

SENATE AMENDMENTS TO SENATE BILL 346

By COMMITTEE ON ENVIRONMENT AND LAND USE

April 4

1 On page 1 of the printed bill, line 2, delete “92.010,”.

2 In line 3, after “215.213” delete the rest of the line and insert “and 215.283.”.

3 Delete lines 5 through 31 and delete pages 2 through 25 and insert:

4 “**SECTION 1.** ORS 215.203 is amended to read:

5 “215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
6 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
7 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
8 only when such zoning is consistent with the comprehensive plan.

9 “(2)(a) As used in this section, ‘farm use’ means the current employment of land for the primary
10 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
11 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
12 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
13 use or animal husbandry or any combination thereof. ‘Farm use’ includes the preparation, storage
14 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
15 man or animal use. ‘Farm use’ also includes the current employment of land for the primary purpose
16 of obtaining a profit in money by stabling or training equines including but not limited to providing
17 riding lessons, training clinics and schooling shows. ‘Farm use’ also includes the propagation, culti-
18 vation, maintenance and harvesting of [*aquatic species and*] bird and animal species, to the extent
19 allowed by the rules adopted by the State Fish and Wildlife Commission, **and aquatic species**. ‘Farm
20 use’ includes the on-site construction and maintenance of equipment and facilities used for the ac-
21 tivities described in this subsection. ‘Farm use’ does not include the use of land subject to the pro-
22 visions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as
23 defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

24 “(b) ‘Current employment’ of land for farm use includes:

25 “(A) Farmland, the operation or use of which is subject to any farm-related government program;

26 “(B) Land lying fallow for one year as a normal and regular requirement of good agricultural
27 husbandry;

28 “(C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
29 of this paragraph, prior to maturity;

30 “(D) Land not in an exclusive farm use zone which has not been eligible for assessment at spe-
31 cial farm use value in the year prior to planting the current crop and has been planted in orchards,
32 cultured Christmas trees or vineyards for at least three years;

33 “(E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
34 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
35 which is not currently being used for any economic farm use;

1 “(F) Except for land under a single family dwelling, land under buildings supporting accepted
2 farm practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u);

3 “(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

4 “(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
5 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
6 in conjunction with farm use;

7 “(I) Land lying idle for no more than one year where the absence of farming activity is due to
8 the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph,
9 illness includes injury or infirmity whether or not such illness results in death;

10 “(J) Any land described under ORS 321.267 (3) or 321.824 (3); and

11 “(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
12 kenneling or training of greyhounds for racing.

13 “(c) As used in this subsection, ‘accepted farming practice’ means a mode of operation that is
14 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
15 in money, and customarily utilized in conjunction with farm use.

16 “(3) ‘Cultured Christmas trees’ means trees:

17 “(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
18 tivation methods such as plowing or turning over the soil;

19 “(b) Of a marketable species;

20 “(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
21 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

22 “(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species,
23 weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect
24 and disease control, stump culture, soil cultivation, irrigation.

25 “**SECTION 2.** ORS 215.213 is amended to read:

26 “215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
27 Edition), the following uses may be established in any area zoned for exclusive farm use:

28 “(a) Public or private schools, including all buildings essential to the operation of a school.

29 “(b) Churches and cemeteries in conjunction with churches.

30 “(c) The propagation or harvesting of a forest product.

31 “(d) Utility facilities necessary for public service, including wetland waste treatment systems
32 but not including commercial facilities for the purpose of generating electrical power for public use
33 by sale or transmission towers over 200 feet in height. A utility facility necessary for public service
34 may be established as provided in ORS 215.275.

35 “(e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
36 of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grand-
37 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
38 the farm operator does or will require the assistance of the relative in the management of the farm
39 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

40 “(B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
41 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
42 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
43 secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
44 shall operate as a partition of the homesite to create a new parcel.

45 “(f) Nonresidential buildings customarily provided in conjunction with farm use.

1 “(g) Primary or accessory dwellings customarily provided in conjunction with farm use if the
2 dwellings are on a lot or parcel that is managed as part of a farm operation not smaller than the
3 minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

4 “(h) Operations for the exploration for and production of geothermal resources as defined by
5 ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
6 compressors, separators and other customary production equipment for an individual well adjacent
7 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
8 an exception under ORS 197.732 (1)(a) or (b).

9 “(i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
10 construction relating to such operations shall not be a basis for an exception under ORS 197.732
11 (1)(a) or (b).

12 “(j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
13 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
14 necessary for its operation.

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

23 “(L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000
24 in population in which there is located a greyhound racing track or in a county of over 200,000 in
25 population contiguous to such a county.

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

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

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

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

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

39 “(r) Creation of, restoration of or enhancement of wetlands.

40 “(s) A winery, as described in ORS 215.452.

41 “(t) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

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

1 “(D) Has a heating system; and

2 “(E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
3 dential use within three months of the completion of the replacement dwelling. A replacement
4 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this para-
5 graph shall comply with all applicable siting standards. However, the standards shall not be applied
6 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a
7 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-
8 proval, shall execute and record in the deed records for the county where the property is located
9 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
10 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
11 the county. The release shall be signed by the county or its designee and state that the provisions
12 of this paragraph regarding replacement dwellings have changed to allow the siting of another
13 dwelling. The county planning director or the director’s designee shall maintain a record of the lots
14 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
15 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

16 “(u) Farm stands if:

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

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

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

29 “(w) A site for the takeoff and landing of model aircraft, including such buildings or facilities
30 as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in
31 floor area or placed on a permanent foundation unless the building or facility preexisted the use
32 approved under this paragraph. The site shall not include an aggregate surface or hard surface area
33 unless the surface preexisted the use approved under this paragraph. As used in this paragraph,
34 ‘model aircraft’ means a small-scale version of an airplane, glider, helicopter, dirigible or balloon
35 that is used or intended to be used for flight and is controlled by radio, lines or design by a person
36 on the ground.

37 “(x) A facility for the processing of farm crops located on a farm operation that provides at least
38 one-quarter of the farm crops processed at the facility. The building established for the processing
39 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
40 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
41 activities within another building supporting farm uses. A processing facility shall comply with all
42 applicable siting standards but the standards shall not be applied in a manner that prohibits the
43 siting of the processing facility.

44 “(y) Fire service facilities providing rural fire protection services.

45 “(z) Irrigation canals, delivery lines and those structures and accessory operational facilities

1 associated with a district as defined in ORS 540.505.

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

5 “(A) A public right of way;

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

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

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

15 “(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
16 the following uses may be established in any area zoned for exclusive farm use subject to ORS
17 215.296:

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

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

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

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

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

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

34 “(c) Commercial activities that are in conjunction with farm use but not including the process-
35 ing of farm crops as described in subsection (1)(x) of this section.

36 “(d) Operations conducted for:

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

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

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

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

43 “(e) Community centers owned by a governmental agency or a nonprofit community organization
44 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
45 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the

1 county governing body or its designee, a private campground may provide yurts for overnight
2 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
3 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
4 Upon request of a county governing body, the Land Conservation and Development Commission may
5 provide by rule for an increase in the number of yurts allowed on all or a portion of the
6 campgrounds in a county if the commission determines that the increase will comply with the stan-
7 dards described in ORS 215.296 (1). A public park or campground may be established as provided
8 under ORS 195.120. As used in this paragraph, 'yurt' means a round, domed shelter of cloth or can-
9 vas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

10 "(f) Golf courses.

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

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

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

29 "(j) A site for the disposal of solid waste approved by the governing body of a city or county
30 or both and for which a permit has been granted under ORS 459.245 by the Department of Envi-
31 ronmental Quality together with equipment, facilities or buildings necessary for its operation.
32 Notwithstanding the soil type or value of the site or expansion area, if a site that is approved under
33 this paragraph before January 1, 2002, is lawfully used for the disposal of nonputrescible solid waste,
34 the county shall allow the site, together with equipment, facilities or buildings necessary for its
35 operation, to be maintained, expanded or enhanced as necessary for the disposal of the incoming
36 solid waste.

37 "(k) Dog kennels not described in subsection (1)(L) of this section.

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

39 "(m) The propagation, cultivation, maintenance and harvesting of [*aquatic and*] insect species.
40 Insect species shall not include any species under quarantine by the State Department of Agricul-
41 ture or the United States Department of Agriculture. The county shall provide notice of all appli-
42 cations under this paragraph to the State Department of Agriculture. Notice shall be provided in
43 accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior
44 to any administrative decision or initial public hearing on the application.

45 "(n) Home occupations 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 which 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) A living history museum related to resource based activities owned and operated by a
14 governmental agency or a local historical society, together with limited commercial activities and
15 facilities that are directly related to the use and enjoyment of the museum and located within au-
16 thentic 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.

20 “(B) As used in this paragraph:

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

24 “(ii) ‘Local historical society’ means the local historical society, recognized as such by the
25 county governing body and organized under ORS chapter 65.

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

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

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

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

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

44 “(c) Complies with such other conditions as the governing body or its designee considers nec-
45 essary.

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

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

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

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

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

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

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

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

29 “(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January
30 1, 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

44 “(10) Roads, highways and other transportation facilities and improvements not allowed under
45 subsections (1) and (2) of this section may be established, subject to the approval of the governing

1 body or its designee, in areas zoned for exclusive farm use subject to:

2 “(a) Adoption of an exception to the goal related to agricultural lands and to any other appli-
3 cable goal with which the facility or improvement does not comply; or

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

6 “**SECTION 3.** ORS 215.213, as amended by section 2, chapter 260, Oregon Laws 2001, and sec-
7 tion 2, chapter 247, Oregon Laws 2003, is amended to read:

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

10 “(a) Public or private schools, including all buildings essential to the operation of a school.

11 “(b) Churches and cemeteries in conjunction with churches.

12 “(c) The propagation or harvesting of a forest product.

13 “(d) Utility facilities necessary for public service, including wetland waste treatment systems
14 but not including commercial facilities for the purpose of generating electrical power for public use
15 by sale or transmission towers over 200 feet in height. A utility facility necessary for public service
16 may be established as provided in ORS 215.275.

17 “(e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
18 of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grand-
19 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
20 the farm operator does or will require the assistance of the relative in the management of the farm
21 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

22 “(B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
23 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
24 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
25 secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
26 shall operate as a partition of the homesite to create a new parcel.

27 “(f) Nonresidential buildings customarily provided in conjunction with farm use.

28 “(g) Primary or accessory dwellings customarily provided in conjunction with farm use if the
29 dwellings are on a lot or parcel that is managed as part of a farm operation not smaller than the
30 minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

31 “(h) Operations for the exploration for and production of geothermal resources as defined by
32 ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
33 compressors, separators and other customary production equipment for an individual well adjacent
34 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
35 an exception under ORS 197.732 (1)(a) or (b).

36 “(i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
37 construction relating to such operations shall not be a basis for an exception under ORS 197.732
38 (1)(a) or (b).

39 “(j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
40 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
41 necessary for its operation.

42 “(k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
43 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
44 hardship suffered by the existing resident or a relative of the resident. Within three months of the
45 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-

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

5 “(L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000
6 in population in which there is located a greyhound racing track or in a county of over 200,000 in
7 population contiguous to such a county.

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

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

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

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

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

21 “(r) Creation of, restoration of or enhancement of wetlands.

22 “(s) A winery, as described in ORS 215.452.

23 “(t) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

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

28 “(D) Has a heating system; and

29 “(E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
30 dential use within three months of the completion of the replacement dwelling. A replacement
31 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-
32 agraph shall comply with all applicable siting standards. However, the standards shall not be applied
33 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a
34 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-
35 proval, shall execute and record in the deed records for the county where the property is located
36 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
37 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
38 the county. The release shall be signed by the county or its designee and state that the provisions
39 of this paragraph regarding replacement dwellings have changed to allow the siting of another
40 dwelling. The county planning director or the director’s designee shall maintain a record of the lots
41 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
42 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

43 “(u) Farm stands if:

44 “(A) The structures are designed and used for the sale of farm crops or livestock grown on the
45 farm operation, or grown on the farm operation and other farm operations in the local agricultural

1 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
2 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
3 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
4 and

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

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

11 “(w) A site for the takeoff and landing of model aircraft, including such buildings or facilities
12 as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in
13 floor area or placed on a permanent foundation unless the building or facility preexisted the use
14 approved under this paragraph. The site shall not include an aggregate surface or hard surface area
15 unless the surface preexisted the use approved under this paragraph. As used in this paragraph,
16 ‘model aircraft’ means a small-scale version of an airplane, glider, helicopter, dirigible or balloon
17 that is used or intended to be used for flight and is controlled by radio, lines or design by a person
18 on the ground.

19 “(x) A facility for the processing of farm crops located on a farm operation that provides at least
20 one-quarter of the farm crops processed at the facility. The building established for the processing
21 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
22 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
23 activities within another building supporting farm uses. A processing facility shall comply with all
24 applicable siting standards but the standards shall not be applied in a manner that prohibits the
25 siting of the processing facility.

26 “(y) Fire service facilities providing rural fire protection services.

27 “(z) Irrigation canals, delivery lines and those structures and accessory operational facilities
28 associated with a district as defined in ORS 540.505.

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

32 “(A) A public right of way;

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

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

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

42 “(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
43 the following uses may be established in any area zoned for exclusive farm use subject to ORS
44 215.296:

45 “(a) A dwelling in conjunction with farm use or the propagation or harvesting of a forest prod-

1 uct on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation
2 or woodlot:

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

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

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

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

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

16 “(c) Commercial activities that are in conjunction with farm use but not including the process-
17 ing of farm crops as described in subsection (1)(x) of this section.

18 “(d) Operations conducted for:

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

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

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

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

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

37 “(f) Golf courses.

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

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

1 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
2 ject to any applicable rules of the Oregon Department of Aviation.

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

14 “(k) Dog kennels not described in subsection (1)(L) of this section.

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

16 “(m) The propagation, cultivation, maintenance and harvesting of [*aquatic and*] insect species.
17 Insect species shall not include any species under quarantine by the State Department of Agricul-
18 ture or the United States Department of Agriculture. The county shall provide notice of all appli-
19 cations under this paragraph to the State Department of Agriculture. Notice shall be provided in
20 accordance with the county’s land use regulations but shall be mailed at least 20 calendar days prior
21 to any administrative decision or initial public hearing on the application.

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

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

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

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

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

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

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

35 “(u)(A) A living history museum related to resource based activities owned and operated by a
36 governmental agency or a local historical society, together with limited commercial activities and
37 facilities that are directly related to the use and enjoyment of the museum and located within au-
38 thentic buildings of the depicted historic period or the museum administration building, if areas
39 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
40 the museum administration buildings and parking lot are located within one quarter mile of the
41 metropolitan urban growth boundary.

42 “(B) As used in this paragraph:

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

1 “(ii) ‘Local historical society’ means the local historical society, recognized as such by the
2 county governing body and organized under ORS chapter 65.

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

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

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

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

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

21 “(c) Complies with such other conditions as the governing body or its designee considers nec-
22 essary.

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

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

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

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

36 “(5) Upon receipt of an application for a permit under subsection (4) of this section, the gov-
37 erning body shall notify:

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

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

42 “(6) The notice required in subsection (5) of this section shall specify that persons have 15 days
43 following the date of postmark of the notice to file a written objection on the grounds only that the
44 dwelling or activities associated with it would force a significant change in or significantly increase
45 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-

1 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
2 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
3 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
4 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
5 this section.

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

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

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

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

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

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

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

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

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

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

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

29 “215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

30 “(a) Public or private schools, including all buildings essential to the operation of a school.

31 “(b) Churches and cemeteries in conjunction with churches.

32 “(c) The propagation or harvesting of a forest product.

33 “(d) Utility facilities necessary for public service, including wetland waste treatment systems
34 but not including commercial facilities for the purpose of generating electrical power for public use
35 by sale or transmission towers over 200 feet in height. A utility facility necessary for public service
36 may be established as provided in ORS 215.275.

37 “(e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
38 of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grand-
39 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
40 the farm operator does or will require the assistance of the relative in the management of the farm
41 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

42 “(B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
43 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
44 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
45 secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure

1 shall operate as a partition of the homesite to create a new parcel.

2 “(f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
3 farm use.

4 “(g) Operations for the exploration for and production of geothermal resources as defined by
5 ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
6 compressors, separators and other customary production equipment for an individual well adjacent
7 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
8 an exception under ORS 197.732 (1)(a) or (b).

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

12 “(i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
13 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
14 necessary for its operation.

15 “(j) The breeding, kenneling and training of greyhounds for racing.

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

17 “(L) 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 “(m) Temporary public road and highway detours that will be abandoned and restored to ori-
22 ginal condition or use at such time as no longer needed.

23 “(n) 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 “(o) 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 “(p) Creation of, restoration of or enhancement of wetlands.

30 “(q) A winery, as described in ORS 215.452.

31 “(r) 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 “(s) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

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

1 “(D) Has a heating system; and

2 “(E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
3 dential use within three months of the completion of the replacement dwelling. A replacement
4 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-
5 agraph shall comply with all applicable siting standards. However, the standards shall not be applied
6 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a
7 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-
8 proval, shall execute and record in the deed records for the county where the property is located
9 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
10 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
11 the county. The release shall be signed by the county or its designee and state that the provisions
12 of this paragraph regarding replacement dwellings have changed to allow the siting of another
13 dwelling. The county planning director or the director’s designee shall maintain a record of the lots
14 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
15 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

16 “(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
17 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
18 area or placed on a permanent foundation unless the building or facility preexisted the use approved
19 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
20 the surface preexisted the use approved under this paragraph. As used in this paragraph, ‘model
21 aircraft’ means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
22 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
23 ground.

24 “(u) A facility for the processing of farm crops located on a farm operation that provides at least
25 one-quarter of the farm crops processed at the facility. The building established for the processing
26 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
27 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
28 activities within another building supporting farm uses. A processing facility shall comply with all
29 applicable siting standards but the standards shall not be applied in a manner that prohibits the
30 siting of the processing facility.

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

32 “(w) Irrigation canals, delivery lines and those structures and accessory operational facilities
33 associated with a district as defined in ORS 540.505.

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

37 “(A) A public right of way;

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

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

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

1 exclusive farm use zone under this chapter.

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

4 “(a) Commercial activities that are in conjunction with farm use but not including the process-
5 ing of farm crops as described in subsection (1)(u) of this section.

6 “(b) Operations conducted for:

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

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

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

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

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

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

25 “(e) Community centers owned by a governmental agency or a nonprofit community organization
26 and operated primarily by and for residents of the local rural community.

27 “(f) Golf courses.

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

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

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

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

1 contiguous land where the primary processing facility is located.

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

5 “(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
6 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
7 hardship suffered by the existing resident or a relative of the resident. Within three months of the
8 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
9 ished or, in the case of an existing building, the building shall be removed, demolished or returned
10 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
11 view of the hardship claimed under this paragraph. A temporary residence approved under this
12 paragraph is not eligible for replacement under subsection (1)(s) of this section.

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

14 “(n) Dog kennels not described in subsection (1)(j) of this section.

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

16 “(p) The propagation, cultivation, maintenance and harvesting of [*aquatic or*] insect species. In-
17 sect species shall not include any species under quarantine by the State Department of Agriculture
18 or the United States Department of Agriculture. The county shall provide notice of all applications
19 under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance
20 with the county’s land use regulations but shall be mailed at least 20 calendar days prior to any
21 administrative decision or initial public hearing on the application.

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

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

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

29 “(t) A destination resort which is approved consistent with the requirements of any statewide
30 planning goal relating to the siting of a destination resort.

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

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

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

36 “(x)(A) A living history museum related to resource based activities owned and operated by a
37 governmental agency or a local historical society, together with limited commercial activities and
38 facilities that are directly related to the use and enjoyment of the museum and located within au-
39 thentic buildings of the depicted historic period or the museum administration building, if areas
40 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
41 the museum administration buildings and parking lot are located within one quarter mile of an ur-
42 ban growth boundary.

43 “(B) As used in this paragraph:

44 “(i) ‘Living history museum’ means a facility designed to depict and interpret everyday life and
45 culture of some specific historic period using authentic buildings, tools, equipment and people to

1 simulate past activities and events; and

2 “(ii) ‘Local historical society’ means the local historical society recognized by the county gov-
3 erning body and organized under ORS chapter 65.

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

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

10 “(a) Adoption of an exception to the goal related to agricultural lands and to any other appli-
11 cable goal with which the facility or improvement does not comply; or

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

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