

D R A F T

SUMMARY

Requires certain findings by local governing body for creation, restoration or enhancement of wetlands in exclusive farm use zones.

Defines operator, timber owner or landowner for purposes of liability limits associated with certain fish and wildlife habitat improvement projects.

Allows for removal of up to 100 cubic yards of material from waters of this state without permit for purposes of maintaining drainage and protecting agricultural land.

A BILL FOR AN ACT

Relating to land improvement projects; creating new provisions; and amending ORS 196.816, 215.213, 215.283 and 496.270.

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

CREATION, RESTORATION OR ENHANCEMENT OF WETLANDS IN EXCLUSIVE FARM USE ZONES

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

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.

be established as provided in:

(A) ORS 215.275; or

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

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

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

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

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

(h) Operations for the exploration for minerals as defined by ORS 517.750.

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

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

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

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

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

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

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

(o) **Subject to section 5 of this 2016 Act**, creation, restoration or en-

hancement of wetlands.

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

(q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement of a lawfully established dwelling.

(r) Farm stands if:

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

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

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

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

1 to be used for flight and is controlled by radio, lines or design by a person
2 on the ground.

3 (u) A facility for the processing of farm crops or for the production of
4 biofuel, as defined in ORS 315.141, if the facility is located on a farm oper-
5 ation that provides at least one-quarter of the farm crops processed at the
6 facility, or an establishment for the slaughter, processing or selling of
7 poultry or poultry products pursuant to ORS 603.038. If a building is estab-
8 lished or used for the processing facility or establishment, the farm operator
9 may not devote more than 10,000 square feet of floor area to the processing
10 facility or establishment, exclusive of the floor area designated for prepara-
11 tion, storage or other farm use. A processing facility or establishment must
12 comply with all applicable siting standards but the standards may not be
13 applied in a manner that prohibits the siting of the processing facility or
14 establishment.

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

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

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

23 (A) A public right of way;

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

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

27 (y) Subject to the issuance of a license, permit or other approval by the
28 Department of Environmental Quality under ORS 454.695, 459.205, 468B.050,
29 468B.053 or 468B.055, or in compliance with rules adopted under ORS
30 468B.095, and as provided in ORS 215.246 to 215.251, the land application of
31 reclaimed water, agricultural or industrial process water or biosolids for

1 agricultural, horticultural or silvicultural production, or for irrigation in
2 connection with a use allowed in an exclusive farm use zone under this
3 chapter.

4 (z) Dog training classes or testing trials, which may be conducted out-
5 doors or in preexisting farm buildings, 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 (2) In counties that have adopted marginal lands provisions under ORS
13 197.247 (1991 Edition), the following uses may be established in any area
14 zoned for exclusive farm use subject to ORS 215.296:

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

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

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

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

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

31 (B) Is a woodlot capable of producing an average over the growth cycle

1 of \$20,000 in gross annual income.

2 (c) Commercial activities that are in conjunction with farm use, including
3 the processing of farm crops into biofuel not permitted under ORS 215.203
4 (2)(b)(K) or subsection (1)(u) of this section.

5 (d) Operations conducted for:

6 (A) Mining and processing of geothermal resources as defined by ORS
7 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted
8 under subsection (1)(g) of this section;

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

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

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

14 (e) Community centers owned by a governmental agency or a nonprofit
15 community organization and operated primarily by and for residents of the
16 local rural community, hunting and fishing preserves, public and private
17 parks, playgrounds and campgrounds. Subject to the approval of the county
18 governing body or its designee, a private campground may provide yurts for
19 overnight camping. No more than one-third or a maximum of 10 campsites,
20 whichever is smaller, may include a yurt. The yurt shall be located on the
21 ground or on a wood floor with no permanent foundation. Upon request of
22 a county governing body, the Land Conservation and Development Commis-
23 sion may provide by rule for an increase in the number of yurts allowed on
24 all or a portion of the campgrounds in a county if the commission determines
25 that the increase will comply with the standards described in ORS 215.296
26 (1). A public park or campground may be established as provided under ORS
27 195.120. As used in this paragraph, “yurt” means a round, domed shelter of
28 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
29 hookup or internal cooking appliance.

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

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

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

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

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

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

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

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

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

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

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

13 (p) Construction of additional passing and travel lanes requiring the ac-
14 quisition of right of way but not resulting in the creation of new land par-
15 cels.

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

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

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

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

27 (u) A living history museum related to resource based activities owned
28 and operated by a governmental agency or a local historical society, together
29 with limited commercial activities and facilities that are directly related to
30 the use and enjoyment of the museum and located within authentic buildings
31 of the depicted historic period or the museum administration building, if

1 areas other than an exclusive farm use zone cannot accommodate the mu-
2 seum and related activities or if the museum administration buildings and
3 parking lot are located within one quarter mile of the metropolitan urban
4 growth boundary. As used in this paragraph:

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

9 (B) "Local historical society" means the local historical society, recog-
10 nized as such by the county governing body and organized under ORS chap-
11 ter 65.

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

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

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

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

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

1 showing all of the following:

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

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

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

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

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

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

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

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

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

31 (b) Persons who have requested notice of such applications and who have

1 paid a reasonable fee imposed by the county to cover the cost of such notice.

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

13 (7) Subsection (4) of this section applies to a lot or parcel lawfully created
14 between January 1, 1948, and July 1, 1983. For the purposes of this 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 exclusive
25 farm use zone may retain a life estate in a dwelling on that property and in
26 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 improvements
30 not allowed under subsections (1) and (2) of this section may be established,
31 subject to the approval of the governing body or its designee, in areas zoned

for exclusive farm use subject to:

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

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

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

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

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

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

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

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

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

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

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

(i) Planned hours of operation;

(ii) Access, egress and parking;

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

(iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is per-

sonal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

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

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

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

(D) Must comply with ORS 215.296;

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

(F) Must comply with conditions established for:

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

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

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

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

(v) Sanitation and solid waste.

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

agri-tourism or other commercial events or activities:

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

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

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

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

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

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

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

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

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

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

events or activities authorized by the permit.

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

SECTION 2. ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

(A) ORS 215.275; or

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

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

forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

(j) Climbing and passing lanes within the right of way existing as of July

1 1, 1987.

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

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

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

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

17 (o) **Subject to section 5 of this 2016 Act**, creation, restoration or en-
18 hancement of wetlands.

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

20 (q) Alteration, restoration or replacement of a lawfully established
21 dwelling that:

22 (A) Has intact exterior walls and roof structure;

23 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing
24 facilities connected to a sanitary waste disposal system;

25 (C) Has interior wiring for interior lights;

26 (D) Has a heating system; and

27 (E) In the case of replacement:

28 (i) Is removed, demolished or converted to an allowable nonresidential use
29 within three months of the completion of the replacement dwelling. A re-
30 placement dwelling may be sited on any part of the same lot or parcel. A
31 dwelling established under this paragraph shall comply with all applicable

siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm

crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

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

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

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

(u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing

facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

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

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

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

(A) A public right of way;

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

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

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

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

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

(B) The number of dogs participating in a testing trial does not exceed

60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

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

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

(A) Consists of 20 or more acres; and

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

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

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

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

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

(d) Operations conducted for:

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

(B) Mining, crushing or stockpiling of aggregate and other mineral and

1 other subsurface resources subject to ORS 215.298;

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

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

5 (e) Community centers owned by a governmental agency or a nonprofit
6 community organization and operated primarily by and for residents of the
7 local rural community, hunting and fishing preserves, public and private
8 parks, playgrounds and campgrounds. Subject to the approval of the county
9 governing body or its designee, a private campground may provide yurts for
10 overnight camping. No more than one-third or a maximum of 10 campsites,
11 whichever is smaller, may include a yurt. The yurt shall be located on the
12 ground or on a wood floor with no permanent foundation. Upon request of
13 a county governing body, the Land Conservation and Development Commis-
14 sion may provide by rule for an increase in the number of yurts allowed on
15 all or a portion of the campgrounds in a county if the commission determines
16 that the increase will comply with the standards described in ORS 215.296
17 (1). A public park or campground may be established as provided under ORS
18 195.120. As used in this paragraph, "yurt" means a round, domed shelter of
19 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
20 hookup or internal cooking appliance.

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

23 (g) Commercial utility facilities for the purpose of generating power for
24 public use by sale.

25 (h) Personal-use airports for airplanes and helicopter pads, including as-
26 sociated hangar, maintenance and service facilities. A personal-use airport
27 as used in this section means an airstrip restricted, except for aircraft
28 emergencies, to use by the owner, and, on an infrequent and occasional basis,
29 by invited guests, and by commercial aviation activities in connection with
30 agricultural operations. No aircraft may be based on a personal-use airport
31 other than those owned or controlled by the owner of the airstrip. Ex-

ceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

trative decision or initial public hearing on the application.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

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

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

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

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

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

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

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

(B) "Local historical society" means the local historical society, recog-

nized as such by the county governing body and organized under ORS chapter 65.

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

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

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

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

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

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

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

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

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

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

11 (b) If the lot or parcel is located within the Willamette River Greenway,
12 a floodplain or a geological hazard area, the dwelling complies with condi-
13 tions imposed by local ordinances relating specifically to the Willamette
14 River Greenway, floodplains or geological hazard areas, whichever is appli-
15 cable; and

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

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

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

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

24 (6) The notice required in subsection (5) of this section shall specify that
25 persons have 15 days following the date of postmark of the notice to file a
26 written objection on the grounds only that the dwelling or activities associ-
27 ated with it would force a significant change in or significantly increase the
28 cost of accepted farming practices on nearby lands devoted to farm use. If
29 no objection is received, the governing body or its designee shall approve or
30 disapprove the application. If an objection is received, the governing body
31 shall set the matter for hearing in the manner prescribed in ORS 215.402 to

215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

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

(a) Only one lot or parcel exists if:

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

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

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

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

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

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

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

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

(11) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any

1 area zoned for exclusive farm use:

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

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

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

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

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

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

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

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

23 (i) Planned hours of operation;

24 (ii) Access, egress and parking;

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

27 (iv) Sanitation and solid waste.

28 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
29 county may authorize, through an expedited, single-event license, a single
30 agri-tourism or other commercial event or activity on a tract in a calendar
31 year by an expedited, single-event license that is personal to the applicant

and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

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

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

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

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

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

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

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

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

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

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

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

(D) Must comply with ORS 215.296;

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

(F) Must comply with conditions established for:

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

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

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

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

(v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. ORS 215.283 is amended to read:

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

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

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

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

8 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

(m) **Subject to section 5 of this 2016 Act**, 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) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement of a lawfully established dwelling.

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

(r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or

establishment.

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

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

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

(A) A public right of way;

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

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

(v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

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

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

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

(B) The number of dogs participating in a testing trial does not exceed

60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

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

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(r) of this section.

(b) Operations conducted for:

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

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

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

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

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

(d) Parks and playgrounds. A public park may be established consistent

with the provisions of ORS 195.120.

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

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

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

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

(i) Home occupations as provided in ORS 215.448.

(j) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a

1 facility may be approved for a one-year period which is renewable. These
 2 facilities are intended to be only portable or temporary in nature. The pri-
 3 mary processing of a forest product, as used in this section, means the use
 4 of a portable chipper or stud mill or other similar methods of initial treat-
 5 ment of a forest product in order to enable its shipment to market. Forest
 6 products, as used in this section, means timber grown upon a parcel of land
 7 or contiguous land where the primary processing facility is located.

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

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

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

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

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

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

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

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

6 (q) Construction of additional passing and travel lanes requiring the ac-
7 quisition of right of way but not resulting in the creation of new land par-
8 cels.

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

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

16 (t) A destination resort that is approved consistent with the requirements
17 of any statewide planning goal relating to the siting of a destination 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
31 parking lot are located within one quarter mile of an urban growth bound-

ary. As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Planned hours of operation;

(ii) Access, egress and parking;

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

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A

1 decision concerning an expedited, single-event license is not a land use de-
 2 cision, as defined in ORS 197.015. To approve an expedited, single-event li-
 3 cense, the governing body of a county or its designee must determine that
 4 the proposed agri-tourism or other commercial event or activity meets any
 5 local standards that apply, and the agri-tourism or other commercial event
 6 or activity:

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

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

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

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

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

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

17 (G) Must comply with applicable health and fire and life safety require-
 18 ments.

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

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

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

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

31 (D) Must comply with ORS 215.296;

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

(F) Must comply with conditions established for:

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

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

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

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

(v) Sanitation and solid waste.

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

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

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

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

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

(5) A holder of a permit authorized by a county under subsection (4)(d)

of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

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

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

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

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

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

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

SECTION 4. ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is amended to read:

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

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

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

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

8 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

(m) **Subject to section 5 of this 2016 Act**, 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 that:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

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

(r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator

1 may not devote more than 10,000 square feet of floor area to the processing
2 facility or establishment, exclusive of the floor area designated for prepara-
3 tion, storage or other farm use. A processing facility or establishment must
4 comply with all applicable siting standards but the standards may not be
5 applied in a manner that prohibits the siting of the processing facility or
6 establishment.

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

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

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

15 (A) A public right of way;

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

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

19 (v) Subject to the issuance of a license, permit or other approval by the
20 Department of Environmental Quality under ORS 454.695, 459.205, 468B.050,
21 468B.053 or 468B.055, or in compliance with rules adopted under ORS
22 468B.095, and as provided in ORS 215.246 to 215.251, the land application of
23 reclaimed water, agricultural or industrial process water or biosolids for
24 agricultural, horticultural or silvicultural production, or for irrigation in
25 connection with a use allowed in an exclusive farm use zone under this
26 chapter.

27 (w) A county law enforcement facility that lawfully existed on August 20,
28 2002, and is used to provide rural law enforcement services primarily in rural
29 areas, including parole and post-prison supervision, but not including a
30 correctional facility as defined under ORS 162.135.

31 (x) Dog training classes or testing trials, which may be conducted out-

doors or in preexisting farm buildings, when:

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

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

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

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(r) of this section.

(b) Operations conducted for:

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

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

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

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

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase

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

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

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

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

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

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

Department of Aviation.

(i) Home occupations as provided in ORS 215.448.

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

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

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

(m) Transmission towers over 200 feet in height.

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

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

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

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

11 (q) Construction of additional passing and travel lanes requiring the ac-
12 quisition of right of way but not resulting in the creation of new land par-
13 cels.

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

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

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

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

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

26 (w) Expansion of existing county fairgrounds and activities directly re-
27 lating to county fairgrounds governed by county fair boards established
28 pursuant to ORS 565.210.

29 (x) A living history museum related to resource based activities owned
30 and operated by a governmental agency or a local historical society, together
31 with limited commercial activities and facilities that are directly related to

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

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

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

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

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

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

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

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

(b) ORS 215.296 for those uses identified by rule of the Land Conservation

1 and Development Commission as provided in section 3, chapter 529, Oregon
2 Laws 1993.

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

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

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

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

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

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

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

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

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

27 (i) Planned hours of operation;

28 (ii) Access, egress and parking;

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

31 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

(D) Must comply with ORS 215.296;

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

(F) Must comply with conditions established for:

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

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

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

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

(v) Sanitation and solid waste.

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

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

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

of this subsection;

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

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

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

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

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

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

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

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

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

and activities.

SECTION 5. Wetlands may be created, restored or enhanced under ORS 215.213 (1)(o) or 215.283 (1)(m) if the local governing body or its designee finds that the use will not:

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

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(3) Materially alter the stability of the agricultural land use pattern in the area or cause a significant change to farming practice alone or in combination with other wetlands in the area that have been created, restored or enhanced or have been approved to be created, restored or enhanced by the county, state or federal government.

**FISH AND WILDLIFE HABITAT IMPROVEMENT PROJECTS,
LANDOWNER LIABILITY**

SECTION 6. ORS 496.270 is amended to read:

496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to encourage *[operators, timber owners and landowners to voluntarily improve]* **the voluntary improvement of** fish and wildlife habitat. *[In order to carry out this policy, the Legislative Assembly encourages cooperation among operators, timber owners and landowners and other volunteers.]*

(2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in contract or tort for any personal injury, death or property damage that arises out of the use of the land by:

(a) A volunteer conducting a fish and wildlife habitat improvement project; or

(b) A participant of a state-funded or federally funded watershed or stream restoration or enhancement program.

(3) An operator, timber owner or landowner [*shall not*], **as those terms are defined in ORS 527.620, may not** be held liable for any damages resulting from:

(a) A fish and wildlife habitat improvement project done in cooperation and consultation with the State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or conducted as part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990 and 527.992; or

(b) Leaving large woody debris within the waters of this state to protect, retain and recruit large woody debris for the purposes of fish habitat and water quality improvement.

(4) The limitations to liability provided by subsections (2) and (3) of this section do not apply if the damages, injury or death was caused by willful, wanton or intentional conduct on the part of the operator, timber owner or landowner or by the gross negligence of the operator, timber owner or landowner. As used in this subsection "gross negligence" means negligence which is materially greater than the mere absence of reasonable care under the circumstances, and which is characterized by indifference to or reckless disregard of the rights of others.

(5) The limitation on liability provided by subsection (3) of this section does not apply to claims for death or personal injuries.

PROJECTS TO MAINTAIN DRAINAGE, REMOVAL PERMIT EXEMPTION

SECTION 7. ORS 196.816 is amended to read:

196.816. Notwithstanding ORS 196.810, **and notwithstanding the provisions of ORS 196.800 (13),** [*the Department of State Lands may establish by rule a general permit that allows*] **a permit is not required for** the removal of no more than 100 cubic yards of material from waters of this state, including in essential indigenous anadromous salmonid habitat, for the pur-

1 pose of maintaining drainage and protecting agricultural land. [*The depart-*
2 *ment may waive the fees specified in ORS 196.815 for removal taking place*
3 *under the provisions of this section.*]

4 **SECTION 8. The unit captions used in this 2016 Act are provided**
5 **only for the convenience of the reader and do not become part of the**
6 **statutory law of this state or express any legislative intent in the**
7 **enactment of this 2016 Act.**

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