

**A-Engrossed**  
**Senate Bill 346**

Ordered by the Senate April 4  
Including Senate Amendments dated April 4

Sponsored by COMMITTEE ON ENVIRONMENT AND LAND USE (at the request of Oregon Aquaculture Association)

**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.

Allows propagation, cultivation, maintenance and harvesting of aquatic species for uses other than food or game in exclusive farm use zones.

**A BILL FOR AN ACT**

1  
2 Relating to the farming of aquatic species in exclusive farm use zones; amending ORS 215.203,  
3 215.213 and 215.283.

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

5 **SECTION 1.** ORS 215.203 is amended to read:

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

10 (2)(a) As used in this section, "farm use" means the current employment of land for the primary  
11 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,  
12 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or  
13 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural  
14 use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage  
15 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-  
16 man or animal use. "Farm use" also includes the current employment of land for the primary pur-  
17 pose of obtaining a profit in money by stabling or training equines including but not limited to  
18 providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propa-  
19 gation, cultivation, maintenance and harvesting of [*aquatic species and*] bird and animal species, to  
20 the extent allowed by the rules adopted by the State Fish and Wildlife Commission, **and aquatic**  
21 **species**. "Farm use" includes the on-site construction and maintenance of equipment and facilities  
22 used for the activities described in this subsection. "Farm use" does not include the use of land  
23 subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured  
24 Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or  
25 321.824 (3).

26 (b) "Current employment" of land for farm use includes:

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

28 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural

**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 husbandry;

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

4 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special  
5 farm use value in the year prior to planting the current crop and has been planted in orchards,  
6 cultured Christmas trees or vineyards for at least three years;

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

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

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

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

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

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

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

22 (c) As used in this subsection, "accepted farming practice" means a mode of operation that is  
23 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit  
24 in money, and customarily utilized in conjunction with farm use.

25 (3) "Cultured Christmas trees" means trees:

26 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-  
27 vation methods such as plowing or turning over the soil;

28 (b) Of a marketable species;

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

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

34 **SECTION 2.** 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) Public or private schools, including all buildings essential to the operation of a school.

38 (b) Churches and cemeteries in conjunction with churches.

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

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

44 (e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative  
45 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-

1 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if  
2 the farm operator does or will require the assistance of the relative in the management of the farm  
3 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

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

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

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

13 (h) Operations for the exploration for and production of geothermal resources as defined by ORS  
14 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
15 compressors, separators and other customary production equipment for an individual well adjacent  
16 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
17 an exception under ORS 197.732 (1)(a) or (b).

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

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

24 (k) 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 (t) of this subsection.

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

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

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

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

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

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

3 (r) Creation of, restoration of or enhancement of wetlands.

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

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

6 (A) Has intact exterior walls and roof structure;

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

9 (C) Has interior wiring for interior lights;

10 (D) Has a heating system; and

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

25 (u) Farm stands if:

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

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

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

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

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

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

9 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-  
10 sociated with a district as defined in ORS 540.505.

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

14 (A) A public right of way;

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

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

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

24 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
25 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
26 215.296:

27 (a) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product  
28 on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or  
29 woodlot:

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

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

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

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

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

43 (c) Commercial activities that are in conjunction with farm use but not including the processing  
44 of farm crops as described in subsection (1)(x) of this section.

45 (d) Operations conducted for:

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

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

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

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

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

20 (f) Golf courses.

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

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

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

39 (j) A site for the disposal of solid waste approved by the governing body of a city or county or  
40 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-  
41 mental Quality together with equipment, facilities or buildings necessary for its operation.  
42 Notwithstanding the soil type or value of the site or expansion area, if a site that is approved under  
43 this paragraph before January 1, 2002, is lawfully used for the disposal of nonputrescible solid waste,  
44 the county shall allow the site, together with equipment, facilities or buildings necessary for its  
45 operation, to be maintained, expanded or enhanced as necessary for the disposal of the incoming

1 solid waste.

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

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

4 (m) The propagation, cultivation, maintenance and harvesting of [*aquatic and*] insect species.  
5 Insect species shall not include any species under quarantine by the State Department of Agriculture  
6 or the United States Department of Agriculture. The county shall provide notice of all applications  
7 under this paragraph to the State Department of Agriculture. Notice shall be provided in  
8 accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior  
9 to any administrative decision or initial public hearing on the application.

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

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

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

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

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

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

21 (t) Room and board arrangements for a maximum of five unrelated persons in existing residences.  
22

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

30 (B) As used in this paragraph:

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

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

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

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

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

1 showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

37 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
38 1948, and July 1, 1983. For the purposes of this section:

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

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

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

45 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including

1 but not limited to, lots, parcels or lots and parcels separated only by a public road.

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

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

7 (10) 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 applicable  
11 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.

14 **SECTION 3.** ORS 215.213, as amended by section 2, chapter 260, Oregon Laws 2001, and section  
15 2, chapter 247, Oregon Laws 2003, is amended to read:

16 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
17 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

19 (b) Churches and cemeteries in conjunction with churches.

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

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

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

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

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

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

39 (h) Operations for the exploration for and production of geothermal resources as defined by ORS  
40 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
41 compressors, separators and other customary production equipment for an individual well adjacent  
42 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
43 an exception under ORS 197.732 (1)(a) or (b).

44 (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or  
45 construction relating to such operations shall not be a basis for an exception under ORS 197.732

1 (1)(a) or (b).

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

5 (k) 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 paragraph (t) of this subsection.

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

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

17 (n) 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 (o) 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 (p) 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 (q) 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 (r) Creation of, restoration of or enhancement of wetlands.

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

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

32 (A) Has intact exterior walls and roof structure;

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

35 (C) Has interior wiring for interior lights;

36 (D) Has a heating system; and

37 (E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-  
38 dential use within three months of the completion of the replacement dwelling. A replacement  
39 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-  
40 agraph shall comply with all applicable siting standards. However, the standards shall not be applied  
41 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a  
42 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-  
43 proval, shall execute and record in the deed records for the county where the property is located  
44 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-  
45 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for

1 the county. The release shall be signed by the county or its designee and state that the provisions  
2 of this paragraph regarding replacement dwellings have changed to allow the siting of another  
3 dwelling. The county planning director or the director's designee shall maintain a record of the lots  
4 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-  
5 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

6 (u) Farm stands if:

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

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

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

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

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

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

35 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-  
36 sociated with a district as defined in ORS 540.505.

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

40 (A) A public right of way;

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

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

44 (bb) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
45 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with

1 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
2 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
3 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
4 exclusive farm use zone under this chapter.

5 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
6 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
7 215.296:

8 (a) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product  
9 on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or  
10 woodlot:

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

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

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

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

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

24 (c) Commercial activities that are in conjunction with farm use but not including the processing  
25 of farm crops as described in subsection (1)(x) of this section.

26 (d) Operations conducted for:

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

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

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

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

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

- 1 (f) Golf courses.
- 2 (g) Commercial utility facilities for the purpose of generating power for public use by sale.
- 3 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-  
4 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-  
5 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional  
6 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-  
7 erations. No aircraft may be based on a personal-use airport other than those owned or controlled  
8 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be  
9 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
10 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-  
11 ject to any applicable rules of the Oregon Department of Aviation.
- 12 (i) A facility for the primary processing of forest products, provided that such facility is found  
13 to not seriously interfere with accepted farming practices and is compatible with farm uses de-  
14 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is  
15 renewable. These facilities are intended to be only portable or temporary in nature. The primary  
16 processing of a forest product, as used in this section, means the use of a portable chipper or stud  
17 mill or other similar methods of initial treatment of a forest product in order to enable its shipment  
18 to market. Forest products, as used in this section, means timber grown upon a parcel of land or  
19 contiguous land where the primary processing facility is located.
- 20 (j) A site for the disposal of solid waste approved by the governing body of a city or county or  
21 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-  
22 mental Quality together with equipment, facilities or buildings necessary for its operation.
- 23 (k) Dog kennels not described in subsection (1)(L) of this section.
- 24 (L) Residential homes as defined in ORS 197.660, in existing dwellings.
- 25 (m) The propagation, cultivation, maintenance and harvesting of [*aquatic and*] insect species.  
26 Insect species shall not include any species under quarantine by the State Department of Agricul-  
27 ture or the United States Department of Agriculture. The county shall provide notice of all appli-  
28 cations under this paragraph to the State Department of Agriculture. Notice shall be provided in  
29 accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior  
30 to any administrative decision or initial public hearing on the application.
- 31 (n) Home occupations as provided in ORS 215.448.
- 32 (o) Transmission towers over 200 feet in height.
- 33 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way  
34 but not resulting in the creation of new land parcels.
- 35 (q) Reconstruction or modification of public roads and highways involving the removal or dis-  
36 placement of buildings but not resulting in the creation of new land parcels.
- 37 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh  
38 stations and rest areas, where additional property or right of way is required but not resulting in  
39 the creation of new land parcels.
- 40 (s) A destination resort which is approved consistent with the requirements of any statewide  
41 planning goal relating to the siting of a destination resort.
- 42 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
43 dences.
- 44 (u)(A) A living history museum related to resource based activities owned and operated by a  
45 governmental agency or a local historical society, together with limited commercial activities and

1 facilities that are directly related to the use and enjoyment of the museum and located within au-  
2 thentic buildings of the depicted historic period or the museum administration building, if areas  
3 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
4 the museum administration buildings and parking lot are located within one quarter mile of the  
5 metropolitan urban growth boundary.

6 (B) As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-

1 tablished; and

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

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

13 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
14 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

36 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

38 (b) Churches and cemeteries in conjunction with churches.

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

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

44 (e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative  
45 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-

1 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if  
2 the farm operator does or will require the assistance of the relative in the management of the farm  
3 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

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

9 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with  
10 farm use.

11 (g) Operations for the exploration for and production of geothermal resources as defined by ORS  
12 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
13 compressors, separators and other customary production equipment for an individual well adjacent  
14 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
15 an exception under ORS 197.732 (1)(a) or (b).

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

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

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

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

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

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

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

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

36 (p) Creation of, restoration of or enhancement of wetlands.

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

38 (r) Farm stands if:

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

45 (B) The farm stand does not include structures designed for occupancy as a residence or for

1 activity other than the sale of farm crops or livestock and does not include structures for banquets,  
2 public gatherings or public entertainment.

3 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

4 (A) Has intact exterior walls and roof structure;

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

7 (C) Has interior wiring for interior lights;

8 (D) Has a heating system; and

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

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

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

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

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

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

44 (A) A public right of way;

45 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-

1 jacent property owners has been obtained; or

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

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

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

11 (a) Commercial activities that are in conjunction with farm use but not including the processing  
12 of farm crops as described in subsection (1)(u) of this section.

13 (b) Operations conducted for:

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

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

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

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

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

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

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

34 (f) Golf courses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (x)(A) A living history museum related to resource based activities owned and operated by a  
 44 governmental agency or a local historical society, together with limited commercial activities and  
 45 facilities that are directly related to the use and enjoyment of the museum and located within au-

1 thentic buildings of the depicted historic period or the museum administration building, if areas  
2 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
3 the museum administration buildings and parking lot are located within one quarter mile of an ur-  
4 ban growth boundary.

5 (B) As used in this paragraph:

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

9 (ii) "Local historical society" means the local historical society recognized by the county gov-  
10 erning body and organized under ORS chapter 65.

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

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

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

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

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