38 *[(f) Sanitation and solid waste.]*

39 *[(8) A local government may charge a fee for processing a license or permit under subsections (6)
40 and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable li-
41 censing or permitting service.]*

42 *[(9)] (5) A winery operating under this section shall provide parking for all activities or uses
43 of the lot, parcel or tract on which the winery is established.*

44 *[(10)] (6) Prior to the issuance of a permit to establish a winery under this section, the applicant
45 shall show that vineyards described in subsection (1) of this section have been planted or that the*

1 contract has been executed, as applicable.

2 [(11)] (7) A local government shall apply the standards described in this subsection. Standards
 3 imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose
 4 of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

5 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
 6 public gathering places unless the local government grants an adjustment or variance allowing a
 7 setback of less than 100 feet; and

8 (b) Provision of direct road access and internal circulation.

9 [(12)] (8) A local government shall apply:

10 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
 11 access and airport safety;

12 (b) Regulations of general applicability for the public health and safety; and

13 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
 14 specting open spaces, scenic and historic areas and natural resources.

15 [(13)] (9) When a bed and breakfast facility is sited as a home occupation on the same tract as
 16 a winery established under this section and in association with the winery:

17 (a) The bed and breakfast facility may prepare and serve two meals per day to the registered
 18 guests of the bed and breakfast facility; and

19 (b) The meals may be served at the bed and breakfast facility or at the winery.

20 [(14)] (10) As used in this section:

21 (a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is
 22 charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and
 23 other events at which the promotion of wine produced in conjunction with the winery is a secondary
 24 purpose of the event.

25 (b) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a
 26 wine club or over the Internet or telephone.

27 **SECTION 6.** ORS 215.453 is amended to read:

28 215.453. (1) A winery may be established as a permitted use on land zoned for exclusive farm
 29 use under ORS 215.213 (1)(p) or 215.283 (1)(n) or on land zoned for mixed farm and forest use if:

30 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is
 31 a vineyard;

32 (b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not
 33 be contiguous to the acreage described in paragraph (a) of this subsection; and

34 (c) The winery has produced annually, at the same or a different location, at least 150,000 gal-
 35 lons of wine in at least three of the five calendar years before the winery is established under this
 36 section.

37 (2) In addition to producing and distributing wine, a winery described in subsection (1) of this
 38 section may:

39 (a) Market and sell wine produced in conjunction with the winery;

40 (b) Conduct operations that are directly related to the sale or marketing of wine produced in
 41 conjunction with the winery, including:

42 (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;

43 (B) Wine club activities;

44 (C) Winemaker luncheons and dinners;

45 (D) Winery and vineyard tours;

1 (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and
 2 wine-industry members;

3 (F) Winery staff activities;

4 (G) Open house promotions of wine produced in conjunction with the winery; and

5 (H) Similar activities conducted for the primary purpose of promoting wine produced in con-
 6 junction with the winery;

7 (c) Market and sell items directly related to the sale or promotion of wine produced in con-
 8 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 9 including food and beverages:

10 (A) Required to be made available in conjunction with the consumption of wine on the premises
 11 by the Liquor Control Act or rules adopted under the Liquor Control Act; or

12 (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this sub-
 13 section;

14 (d) Provide services, including agri-tourism or other commercial events[, *hosted by the winery*
 15 *or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:];*

16 **and**

17 *[(A) Are directly related to the sale or promotion of wine produced in conjunction with the*
 18 *winery;]*

19 *[(B) Are incidental to the retail sale of wine on-site; and]*

20 *[(C) Are limited to 25 days or fewer in a calendar year; and]*

21 (e) Host charitable activities for which the winery does not charge a facility rental fee.

22 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 23 (2)(c) of this section and services provided pursuant to subsection (2)(d) of this section may not ex-
 24 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
 25 the winery.

26 (b) At the request of a local government with land use jurisdiction over the site of a winery, the
 27 winery shall submit to the local government a written statement, prepared by a certified public ac-
 28 countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

29 (4) A winery operating under this section:

30 (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery
 31 is established.

32 (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
 33 sumption on the premises of the winery.

34 (5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
 35 taurant that is open to the public for more than 25 days in a calendar year. [*or provides for agri-*
 36 *tourism or other commercial events authorized under subsection (2)(d) of this section occurring on more*
 37 *than 25 days in a calendar year.*]

38 (b) In addition to any other requirements, a local government may approve a permit application
 39 under this subsection if the local government finds that the authorized activity:

40 (A) Complies with the standards described in ORS 215.296;

41 (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
 42 winery; and

43 (C) Does not materially alter the stability of the land use pattern in the area.

44 *[(c) If the local government issues a permit under this subsection for agri-tourism or other com-*
 45 *mmercial events, the local government shall review the permit at least once every five years and, if ap-*

1 *propriate, may renew the permit.]*

2 (6) A person may not have a substantial ownership interest in more than one winery operating
3 a restaurant under this section.

4 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
5 show that vineyards described in subsection (1) of this section have been planted.

6 (8) A local government shall require a winery operating under this section to provide for:

7 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
8 public gathering places; and

9 (b) Direct road access and internal circulation.

10 (9) A local government shall apply:

11 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
12 access and airport safety;

13 (b) Regulations for the public health and safety; and

14 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
15 specting open spaces, scenic and historic areas and natural resources.

16 (10) The local government may authorize a winery described in subsection (1) of this section to
17 sell or deliver items or provide services not described in subsection (2)(c) or (d) or (3) of this section
18 under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c)
19 or 215.283 (2)(a) or under other provisions of law.

20 (11)(a) A local government may issue a permit for a winery operating under this section to host
21 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
22 government issued permits to wineries operating under this section in similar circumstances before
23 August 2, 2011.

24 (b) A local government may not issue a permit for a winery operating under this section to host
25 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
26 government did not issue permits to wineries operating under this section in similar circumstances
27 before August 2, 2011.

28 (12) When a bed and breakfast facility is sited as a home occupation on the same tract as a
29 winery established under this section and in association with the winery:

30 (a) The bed and breakfast facility may prepare and serve two meals per day to the registered
31 guests of the bed and breakfast facility; and

32 (b) The meals may be served at the bed and breakfast facility or at the winery.

33 (13) As used in this section:

34 (a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is
35 charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and
36 other events at which the promotion of wine produced in conjunction with the winery is a secondary
37 purpose of the event.

38 (b) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a
39 wine club or over the Internet or telephone.

40 **SECTION 7.** ORS 215.238 is amended to read:

41 215.238. Notwithstanding ORS 30.938, in an action or claim for relief alleging nuisance or tres-
42 pass and arising from a practice that is alleged by either party to be a farming or forest practice,
43 the prevailing party is not entitled to judgment for reasonable attorney fees and costs incurred at
44 trial and on appeal if:

45 (1) The party owns, operates or attends an agri-tourism or other commercial event or activity

1 *[authorized under ORS 215.213 (11) or 215.283 (4)]; and*

2 (2) The action or claim arises from the event or activity.

3 **SECTION 8.** ORS 215.239 is amended to read:

4 215.239. The uses authorized by ORS 215.213 [(11)] (1)(cc) or 215.283 [(4)] (1)(aa) may be allowed
5 on lands that are planned and zoned for exclusive farm use and designated as rural reserves under
6 ORS 195.141 or as urban reserves under ORS 195.145.

7 **SECTION 9. ORS 215.237 is repealed.**

8 **SECTION 10.** ORS 197.015 is amended to read:

9 197.015. As used in ORS chapters 195, 196 and 197 and ORS 197A.300 to 197A.325, unless the
10 context requires otherwise:

11 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
12 land use regulations, land use regulation or plan or regulation amendment complies with the goals
13 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
14 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
15 work plan comply with the goals.

16 (2) "Board" means the Land Use Board of Appeals.

17 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more
18 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

19 (4) "Commission" means the Land Conservation and Development Commission.

20 (5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
21 of the governing body of a local government that interrelates all functional and natural systems and
22 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
23 portation systems, educational facilities, recreational facilities, and natural resources and air and
24 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
25 geographic area covered and functional and natural activities and systems occurring in the area
26 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
27 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
28 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
29 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
30 water, both surface and subsurface, and the air.

31 (6) "Department" means the Department of Land Conservation and Development.

32 (7) "Director" means the Director of the Department of Land Conservation and Development.

33 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-
34 mission pursuant to ORS chapters 195, 196 and 197.

35 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
36 adoption and implementation of comprehensive plans in compliance with goals and to aid state
37 agencies and special districts in the preparation, adoption and implementation of plans, programs
38 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
39 agencies, cities, counties and special districts to a single approach.

40 (10) "Land use decision":

41 (a) Includes:

42 (A) A final decision or determination made by a local government or special district that con-
43 cerns the adoption, amendment or application of:

44 (i) The goals;

45 (ii) A comprehensive plan provision;

- 1 (iii) A land use regulation; or
- 2 (iv) A new land use regulation;
- 3 (B) A final decision or determination of a state agency other than the commission with respect
- 4 to which the agency is required to apply the goals; or
- 5 (C) A decision of a county planning commission made under ORS 433.763;
- 6 (b) Does not include a decision of a local government:
- 7 (A) That is made under land use standards that do not require interpretation or the exercise
- 8 of policy or legal judgment;
- 9 (B) That approves or denies a building permit issued under clear and objective land use stan-
- 10 dards;
- 11 (C) That is a limited land use decision;
- 12 (D) That determines final engineering design, construction, operation, maintenance, repair or
- 13 preservation of a transportation facility that is otherwise authorized by and consistent with the
- 14 comprehensive plan and land use regulations;
- 15 (E) That is an expedited land division as described in ORS 197.360;
- 16 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
- 17 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
- 18 under ORS 480.410 to 480.460;
- 19 (G) That approves or denies approval of a final subdivision or partition plat or that determines
- 20 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
- 21 partition plan; or
- 22 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
- 23 knowledged comprehensive plan and land use regulations implementing the plan, if:
- 24 (i) The local government has already made a land use decision authorizing a use or activity that
- 25 encompasses the proposed state agency action;
- 26 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state
- 27 agency action is allowed without review under the acknowledged comprehensive plan and land use
- 28 regulations implementing the plan; or
- 29 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state
- 30 agency action requires a future land use review under the acknowledged comprehensive plan and
- 31 land use regulations implementing the plan;
- 32 (c) Does not include a decision by a school district to close a school;
- 33 (d) Does not include[*except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c),*] authorization
- 34 of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000
- 35 persons that is not anticipated to continue for more than 120 hours in any three-month period; and
- 36 (e) Does not include:
- 37 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
- 38 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
- 39 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or
- 40 (C) A state agency action subject to ORS 197.180 (1), if:
- 41 (i) The local government with land use jurisdiction over a use or activity that would be au-
- 42 thorized, funded or undertaken by the state agency as a result of the state agency action has already
- 43 made a land use decision approving the use or activity; or
- 44 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a
- 45 result of the state agency action is allowed without review under the acknowledged comprehensive

1 plan and land use regulations implementing the plan.

2 (11) "Land use regulation" means any local government zoning ordinance, land division ordi-
 3 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
 4 implementing a comprehensive plan.

5 (12) "Limited land use decision":

6 (a) Means a final decision or determination made by a local government pertaining to a site
 7 within an urban growth boundary that concerns:

8 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
 9 92.040 (1).

10 (B) The approval or denial of an application based on discretionary standards designed to reg-
 11 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
 12 view and design review.

13 (b) Does not mean a final decision made by a local government pertaining to a site within an
 14 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
 15 that determines whether a final subdivision or partition plat substantially conforms to the tentative
 16 subdivision or partition plan.

17 (13) "Local government" means any city, county or metropolitan service district formed under
 18 ORS chapter 268 or an association of local governments performing land use planning functions
 19 under ORS 195.025.

20 (14) "Metro" means a metropolitan service district organized under ORS chapter 268.

21 (15) "Metro planning goals and objectives" means the land use goals and objectives that a met-
 22 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
 23 stitute a comprehensive plan.

24 (16) "Metro regional framework plan" means the regional framework plan required by the 1992
 25 Metro Charter or its separate components. Neither the regional framework plan nor its individual
 26 components constitute a comprehensive plan.

27 (17) "New land use regulation" means a land use regulation other than an amendment to an
 28 acknowledged land use regulation adopted by a local government that already has a comprehensive
 29 plan and land regulations acknowledged under ORS 197.251.

30 (18) "Person" means any individual, partnership, corporation, association, governmental subdi-
 31 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
 32 opment Commission or its designee is considered a person for purposes of appeal under ORS
 33 chapters 195 and 197.

34 (19) "Special district" means any unit of local government, other than a city, county, metropol-
 35 itan service district formed under ORS chapter 268 or an association of local governments per-
 36 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
 37 includes but is not limited to water control districts, domestic water associations and water coop-
 38 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
 39 school districts, hospital districts, mass transit districts and sanitary districts.

40 (20) "Urban unincorporated community" means an area designated in a county's acknowledged
 41 comprehensive plan as an urban unincorporated community after December 5, 1994.

42 (21) "Voluntary association of local governments" means a regional planning agency in this
 43 state officially designated by the Governor pursuant to the federal Office of Management and Budget
 44 Circular A-95 as a regional clearinghouse.

45 (22) "Wetlands" means those areas that are inundated or saturated by surface or ground water

1 at a frequency and duration that are sufficient to support, and that under normal circumstances do
 2 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

3 **SECTION 11.** ORS 215.246 is amended to read:

4 215.246. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

5 (a) Require a determination by the Department of Environmental Quality, in conjunction with
 6 the department's review of a license, permit or approval, that the application rates and site man-
 7 agement practices for the land application of reclaimed water, agricultural or industrial process
 8 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
 9 reduce the productivity of the tract.

10 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
 11 215.274, 215.275 or 215.296.

12 (2) The use of a tract of land on which the land application of reclaimed water, agricultural or
 13 industrial process water or biosolids has occurred under this section may not be changed to allow
 14 a different use unless:

15 (a) The tract is included within an acknowledged urban growth boundary;

16 (b) The tract is rezoned to a zone other than an exclusive farm use zone;

17 (c) The different use of the tract is a farm use as defined in ORS 215.203; or

18 (d) The different use of the tract is a use allowed under:

19 (A) ORS 215.213 (1)(b), (d) to (f), (i) to (n), (p) to (r), (u), (w), [or] (x) **or (cc)**;

20 (B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

21 [(C) ORS 215.213 (11);]

22 [(D)] (C) ORS 215.283 (1)(b), (d), (e), (h) to (L), (n) to (p), (r), (t), [or] (u) **or (aa)**; **or**

23 [(E)] (D) ORS 215.283 (2)(a), (j), (L) or (p) to (s). [; or]

24 [(F) ORS 215.283 (4).]

25 (3) When a state agency or a local government makes a land use decision relating to the land
 26 application of reclaimed water, agricultural or industrial process water or biosolids under a license,
 27 permit or approval by the Department of Environmental Quality, the applicant shall explain in
 28 writing how alternatives identified in public comments on the land use decision were considered and,
 29 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The
 30 applicant must consider only those alternatives that are identified with sufficient specificity to af-
 31 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating
 32 to the land application of reclaimed water, agricultural or industrial process water or biosolids may
 33 not be reversed or remanded under this subsection unless the applicant failed to consider identified
 34 alternatives or to explain in writing the reasons for not using the alternatives.

35 (4) The uses allowed under this section include:

36 (a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that
 37 occurs as a result of the land application;

38 (b) The establishment and use of facilities, including buildings, equipment, aerated and
 39 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and
 40 reasonably necessary for the land application to occur on the subject tract;

41 (c) The establishment and use of facilities, including buildings and equipment, that are not on
 42 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
 43 industrial process water or biosolids to the tract on which the land application occurs if the facili-
 44 ties are located within:

45 (A) A public right of way; or

1 (B) Other land if the landowner provides written consent and the owner of the facility complies
 2 with ORS 215.275 (4); and

3 (d) The transport by vehicle of reclaimed water or agricultural or industrial process water to
 4 a tract on which the water will be applied to land.

5 (5) Uses not allowed under this section include:

6 (a) The establishment and use of facilities, including buildings or equipment, for the treatment
 7 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment
 8 facilities related to the treatment that occurs as a result of the land application; or

9 (b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x)
 10 or 215.283 (1)(u).

11 **SECTION 12.** ORS 215.296 is amended to read:

12 215.296. (1) A use allowed under ORS 215.213 (2) [or (11)] or 215.283 (2) [or (4)] may be approved
 13 only where the local governing body or its designee finds that the use will not:

14 (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted
 15 to farm or forest use; or

16 (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands
 17 devoted to farm or forest use.

18 (2) An applicant for a use allowed under ORS 215.213 (2) [or (11)] or 215.283 (2) [or (4)] may
 19 demonstrate that the standards for approval set forth in subsection (1) of this section will be satis-
 20 fied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

21 (3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file
 22 a complaint with the local governing body or its designee alleging:

23 (a) That a condition imposed pursuant to subsection (2) of this section has been violated;

24 (b) That the violation has:

25 (A) Forced a significant change in accepted farm or forest practices on surrounding lands de-
 26 voted to farm or forest use; or

27 (B) Significantly increased the cost of accepted farm or forest practices on surrounding lands
 28 devoted to farm or forest use; and

29 (c) That the complainant is adversely affected by the violation.

30 (4) Upon receipt of a complaint filed under this section or ORS 215.218, the local governing body
 31 or its designee shall:

32 (a) Forward the complaint to the operator of the use;

33 (b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

34 (c) Determine whether the allegations made in a complaint filed under this section or ORS
 35 215.218 are true.

36 (5) Upon a determination that the allegations made in a complaint are true, the local governing
 37 body or its designee at a minimum shall notify the violator that a violation has occurred, direct the
 38 violator to correct the conditions that led to the violation within a specified time period and warn
 39 the violator against the commission of further violations.

40 (6) If the conditions that led to a violation are not corrected within the time period specified
 41 pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4)
 42 of this section following the receipt of a second complaint that a further violation has occurred, the
 43 local governing body or its designee at a minimum shall assess a fine against the violator.

44 (7) If the conditions that led to a violation are not corrected within 30 days after the imposition
 45 of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to sub-

1 section (4) of this section following the receipt of a third or subsequent complaint that a further
 2 violation has occurred, the local governing body or its designee shall at a minimum order the sus-
 3 pension of the use until the violator corrects the conditions that led to the violation.

4 (8) If a use allowed under ORS 215.213 (2) [*or (11)*] or 215.283 (2) [*or (4)*] is initiated without prior
 5 approval pursuant to subsection (1) of this section, the local governing body or its designee at a
 6 minimum shall notify the user that prior approval is required, direct the user to apply for approval
 7 within 21 days and warn the user against the commission of further violations. If the user does not
 8 apply for approval within 21 days, the local governing body or its designee shall order the suspen-
 9 sion of the use until the user applies for and receives approval. If there is a determination pursuant
 10 to subsection (4) of this section following the receipt of a complaint that a further violation occurred
 11 after approval was granted, the violation shall be deemed a second violation and the local governing
 12 body or its designee at a minimum shall assess a fine against the violator.

13 (9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses
 14 conducted within:

15 (A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3),
 16 215.284 (1), (2), (3), (4) or (7) or 215.705;

17 (B) An exception area approved under ORS 197.732; or

18 (C) An acknowledged urban growth boundary.

19 (b) A person residing in a single-family residential dwelling which was approved under ORS
 20 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved un-
 21 der ORS 197.732 or which is within an acknowledged urban growth boundary may not file a com-
 22 plaint under subsection (3) of this section.

23 (10) This section does not prevent a local governing body approving a use allowed under ORS
 24 215.213 (2) [*or (11)*] or 215.283 (2) [*or (4)*] from establishing standards in addition to those set forth
 25 in subsection (1) of this section or from imposing conditions to ensure conformance with the addi-
 26 tional standards.

27 **SECTION 13.** ORS 433.763 is amended to read:

28 433.763. (1) An application for an outdoor mass gathering for which the county decides that a
 29 land use permit is required, or for any gathering of more than 3,000 persons any part of which is
 30 held outdoors and which continues or can reasonably be expected to continue for a period exceeding
 31 that allowable for an outdoor mass gathering, shall be allowed by a county if:

32 (a) The applicant has complied or can comply with the requirements for an outdoor mass gath-
 33 ering permit set out in ORS 433.750 and 433.755;

34 (b) Permits required by the applicable land use regulations have been granted; and

35 (c) The proposed gathering:

36 (A) Is compatible with existing land uses; and

37 (B) Does not materially alter the stability of the overall land use pattern of the area.

38 (2) A hearings officer, county planning commission or other person or body that the county
 39 designates may make findings and approve or deny an application for a permit under this section.
 40 A decision granting or denying a permit under this section may be appealed to the county governing
 41 body as provided in ORS 215.402 to 215.438.

42 (3) Notwithstanding subsection (1) of this section, a county may not require a permit under ORS
 43 433.750 for events otherwise permitted under ORS 215.213 [(11)], 215.283 [(4)], 215.449, 215.451 or
 44 215.452.

45 **SECTION 14.** ORS 30.673 is amended to read:

1 30.673. (1) Except as provided in subsections (2) and (3) of this section, an agri-tourism profes-
2 sional that posts the notices required under ORS 30.677 is not liable for an injury to or the death
3 of a participant arising from the inherent risks of an agri-tourism activity.

4 (2) Subsection (1) of this section does not limit the liability of an agri-tourism professional if the
5 agri-tourism professional:

6 (a) Commits an act or omission that constitutes negligence or willful or wanton disregard for
7 the safety of the participant, and that act or omission is a cause of injury to the participant;

8 (b) Intentionally injures the participant;

9 (c) Provides equipment to the participant and fails to make reasonable inspection of the equip-
10 ment, and that failure is a cause of the injury to the participant;

11 (d) Fails to make reasonable inspection of the property on which the agri-tourism activity oc-
12 curs, and that failure is a cause of the injury to the participant; **or**

13 (e) Has actual knowledge or reasonably should have known of a dangerous condition on the land
14 or in the facilities or equipment used in the activity, or of the dangerous propensity of a particular
15 animal used in the activity, and does not make the danger known to the participant, and the danger
16 causes injury, damage or death to the participant[; *or*].

17 [*f*] *Fails to obtain necessary authorization for the agri-tourism activity under ORS 215.213 or*
18 *215.283.*]

19 (3) Subsection (1) of this section does not limit the liability of an agri-tourism professional under
20 the product liability provisions of ORS 30.900 to 30.920.

21
