

B-Engrossed
Senate Bill 346

Ordered by the House May 27
Including Senate Amendments dated April 4 and House Amendments
dated May 27

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 **that are not under jurisdiction of State Fish and Wildlife Commission** 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
20 **that are under the jurisdiction of the State Fish and Wildlife Commission**, to the extent al-
21 lowed by the rules adopted by the [*State Fish and Wildlife*] commission. "Farm use" includes the
22 on-site construction and maintenance of equipment and facilities used for the activities described in
23 this subsection. "Farm use" does not include the use of land subject to the provisions of ORS
24 chapter 321, except land used exclusively for growing cultured Christmas trees as defined in sub-
25 section (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (A) Farmland, the operation or use of which is subject to any farm-related government program;
- 2 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural
- 3 husbandry;
- 4 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
- 5 of this paragraph, prior to maturity;
- 6 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special
- 7 farm use value in the year prior to planting the current crop and has been planted in orchards,
- 8 cultured Christmas trees or vineyards for at least three years;
- 9 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
- 10 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
- 11 which is not currently being used for any economic farm use;
- 12 (F) Except for land under a single family dwelling, land under buildings supporting accepted
- 13 farm practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u);
- 14 (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- 15 (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
- 16 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
- 17 in conjunction with farm use;
- 18 (I) Land lying idle for no more than one year where the absence of farming activity is due to
- 19 the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph,
- 20 illness includes injury or infirmity whether or not such illness results in death;
- 21 (J) Any land described under ORS 321.267 (3) or 321.824 (3); and
- 22 (K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
- 23 kenneling or training of greyhounds for racing.
- 24 (c) As used in this subsection, "accepted farming practice" means a mode of operation that is
- 25 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
- 26 in money, and customarily utilized in conjunction with farm use.
- 27 (3) "Cultured Christmas trees" means trees:
- 28 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-
- 29 vation methods such as plowing or turning over the soil;
- 30 (b) Of a marketable species;
- 31 (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
- 32 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- 33 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
- 34 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
- 35 disease control, stump culture, soil cultivation, irrigation.
- 36 **SECTION 2.** ORS 215.213 is amended to read:
- 37 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
- 38 Edition), the following uses may be established in any area zoned for exclusive farm use:
- 39 (a) Public or private schools, including all buildings essential to the operation of a school.
- 40 (b) Churches and cemeteries in conjunction with churches.
- 41 (c) The propagation or harvesting of a forest product.
- 42 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
- 43 not including commercial facilities for the purpose of generating electrical power for public use by
- 44 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
- 45 may be established as provided in ORS 215.275.

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

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

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

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

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

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

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

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

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

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

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

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

44 (p) Minor betterment of existing public road and highway related facilities, such as maintenance
45 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous

1 public-owned property utilized to support the operation and maintenance of public roads and high-
2 ways.

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

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

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

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

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

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

11 (C) Has interior wiring for interior lights;

12 (D) Has a heating system; and

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

27 (u) Farm stands if:

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

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

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

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

1 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
2 ground.

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

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

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

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

16 (A) A public right of way;

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

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

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

26 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
27 the following uses may be established in any area zoned for exclusive farm use subject to ORS
28 215.296:

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

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

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

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

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

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

45 (c) Commercial activities that are in conjunction with farm use but not including the processing

1 of farm crops as described in subsection (1)(x) of this section.

2 (d) Operations conducted for:

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

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

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

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

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

22 (f) Golf courses.

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

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

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

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

1 the county shall allow the site, together with equipment, facilities or buildings necessary for its
2 operation, to be maintained, expanded or enhanced as necessary for the disposal of the incoming
3 solid waste.

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

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

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

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

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

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

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

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

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

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

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

33 (B) As used in this paragraph:

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

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

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

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

43 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
44 a single-family residential dwelling not provided in conjunction with farm use may be established
45 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by

1 the Agricultural Capability Classification System in use by the United States Department of Agri-
2 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
3 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
4 showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

40 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
41 1948, and July 1, 1983. For the purposes of this section:

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

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

45 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels

1 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
2 or in tenancy in common.

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

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

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

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

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

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

17 **SECTION 3.** ORS 215.213, as amended by section 2, chapter 260, Oregon Laws 2001, and section
18 2, chapter 247, Oregon Laws 2003, is amended to read:

19 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
20 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

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

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

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

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

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

1 an exception under ORS 197.732 (1)(a) or (b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (C) Has interior wiring for interior lights;

39 (D) Has a heating system; and

40 (E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
41 dential use within three months of the completion of the replacement dwelling. A replacement
42 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-
43 agraph shall comply with all applicable siting standards. However, the standards shall not be applied
44 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a
45 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-

1 proval, shall execute and record in the deed records for the county where the property is located
2 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
3 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
4 the county. The release shall be signed by the county or its designee and state that the provisions
5 of this paragraph regarding replacement dwellings have changed to allow the siting of another
6 dwelling. The county planning director or the director's designee shall maintain a record of the lots
7 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
8 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

9 (u) Farm stands if:

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

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

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

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

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

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

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

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

43 (A) A public right of way;

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

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

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

8 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
9 the following uses may be established in any area zoned for exclusive farm use subject to ORS
10 215.296:

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

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

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

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

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

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

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

29 (d) Operations conducted for:

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

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

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

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

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

1 under ORS 195.120. As used in this paragraph, “yurt” means a round, domed shelter of cloth or
2 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
3 ance.

4 (f) Golf courses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (B) As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

45 (c) The dwelling complies with other conditions considered necessary by the governing body or

1 its designee.

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

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

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

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

17 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
18 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

40 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

1 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
2 may be established as provided in ORS 215.275.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (r) Farm stands if:

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

1 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
2 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
3 and

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

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

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

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

11 (C) Has interior wiring for interior lights;

12 (D) Has a heating system; and

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

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

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

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

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

45 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-

1 cilities or structures that end at the point where the utility service is received by the customer and
2 that are located on one or more of the following:

3 (A) A public right of way;

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

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

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

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

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

17 (b) Operations conducted for:

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

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

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

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

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

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

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

38 (f) Golf courses.

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

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

1 granted through waiver action by the Oregon Department of Aviation in specific instances. A
2 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
3 ject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (B) As used in this paragraph:

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

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

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

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

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

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

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