

**B-Engrossed**  
**House Bill 3109**

Ordered by the Senate June 2  
Including House Amendments dated April 9 and Senate Amendments  
dated June 2

Sponsored by Representatives ZIKA, MARSH; Representatives BYNUM, GRAYBER, KROPP, MORGAN, NOBLE,  
REYNOLDS, SMITH DB, WILLIAMS

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Limits certain restrictions by local governments on use of property for child care facilities.  
**Allows development of certain uses for children as conditional use on lands zoned for exclusive farm use.**

**A BILL FOR AN ACT**

1  
2 Relating to child care facilities; amending ORS 215.213, 215.283, 329A.030, 329A.250, 329A.280 and  
3 329A.440.

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

5 **SECTION 1.** ORS 329A.440 is amended to read:

6 329A.440. (1) **As used in this section:**

7 (a) **“Child care center” means a child care facility, other than a family child care home,**  
8 **that is certified under ORS 329A.280 (3).**

9 (b) **“Family child care home” means a child care facility in a dwelling that is caring for**  
10 **not more than 16 children and is certified under ORS 329A.280 (2) or is registered under ORS**  
11 **329A.330.**

12 (c) **“Land use regulation” and “local government” have the meanings given those terms**  
13 **in ORS 197.015.**

14 [(1)] (2)(a) [A *registered or certified*] **A family child care home** [shall be] **is** considered a resi-  
15 dential use of property for zoning purposes. [The *registered or certified family child care home shall*  
16 *be*] **A family child care home is** a permitted use in all areas zoned for residential or commercial  
17 purposes, including areas zoned for single-family dwellings.

18 (b) [A *city or county*] **A local government** may not enact or enforce [zoning ordinances] **a land**  
19 **use regulation** prohibiting the use of a residential dwelling, located in an area zoned for residential  
20 or commercial use, as a [registered or certified] family child care home.

21 [(2)] (c) [A *city or county may impose zoning*] **A local government may not impose land use**  
22 **regulations, special fees or** conditions on the establishment [and] **or** maintenance of a [registered  
23 or certified] family child care home [in an area zoned for residential or commercial use if the condi-  
24 tions are no] more restrictive than [conditions] **those** imposed on other residential dwellings in the  
25 same zone.

26 (3) **Notwithstanding subsection (2)(c) of this section,** a county 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.

1        *[(a) Allow a registered or certified family child care home in an existing dwelling in any area*  
2 *zoned for farm use, including an exclusive farm use zone established under ORS 215.203;]*

3        *[(b)] impose reasonable conditions on the establishment of a [registered or certified] family child*  
4 *care home in an area zoned for farm use.[: and]*

5        *[(c) Allow a division of land for a registered or certified family child care home in an exclusive*  
6 *farm use zone only as provided in ORS 215.263 (9).]*

7        *[(4) This section applies only to a registered or certified family child care home where child care*  
8 *is offered in the home of the provider to not more than 16 children, including children of the provider,*  
9 *regardless of full-time or part-time status.]*

10        **(4)(a) A child care center is a permitted use in all areas zoned for commercial or indus-**  
11 **trial use, except areas specifically designated by the local government for heavy industrial**  
12 **use.**

13        **(b) A local government may not impose land use regulations, special fees or conditions**  
14 **on the establishment or maintenance of a child care center in an area zoned for commercial**  
15 **or industrial use that are more restrictive than those imposed for other uses in the same**  
16 **zone.**

17        **(5) Notwithstanding subsection (4) of this section, a local government may impose rea-**  
18 **sonable conditions upon the establishment or maintenance of a child care center in an area**  
19 **zoned for industrial uses.**

20        **(6) As used in this section, “reasonable conditions” includes, but is not limited to, siting**  
21 **restrictions for properties designated on the Department of Environmental Quality’s state-**  
22 **wide list of contaminated properties as having known or suspected releases of hazardous**  
23 **substances.**

24        **SECTION 2.** ORS 329A.280 is amended to read:

25        329A.280. (1) A person may not operate a child care facility, except a facility subject to the  
26 registration requirements of ORS 329A.330, without a certification for the facility from the Office  
27 of Child Care.

28        (2) The Early Learning Council shall adopt rules for the certification of a family child care home  
29 caring for not more than 16 children. *[The rules shall be specifically]* **Rules may be adopted spe-**  
30 **cifically** for *[the regulation of]* certified child care facilities operated in *[a facility constructed as]* a  
31 single-family dwelling **or other dwelling**. Notwithstanding fire and other safety regulations, the  
32 rules that the council adopts for certified child care facilities shall set standards that can be met  
33 without significant architectural modification *[of a typical home]*. In adopting the rules, the council  
34 may consider and set limits according to factors including the age of children in care, the  
35 ambulatory ability of children in care, the number of the provider’s children present, the length of  
36 time a particular child is continuously cared for and the total amount of time a particular child is  
37 cared for within a given unit of time.

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

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

44        (5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certi-  
45 fication under this section and receive a certification upon meeting certification requirements.

1       **NOTE:** Sections 3 through 6 were deleted by amendment. Subsequent sections were not re-  
2 numbered.

3       **SECTION 7.** ORS 329A.250 is amended to read:

4       329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-  
5 erwise:

6       (1) “Babysitter” means a person who goes into the home of a child to give care during the  
7 temporary absence of the parent or legal guardian or custodian.

8       (2) “Certification” means the certification that is issued under ORS 329A.280 by the Office of  
9 Child Care to a family child care home, child care center or other child care facility.

10       (3) “Child” means a child under 13 years of age or a child under 18 years of age who has special  
11 needs or disabilities and requires a level of care that is above normal for the child’s age.

12       (4)(a) [*Subject to ORS 329A.440,*] “Child care” means the care, supervision and guidance on a  
13 regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child  
14 during a part of the 24 hours of the day, in a place other than the child’s home, with or without  
15 compensation.

16       (b) “Child care” does not include care provided:

17       [(a)] (A) In the home of the child;

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

19       [(c)] (C) By a person related to the child by blood or marriage within the fourth degree as de-  
20 termined by civil law;

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

22       [(e)] (E) By providers of medical services;

23       [(f)] (F) By a babysitter;

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

26       [(h)] (H) By a person who cares for no more than three children other than the person’s own  
27 children; or

28       [(i)] (I) By a person who is a member of the child’s extended family, as determined by the office  
29 on a case-by-case basis.

30       (5) “Child care facility” means any facility that provides child care to children, including a day  
31 nursery, nursery school, child care center, certified or registered family child care home or similar  
32 unit operating under any name, but not including any:

33       (a) Preschool recorded program.

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

36       (c) Facility providing care that is primarily group athletic or social activities sponsored by or  
37 under the supervision of an organized club or hobby group.

38       (d) Facility operated by:

39       (A) A school district as defined in ORS 332.002;

40       (B) A political subdivision of this state; or

41       (C) A governmental agency.

42       (e) Residential facility licensed under ORS 443.400 to 443.455.

43       (f) Babysitters.

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

45       (h) Facility providing care while the child’s parent remains on the premises and is engaged in

1 an activity offered by the facility or in other nonwork activity.

2 (i) Facility operated as a school-age recorded program.

3 (6) "Family" has the meaning given that term in ORS 329.145.

4 (7) "Occasional" means that care is provided for no more than 70 days in any calendar year.

5 (8) "Parent cooperative" means a child care program in which:

6 (a) Care is provided by parents on a rotating basis;

7 (b) Membership in the cooperative includes parents;

8 (c) There are written policies and procedures; and

9 (d) A board of directors that includes parents of the children cared for by the cooperative con-  
10 trols the policies and procedures of the program.

11 (9) "Preschool recorded program" means a facility providing care for preschool children that is  
12 primarily educational for four hours or less per day and where no child is present at the facility for  
13 more than four hours per day.

14 (10) "Record" means the record that is issued under ORS 329A.255 to a preschool recorded  
15 program or under ORS 329A.257 to a school-age recorded program.

16 (11) "Registration" means the registration that is issued under ORS 329A.330 by the Office of  
17 Child Care to a family child care home where care is provided in the family living quarters of the  
18 provider's home.

19 (12) "School age" means of an age eligible to be enrolled in kindergarten or above on or before  
20 the first day of the current school year.

21 (13) "School-age recorded program" means a program for school-age children:

22 (a) That is not operated by a school district as defined in ORS 332.002;

23 (b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330;  
24 and

25 (c) In which youth development activities are provided to children during hours that school is  
26 not in session and does not take the place of a parent's care.

27 (14) "Youth development activities" means care, supervision or guidance that is intended for  
28 enrichment, including but not limited to teaching skills or proficiency in physical, social or educa-  
29 tional activities such as tutoring, music lessons, social activities, sports and recreational activities.

30 **SECTION 8.** ORS 329A.030 is amended to read:

31 329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may  
32 maintain information in the registry through electronic records systems.

33 (2)(a) A subject individual shall apply to and must be enrolled in the Central Background Reg-  
34 istry as part of the individual's application to operate a program or serve in a position described in  
35 subsection (10) of this section.

36 (b) An individual who has been the subject of a founded or substantiated report of child abuse  
37 shall apply to and be enrolled in the Central Background Registry prior to providing any of the  
38 types of care identified in ORS 329A.250 [(4)(a), (g) or (h)] **(4)(b)(A), (G) or (H)** if:

39 (A) The child abuse occurred on or after January 1, 2017, and involved a child who died or  
40 suffered serious physical injury, as defined in ORS 161.015; or

41 (B) The child abuse occurred on or after September 1, 2019, and involved any child for whom  
42 the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS  
43 329A.250 [(4)(a), (c), (f), (g), (h) or (i)] **(4)(b)(A), (C), (F), (G), (H) or (I)**.

44 (c) Notwithstanding paragraph (a) of this subsection, an individual described in paragraph (b)(B)  
45 of this subsection is not required to enroll in the Central Background Registry if more than seven

1 years has elapsed since the date of the child abuse determination.

2 (3)(a) Upon receiving an application for enrollment in the Central Background Registry, the of-  
3 fice shall complete:

4 (A) A criminal records check under ORS 181A.195;

5 (B) A criminal records check of other registries or databases in accordance with rules adopted  
6 by the Early Learning Council;

7 (C) A child abuse and neglect records check in accordance with rules adopted by the council;  
8 and

9 (D) A foster care certification check and an adult protective services check in accordance with  
10 rules adopted by the council.

11 (b) In addition to the information that the office is required to check under paragraph (a) of this  
12 subsection, the office may consider any other information obtained by the office that the office, by  
13 rule, determines is relevant to enrollment in the Central Background Registry.

14 (4)(a) The office shall enroll the individual in the Central Background Registry if the individual:

15 (A) Is determined to have no criminal, child abuse and neglect, negative adult protective ser-  
16 vices or negative foster home certification history, or to have dealt with the issues and provided  
17 adequate evidence of suitability for the registry;

18 (B) Has paid the applicable fee established pursuant to ORS 329A.275; and

19 (C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

20 (b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office  
21 may enroll an individual in the registry if the Department of Human Services has completed a  
22 background check on the individual and the individual has received approval from the department  
23 for purposes of providing child care.

24 (5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an indi-  
25 vidual in the Central Background Registry if:

26 (A) The individual has a disqualifying condition as defined in rules adopted by the council; or

27 (B) The individual is an exempt prohibited individual, as provided by ORS 329A.252.

28 (b) If an individual prohibited from enrolling in the registry as provided by this subsection is  
29 enrolled in the registry, the office shall remove the individual from the registry.

30 (6)(a) The office may conditionally enroll an individual in the Central Background Registry  
31 pending the results of a nationwide criminal records check through the Federal Bureau of Investi-  
32 gation if the individual has met other requirements of the office for enrollment in the registry.

33 (b) The office may enroll an individual in the registry subject to limitations identified in rules  
34 adopted by the council.

35 (7) An enrollment in the Central Background Registry may be renewed upon application to the  
36 office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted  
37 by the Early Learning Council pursuant to this section. However, an individual who is determined  
38 to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed  
39 or suspended from the registry by the office.

40 (8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled  
41 in the Central Background Registry.

42 (b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a  
43 probationary basis an individual who is conditionally enrolled in the Central Background Registry.

44 (9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this  
45 section, including but not limited to rules regarding expiration and renewal periods and limitations

1 related to the subject individual's enrollment in the Central Background Registry.

2 (10) For purposes of this section, "subject individual" means a subject individual as defined by  
3 the Early Learning Council by rule, an individual subject to subsection (2)(b) of this section or a  
4 person who applies to be:

5 (a) The operator or an employee of a child care or treatment program;

6 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to  
7 329.200;

8 (c) The operator or an employee of a federal Head Start program regulated by the United States  
9 Department of Health and Human Services;

10 (d) An individual in a child care facility who may have unsupervised contact with children as  
11 identified by the office;

12 (e) A contractor or an employee of the contractor who provides early childhood special educa-  
13 tion or early intervention services pursuant to ORS 343.455 to 343.534;

14 (f) A child care provider who is required to be enrolled in the Central Background Registry by  
15 any state agency;

16 (g) A contractor, employee or volunteer of a metropolitan service district organized under ORS  
17 chapter 268 who may have unsupervised contact with children and who is required to be enrolled  
18 in the Central Background Registry by the metropolitan service district;

19 (h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly  
20 executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with  
21 a private agency or organization that facilitates the provision of such respite services; or

22 (i) The operator or an employee of an early learning program as defined in rules adopted by the  
23 council.

24 (11)(a) Information provided to a metropolitan service district organized under ORS chapter 268  
25 about the enrollment status of the persons described in subsection (10)(g) of this section shall be  
26 subject to a reciprocal agreement with the metropolitan service district. The agreement must pro-  
27 vide for the recovery of administrative, including direct and indirect, costs incurred by the office  
28 from participation in the agreement. Any moneys collected under this paragraph shall be deposited  
29 in the Child Care Fund established under ORS 329A.010.

30 (b) Information provided to a private agency or organization facilitating the provision of respite  
31 services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney  
32 under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this  
33 section shall be subject to an agreement with the private agency or organization. The agreement  
34 must provide for the recovery of administrative, including direct and indirect, costs incurred by the  
35 office from participation in the agreement. Any moneys collected under this paragraph shall be de-  
36 posited in the Child Care Fund established under ORS 329A.010.

37 (c) Information provided to a private agency or organization about the enrollment status of the  
38 persons described in subsection (10)(i) of this section shall be subject to an agreement with the pri-  
39 vate agency or organization. The agreement must provide for the recovery of administrative, in-  
40 cluding direct and indirect, costs incurred by the office from participation in the agreement. Any  
41 moneys collected under this paragraph shall be deposited in the Child Care Fund established under  
42 ORS 329A.010.

43 **SECTION 9.** ORS 215.213 is amended to read:

44 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
45 Edition), 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 treatment systems but  
4 not including commercial facilities for the purpose of generating electrical power for public use by  
5 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
6 may be established as provided in:

7 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
12 215.291.

13 (r) Farm stands if:

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

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

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

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

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

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

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

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

45 (A) A public right of way;



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

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

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

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

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

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

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

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

22 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
23 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
24 215.296:

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

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

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

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

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

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

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

43 (d) Operations conducted for:

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

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

3 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or 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 community organization  
6 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
7 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the  
8 county governing body or its designee, a private campground may provide yurts for overnight  
9 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include  
10 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.  
11 Upon request of a county governing body, the Land Conservation and Development Commission may  
12 provide by rule for an increase in the number of yurts allowed on all or a portion of the  
13 campgrounds in a county if the commission determines that the increase will comply with the stan-  
14 dards described in ORS 215.296 (1). A public park or campground may be established as provided  
15 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or  
16 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-  
17 ance.

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

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

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

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

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

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

44 (B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of  
45 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 species that are not  
3 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
4 shall not include any species under quarantine by the State Department of Agriculture or the United  
5 States Department of Agriculture. The county shall provide notice of all applications under this  
6 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
7 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
8 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (A) The activities are conducted in existing buildings that were lawfully constructed on the  
45 property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate

1 to the farm use on the tract; and

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

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

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

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

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

11 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
12 a single-family residential dwelling not provided in conjunction with farm use may be established  
13 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by  
14 the Agricultural Capability Classification System in use by the United States Department of Agri-  
15 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval  
16 of the governing body or its 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 a significant change in  
19 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

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

24 (c) Complies with such other conditions as the governing body or its designee considers neces-  
25 sary.

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

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

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

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

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

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

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

44 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days  
45 following the date of postmark of the notice to file a written objection on the grounds only that the

1 dwelling or activities associated with it would force a significant change in or significantly increase  
2 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-  
3 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-  
4 jection is received, the governing body shall set the matter for hearing in the manner prescribed in  
5 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required  
6 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of  
7 this section.

8 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
9 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary

1 structures, or in existing permitted structures, subject to health and fire and life safety require-  
2 ments; and

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

5 (i) Planned hours of operation;

6 (ii) Access, egress and parking;

7 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-  
8 ipated use of public roads; and

9 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

36 (D) Must comply with ORS 215.296;

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

39 (F) Must comply with conditions established for:

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

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

45 (iii) The location of access and egress and parking facilities to be used in connection with the

1 agri-tourism or other commercial events or activities;

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

4 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

40 **SECTION 10.** ORS 215.283 is amended to read:

41 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

44 (c) Utility facilities necessary for public service, including wetland waste treatment systems but  
45 not including commercial facilities for the purpose of generating electrical power for public use by

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

3 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

41 (o) Farm stands if:

42 (A) The structures are designed and used for the sale of farm crops or livestock grown on the  
43 farm operation, or grown on the farm operation and other farm operations in the local agricultural  
44 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm  
45 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-



1 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;  
2 and

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

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

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

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

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

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

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

27 (A) A public right of way;

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

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

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

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

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

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

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

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

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

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

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

11 (b) Operations conducted for:

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

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

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

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

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

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

30 (e) Community centers owned by a governmental agency or a nonprofit community organization  
31 and operated primarily by and for residents of the local rural community. A community center au-  
32 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
33 gency and transitional shelter, preparation and service of meals, vocational and educational  
34 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
35 income replacement and substance abuse services, only in a facility that is in existence on January  
36 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
37 replacement or substance abuse services.

38 (f) Golf courses on land:

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

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

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

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

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

44 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the  
45 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-

1 cility may be established as a commercial utility facility as provided in ORS 215.447. A renewable  
2 energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 **(C) Colocated with a community center or a public or private school allowed under this**

1 **subsection.**

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

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

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

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

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

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

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

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

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

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

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

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

29 (i) Planned hours of operation;

30 (ii) Access, egress and parking;

31 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-  
32 ipated use of public roads; and

33 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

15 (D) Must comply with ORS 215.296;

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

18 (F) Must comply with conditions established for:

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

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

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

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

28 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

45 (b) Limit its review to events and activities authorized by the permit, conformance with condi-

1 tions of approval required by the permit and the standards established by subsection (4)(d) of this  
2 section.

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

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

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

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

19