

SB 648-2  
(LC 3679)  
3/24/23 (RLM/ps)

Requested by Senator SMITH DB

**PROPOSED AMENDMENTS TO  
SENATE BILL 648**

1 In line 2 of the printed bill, after “lands” insert “; amending ORS 197.488,  
2 215.130, 215.213, 215.215, 215.283, 215.297, 215.448, 215.799 and 308A.462”.

3 Delete lines 4 through 13 and insert:

4 **“SECTION 1.** ORS 215.448 is amended to read:

5 “215.448. (1) [*The governing body of a county or its designate*] **A county**  
6 may allow[, *subject to the approval of the governing body or its designate,*] the  
7 establishment of a home occupation and the parking of vehicles in any zone.  
8 [*However, in an*] **On lands zoned for** exclusive farm use [*zone*], forest  
9 [*zone*] **use** or a mixed farm and forest [*zone*] **use** that allows residential uses,  
10 [*the following standards apply to*] the home occupation:

11 “(a) [*It shall*] **Must** be operated by a resident or employee of a resident  
12 of the property on which the business is located;

13 “(b) [*It shall*] **May not** employ [*on the site no*] more than five full-time  
14 or part-time persons **on the site**;

15 “(c) [*It shall*] **Must** be operated substantially in:

16 “(A) The dwelling; or

17 “(B) Other buildings normally associated with uses permitted in the zone  
18 in which the property is located; and

19 “(d) [*It shall*] **May** not unreasonably interfere with other uses permitted  
20 in the zone in which the property is located.

21 **“(2) On lands zoned for exclusive farm use, forest use or a mixed**

1 **farm and forest use, a county may not prohibit the use of a residential**  
2 **structure as a vacation occupancy, as defined in ORS 90.100.**

3 “[~~(2)~~] (3) [*The governing body of the county or its designate*] **A county**  
4 may establish additional reasonable conditions of approval for the estab-  
5 lishment of a home occupation **or vacation occupancy** under [*subsection (1)*  
6 *of*] this section.

7 “[~~(3)~~] (4) Nothing in this section authorizes the [*governing body or its*  
8 *designate to permit*] construction of any structure [*that would not otherwise*  
9 *be allowed*] **prohibited** in the zone in which the home occupation **or vaca-**  
10 **tion occupancy** is [*to be*] established.

11 “[~~(4)~~] (5) The existence of home occupations [*shall*] **or vacation occu-**  
12 **pancies may** not be used as justification for a zone change.

13 **“(6) Nothing in this section prohibits a county from adopting or**  
14 **amending a generally applicable licensing ordinance or program regu-**  
15 **lating commercial activities, including vacation occupancies, through**  
16 **means other than land use regulations as defined in ORS 197.015.**

17 **“SECTION 2.** ORS 215.130 is amended to read:

18 “215.130. (1) Any legislative ordinance relating to land use planning or  
19 zoning shall be a local law within the meaning of, and subject to, ORS  
20 250.155 to 250.235.

21 “(2) An ordinance designed to carry out a county comprehensive plan and  
22 a county comprehensive plan shall apply to:

23 “(a) The area within the county also within the boundaries of a city as  
24 a result of extending the boundaries of the city or creating a new city unless,  
25 or until the city has by ordinance or other provision provided otherwise; and

26 “(b) The area within the county also within the boundaries of a city if  
27 the governing body of such city adopts an ordinance declaring the area  
28 within its boundaries subject to the county’s land use planning and regula-  
29 tory ordinances, officers and procedures and the county governing body  
30 consents to the conferral of jurisdiction.

1 “(3) An area within the jurisdiction of city land use planning and regu-  
2 latory provisions that is withdrawn from the city or an area within a city  
3 that disincorporates shall remain subject to such plans and regulations  
4 which shall be administered by the county until the county provides other-  
5 wise.

6 “(4) County ordinances designed to implement a county comprehensive  
7 plan shall apply to publicly owned property.

8 “(5) The lawful use of any building, structure or land at the time of the  
9 enactment or amendment of any zoning ordinance or regulation may be  
10 continued. Alteration of any such use may be permitted subject to subsection  
11 (9) of this section. Alteration of any such use shall be permitted when nec-  
12 essary to comply with any lawful requirement for alteration in the use. Ex-  
13 cept as provided in ORS 215.215, a county shall not place conditions upon  
14 the continuation or alteration of a use described under this subsection when  
15 necessary to comply with state or local health or safety requirements, or to  
16 maintain in good repair the existing structures associated with the use. A  
17 change of ownership or occupancy shall be permitted.

18 “(6) Restoration or replacement of any use described in subsection (5) of  
19 this section may be permitted when the restoration or replacement is made  
20 necessary by fire, other casualty or natural disaster. Restoration or replace-  
21 ment must be commenced within one year from the occurrence of the fire,  
22 casualty or natural disaster. If restoration or replacement is necessary under  
23 this subsection, restoration or replacement must be done in compliance with  
24 ORS 195.260 (1)(c).

25 “(7)(a) Any use described in subsection (5) of this section may not be re-  
26 sumed after a period of interruption or abandonment unless the resumed use  
27 conforms with the requirements of zoning ordinances or regulations appli-  
28 cable at the time of the proposed resumption.

29 “(b) Notwithstanding any local ordinance, a surface mining use continued  
30 under subsection (5) of this section is not considered interrupted or aban-

1    done for any period after July 1, 1972, provided:

2       “(A) The owner or operator was issued and continuously renewed a state  
3    or local surface mining permit, or received and maintained a state or local  
4    exemption from surface mining regulation; and

5       “(B) The surface mining use was not inactive for a period of 12 consec-  
6    utive years or more.

7       “(c) For purposes of paragraph (b) of this subsection, ‘inactive’ means no  
8    aggregate materials were excavated, crushed, removed, stockpiled or sold by  
9    the owner or operator of the surface mine.

10      “(d) A use continued under subsection (5) of this section is not considered  
11    interrupted or abandoned for any period while a federal, state or local  
12    emergency order temporarily limits or prohibits the use or the restoration  
13    or replacement of the use.

14      “(8) Any proposal for the verification or alteration of a use under sub-  
15    section (5) of this section, except an alteration necessary to comply with a  
16    lawful requirement, for the restoration or replacement of a use under sub-  
17    section (6) of this section or for the resumption of a use under subsection (7)  
18    of this section shall be subject to the provisions of ORS 215.416. An initial  
19    decision by the county or its designate on a proposal for the alteration of a  
20    use described in subsection (5) of this section shall be made as an adminis-  
21    trative decision without public hearing in the manner provided in ORS  
22    215.416 (11).

23      “(9) As used in this section, ‘alteration’ of a nonconforming use includes:

24      “(a) A change in the use of no greater adverse impact to the neighbor-  
25    hood; and

26      “(b) A change in the structure or physical improvements of no greater  
27    adverse impact to the neighborhood.

28      “(10) A local government may adopt standards and procedures to imple-  
29    ment the provisions of this section. The standards and procedures may in-  
30    clude but are not limited to the following:

1 “(a) For purposes of verifying a use under subsection (5) of this section,  
2 a county may adopt procedures that allow an applicant for verification to  
3 prove the existence, continuity, nature and extent of the use only for the  
4 10-year period immediately preceding the date of application. Evidence  
5 proving the existence, continuity, nature and extent of the use for the 10-year  
6 period preceding application creates a rebuttable presumption that the use,  
7 as proven, lawfully existed at the time the applicable zoning ordinance or  
8 regulation was adopted and has continued uninterrupted until the date of  
9 application.

10 “(b) Establishing criteria to determine when a use has been interrupted  
11 or abandoned under subsection (7) of this section.

12 “(c) Conditioning approval of the alteration of a use in a manner calcu-  
13 lated to ensure mitigation of adverse impacts as described in subsection (9)  
14 of this section.

15 “(11) For purposes of verifying a use under subsection (5) of this section,  
16 a county may not require an applicant for verification to prove the existence,  
17 continuity, nature and extent of the use for a period exceeding 20 years im-  
18 mediately preceding the date of application.

19 **“(12) Except as otherwise provided by the land use regulations of a**  
20 **county, the use of a dwelling as a vacation occupancy, as defined in**  
21 **ORS 90.100, is not a use that may be continued under subsection (5)**  
22 **of this section.**

23 **“SECTION 3. ORS 215.213 is amended to read:**

24 **“215.213. (1) In counties that have adopted marginal lands provisions un-**  
25 **der ORS 197.247 (1991 Edition), the following uses may be established in any**  
26 **area zoned for exclusive farm use:**

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

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

29 **“(c) Utility facilities necessary for public service, including wetland waste**  
30 **treatment systems but not including commercial facilities for the purpose of**

1 generating electrical power for public use by sale or transmission towers  
2 over 200 feet in height. A utility facility necessary for public service may  
3 be established as provided in:

4 “(A) ORS 215.275; or

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

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

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

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

27 “(g) Operations for the exploration for and production of geothermal re-  
28 sources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005,  
29 including the placement and operation of compressors, separators and other  
30 customary production equipment for an individual well adjacent to the

1 wellhead. Any activities or construction relating to such operations shall not  
2 be a basis for an exception under ORS 197.732 (2)(a) or (b).

3 “(h) Operations for the exploration for minerals as defined by ORS  
4 517.750. Any activities or construction relating to such operations shall not  
5 be a basis for an exception under ORS 197.732 (2)(a) or (b).

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

17 “(j) Climbing and passing lanes within the right of way existing as of July  
18 1, 1987.

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

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

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

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

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

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

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

8 “(r) Farm stands if:

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

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

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

23 “(t) A site for the takeoff and landing of model aircraft, including such  
24 buildings or facilities as may reasonably be necessary. Buildings or facilities  
25 shall not be more than 500 square feet in floor area or placed on a permanent  
26 foundation unless the building or facility preexisted the use approved under  
27 this paragraph. The site shall not include an aggregate surface or hard sur-  
28 face area unless the surface preexisted the use approved under this para-  
29 graph. An owner of property used for the purpose authorized in this  
30 paragraph may charge a person operating the use on the property rent for



1 the property. An operator may charge users of the property a fee that does  
2 not exceed the operator's cost to maintain the property, buildings and facil-  
3 ities. As used in this paragraph, 'model aircraft' means a small-scale version  
4 of an airplane, glider, helicopter, dirigible or balloon that is used or intended  
5 to be used for flight and is controlled by radio, lines or design by a person  
6 on the ground.

7 “(u) A facility for the processing of farm products as described in ORS  
8 215.255.

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

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

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

17 “(A) A public right of way;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(c) Commercial activities that are in conjunction with farm use, includ-  
6 ing the processing of farm crops into biofuel not permitted under ORS  
7 215.203 (2)(b)(K) or 215.255.

8 “(d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(n) Home occupations **or vacation occupancies** as provided in ORS  
22 215.448.

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

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

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

30 “(r) Improvement of public road and highway related facilities such as

1 maintenance yards, weigh stations and rest areas, where additional property  
2 or right of way is required but not resulting in the creation of new land  
3 parcels.

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

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

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

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

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

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

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

30 “(x) A landscape contracting business, as defined in ORS 671.520, or a

1 business providing landscape architecture services, as described in ORS  
2 671.318, if the business is pursued in conjunction with the growing and  
3 marketing of nursery stock on the land that constitutes farm use.

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

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

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

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

14 “(aa) Child care facilities, preschool recorded programs or school-age re-  
15 corded programs that are:

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

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

19 “(C) Colocated with a community center or a public or private school al-  
20 lowed under this subsection.

21 “(3) In counties that have adopted marginal lands provisions under ORS  
22 197.247 (1991 Edition), a single-family residential dwelling not provided in  
23 conjunction with farm use may be established on a lot or parcel with soils  
24 predominantly in capability classes IV through VIII as determined by the  
25 Agricultural Capability Classification System in use by the United States  
26 Department of Agriculture Soil Conservation Service on October 15, 1983. A  
27 proposed dwelling is subject to approval of the governing body or its  
28 designee in any area zoned for exclusive farm use upon written findings  
29 showing all of the following:

30 “(a) The dwelling or activities associated with the dwelling will not force

1 a significant change in or significantly increase the cost of accepted farming  
2 practices on nearby lands devoted to farm use.

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

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

10 “(4) In counties that have adopted marginal lands provisions under ORS  
11 197.247 (1991 Edition), one single-family dwelling, not provided in conjunc-  
12 tion with farm use, may be established in any area zoned for exclusive farm  
13 use on a lot or parcel described in subsection (7) of this section that is not  
14 larger than three acres upon written findings showing:

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

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

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

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

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

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



1 “(6) The notice required in subsection (5) of this section shall specify that  
2 persons have 15 days following the date of postmark of the notice to file a  
3 written objection on the grounds only that the dwelling or activities associ-  
4 ated with it would force a significant change in or significantly increase the  
5 cost of accepted farming practices on nearby lands devoted to farm use. If  
6 no objection is received, the governing body or its designee shall approve or  
7 disapprove the application. If an objection is received, the governing body  
8 shall set the matter for hearing in the manner prescribed in ORS 215.402 to  
9 215.438. The governing body may charge the reasonable costs of the notice  
10 required by subsection (5)(a) of this section to the applicant for the permit  
11 requested under subsection (4) of this section.

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

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

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

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

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

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

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

29 “(10) Roads, highways and other transportation facilities and improve-  
30 ments not allowed under subsections (1) and (2) of this section may be es-

1 tablished, subject to the approval of the governing body or its designee, in  
2 areas zoned for exclusive farm use subject to:

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

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

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

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

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

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

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

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

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

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

1 “(G) The agri-tourism or other commercial event or activity complies with  
2 conditions established 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  
6 vehicles and any anticipated 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  
9 county may authorize, through an expedited, single-event license, a single  
10 agri-tourism or other commercial event or activity on a tract in a calendar  
11 year by an expedited, single-event license that is personal to the applicant  
12 and is not transferred by, or transferable with, a conveyance of the tract. A  
13 decision concerning an expedited, single-event license is not a land use de-  
14 cision, as defined in ORS 197.015. To approve an expedited, single-event li-  
15 cense, the governing body of a county or its designee must determine that  
16 the proposed agri-tourism or other commercial event or activity meets any  
17 local standards that apply, and the agri-tourism or other commercial event  
18 or activity:

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

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

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

22 “(D) May not include the artificial amplification of music or voices before  
23 8 a.m. or after 8 p.m.;

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

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

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

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

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

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

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

13 “(D) Must comply with ORS 215.296;

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

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

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

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

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

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

29 “(v) Sanitation and solid waste.

30 “(d) In addition to paragraphs (a) to (c) of this subsection, a county may

1 authorize agri-tourism or other commercial events or activities that occur  
2 more frequently or for a longer period or that do not otherwise comply with  
3 paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the  
4 agri-tourism or other commercial events or activities:

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

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

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

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

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

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

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

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

23 “(a) A county may authorize the use of temporary structures established  
24 in connection with the agri-tourism or other commercial events or activities  
25 authorized under subsection (11) of this section. However, the temporary  
26 structures must be removed at the end of the agri-tourism or other event or  
27 activity. The county may not approve an alteration to the land in connection  
28 with an agri-tourism or other commercial event or activity authorized under  
29 subsection (11) of this section, including, but not limited to, grading, filling  
30 or paving.

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

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

12 **“SECTION 4.** ORS 215.283 is amended to read:

13 “215.283. (1) The following uses may be established in any area zoned for  
14 exclusive farm use:

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

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

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

22 “(A) ORS 215.275; or

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

25 “(d) A dwelling on real property used for farm use if the dwelling is oc-  
26 cupied by a relative of the farm operator or the farm operator’s spouse,  
27 which means a child, parent, stepparent, grandchild, grandparent,  
28 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,  
29 if the farm operator does or will require the assistance of the relative in the  
30 management of the farm use and the dwelling is located on the same lot or

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

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

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

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

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

21 “(i) Reconstruction or modification of public roads and highways, includ-  
22 ing the placement of utility facilities overhead and in the subsurface of  
23 public roads and highways along the public right of way, but not including  
24 the addition of travel lanes, where no removal or displacement of buildings  
25 would occur, or no new land parcels result.

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

28 “(k) Minor betterment of existing public road and highway related facili-  
29 ties such as maintenance yards, weigh stations and rest areas, within right  
30 of way existing as of July 1, 1987, and contiguous public-owned property

utilized to support the operation and maintenance of public roads and highways.

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

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

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

“(o) Farm stands if:

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

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

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

“(q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does



1 not exceed the operator's cost to maintain the property, buildings and facil-  
2 ities. As used in this paragraph, 'model aircraft' means a small-scale version  
3 of an airplane, glider, helicopter, dirigible or balloon that is used or intended  
4 to be used for flight and is controlled by radio, lines or design by a person  
5 on the ground.

6 "(r) A facility for the processing of farm products as described in ORS  
7 215.255.

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

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

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

16 "(A) A public right of way;

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

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

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

1 defined in ORS 801.580, during a period of time within which land applica-  
2 tion of biosolids is authorized under the license, permit or other approval.

3 “(w) A county law enforcement facility that lawfully existed on August  
4 20, 2002, and is used to provide rural law enforcement services primarily in  
5 rural areas, including parole and post-prison supervision, but not including  
6 a correctional facility as defined under ORS 162.135.

7 “(x) Dog training classes or testing trials, which may be conducted out-  
8 doors or in preexisting farm buildings, when:

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

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

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

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

17 “(2) The following nonfarm uses may be established, subject to the ap-  
18 proval of the governing body or its designee in any area zoned for exclusive  
19 farm use subject to ORS 215.296:

20 “(a) Commercial activities that are in conjunction with farm use, includ-  
21 ing the processing of farm crops into biofuel not permitted under ORS  
22 215.203 (2)(b)(K) or 215.255.

23 “(b) Operations conducted for:

24 “(A) Mining and processing of geothermal resources as defined by ORS  
25 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted  
26 under subsection (1)(f) of this section;

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

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

1 “(D) Processing of other mineral resources and other subsurface re-  
2 sources.

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

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

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

28 “(f) Golf courses on land:

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

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

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

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

5 “(iii) Is west of U.S. Highway 101.

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

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

24 “(i) Home occupations **or vacation occupancies** as provided in ORS  
25 215.448.

26 “(j) A facility for the primary processing of forest products, provided that  
27 such facility is found to not seriously interfere with accepted farming prac-  
28 tices and is compatible with farm uses described in ORS 215.203 (2). Such a  
29 facility may be approved for a one-year period which is renewable. These  
30 facilities are intended to be only portable or temporary in nature. The pri-

1 mary processing of a forest product, as used in this section, means the use  
2 of a portable chipper or stud mill or other similar methods of initial treat-  
3 ment of a forest product in order to enable its shipment to market. Forest  
4 products, as used in this section, means timber grown upon a parcel of land  
5 or contiguous land where the primary processing facility is located.

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

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

21 “(m) Transmission towers over 200 feet in height.

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

23 “(B) Dog training classes or testing trials that cannot be established un-  
24 der subsection (1)(x) of this section.

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

26 “(p) The propagation, cultivation, maintenance and harvesting of aquatic  
27 species that are not under the jurisdiction of the State Fish and Wildlife  
28 Commission or insect species. Insect species shall not include any species  
29 under quarantine by the State Department of Agriculture or the United  
30 States Department of Agriculture. The county shall provide notice of all

1 applications under this paragraph to the State Department of Agriculture.  
2 Notice shall be provided in accordance with the county's land use regu-  
3 lations but shall be mailed at least 20 calendar days prior to any adminis-  
4 trative decision or initial public hearing on the application.

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

8 “(r) Reconstruction or modification of public roads and highways involv-  
9 ing the removal or displacement of buildings but not resulting in the cre-  
10 ation of new land parcels.

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

15 “(t) A destination resort that is approved consistent with the require-  
16 ments of any statewide planning goal relating to the siting of a destination  
17 resort.

18 “(u) Room and board arrangements for a maximum of five unrelated per-  
19 sons in existing residences.

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

21 “(w) Expansion of existing county fairgrounds and activities directly re-  
22 lating to county fairgrounds governed by county fair boards established  
23 pursuant to ORS 565.210.

24 “(x) A living history museum related to resource based activities owned  
25 and operated by a governmental agency or a local historical society, together  
26 with limited commercial activities and facilities that are directly related to  
27 the use and enjoyment of the museum and located within authentic buildings  
28 of the depicted historic period or the museum administration building, if  
29 areas other than an exclusive farm use zone cannot accommodate the mu-  
30 seum and related activities or if the museum administration buildings and

1 parking lot are located within one quarter mile of an urban growth bound-  
2 ary. As used in this paragraph:

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

7 “(B) ‘Local historical society’ means the local historical society recog-  
8 nized by the county governing body and organized under ORS chapter 65.

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

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

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

20 “(bb) Equine and equine-affiliated therapeutic and counseling activities,  
21 provided:

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

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

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

28 “(dd) Child care facilities, preschool recorded programs or school-age re-  
29 corded programs that are:

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

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

3 “(C) Colocated with a community center or a public or private school al-  
4 lowed under this subsection.

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

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

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

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

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

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

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

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

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



hicles;

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

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

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

“(i) Planned hours of operation;

“(ii) Access, egress and parking;

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

“(iv) Sanitation and solid waste.

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

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

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

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

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

“(E) May not require or involve the construction or use of a new perma-

1   nent structure in connection with the agri-tourism or other commercial event  
2   or activity;

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

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

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

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

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

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

19       “(D) Must comply with ORS 215.296;

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

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

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

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

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

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

5 “(v) Sanitation and solid waste.

6 “(d) In addition to paragraphs (a) to (c) of this subsection, a county may  
7 authorize agri-tourism or other commercial events or activities that occur  
8 more frequently or for a longer period or that do not otherwise comply with  
9 paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the  
10 agri-tourism or other commercial events or activities:  
11

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

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

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

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

19 “(5) A holder of a permit authorized by a county under subsection (4)(d)  
20 of this section must request review of the permit at four-year intervals. Upon  
21 receipt of a request for review, the county shall:  
22

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

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

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

29 “(a) A county may authorize the use of temporary structures established  
30 in connection with the agri-tourism or other commercial events or activities

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

7 “(b) The county may issue the limited use permits authorized by sub-  
8 section (4)(c) of this section for two calendar years. When considering an  
9 application for renewal, the county shall ensure compliance with the pro-  
10 visions of subsection (4)(c) of this section, any local standards that apply and  
11 conditions that apply to the permit or to the agri-tourism or other commer-  
12 cial events or activities authorized by the permit.

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

18 **“SECTION 5.** ORS 197.488 is amended to read:

19 “197.488. (1) As used in this section, ‘natural disaster’ includes any dis-  
20 aster resulting in the declaration of a state of emergency under ORS 401.165  
21 or 401.309 for wildfires, floods, tsunamis, earthquakes or similar events, in-  
22 cluding disasters began by negligent or intentional acts.

23 “(2) Notwithstanding ORS 215.130 (5) to [(11)] (12) or any land use regu-  
24 lation, statewide land use planning goal or Land Conservation and Develop-  
25 ment Commission rule, a local government:

26 “(a) Shall, if the development complies with the local government’s  
27 floodplain and other natural hazard land use regulations, approve an appli-  
28 cation for the development of a manufactured dwelling park:

29 “(A) To replace a park destroyed by a natural disaster; or

30 “(B) That is in an area rezoned under paragraph (b) of this subsection.

1 “(b) May, by approval of the governing body, approve a zoning change for  
2 an area within an urban growth boundary near the destroyed park to permit  
3 the development of a manufactured dwelling park where the destruction of  
4 manufactured dwellings from the natural disaster has contributed to a  
5 shortage in housing.

6 “(3) A local government may require an applicant to prove that the de-  
7 stroyed park was assessed as a building or structure for purposes of ad  
8 valorem taxation for the most recent property tax year ending before the  
9 disaster.

10 “(4) In reviewing an application under this section, a local government  
11 may not require that an applicant prove that the destroyed park was lawful  
12 under the existing land use regulations at any time, including when the  
13 building, structure or use was established, at the time of interruption or  
14 destruction or at the time of the application.

15 “(5) The approval of an application for development of a park under this  
16 section does not expire.

17 **“SECTION 6.** ORS 215.215 is amended to read:

18 “215.215. (1) Notwithstanding ORS 215.130 (5) to [(11)] (12), if a nonfarm  
19 use exists in an exclusive farm use zone and is unintentionally destroyed by  
20 fire, other casualty or natural disaster, the county may allow by its zoning  
21 regulations such use to be reestablished to its previous nature and extent,  
22 but the reestablishment shall meet all other building, plumbing, sanitation  
23 and other codes, ordinances and permit requirements.

24 “(2) Consistent with ORS 215.243, the county governing body may zone for  
25 the appropriate nonfarm use one or more lots or parcels in the interior of  
26 an exclusive farm use zone if the lots or parcels were physically developed  
27 for the nonfarm use prior to the establishment of the exclusive farm use  
28 zone.

29 **“SECTION 7.** ORS 215.297 is amended to read:

30 “215.297. (1) As part of the conditional use approval process under ORS

1 215.296, for the purpose of verifying the existence, continuity and nature of  
2 the business described in ORS 215.213 (2)(w) or 215.283 (2)(y), representatives  
3 of the business may apply to the county and submit evidence including, but  
4 not limited to, sworn affidavits or other documentary evidence that the  
5 business qualifies.

6 “(2) A use authorized in ORS 215.213 (2)(w) or 215.283 (2)(y) may be al-  
7 tered, restored or replaced pursuant to ORS 215.130 (5) to [(11)] (12).

8 **“SECTION 8.** ORS 215.799 is amended to read:

9 “215.799. (1) New and existing dwellings may be allowed on a lot or parcel  
10 subject to wildlife habitat special assessment under ORS 308A.403 to  
11 308A.430 as follows:

12 “(a) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to [(11)]  
13 (12), may remain.

14 “(b) For a lot or parcel without an existing dwelling, dwellings may be  
15 allowed if each dwelling for which the landowner seeks approval complies  
16 with all applicable requirements under the county’s acknowledged zoning  
17 ordinance.

18 “(2) The fact that a lot or parcel is subject to wildlife habitat special  
19 assessment may not make it easier or more difficult for a landowner to ob-  
20 tain approval for a dwelling on the lot or parcel.

21 **“SECTION 9.** ORS 308A.462 is amended to read:

22 “308A.462. Subject to the terms of the applicable conservation easement,  
23 new and existing dwellings may be allowed on a lot or parcel subject to  
24 conservation easement special assessment as follows:

25 “(1) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to [(11)]  
26 (12), may remain.

27 “(2) For a lot or parcel without an existing dwelling, dwellings may be  
28 allowed if each dwelling for which the landowner seeks approval complies  
29 with all applicable requirements under the county’s acknowledged zoning  
30 ordinance.”.

