

# Senate Bill 1141

Sponsored by Senator SMITH DB

## 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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act allows short term rentals in resource housing but presumes that short term rentals may not be resumed as a nonconforming use. (Flesch Readability Score: 62.1).

Allows the use of dwellings for vacation occupancy on lands zoned for farm or forest uses. Prohibits the resumption of a nonconforming vacation occupancy in counties except as allowed by county land use regulation.

## A BILL FOR AN ACT

1  
2 Relating to vacation occupancies on resource lands; amending ORS 197.488, 215.130, 215.213, 215.215,  
3 215.283, 215.297, 215.448, 215.799 and 308A.462.

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

5 **SECTION 1.** ORS 215.448 is amended to read:

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

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

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

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

16 (A) The dwelling; or

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

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

21 **(2) On lands zoned for exclusive farm use, forest use or a mixed farm and forest use, a**  
22 **county may not prohibit the use of a dwelling as a vacation occupancy, as defined in ORS**  
23 **90.100.**

24 [(2)] **(3)** [*The governing body of the county or its designate*] **A county** may establish additional  
25 reasonable conditions of approval for the establishment of a home occupation **or vacation occu-**  
26 **pancy** under [*subsection (1) of*] this section.

27 [(3)] **(4)** Nothing in this section authorizes the [*governing body or its designate to permit*] con-  
28 struction of any structure [*that would not otherwise be allowed*] **prohibited** in the zone in which the  
29 home occupation **or vacation occupancy** is [*to be*] established.

**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        [(4)] (5) The existence of home occupations [*shall*] **or vacation occupancies may** not be used  
2 as justification for a zone change.

3        **(6) Nothing in this section prohibits a county from adopting or amending a generally ap-**  
4 **licable licensing ordinance or program regulating commercial activities, including vacation**  
5 **occupancies, through means other than land use regulations as defined in ORS 197.015.**

6        **SECTION 2.** ORS 215.130 is amended to read:

7        215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law  
8 within the meaning of, and subject to, ORS 250.155 to 250.235.

9        (2) An ordinance designed to carry out a county comprehensive plan and a county comprehen-  
10 sive plan shall apply to:

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

14        (b) The area within the county also within the boundaries of a city if the governing body of such  
15 city adopts an ordinance declaring the area within its boundaries subject to the county's land use  
16 planning and regulatory ordinances, officers and procedures and the county governing body consents  
17 to the conferral of jurisdiction.

18        (3) An area within the jurisdiction of city land use planning and regulatory provisions that is  
19 withdrawn from the city or an area within a city that disincorporates shall remain subject to such  
20 plans and regulations which shall be administered by the county until the county provides otherwise.

21        (4) County ordinances designed to implement a county comprehensive plan shall apply to pub-  
22 licly owned property.

23        (5) The lawful use of any building, structure or land at the time of the enactment or amendment  
24 of any zoning ordinance or regulation may be continued. Alteration of any such use may be per-  
25 mitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when  
26 necessary to comply with any lawful requirement for alteration in the use. Except as provided in  
27 ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use de-  
28 scribed under this subsection when necessary to comply with state or local health or safety re-  
29 quirements, or to maintain in good repair the existing structures associated with the use. A change  
30 of ownership or occupancy shall be permitted.

31        (6) Restoration or replacement of any use described in subsection (5) of this section may be  
32 permitted when the restoration or replacement is made necessary by fire, other casualty or natural  
33 disaster. Restoration or replacement must be commenced within one year from the occurrence of the  
34 fire, casualty or natural disaster. If restoration or replacement is necessary under this subsection,  
35 restoration or replacement must be done in compliance with ORS 195.260 (1)(c).

36        (7)(a) Any use described in subsection (5) of this section may not be resumed after a period of  
37 interruption or abandonment unless the resumed use conforms with the requirements of zoning or-  
38 dinances or regulations applicable at the time of the proposed resumption.

39        (b) Notwithstanding any local ordinance, a surface mining use continued under subsection (5)  
40 of this section is not considered interrupted or abandoned for any period after July 1, 1972, provided:

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

43        (B) The surface mining use was not inactive for a period of 12 consecutive years or more.

44        (c) For purposes of paragraph (b) of this subsection, "inactive" means no aggregate materials  
45 were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

1 (d) A use continued under subsection (5) of this section is not considered interrupted or aban-  
 2 doned for any period while a federal, state or local emergency order temporarily limits or prohibits  
 3 the use or the restoration or replacement of the use.

4 (8) Any proposal for the verification or alteration of a use under subsection (5) of this section,  
 5 except an alteration necessary to comply with a lawful requirement, for the restoration or replace-  
 6 ment of a use under subsection (6) of this section or for the resumption of a use under subsection  
 7 (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county  
 8 or its designate on a proposal for the alteration of a use described in subsection (5) of this section  
 9 shall be made as an administrative decision without public hearing in the manner provided in ORS  
 10 215.416 (11).

11 (9) As used in this section, "alteration" of a nonconforming use includes:

12 (a) A change in the use of no greater adverse impact to the neighborhood; and

13 (b) A change in the structure or physical improvements of no greater adverse impact to the  
 14 neighborhood.

15 (10) A local government may adopt standards and procedures to implement the provisions of this  
 16 section. The standards and procedures may include but are not limited to the following:

17 (a) For purposes of verifying a use under subsection (5) of this section, a county may adopt  
 18 procedures that allow an applicant for verification to prove the existence, continuity, nature and  
 19 extent of the use only for the 10-year period immediately preceding the date of application. Evidence  
 20 proving the existence, continuity, nature and extent of the use for the 10-year period preceding ap-  
 21 plication creates a rebuttable presumption that the use, as proven, lawfully existed at the time the  
 22 applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the  
 23 date of application.

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

26 (c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation  
 27 of adverse impacts as described in subsection (9) of this section.

28 (11) For purposes of verifying a use under subsection (5) of this section, a county may not re-  
 29 quire an applicant for verification to prove the existence, continuity, nature and extent of the use  
 30 for a period exceeding 20 years immediately preceding the date of application.

31 **(12) Except as otherwise provided by the land use regulations of a county, the use of a**  
 32 **dwelling as a vacation occupancy, as defined in ORS 90.100, is not a use that may be contin-**  
 33 **ued under subsection (5) of this section.**

34 **SECTION 3.** ORS 215.213 is amended to read:

35 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
 36 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

43 (A) ORS 215.275; or

44 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and  
 45 469.300.

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

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

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

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

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

24 (i) 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 paragraph (q) of this subsection.

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

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

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

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

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

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

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

2 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
3 215.291.

4 (r) Farm stands if:

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

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

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

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

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

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

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

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

36 (A) A public right of way;

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

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

40 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
41 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
42 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
43 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of  
44 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-  
45 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this

1 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application  
2 of biosolids is limited to treatment using treatment facilities that are portable, temporary and  
3 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land  
4 application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (d) Operations conducted for:

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

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

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

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

41 (e) Community centers owned by a governmental agency or a nonprofit community organization  
42 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
43 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the  
44 county governing body or its designee, a private campground may provide yurts for overnight  
45 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include

1 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.  
2 Upon request of a county governing body, the Land Conservation and Development Commission may  
3 provide by rule for an increase in the number of yurts allowed on all or a portion of the  
4 campgrounds in a county if the commission determines that the increase will comply with the stan-  
5 dards described in ORS 215.296 (1). A public park or campground may be established as provided  
6 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or  
7 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-  
8 ance.

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

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

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

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

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

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

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

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

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

45 (n) Home occupations **or vacation occupancies** as provided in ORS 215.448.

- 1 (o) Transmission towers over 200 feet in height.
- 2 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way  
3 but not resulting in the creation of new land parcels.
- 4 (q) Reconstruction or modification of public roads and highways involving the removal or dis-  
5 placement of buildings but not resulting in the creation of new land parcels.
- 6 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh  
7 stations and rest areas, where additional property or right of way is required but not resulting in  
8 the creation of new land parcels.
- 9 (s) A destination resort that is approved consistent with the requirements of any statewide  
10 planning goal relating to the siting of a destination resort.
- 11 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
12 dences.
- 13 (u) 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 the  
19 metropolitan urban 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 as such by the  
24 county governing body and organized under ORS chapter 65.
- 25 (v) Operations for the extraction and bottling of water.
- 26 (w) An aerial fireworks display business that has been in continuous operation at its current  
27 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's  
28 permit to sell or provide fireworks.
- 29 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-  
30 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction  
31 with the growing and marketing of nursery stock on the land that constitutes farm use.
- 32 (y) Public or private schools for kindergarten through grade 12, including all buildings essential  
33 to the operation of a school, primarily for residents of the rural area in which the school is located.
- 34 (z) Equine and equine-affiliated therapeutic and counseling activities, provided:
- 35 (A) The activities are conducted in existing buildings that were lawfully constructed on the  
36 property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate  
37 to the farm use on the tract; and
- 38 (B) All individuals conducting therapeutic or counseling activities are acting within the proper  
39 scope of any licenses required by the state.
- 40 (aa) Child care facilities, preschool recorded programs or school-age recorded programs that are:
- 41 (A) Authorized under ORS 329A.250 to 329A.450;
- 42 (B) Primarily for the children of residents and workers of the rural area in which the facility  
43 or program is located; and
- 44 (C) Colocated with a community center or a public or private school allowed under this sub-  
45 section.



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

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

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

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

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

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

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

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

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

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

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

34 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days  
35 following the date of postmark of the notice to file a written objection on the grounds only that the  
36 dwelling or activities associated with it would force a significant change in or significantly increase  
37 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-  
38 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-  
39 jection is received, the governing body shall set the matter for hearing in the manner prescribed in  
40 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required  
41 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of  
42 this section.

43 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
44 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) Planned hours of operation;

41 (ii) Access, egress and parking;

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

44 (iv) Sanitation and solid waste.

45 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,

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

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

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

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

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

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

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

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

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

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

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

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

26 (D) Must comply with ORS 215.296;

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

29 (F) Must comply with conditions established for:

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

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

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

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

39 (v) Sanitation and solid waste.

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

45 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-

1 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

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

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

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

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

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

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

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

30 **SECTION 4.** ORS 215.283 is amended to read:

31 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

38 (A) ORS 215.275; or

39 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and  
40 469.300.

41 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
42 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,  
43 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
44 operator does or will require the assistance of the relative in the management of the farm use and  
45 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

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

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

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

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

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

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

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

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

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

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

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

31 (o) Farm stands if:

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

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

41 (p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
42 215.291.

43 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as  
44 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor  
45 area or placed on a permanent foundation unless the building or facility preexisted the use approved

1 under this paragraph. The site shall not include an aggregate surface or hard surface area unless  
 2 the surface preexisted the use approved under this paragraph. An owner of property used for the  
 3 purpose authorized in this paragraph may charge a person operating the use on the property rent  
 4 for the property. An operator may charge users of the property a fee that does not exceed the  
 5 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model  
 6 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
 7 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
 8 ground.

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

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

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

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

17 (A) A public right of way;

18 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
 19 jacent 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 Department of Envi-  
 22 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
 23 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
 24 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of  
 25 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-  
 26 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this  
 27 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application  
 28 of biosolids is limited to treatment using treatment facilities that are portable, temporary and  
 29 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land  
 30 application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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

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

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

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

1 (b) Operations conducted for:

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

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

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

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

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

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

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

28 (f) Golf courses on land:

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

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

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

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

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

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

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

1 ject to any applicable rules of the Oregon Department of Aviation.

2 (i) Home occupations **or vacation occupancies** as provided in ORS 215.448.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (C) Colocated with a community center or a public or private school allowed under this sub-  
35 section.

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

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

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

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

45 (a) A county may authorize a single agri-tourism or other commercial event or activity on a

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

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

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

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

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

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

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

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

18 (i) Planned hours of operation;

19 (ii) Access, egress and parking;

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

22 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

- 1 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 2 (C) May not require that a new permanent structure be built, used or occupied in connection  
3 with the agri-tourism or other commercial events or activities;
- 4 (D) Must comply with ORS 215.296;
- 5 (E) May not, in combination with other agri-tourism or other commercial events or activities  
6 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 7 (F) Must comply with conditions established for:
- 8 (i) The types of agri-tourism or other commercial events or activities that are authorized during  
9 each calendar year, including the number and duration of the agri-tourism or other commercial  
10 events and activities, the anticipated daily attendance and the hours of operation;
- 11 (ii) The location of existing structures and the location of proposed temporary structures to be  
12 used in connection with the agri-tourism or other commercial events or activities;
- 13 (iii) The location of access and egress and parking facilities to be used in connection with the  
14 agri-tourism or other commercial events or activities;
- 15 (iv) Traffic management, including the projected number of vehicles and any anticipated use of  
16 public roads; and
- 17 (v) Sanitation and solid waste.
- 18 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism  
19 or other commercial events or activities that occur more frequently or for a longer period or that  
20 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other  
21 commercial events or activities comply with any local standards that apply and the agri-tourism or  
22 other commercial events or activities:
- 23 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-  
24 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 25 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 26 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;  
27 and
- 28 (D) Do not exceed 18 events or activities in a calendar year.
- 29 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-  
30 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county  
31 shall:
- 32 (a) Provide public notice and an opportunity for public comment as part of the review process;  
33 and
- 34 (b) Limit its review to events and activities authorized by the permit, conformance with condi-  
35 tions of approval required by the permit and the standards established by subsection (4)(d) of this  
36 section.
- 37 (6) For the purposes of subsection (4) of this section:
- 38 (a) A county may authorize the use of temporary structures established in connection with the  
39 agri-tourism or other commercial events or activities authorized under subsection (4) of this section.  
40 However, the temporary structures must be removed at the end of the agri-tourism or other event  
41 or activity. The county may not approve an alteration to the land in connection with an agri-tourism  
42 or other commercial event or activity authorized under subsection (4) of this section, including, but  
43 not limited to, grading, filling or paving.
- 44 (b) The county may issue the limited use permits authorized by subsection (4)(c) of this section  
45 for two calendar years. When considering an application for renewal, the county shall ensure com-

1 pliance with the provisions of subsection (4)(c) of this section, any local standards that apply and  
 2 conditions that apply to the permit or to the agri-tourism or other commercial events or activities  
 3 authorized by the permit.

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

8 **SECTION 5.** ORS 197.488 is amended to read:

9 197.488. (1) As used in this section, “natural disaster” includes any disaster resulting in the  
 10 declaration of a state of emergency under ORS 401.165 or 401.309 for wildfires, floods, tsunamis,  
 11 earthquakes or similar events, including disasters began by negligent or intentional acts.

12 (2) Notwithstanding ORS 215.130 (5) to [(11)] (12) or any land use regulation, statewide land use  
 13 planning goal or Land Conservation and Development Commission rule, a local government:

14 (a) Shall, if the development complies with the local government’s floodplain and other natural  
 15 hazard land use regulations, approve an application for the development of a manufactured dwelling  
 16 park:

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

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

19 (b) May, by approval of the governing body, approve a zoning change for an area within an ur-  
 20 ban growth boundary near the destroyed park to permit the development of a manufactured dwelling  
 21 park where the destruction of manufactured dwellings from the natural disaster has contributed to  
 22 a shortage in housing.

23 (3) A local government may require an applicant to prove that the destroyed park was assessed  
 24 as a building or structure for purposes of ad valorem taxation for the most recent property tax year  
 25 ending before the disaster.

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

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

31 **SECTION 6.** ORS 215.215 is amended to read:

32 215.215. (1) Notwithstanding ORS 215.130 (5) to [(11)] (12), if a nonfarm use exists in an exclusive  
 33 farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county  
 34 may allow by its zoning regulations such use to be reestablished to its previous nature and extent,  
 35 but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordi-  
 36 nances and permit requirements.

37 (2) Consistent with ORS 215.243, the county governing body may zone for the appropriate non-  
 38 farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or  
 39 parcels were physically developed for the nonfarm use prior to the establishment of the exclusive  
 40 farm use zone.

41 **SECTION 7.** ORS 215.297 is amended to read:

42 215.297. (1) As part of the conditional use approval process under ORS 215.296, for the purpose  
 43 of verifying the existence, continuity and nature of the business described in ORS 215.213 (2)(w) or  
 44 215.283 (2)(y), representatives of the business may apply to the county and submit evidence includ-  
 45 ing, but not limited to, sworn affidavits or other documentary evidence that the business qualifies.

1 (2) A use authorized in ORS 215.213 (2)(w) or 215.283 (2)(y) may be altered, restored or replaced  
2 pursuant to ORS 215.130 (5) to [(11)] (12).

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

4 215.799. (1) New and existing dwellings may be allowed on a lot or parcel subject to wildlife  
5 habitat special assessment under ORS 308A.403 to 308A.430 as follows:

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

7 (b) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling  
8 for which the landowner seeks approval complies with all applicable requirements under the  
9 county's acknowledged zoning ordinance.

10 (2) The fact that a lot or parcel is subject to wildlife habitat special assessment may not make  
11 it easier or more difficult for a landowner to obtain approval for a dwelling on the lot or parcel.

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

13 308A.462. Subject to the terms of the applicable conservation easement, new and existing  
14 dwellings may be allowed on a lot or parcel subject to conservation easement special assessment  
15 as follows:

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

17 (2) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling  
18 for which the landowner seeks approval complies with all applicable requirements under the  
19 county's acknowledged zoning ordinance.

20

---