

HOUSE AMENDMENTS TO HOUSE BILL 3099

By COMMITTEE ON LAND USE

May 6

- 1 On page 1 of the printed bill, line 2, delete “92.010,”.
- 2 In line 3, delete “215.284,”.
- 3 In line 4, delete “, 308A.056 and 459.109” and insert “and 308A.056”.
- 4 Delete lines 6 through 31 and delete pages 2 through 30 and insert:
- 5 “**SECTION 1.** ORS 215.213 is amended to read:
- 6 “215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
- 7 Edition), the following uses may be established in any area zoned for exclusive farm use:
- 8 “[*a*] *Public or private schools, including all buildings essential to the operation of a school.*]
- 9 “[*b*] (a) Churches and cemeteries in conjunction with churches.
- 10 “[*c*] (b) The propagation or harvesting of a forest product.
- 11 “[*d*] (c) Utility facilities necessary for public service, including wetland waste treatment sys-
- 12 tems but not including commercial facilities for the purpose of generating electrical power for public
- 13 use by sale or transmission towers over 200 feet in height. A utility facility necessary for public
- 14 service may be established as provided in ORS 215.275.
- 15 “[*e*] (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative
- 16 of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grand-
- 17 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
- 18 the farm operator does or will require the assistance of the relative in the management of the farm
- 19 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
- 20 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
- 21 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
- 22 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
- 23 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
- 24 shall operate as a partition of the homesite to create a new parcel.
- 25 “[*f*] (e) Nonresidential buildings customarily provided in conjunction with farm use.
- 26 “[*g*] (f) Primary or accessory dwellings customarily provided in conjunction with farm use. For
- 27 a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm op-
- 28 eration and is not smaller than the minimum lot size in a farm zone with a minimum lot size ac-
- 29 knowledged under ORS 197.251.
- 30 “[*h*] (g) Operations for the exploration for and production of geothermal resources as defined
- 31 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation
- 32 of compressors, separators and other customary production equipment for an individual well adja-
- 33 cent to the wellhead. Any activities or construction relating to such operations shall not be a basis
- 34 for an exception under ORS 197.732 (2)(a) or (b).
- 35 “[*i*] (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities

1 or construction relating to such operations shall not be a basis for an exception under ORS 197.732
2 (2)(a) or (b).

3 “[*j*] (i) A site for the disposal of solid waste that has been ordered to be established by the
4 Environmental Quality Commission under ORS 459.049, together with equipment, facilities or
5 buildings necessary for its operation.

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

14 “[*L*] *The breeding, kenneling and training of greyhounds for racing in any county with a popu-*
15 *lation of more than 200,000 in which there is located a greyhound racing track or in a county with a*
16 *population of more than 200,000 that is contiguous to such a county.*]

17 “[*m*] (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

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

22 “[*o*] (m) Temporary public road and highway detours that will be abandoned and restored to
23 original condition or use at such time as no longer needed.

24 “[*p*] (n) Minor betterment of existing public road and highway related facilities, such as
25 maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987,
26 and contiguous public-owned property utilized to support the operation and maintenance of public
27 roads and highways.

28 “[*q*] (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling
29 has been listed in a county inventory as historic property as defined in ORS 358.480.

30 “[*r*] (p) Creation [*of*], restoration [*of*] or enhancement of wetlands.

31 “[*s*] (q) A winery, as described in ORS 215.452.

32 “[*t*] (r) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

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

37 “(D) Has a heating system; and

38 “(E) In the case of replacement:

39 “(i) Is removed, demolished or converted to an allowable nonresidential use within three months
40 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
41 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
42 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
43 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
44 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
45 deed records for the county where the property is located a deed restriction prohibiting the siting

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

8 “(ii) For which the applicant has requested a deferred replacement permit, is removed or de-
9 molished within three months after the deferred replacement permit is issued. A deferred replace-
10 ment permit allows construction of the replacement dwelling at any time. If, however, the
11 established dwelling is not removed or demolished within three months after the deferred replace-
12 ment permit is issued, the permit becomes void. The replacement dwelling must comply with appli-
13 cable building codes, plumbing codes, sanitation codes and other requirements relating to health and
14 safety or to siting at the time of construction. A deferred replacement permit may not be trans-
15 ferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

16 “[*u*] (s) Farm stands if:

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

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

26 “[*v*] (t) An armed forces reserve center, if the center is within one-half mile of a community
27 college. For purposes of this paragraph, ‘armed forces reserve center’ includes an armory or Na-
28 tional Guard support facility.

29 “[*w*] (u) A site for the takeoff and landing of model aircraft, including such buildings or facil-
30 ities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet
31 in floor area or placed on a permanent foundation unless the building or facility preexisted the use
32 approved under this paragraph. The site shall not include an aggregate surface or hard surface area
33 unless the surface preexisted the use approved under this paragraph. **An owner of property used
34 for the purpose authorized in this paragraph may charge a person operating the use on the
35 property rent for the property. An operator may charge users of the property a fee that does
36 not exceed the operator's cost to maintain the property, buildings and facilities.** As used in
37 this paragraph, ‘model aircraft’ means a small-scale version of an airplane, glider, helicopter,
38 dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines
39 or design by a person on the ground.

40 “[*x*] (v) A facility for the processing of farm crops, or the production of biofuel as defined in
41 ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
42 processed at the facility. The building established for the processing facility shall not exceed 10,000
43 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
44 use or devote more than 10,000 square feet to the processing activities within another building
45 supporting farm uses. A processing facility shall comply with all applicable siting standards but the

1 standards shall not be applied in a manner that prohibits the siting of the processing facility.

2 “[*y*] (**w**) Fire service facilities providing rural fire protection services.

3 “[*z*] (**x**) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

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

5 “(A) A public right of way;

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

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

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

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

10 “(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or 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 annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

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

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

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

16 “(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection [(1)(*x*)] (1)(**v**) of this section.

17 “(d) Operations conducted for:

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

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

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

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

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

14 “(f) Golf courses **on land determined to not be high-value farmland as defined in ORS**
15 **195.300.**

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

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

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

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

37 “(k) Dog kennels *[not described in subsection (1)(L) of this section]*.

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

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

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

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

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

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

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

10 “(s) A destination resort that is approved consistent with the requirements of any statewide
11 planning goal relating to the siting of a destination resort.

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

14 “(u) A living history museum related to resource based activities owned and operated by a
15 governmental agency or a local historical society, together with limited commercial activities and
16 facilities that are directly related to the use and enjoyment of the museum and located within au-
17 thentic buildings of the depicted historic period or the museum administration building, if areas
18 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
19 the museum administration buildings and parking lot are located within one quarter mile of the
20 metropolitan urban growth boundary. As used in this paragraph:

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

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

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

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

30 “[*x*] **(w)** A landscape contracting business, as defined in ORS 671.520, or a business providing
31 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-
32 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

33 “**(x) Public or private schools for kindergarten through grade 12, including all buildings**
34 **essential to the operation of a school, primarily for residents of the rural area in which the**
35 **school is located.**

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

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

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

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

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

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

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

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

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

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

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

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

35 “(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January
36 1, 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

45 “(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may

1 retain a life estate in a dwelling on that property and in a tract of land under and around the
2 dwelling.

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

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

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

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

12 “**SECTION 2.** ORS 215.283 is amended to read:

13 “215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

14 “[*(a)*] *Public or private schools, including all buildings essential to the operation of a school.*]

15 “[*(b)*] **(a)** Churches and cemeteries in conjunction with churches.

16 “[*(c)*] **(b)** The propagation or harvesting of a forest product.

17 “[*(d)*] **(c)** Utility facilities necessary for public service, including wetland waste treatment sys-
18 tems but not including commercial facilities for the purpose of generating electrical power for public
19 use by sale or transmission towers over 200 feet in height. A utility facility necessary for public
20 service may be established as provided in ORS 215.275.

21 “[*(e)*] **(d)** A dwelling on real property used for farm use if the dwelling is occupied by a relative
22 of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grand-
23 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
24 the farm operator does or will require the assistance of the relative in the management of the farm
25 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
26 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
27 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
28 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
29 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
30 shall operate as a partition of the homesite to create a new parcel.

31 “[*(f)*] **(e)** Primary or accessory dwellings and other buildings customarily provided in conjunction
32 with farm use.

33 “[*(g)*] **(f)** Operations for the exploration for and production of geothermal resources as defined
34 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation
35 of compressors, separators and other customary production equipment for an individual well adja-
36 cent to the wellhead. Any activities or construction relating to such operations shall not be a basis
37 for an exception under ORS 197.732 (2)(a) or (b).

38 “[*(h)*] **(g)** Operations for the exploration for minerals as defined by ORS 517.750. Any activities
39 or construction relating to such operations shall not be a basis for an exception under ORS 197.732
40 (2)(a) or (b).

41 “[*(i)*] **(h)** A site for the disposal of solid waste that has been ordered to be established by the
42 Environmental Quality Commission under ORS 459.049, together with equipment, facilities or
43 buildings necessary for its operation.

44 “[*(j)*] *The breeding, kenneling and training of greyhounds for racing.*]

45 “[*(k)*] **(i)** Climbing and passing lanes within the right of way existing as of July 1, 1987.

1 “[(L)] (j) Reconstruction or modification of public roads and highways, including the placement
2 of utility facilities overhead and in the subsurface of public roads and highways along the public
3 right of way, but not including the addition of travel lanes, where no removal or displacement of
4 buildings would occur, or no new land parcels result.

5 “[(m)] (k) Temporary public road and highway detours that will be abandoned and restored to
6 original condition or use at such time as no longer needed.

7 “[(n)] (L) Minor betterment of existing public road and highway related facilities such as main-
8 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and
9 contiguous public-owned property utilized to support the operation and maintenance of public roads
10 and highways.

11 “[(o)] (m) A replacement dwelling to be used in conjunction with farm use if the existing
12 dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

13 “[(p)] (n) Creation [of], restoration [of] or enhancement of wetlands.

14 “[(q)] (o) A winery, as described in ORS 215.452.

15 “[(r)] (p) Farm stands if:

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

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

25 “[(s)] (q) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

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

30 “(D) Has a heating system; and

31 “(E) In the case of replacement:

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

1 “(ii) For which the applicant has requested a deferred replacement permit, is removed or de-
2 molished within three months after the deferred replacement permit is issued. A deferred replace-
3 ment permit allows construction of the replacement dwelling at any time. If, however, the
4 established dwelling is not removed or demolished within three months after the deferred replace-
5 ment permit is issued, the permit becomes void. The replacement dwelling must comply with appli-
6 cable building codes, plumbing codes, sanitation codes and other requirements relating to health and
7 safety or to siting at the time of construction. A deferred replacement permit may not be trans-
8 ferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

9 “[(t)] (r) A site for the takeoff and landing of model aircraft, including such buildings or facili-
10 ties as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet
11 in floor area or placed on a permanent foundation unless the building or facility preexisted the use
12 approved under this paragraph. The site shall not include an aggregate surface or hard surface area
13 unless the surface preexisted the use approved under this paragraph. **An owner of property used**
14 **for the purpose authorized in this paragraph may charge a person operating the use on the**
15 **property rent for the property. An operator may charge users of the property a fee that does**
16 **not exceed the operator’s cost to maintain the property, buildings and facilities.** As used in
17 this paragraph, ‘model aircraft’ means a small-scale version of an airplane, glider, helicopter,
18 dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines
19 or design by a person on the ground.

20 “[(u)] (s) A facility for the processing of farm crops, or the production of biofuel as defined in
21 ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
22 processed at the facility. The building established for the processing facility shall not exceed 10,000
23 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
24 use or devote more than 10,000 square feet to the processing activities within another building
25 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
26 standards shall not be applied in a manner that prohibits the siting of the processing facility.

27 “[(v)] (t) Fire service facilities providing rural fire protection services.

28 “[(w)] (u) Irrigation canals, delivery lines and those structures and accessory operational facil-
29 ities associated with a district as defined in ORS 540.505.

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

33 “(A) A public right of way;

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

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

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

43 “[(z)] (x) A county law enforcement facility that lawfully existed on August 20, 2002, and is used
44 to provide rural law enforcement services primarily in rural areas, including parole and post-prison
45 supervision, but not including a correctional facility as defined under ORS 162.135.

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

3 “(a) Commercial activities that are in conjunction with farm use, including the processing of
4 farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection [(1)(u)] (1)(s) of this
5 section.

6 “(b) Operations conducted for:

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

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

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

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

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

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

25 “(e) Community centers owned by a governmental agency or a nonprofit community organization
26 and operated primarily by and for residents of the local rural community. A community center au-
27 thorized under this paragraph may provide services to veterans, including but not limited to emer-
28 gency and transitional shelter, preparation and service of meals, vocational and educational
29 counseling and referral to local, state or federal agencies providing medical, mental health, disability
30 income replacement and substance abuse services, only in a facility that is in existence on January
31 1, 2006. The services may not include direct delivery of medical, mental health, disability income
32 replacement or substance abuse services.

33 “(f) Golf courses **on land determined to not be high-value farmland, as defined in ORS**
34 **195.300.**

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
10 or both and for which a permit has been granted under ORS 459.245 by the Department of Envi-
11 ronmental 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)] (1)(q) 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 species that are not
24 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
25 shall not include any species under quarantine by the State Department of Agriculture or the United
26 States Department of Agriculture. The county shall provide notice of all applications under this
27 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
28 county’s land use regulations but shall be mailed at least 20 calendar days prior to any administra-
29 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

44 “(x) 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 an ur-
5 ban growth boundary. As used in this paragraph:

6 “(A) ‘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 “(B) ‘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 lo-*
12 *cation within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler’s permit*
13 *to sell or provide fireworks.*]

14 “[z] (y) A landscape contracting business, as defined in ORS 671.520, or a business providing
15 landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunc-
16 tion with the growing and marketing of nursery stock on the land that constitutes farm use.

17 “(z) **Public or private schools for kindergarten through grade 12, including all buildings**
18 **essential to the operation of a school, primarily for residents of the rural area in which the**
19 **school is located.**

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

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

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

27 “**SECTION 2a. The provisions of ORS 197.047, 215.503 and 215.513 concerning notice of a**
28 **new or amended statute or rule do not apply to the amendments to ORS 215.213 and 215.283**
29 **by sections 1 and 2 of this 2009 Act or to any other amendments to or repeal of statutes by**
30 **sections 3 to 14 of this 2009 Act.**

31 “**SECTION 3.** ORS 197.065 is amended to read:

32 “197.065. (1) Prior to each legislative session, the Land Conservation and Development Com-
33 mission shall submit to the appropriate legislative committee a written report analyzing applications
34 approved and denied for:

35 “(a) New and replacement dwellings under:

36 “(A) ORS 215.213 [(1)(e) and (g)] **(1)(d) and (f)**, (2)(a) and (b), (3) and (4), 215.283 [(1)(e) and (f)]
37 **(1)(d) and (e)**, 215.284 and 215.705; and

38 “(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

39 “(b) Divisions of land under:

40 “(A) ORS 215.263 (2), (4) and (5); and

41 “(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

42 “(c) Dwellings and land divisions approved for marginal lands under:

43 “(A) ORS 215.317 or 215.327; and

44 “(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

45 and

1 “(d) Such other matters pertaining to protection of agricultural or forest land as the commission
2 deems appropriate.

3 “(2) The governing body of each county shall provide the Department of Land Conservation and
4 Development with a report of its actions involving those dwellings, land divisions and land desig-
5 nations upon which the commission must report to the appropriate legislative committee under
6 subsection (1) of this section. The department shall establish, after consultation with county gov-
7 erning bodies, an annual reporting period and may establish a schedule for receiving county reports
8 at intervals within the reporting period. The report shall be on a standard form with a standardized
9 explanation adopted by the commission and shall be eligible for grants by the commission. The re-
10 port shall include the findings for each action except actions involving:

11 “(a) Dwellings authorized by ORS 215.213 [(1)(e)] (1)(d) or 215.283 [(1)(e)] (1)(d); or

12 “(b) Land divisions authorized by ORS 215.263 (2) creating parcels as large as or larger than a
13 minimum size established by the commission under ORS 215.780.

14 “(3) The governing body of each county shall, upon request by the department, provide the de-
15 partment with other information necessary to carry out subsection (1) of this section.

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

17 “215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
18 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
19 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
20 only when such zoning is consistent with the comprehensive plan.

21 “(2)(a) As used in this section, ‘farm use’ means the current employment of land for the primary
22 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
23 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
24 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
25 use or animal husbandry or any combination thereof. ‘Farm use’ includes the preparation, storage
26 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
27 man or animal use. ‘Farm use’ also includes the current employment of land for the primary purpose
28 of obtaining a profit in money by stabling or training equines including but not limited to providing
29 riding lessons, training clinics and schooling shows. ‘Farm use’ also includes the propagation, culti-
30 vation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdic-
31 tion of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the
32 commission. ‘Farm use’ includes the on-site construction and maintenance of equipment and facilities
33 used for the activities described in this subsection. ‘Farm use’ does not include the use of land
34 subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured
35 Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or
36 321.824 (3).

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

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

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

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

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

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

4 “(F) Except for land under a single family dwelling, land under buildings supporting accepted
5 farm practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(v) and 215.283
6 [(1)(u)] (1)(s) and the processing of farm crops into biofuel as commercial activities in conjunction
7 with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

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

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

16 “(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
17 kenneling or training of greyhounds for racing; and

18 “(L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

19 “(i) Only the crops of the landowner are being processed;

20 “(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
21 of the landowner; or

22 “(iii) The landowner is custom processing crops into biofuel from other landowners in the area
23 for their use or sale.

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 cul-
29 tivation 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,
34 weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect
35 and disease control, stump culture, soil cultivation, irrigation.

36 “**SECTION 5.** ORS 215.246 is amended to read:

37 “215.246. (1) The uses allowed under ORS 215.213 [(1)(bb)] (1)(z) and 215.283 [(1)(y)] (1)(w):

38 “(a) Require a determination by the Department of Environmental Quality, in conjunction with
39 the department’s review of a license, permit or approval, that the application rates and site man-
40 agement practices for the land application of reclaimed water, agricultural or industrial process
41 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
42 reduce the productivity of the tract.

43 “(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
44 215.275 or 215.296.

45 “(2) The use of a tract of land on which the land application of reclaimed water, agricultural

1 or industrial process water or biosolids has occurred under this section may not be changed to allow
2 a different use unless:

3 “(a) The tract is included within an acknowledged urban growth boundary;

4 “(b) The tract is rezoned to a zone other than an exclusive farm use zone;

5 “(c) The different use of the tract is a farm use as defined in ORS 215.203; or

6 “(d) The different use of the tract is a use allowed under:

7 “(A) ORS 215.213 [(1)(c), (e) to (g), (k), (m) to (q), (s) to (u), (x), (z) or (aa)] **(1)(b), (d) to (f), (j)**
8 **to (o), (q) to (s), (v), (x) or (y);**

9 “(B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

10 “(C) ORS 215.283 [(1)(c), (e), (f), (k) to (o), (q) to (s), (u), (w) or (x)] **(1)(b), (d), (e), (i) to (m), (o)**
11 **to (q), (s), (u) or (v);** or

12 “(D) ORS 215.283 (2)(a), (j), (L) or (p) to (s).

13 “(3) When a state agency or a local government makes a land use decision relating to the land
14 application of reclaimed water, agricultural or industrial process water or biosolids under a license,
15 permit or approval by the Department of Environmental Quality, the applicant shall explain in
16 writing how alternatives identified in public comments on the land use decision were considered and,
17 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The
18 applicant must consider only those alternatives that are identified with sufficient specificity to af-
19 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating
20 to the land application of reclaimed water, agricultural or industrial process water or biosolids may
21 not be reversed or remanded under this subsection unless the applicant failed to consider identified
22 alternatives or to explain in writing the reasons for not using the alternatives.

23 “(4) The uses allowed under this section include:

24 “(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that
25 occurs as a result of the land application;

26 “(b) The establishment and use of facilities, including buildings, equipment, aerated and
27 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and
28 reasonably necessary for the land application to occur on the subject tract;

29 “(c) The establishment and use of facilities, including buildings and equipment, that are not on
30 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
31 industrial process water or biosolids to the tract on which the land application occurs if the facili-
32 ties are located within:

33 “(A) A public right of way; or

34 “(B) Other land if the landowner provides written consent and the owner of the facility complies
35 with ORS 215.275 (4); and

36 “(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to
37 a tract on which the water will be applied to land.

38 “(5) Uses not allowed under this section include:

39 “(a) The establishment and use of facilities, including buildings or equipment, for the treatment
40 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment
41 facilities related to the treatment that occurs as a result of the land application; or

42 “(b) The establishment and use of utility facility service lines allowed under ORS 215.213
43 [(1)(aa)] **(1)(y)** or 215.283 [(1)(x)] **(1)(v)**.

44 “**SECTION 6.** ORS 215.249 is amended to read:

45 “215.249. Notwithstanding ORS 215.263, the governing body of a county or its designee may not

1 approve a proposed division of land in an exclusive farm use zone for the land application of re-
2 claimed water, agricultural or industrial process water or biosolids described in ORS 215.213
3 [(1)(bb)] (1)(z) or 215.283 [(1)(y)] (1)(w).

4 “**SECTION 7.** ORS 215.251 is amended to read:

5 “215.251. Nothing in ORS 215.213 [(1)(bb)] (1)(z), 215.246 to 215.249 or 215.283 [(1)(y)] (1)(w) af-
6 fects whether the land application of a substance not described in ORS 215.213 [(1)(bb)] (1)(z),
7 215.246 to 215.249 or 215.283 [(1)(y)] (1)(w) is a farm use as defined in ORS 215.203.

8 “**SECTION 8.** ORS 215.263 is amended to read:

9 “215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
10 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
11 governing body or its designee of the county in which the land is situated. The governing body of
12 a county by ordinance shall require such prior review and approval for such divisions of land within
13 exclusive farm use zones established within the county.

14 “(2) The governing body of a county or its designee may approve a proposed division of land to
15 create parcels for farm use as defined in ORS 215.203 if it finds:

16 “(a) That the proposed division of land is appropriate for the continuation of the existing com-
17 mercial agricultural enterprise within the area; or

18 “(b) The parcels created by the proposed division are not smaller than the minimum size estab-
19 lished under ORS 215.780.

20 “(3) The governing body of a county or its designee may approve a proposed division of land in
21 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283
22 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for
23 the use. The governing body may establish other criteria as it considers necessary.

24 “(4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined
25 in ORS 215.010, the governing body of a county or its designee:

26 “(a) May approve a division of land in an exclusive farm use zone to create up to two new
27 parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling
28 not provided in conjunction with farm use if:

29 “(A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

30 “(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
31 created prior to July 1, 2001;

32 “(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
33 the minimum size established under ORS 215.780;

34 “(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
35 complies with the minimum size established under ORS 215.780; and

36 “(E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
37 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
38 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
39 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
40 forest use in conjunction with other land.

41 “(b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
42 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

43 “(A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

44 “(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
45 created prior to July 1, 2001;

1 “(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
2 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

3 “(D) The parcels for the nonfarm dwellings are:

4 “(i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;
5 and

6 “(ii) Composed of at least 90 percent Class VI through VIII soils;

7 “(E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
8 and

9 “(F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
10 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
11 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
12 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
13 forest use in conjunction with other land.

14 “(5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its
15 designee:

16 “(a) May approve a division of land in an exclusive farm use zone to create up to two new
17 parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling
18 not provided in conjunction with farm use if:

19 “(A) The nonfarm dwellings have been approved under ORS 215.284 (7);

20 “(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
21 created prior to July 1, 2001;

22 “(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
23 the minimum size established under ORS 215.780;

24 “(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
25 complies with the minimum size established under ORS 215.780; and

26 “(E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
27 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
28 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
29 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
30 forest use in conjunction with other land.

31 “(b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
32 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

33 “(A) The nonfarm dwellings have been approved under ORS 215.284 (7);

34 “(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
35 created prior to July 1, 2001;

36 “(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
37 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

38 “(D) The parcels for the nonfarm dwellings are:

39 “(i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;
40 and

41 “(ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
42 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
43 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
44 State Department of Agriculture and other interested persons, may establish by rule objective cri-
45 teria for identifying units of land that are not capable of producing adequate herbaceous forage for

1 grazing livestock. In developing the criteria, the commission shall use the latest information from
2 the United States Natural Resources Conservation Service and consider costs required to utilize
3 grazing lands that differ in acreage and productivity level;

4 “(E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
5 and

6 “(F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
7 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
8 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
9 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
10 forest use in conjunction with other land.

11 “(6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
12 the boundaries designated for a farm use zone at the time the zone is established.

13 “(7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
14 of land resulting from foreclosure of recorded contracts for the sale of real property.

15 “(8) The governing body of a county may not approve any proposed division of a lot or parcel
16 described in ORS 215.213 [(1)(e) or (k)] **(1)(d) or (j)**, 215.283 [(1)(e)] **(1)(d)** or (2)(L) or 215.284 (1), or
17 a proposed division that separates a processing facility from the farm operation specified in ORS
18 215.213 [(1)(x)] **(1)(v)** or 215.283 [(1)(u)] **(1)(s)**.

19 “(9) The governing body of a county may approve a proposed division of land in an exclusive
20 farm use zone to create a parcel with an existing dwelling to be used:

21 “(a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been ap-
22 proved under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

23 “(b) For historic property that meets the requirements of ORS 215.213 [(1)(q)] **(1)(o)** and 215.283
24 [(1)(o)] **(1)(m)**.

25 “(10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
26 prove a proposed division of land provided:

27 “(A) The land division is for the purpose of allowing a provider of public parks or open space,
28 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
29 and

30 “(B) A parcel created by the land division that contains a dwelling is large enough to support
31 continued residential use of the parcel.

32 “(b) A parcel created pursuant to this subsection that does not contain a dwelling:

33 “(A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

34 “(B) May not be considered in approving or denying an application for siting any other dwelling;

35 “(C) May not be considered in approving a redesignation or rezoning of forestlands except for
36 a redesignation or rezoning to allow a public park, open space or other natural resource use; and

37 “(D) May not be smaller than 25 acres unless the purpose of the land division is:

38 “(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
39 wildlife habitat protection plan; or

40 “(ii) To allow a transaction in which at least one party is a public park or open space provider,
41 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
42 acres of open space or park property.

43 “(11) The governing body of a county or its designee may approve a division of land smaller than
44 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
45 provided:

1 “(a) The division is for the purpose of establishing a church, including cemeteries in conjunction
2 with the church;

3 “(b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

4 “(c) The newly created lot or parcel is not larger than five acres; and

5 “(d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
6 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
7 parcel.

8 “(12) The governing body of a county may not approve a division of land for nonfarm use under
9 subsection (3), (4), (5), (9), (10) or (11) of this section unless any additional tax imposed for the
10 change in use has been paid.

11 “(13) Parcels used or to be used for training or stabling facilities may not be considered appro-
12 priate to maintain the existing commercial agricultural enterprise in an area where other types of
13 agriculture occur.

14 “**SECTION 9.** ORS 215.275 is amended to read:

15 “215.275. (1) A utility facility established under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)]
16 (1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in
17 order to provide the service.

18 “(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS
19 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)] (1)(c) must show that reasonable alternatives have been
20 considered and that the facility must be sited in an exclusive farm use zone due to one or more of
21 the following factors:

22 “(a) Technical and engineering feasibility;

23 “(b) The proposed facility is locationally dependent. A utility facility is locationally dependent
24 if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a rea-
25 sonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

26 “(c) Lack of available urban and nonresource lands;

27 “(d) Availability of existing rights of way;

28 “(e) Public health and safety; and

29 “(f) Other requirements of state or federal agencies.

30 “(3) Costs associated with any of the factors listed in subsection (2) of this section may be
31 considered, but cost alone may not be the only consideration in determining that a utility facility
32 is necessary for public service. Land costs shall not be included when considering alternative lo-
33 cations for substantially similar utility facilities. The Land Conservation and Development Commis-
34 sion shall determine by rule how land costs may be considered when evaluating the siting of utility
35 facilities that are not substantially similar.

36 “(4) The owner of a utility facility approved under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)]
37 (1)(c) shall be responsible for restoring, as nearly as possible, to its former condition any agricul-
38 tural land and associated improvements that are damaged or otherwise disturbed by the siting,
39 maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner
40 of the utility facility from requiring a bond or other security from a contractor or otherwise im-
41 posing on a contractor the responsibility for restoration.

42 “(5) The governing body of the county or its designee shall impose clear and objective conditions
43 on an application for utility facility siting under ORS 215.213 [(1)(d)] (1)(c) or 215.283 [(1)(d)] (1)(c)
44 to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted
45 to farm use in order to prevent a significant change in accepted farm practices or a significant in-

1 crease in the cost of farm practices on the surrounding farmlands.

2 “(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas
3 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy
4 Regulatory Commission.

5 “**SECTION 10.** ORS 215.417 is amended to read:

6 “215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development
7 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293
8 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four
9 years.

10 “(2) An extension of a permit described in subsection (1) of this section shall be valid for two
11 years.

12 “(3) For the purposes of this section, ‘residential development’ only includes the dwellings pro-
13 vided for under ORS 215.213 [(1)(t)] (1)(r), (3) and (4), 215.283 [(1)(s)] (1)(q), 215.284, 215.317, 215.705
14 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

15 “**SECTION 11.** ORS 215.452 is amended to read:

16 “215.452. (1) A winery, authorized under ORS 215.213 [(1)(s)] (1)(q) and 215.283 [(1)(q)] (1)(o), is
17 a facility that produces wine with a maximum annual production of:

18 “(a) Less than 50,000 gallons and that:

19 “(A) Owns an on-site vineyard of at least 15 acres;

20 “(B) Owns a contiguous vineyard of at least 15 acres;

21 “(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
22 vineyard contiguous to the winery; or

23 “(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

24 “(b) At least 50,000 gallons and no more than 100,000 gallons and that:

25 “(A) Owns an on-site vineyard of at least 40 acres;

26 “(B) Owns a contiguous vineyard of at least 40 acres;

27 “(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
28 vineyard contiguous to the winery; or

29 “(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

30 “(2) The winery described in subsection (1)(a) or (b) of this section shall allow only the sale of:

31 “(a) Wines produced in conjunction with the winery; and

32 “(b) Items directly related to wine, the sales of which are incidental to retail sale of wine on-
33 site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.

34 “(3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
35 show that vineyards, described in subsection (1)(a) and (b) of this section, have been planted or that
36 the contract has been executed, as applicable.

37 “(4) A local government shall adopt findings for each of the standards described in paragraphs
38 (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely
39 to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farm-
40 ing or forest practices on adjacent lands:

41 “(a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery
42 and all public gathering places; and

43 “(b) Provision of direct road access, internal circulation and parking.

44 “(5) A local government shall also apply local criteria regarding floodplains, geologic hazards,
45 the Willamette River Greenway, solar access, airport safety or other regulations for resource pro-

1 tection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic
2 areas and natural resources.

3 **“SECTION 12.** ORS 215.780 is amended to read:

4 “215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
5 parcel sizes apply to all counties:

6 “(a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

7 “(b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

8 “(c) For land designated forestland, at least 80 acres.

9 “(2) A county may adopt a lower minimum lot or parcel size than that described in subsection
10 (1) of this section in any of the following circumstances:

11 “(a) By demonstrating to the Land Conservation and Development Commission that it can do
12 so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning
13 goals adopted under ORS 197.230.

14 “(b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed
15 farm and forest use, subject to the following requirements:

16 “(A) The parcel established shall not be larger than five acres, except as necessary to recognize
17 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

18 “(B) The dwelling existed prior to June 1, 1995;

19 “(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division
20 standards of the zone; or

21 “(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and
22 together the parcels meet the minimum land division standards of the zone; and

23 “(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless
24 subsequently authorized by law or goal.

25 “(c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for
26 mixed farm and forest use the following requirements apply:

27 “(A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

28 “(B) The tract shall be predominantly in forest use and that portion in forest use qualified for
29 special assessment under a program under ORS chapter 321.

30 “(C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and
31 215.283 that are not allowed on forestland.

32 “(d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620
33 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of
34 this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

35 “(A) Shall not be eligible for siting of a new dwelling;

36 “(B) Shall not serve as the justification for the siting of a future dwelling on other lots or par-
37 cels;

38 “(C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of
39 resource lands;

40 “(D) Shall not result in a parcel of less than 35 acres, except:

41 “(i) Where the purpose of the land division is to facilitate an exchange of lands involving a
42 governmental agency; or

43 “(ii) Where the purpose of the land division is to allow transactions in which at least one par-
44 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

45 “(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in

1 a parcel less than the minimum lot or parcel size of the zone.

2 “(e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use
3 under a statewide planning goal protecting forestland if:

4 “(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

5 “(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213
6 [(1)(t)] (1)(r) or 215.283 [(1)(s)] (1)(q);

7 “(C) Except for one lot or parcel, each lot or parcel created under this paragraph is between
8 two and five acres in size;

9 “(D) At least one dwelling is located on each lot or parcel created under this paragraph; and

10 “(E) The landowner of a lot or parcel created under this paragraph provides evidence that a
11 restriction prohibiting the landowner and the landowner’s successors in interest from further divid-
12 ing the lot or parcel has been recorded with the county clerk of the county in which the lot or
13 parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement
14 of release is signed by the county planning director of the county in which the lot or parcel is lo-
15 cated indicating that the comprehensive plan or land use regulations applicable to the lot or parcel
16 have been changed so that the lot or parcel is no longer subject to statewide planning goals pro-
17 tecting forestland or unless the land division is subsequently authorized by law or by a change in
18 a statewide planning goal for land zoned for forest use or mixed farm and forest use.

19 “(f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as
20 provided in ORS 215.783.

21 “(3) A county planning director shall maintain a record of lots and parcels that do not qualify
22 for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The re-
23 cord shall be readily available to the public.

24 “(4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
25 dwelling on the lot or parcel was approved under:

26 “(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
27 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

28 “(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
29 use zone under a statewide planning goal protecting forestland.

30 “(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to
31 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under
32 ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section need
33 not comply with subsection (2) of this section.

34 “(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall
35 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
36 recorded with the county clerk of the county where the property is located. An applicant for the
37 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-
38 striction on the newly created parcel has been recorded with the county clerk of the county where
39 the property is located. The restriction shall allow no dwellings unless authorized by law or goal
40 on land zoned for forest use except as permitted under subsection (2) of this section.

41 “(b) A restriction imposed under this subsection shall be irrevocable unless a statement of re-
42 lease is signed by the county planning director of the county where the property is located indi-
43 cating that the comprehensive plan or land use regulations applicable to the property have been
44 changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining
45 to agricultural land or forestland.

1 “(c) The county planning director shall maintain a record of parcels that do not qualify for the
2 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily
3 available to the public.

4 “(7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
5 ment that shall be recorded with the county clerk of the county in which the property is located,
6 declaring that the landowner and the landowner’s successors in interest will not in the future com-
7 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

8 “**SECTION 13.** ORS 308A.056 is amended to read:

9 “308A.056. (1) As used in ORS 308A.050 to 308A.128, ‘farm use’ means the current employment
10 of land for the primary purpose of obtaining a profit in money by:

11 “(a) Raising, harvesting and selling crops;

12 “(b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
13 or the produce thereof;

14 “(c) Dairying and selling dairy products;

15 “(d) Stabling or training equines, including but not limited to providing riding lessons, training
16 clinics and schooling shows;

17 “(e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
18 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

19 “(f) On-site constructing and maintaining equipment and facilities used for the activities de-
20 scribed in this subsection;

21 “(g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products
22 raised for human or animal use on land described in this section; or

23 “(h) Using land described in this section for any other agricultural or horticultural use or ani-
24 mal husbandry or any combination thereof.

25 “(2) ‘Farm use’ does not include the use of land subject to timber and forestland taxation under
26 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-
27 scribed in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber,
28 including hybrid cottonwood).

29 “(3) For purposes of this section, land is currently employed for farm use if the land is:

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

31 “(b) Land lying fallow for one year as a normal and regular requirement of good agricultural
32 husbandry;

33 “(c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of
34 this subsection, prior to maturity;

35 “(d) Land not in an exclusive farm use zone that has not been eligible for assessment at special
36 farm use value in the year prior to planting the current crop and has been planted in orchards,
37 cultured Christmas trees or vineyards for at least three years;

38 “(e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
39 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that
40 is not currently being used for any economic farm use;

41 “(f) Except for land under a single family dwelling, land under buildings supporting accepted
42 farming practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(v) and
43 215.283 [(1)(u)] (1)(s) and the processing of farm crops into biofuel as commercial activities in con-
44 junction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

4 “(i) Land lying idle for no more than one year when the absence of farming activity is the result
5 of the illness of the farmer or a member of the farmer’s immediate family, including injury or
6 infirmity, regardless of whether the illness results in death;

7 “(j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain
8 hardwood timber, including hybrid cottonwood);

9 “(k) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
10 kenneling or training greyhounds for racing; or

11 “(L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

12 “(i) Only the crops of the landowner are being processed;

13 “(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
14 of the landowner; or

15 “(iii) The landowner is custom processing crops into biofuel from other landowners in the area
16 for their use or sale.

17 “(4) As used in this section:

18 “(a) ‘Accepted farming practice’ means a mode of operation that is common to farms of a similar
19 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
20 arily utilized in conjunction with farm use.

21 “(b) ‘Cultured Christmas trees’ means trees:

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

24 “(B) Of a marketable species;

25 “(C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
26 specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

27 “(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species,
28 weed and brush control and one or more of the following practices:

29 “(i) Basal pruning;

30 “(ii) Fertilizing;

31 “(iii) Insect and disease control;

32 “(iv) Stump culture;

33 “(v) Soil cultivation; or

34 “(vi) Irrigation.

35 “**SECTION 14. ORS 215.297 is repealed.**

36 “**SECTION 15. The amendments to ORS 215.213 and 215.283 by sections 1 and 2 of this 2009**
37 **Act apply to uses established on or after the effective date of this 2009 Act.”.**