

HB 2106-2  
(LC 1905)  
4/9/19 (RLM/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Oregon Property Owners Association)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2106**

1 In line 2 of the printed bill, after “use” insert “; amending ORS 215.213”.

2 Delete lines 4 through 7 and insert:

3 **“SECTION 1.** ORS 215.213, as amended by section 1, chapter 119, Oregon  
4 Laws 2018, is amended to read:

5 “215.213. (1) In counties that have adopted marginal lands provisions un-  
6 der ORS 197.247 (1991 Edition), the following uses may be established in any  
7 area zoned for exclusive farm use:

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

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

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

15 “(A) ORS 215.275; or

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

18 “(d) A dwelling on real property used for farm use if the dwelling is oc-  
19 cupied by a relative of the farm operator or the farm operator’s spouse,  
20 which means a child, parent, stepparent, grandchild, grandparent,  
21 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,

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

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

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

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

23 “(h) Operations for the exploration for minerals as defined by ORS  
24 517.750. Any activities or construction relating to such operations shall not  
25 be a basis for an exception under ORS 197.732 (2)(a) or (b).

26 “(i) One manufactured dwelling or recreational vehicle, or the temporary  
27 residential use of an existing building, in conjunction with an existing  
28 dwelling as a temporary use for the term of a hardship suffered by the ex-  
29 isting resident or a relative of the resident. Within three months of the end  
30 of the hardship, the manufactured dwelling or recreational vehicle shall be

1 removed or demolished or, in the case of an existing building, the building  
2 shall be removed, demolished or returned to an allowed nonresidential use.  
3 The governing body or its designee shall provide for periodic review of the  
4 hardship claimed under this paragraph. A temporary residence approved un-  
5 der this paragraph is not eligible for replacement under paragraph (q) of this  
6 subsection.

7 “(j) Climbing and passing lanes within the right of way existing as of July  
8 1, 1987.

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

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

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

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

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

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

26 “(q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, res-  
27 toration or replacement of a lawfully established dwelling.

28 “(r) Farm stands if:

29 “(A) The structures are designed and used for the sale of farm crops or  
30 livestock grown on the farm operation, or grown on the farm operation and

1 other farm operations in the local agricultural area, including the sale of  
2 retail incidental items and fee-based activity to promote the sale of farm  
3 crops or livestock sold at the farm stand if the annual sale of incidental  
4 items and fees from promotional activity do not make up more than 25 per-  
5 cent of the total annual sales of the farm stand; and

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

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

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

27 “(u) A facility for the processing of farm crops or for the production of  
28 biofuel, as defined in ORS 315.141, if the facility is located on a farm oper-  
29 ation that provides at least one-quarter of the farm crops processed at the  
30 facility, or an establishment for the slaughter, processing or selling of

1 poultry or poultry products pursuant to ORS 603.038. If a building is estab-  
2 lished or used for the processing facility or establishment, the farm operator  
3 may not devote more than 10,000 square feet of floor area to the processing  
4 facility or establishment, exclusive of the floor area designated for prepara-  
5 tion, storage or other farm use. A processing facility or establishment must  
6 comply with all applicable siting standards but the standards may not be  
7 applied in a manner that prohibits the siting of the processing facility or  
8 establishment.

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

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

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

17 “(A) A public right of way;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(c) Commercial activities that are in conjunction with farm use, includ-  
6 ing the processing of farm crops into biofuel not permitted under ORS  
7 215.203 (2)(b)(K) or subsection (1)(u) of this section.

8 “(d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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



1 or contiguous land where the primary processing facility is located.

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

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

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

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

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

19 “(n) Home occupations as provided in ORS 215.448.

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

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

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

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

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

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

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

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

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

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

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

27 “(x) A landscape contracting business, as defined in ORS 671.520, or a  
28 business providing landscape architecture services, as described in ORS  
29 671.318, if the business is pursued in conjunction with the growing and  
30 marketing of nursery stock on the land that constitutes farm use.

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

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

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

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

11 “(3) In counties that have adopted marginal lands provisions under ORS  
12 197.247 (1991 Edition), a single-family residential dwelling not provided in  
13 conjunction with farm use may be established on a lot or parcel with soils  
14 predominantly in capability classes IV through VIII as determined by the  
15 Agricultural Capability Classification System in use by the United States  
16 Department of Agriculture Soil Conservation Service on October 15, 1983. A  
17 proposed dwelling is subject to approval of the governing body or its  
18 designee in any area zoned for exclusive farm use upon written findings  
19 showing all of the following:

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

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

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

30 “(4) In counties that have adopted marginal lands provisions under ORS

1 197.247 (1991 Edition), one single-family dwelling, not provided in conjunc-  
2 tion with farm use, may be established in any area zoned for exclusive farm  
3 use on a lot or parcel described in subsection (7) of this section that is not  
4 larger than three acres upon written findings showing:

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

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

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

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

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

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

21 “(6) The notice required in subsection (5) of this section shall specify that  
22 persons have 15 days following the date of postmark of the notice to file a  
23 written objection on the grounds only that the dwelling or activities associ-  
24 ated with it would force a significant change in or significantly increase the  
25 cost of accepted farming practices on nearby lands devoted to farm use. If  
26 no objection is received, the governing body or its designee shall approve or  
27 disapprove the application. If an objection is received, the governing body  
28 shall set the matter for hearing in the manner prescribed in ORS 215.402 to  
29 215.438. The governing body may charge the reasonable costs of the notice  
30 required by subsection (5)(a) of this section to the applicant for the permit

1 requested under subsection (4) of this section.

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

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

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

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

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

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

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

19 “(10) Roads, highways and other transportation facilities and improve-  
20 ments not allowed under subsections (1) and (2) of this section may be es-  
21 tablished, subject to the approval of the governing body or its designee, in  
22 areas zoned for exclusive farm use subject to:

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

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

29 “(11) The following agri-tourism and other commercial events or activities  
30 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 ac-  
10 tivity 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

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

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

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

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

12 “(D) May not include the artificial amplification of music or voices before  
13 8 a.m. or after 8 p.m.;

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

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

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

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

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

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

30 “(C) May not require that a new permanent structure be built, used or

1 occupied in connection with the agri-tourism or other commercial events or  
2 activities;

3 “(D) Must comply with ORS 215.296;

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

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

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

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

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

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

19 “(v) Sanitation and solid waste.

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

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

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



1 “(C) Occur on a lot or parcel that complies with the acknowledged mini-  
2 mum lot or parcel size; and

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

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

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

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

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

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

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

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

1 and activities.

2 **“SECTION 2.** ORS 215.213, as amended by section 7, chapter 462, Oregon  
3 Laws 2013, section 2, chapter 148, Oregon Laws 2017, section 4, chapter 253,  
4 Oregon Laws 2017, section 4, chapter 504, Oregon Laws 2017, and section 2,  
5 chapter 119, Oregon Laws 2018, is amended to read:

6 “215.213. (1) In counties that have adopted marginal lands provisions un-  
7 der ORS 197.247 (1991 Edition), the following uses may be established in any  
8 area zoned for exclusive farm use:

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

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

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

16 “(A) ORS 215.275; or

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

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

1 a partition of the homesite to create a new parcel.

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

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

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

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

18 “(i) One manufactured dwelling or recreational vehicle, or the temporary  
19 residential use of an existing building, in conjunction with an existing  
20 dwelling as a temporary use for the term of a hardship suffered by the ex-  
21 isting resident or a relative of the resident. Within three months of the end  
22 of the hardship, the manufactured dwelling or recreational vehicle shall be  
23 removed or demolished or, in the case of an existing building, the building  
24 shall be removed, demolished or returned to an allowed nonresidential use.  
25 The governing body or its designee shall provide for periodic review of the  
26 hardship claimed under this paragraph. A temporary residence approved un-  
27 der this paragraph is not eligible for replacement under paragraph (q) of this  
28 subsection.

29 “(j) Climbing and passing lanes within the right of way existing as of July  
30 1, 1987.

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

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

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

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

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

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

18       “(q) Alteration, restoration or replacement of a lawfully established  
19 dwelling that:

20       “(A) Has intact exterior walls and roof structure;

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

23       “(C) Has interior wiring for interior lights;

24       “(D) Has a heating system; and

25       “(E) In the case of replacement:

26       “(i) Is removed, demolished or converted to an allowable nonresidential  
27 use within three months of the completion of the replacement dwelling. A  
28 replacement dwelling may be sited on any part of the same lot or parcel. A  
29 dwelling established under this paragraph shall comply with all applicable  
30 siting standards. However, the standards shall not be applied in a manner

1 that prohibits the siting of the dwelling. If the dwelling to be replaced is  
2 located on a portion of the lot or parcel not zoned for exclusive farm use,  
3 the applicant, as a condition of approval, shall execute and record in the  
4 deed records for the county where the property is located a deed restriction  
5 prohibiting the siting of a dwelling on that portion of the lot or parcel. The  
6 restriction imposed shall be irrevocable unless a statement of release is  
7 placed in the deed records for the county. The release shall be signed by the  
8 county or its designee and state that the provisions of this paragraph re-  
9 garding replacement dwellings have changed to allow the siting of another  
10 dwelling. The county planning director or the director's designee shall  
11 maintain a record of the lots and parcels that do not qualify for the siting  
12 of a new dwelling under the provisions of this paragraph, including a copy  
13 of the deed restrictions and release statements filed under this paragraph;  
14 and

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

26 “(r) Farm stands if:

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

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

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

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

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

25 “(u) A facility for the processing of farm crops or for the production of  
26 biofuel, as defined in ORS 315.141, if the facility is located on a farm oper-  
27 ation that provides at least one-quarter of the farm crops processed at the  
28 facility, or an establishment for the slaughter, processing or selling of  
29 poultry or poultry products pursuant to ORS 603.038. If a building is estab-  
30 lished 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 “(v) Fire service facilities providing rural fire protection services.

8 “(w) 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 “(x) 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 “(y) 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, or the  
24 onsite treatment of septage prior to the land application of biosolids, for  
25 agricultural, horticultural or silvicultural production, or for irrigation in  
26 connection with a use allowed in an exclusive farm use zone under this  
27 chapter. For the purposes of this paragraph, onsite treatment of septage prior  
28 to the land application of biosolids is limited to treatment using treatment  
29 facilities that are portable, temporary and transportable by truck trailer, as  
30 defined in ORS 801.580, during a period of time within which land applica-

1 tion of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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



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

3 “(c) Commercial activities that are in conjunction with farm use, includ-  
4 ing the processing of farm crops into biofuel not permitted under ORS  
5 215.203 (2)(b)(K) or subsection (1)(u) of this section.

6 “(d) Operations conducted for:

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

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

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

14 “(D) Processing of other mineral resources and other subsurface re-  
15 sources.

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

1 hookup or internal cooking appliance.

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

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

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

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

30 “(j) A site for the disposal of solid waste approved by the governing body

1 of a city or county or both and for which a permit has been granted under  
2 ORS 459.245 by the Department of Environmental Quality together with  
3 equipment, facilities or buildings necessary for its operation.

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

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

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

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

17 “(n) Home occupations as provided in ORS 215.448.

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

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

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

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

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

1 resort.

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

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

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

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

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

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

25 “(x) A landscape contracting business, as defined in ORS 671.520, or a  
26 business providing landscape architecture services, as described in ORS  
27 671.318, if the business is pursued in conjunction with the growing and  
28 marketing of nursery stock on the land that constitutes farm use.

29 “(y) Public or private schools for kindergarten through grade 12, includ-  
30 ing all buildings essential to the operation of a school, primarily for resi-

1 dents of the rural area in which the school is located.

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

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

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

9 “(3) In counties that have adopted marginal lands provisions under ORS  
10 197.247 (1991 Edition), a single-family residential dwelling not provided in  
11 conjunction with farm use may be established on a lot or parcel with soils  
12 predominantly in capability classes IV through VIII as determined by the  
13 Agricultural Capability Classification System in use by the United States  
14 Department of Agriculture Soil Conservation Service on October 15, 1983. A  
15 proposed dwelling is subject to approval of the governing body or its  
16 designee in any area zoned for exclusive farm use upon written findings  
17 showing all of the following:

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

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

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

28 “(4) In counties that have adopted marginal lands provisions under ORS  
29 197.247 (1991 Edition), one single-family dwelling, not provided in conjunc-  
30 tion with farm use, may be established in any area zoned for exclusive farm

1 use on a lot or parcel described in subsection (7) of this section that is not  
2 larger than three acres upon written findings showing:

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

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

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

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

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

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

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

30 “(7) Subsection (4) of this section applies to a lot or parcel lawfully cre-

1 ated between January 1, 1948, and July 1, 1983. For the purposes of this  
2 section:

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

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

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

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

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

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

17 “(10) Roads, highways and other transportation facilities and improve-  
18 ments not allowed under subsections (1) and (2) of this section may be es-  
19 tablished, subject to the approval of the governing body or its designee, in  
20 areas zoned for exclusive farm use subject to:

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

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

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

30 “(a) A county may authorize a single agri-tourism or other commercial

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

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

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

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

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

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

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

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

21 “(i) Planned hours of operation;

22 “(ii) Access, egress and parking;

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

25 “(iv) Sanitation and solid waste.

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

1       “(D) Must comply with ORS 215.296;

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

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

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

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

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

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

17       “(v) Sanitation and solid waste.

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

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

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

29       “(C) Occur on a lot or parcel that complies with the acknowledged mini-  
30 mum lot or parcel size; and

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

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

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

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

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

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

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

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

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