

Requested by Senator SMITH DB

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4040**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert
2 “215.283 and”.

3 On page 4, after line 12, insert:

4 **“SECTION 3.** ORS 215.283 is amended to read:

5 “215.283. (1) The following uses may be established in any area zoned for
6 exclusive farm use:

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

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

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

14 “(A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

29 “(k) Minor betterment of existing public road and highway related facili-
30 ties such as maintenance yards, weigh stations and rest areas, within right

1 of way existing as of July 1, 1987, and contiguous public-owned property
2 utilized to support the operation and maintenance of public roads and high-
3 ways.

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

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

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

9 “(o) Farm stands if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(a) Commercial activities that are in conjunction with farm use, includ-
22 ing the processing of farm crops into biofuel not permitted under ORS
23 215.203 (2)(b)(K) or 215.255.

24 “(b) Operations conducted for:

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

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

30 “(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or

1 portland cement; and

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

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

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

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

29 “(f) Golf courses on land:

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

1 (10); [or]

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

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

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

6 “(iii) Is west of U.S. Highway 101[.]; or

7 **“(C) Determined not to be high-value farmland, as defined in ORS
8 215.710 (1), (3) or (4) if the golf course:**

9 **“(i) Will be sited in whole or in part on land that was part of a tract
10 growing specified perennials, as defined in ORS 215.710 (2), on Decem-
11 ber 6, 2007;**

12 **“(ii) Will not be sited on the portion of the tract described in sub-
13 subparagraph (i) of this subparagraph on which specified perennials
14 were grown on December 6, 2007;**

15 **“(iii) Will not be sited on a tract described in ORS 195.300 (10)(b) to
16 (f); and**

17 **“(iv) Will be sited in Coos County on a tract located west of U.S.
18 Highway 101.**

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

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

1 other than those owned or controlled by the owner of the airstrip. Exceptions
2 to the activities permitted under this definition may be granted through
3 waiver action by the Oregon Department of Aviation in specific instances.
4 A personal-use airport lawfully existing as of September 13, 1975, shall con-
5 tinue to be permitted subject to any applicable rules of the Oregon Depart-
6 ment of Aviation.

7 “(i) Home occupations as provided in ORS 215.448.

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

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

22 “(L) One manufactured dwelling or recreational vehicle, or the temporary
23 residential use of an existing building, in conjunction with an existing
24 dwelling as a temporary use for the term of a hardship suffered by the ex-
25 isting resident or a relative of the resident. Within three months of the end
26 of the hardship, the manufactured dwelling or recreational vehicle shall be
27 removed or demolished or, in the case of an existing building, the building
28 shall be removed, demolished or returned to an allowed nonresidential use.
29 The governing body or its designee shall provide for periodic review of the
30 hardship claimed under this paragraph. A temporary residence approved un-

1 der this paragraph is not eligible for replacement under subsection (1)(p) of
2 this section.

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

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

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

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

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

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

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

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

30 “(u) Room and board arrangements for a maximum of five unrelated per-

1 sons in existing residences.

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

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

6 “(x) 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 an urban growth bound-
14 ary. 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 by the county governing body and organized under ORS chapter 65.

21 “(y) 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 “(z) 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 “(aa) Public or private schools for kindergarten through grade 12, in-
30 cluding all buildings essential to the operation of a school, primarily for

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

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

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

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

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

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

17 “(3) Roads, highways and other transportation facilities and improvements
18 not allowed under subsections (1) and (2) of this section may be established,
19 subject to the approval of the governing body or its designee, in areas zoned
20 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 “(4) 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 “(5) A holder of a permit authorized by a county under subsection (4)(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 (4)(d) of this section.

10 “(6) For the purposes of subsection (4) 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 (4) 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 (4) 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 (4)(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 (4)(c) of this section, any local standards that apply and
23 conditions that apply to the permit or to the agri-tourism or other commer-
24 cial events or activities authorized by the permit.

25 “(c) The authorizations provided by subsection (4) 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.”.

30 In line 13, delete “3” and insert “4”.

