

House Bill 2449

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for State Department of Energy)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends sunset for tax credit for biomass collection or production. Provides that credit is allowed for delivery of biomass to biofuel producer. Adjusts credit rates to reflect current market conditions and energy content of types of biomass. Authorizes State Department of Energy to adjust credit rates annually. Applies to tax years beginning on or after January 1, 2016.

Creates tax credit for energy production by certain bioenergy facilities. Directs State Department of Energy to establish pilot program intended to facilitate transition to tax incentives allowed per unit of energy production from current system of incentives allowed per unit of biomass feedstock and to provide for evaluation of effectiveness of energy production-based incentives, including income tax credits, for certain bioenergy facilities. Applies to tax years beginning on or after January 1, 2016, and before January 1, 2022, and to energy production occurring on or after January 1, 2016, and before January 1, 2022.

Sunset pilot program on January 2, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for bioenergy; creating new provisions; amending ORS 215.203, 215.213,
3 215.283, 308A.056, 314.752, 315.053, 315.141, 315.144, 315.465, 318.031, 469B.250 and 469B.403 and
4 section 6, chapter 739, Oregon Laws 2007; and prescribing an effective date.

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

6 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 315.**

7 **SECTION 2. As used in this section and ORS 315.141 and 469B.403:**

8 (1) **"Agricultural producer" means a person that produces biomass in Oregon that is**
9 **used, in Oregon, as biofuel or to produce biofuel.**

10 (2) **"Biofuel" means liquid, gaseous or solid fuels that are derived from biomass.**

11 (3) **"Biofuel producer" means a person that, through activities in Oregon:**

12 (a) **Alters the physical makeup of biomass to convert it into biofuel;**

13 (b) **Changes one biofuel into another type of biofuel; or**

14 (c) **Uses biomass in Oregon to produce energy.**

15 (4)(a) **"Biomass" means organic matter that is available on a renewable or recurring ba-**
16 **sis and that is derived from:**

17 (A) **Agricultural residues;**

18 (B) **Crops grown solely to be used for energy;**

19 (C) **Food processing residues;**

20 (D) **Food wastes collected as provided under ORS chapter 459 or 459A;**

21 (E) **Offal and tallow from animal rendering;**

22 (F) **Used cooking oil, or waste fats, oils and grease, derived from vegetable, plant or an-**
23 **imal sources;**

24 (G) **Wastewater biosolids; or**

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

1 (H) Woody biomass.

2 (b) "Biomass" does not mean wood that has been treated with creosote,
3 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds or waste, other
4 than matter described in paragraph (a) of this subsection.

5 (5) "Biomass collector" means a person that collects biomass in Oregon to be used, in
6 Oregon, as biofuel or to produce biofuel.

7 (6) "Canola" means plants of the genus Brassica:

8 (a) In which seeds having a high oil content are the primary economically valuable
9 product; and

10 (b) That have a high erucic acid content suitable for industrial uses or a low erucic acid
11 content suitable for edible oils.

12 (7) "Food processing residues" means organic wastes resulting from the transformation
13 of plants or animals into food. "Food processing residues" does not include used cooking oil,
14 waste grease, rendering offal, tallow, oilseeds or oilseed processing residue.

15 (8) "Oilseed processor" means a person that receives agricultural oilseeds and separates
16 them into meal and oil by mechanical or chemical means.

17 (9) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington
18 and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit
19 of the Coast Range.

20 (10)(a) "Woody biomass" means material from trees and woody plants, including limbs,
21 tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland
22 or wildland-urban interface environment that is the by-product of forest management,
23 ecosystem restoration or hazardous fuel reduction treatment.

24 (b) "Woody biomass" does not mean:

25 (A) Wood pieces that have been treated with creosote, pentachlorophenol, copper chrome
26 arsenic or other chemical preservatives;

27 (B) Wood that must be retained under state or federal regulations;

28 (C) Wood required for large woody debris recruitment;

29 (D) Municipal solid waste; or

30 (E) By-products from a milling operation.

31 **SECTION 3.** ORS 315.141 is amended to read:

32 315.141. *[(1) As used in this section:]*

33 *[(a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in
34 Oregon, as biofuel or to produce biofuel.]*

35 *[(b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted
36 into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass
37 energy use at the biofuel producer's site.]*

38 *[(c) "Biofuel producer" means a person that through activities in Oregon:]*

39 *[(A) Alters the physical makeup of biomass to convert it into biofuel;]*

40 *[(B) Changes one biofuel into another type of biofuel; or]*

41 *[(C) Uses biomass in Oregon to produce energy.]*

42 *[(d) "Biomass" means organic matter that is available on a renewable or recurring basis and that
43 is derived from:]*

44 *[(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or
45 rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;]*

1 [(B) Wood material from hardwood timber described in ORS 321.267 (3);]

2 [(C) Agricultural residues;]

3 [(D) Offal and tallow from animal rendering;]

4 [(E) Food wastes collected as provided under ORS chapter 459 or 459A;]

5 [(F) Wood debris collected as provided under ORS chapter 459 or 459A;]

6 [(G) Wastewater solids; or]

7 [(H) Crops grown solely to be used for energy.]

8 [(e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds or waste, other than matter described in paragraph (d) of this subsection.]

11 [(f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon, as biofuel or to produce biofuel.]

13 [(g) "Canola" means plants of the genus *Brassica*.]

14 [(A) In which seeds having a high oil content are the primary economically valuable product; and]

16 [(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.]

18 [(h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them into meal and oil by mechanical or chemical means.]

20 [(i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.]

23 [(2) The Director of the State Department of Energy may adopt rules to define criteria, only as the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes of this section.]

26 [(3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:]

29 [(A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel; or]

31 [(B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.]

33 **(1)(a) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed for the production or collection of biomass used in Oregon as biofuel or to produce biofuel in Oregon.**

36 (b) A credit under this section may be claimed in the tax year in which the credit is certified under subsection [(5)] (3) of this section.

38 (c) A [taxpayer may be allowed] **person may earn** a credit under this section for more than one of the roles defined in [subsection (1) of this section] **section 2 of this 2015 Act**, but a biofuel producer that is not also an agricultural producer or a biomass collector may not [claim] **earn** a credit under this section.

42 (d) A credit under this section may be claimed only once for each unit of biomass.

43 **(e) A credit may not be claimed under this section for biomass that has been used to produce energy for which a credit is claimed under section 8 of this 2015 Act.**

45 [(e)] **(f)** Notwithstanding paragraph (a) of this subsection, a tax credit:

1 (A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

2 (B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

3 [(4)] (2) The amount of the credit shall equal the amount certified under subsection [(5)] (3) of
4 this section.

5 [(5)(a)] (3)(a) The State Department of Energy may *[establish by rule procedures and criteria for*
6 *determining the amount of the tax credit to be certified under this section, consistent with ORS*
7 *469B.403.]* **adopt rules to further define additional criteria or characteristics of biomass eli-**
8 **gible for the credit allowed under this section. The department may also adopt rules for**
9 **verification of the eligibility of biomass, biomass production, biomass collection and biofuel**
10 **production for purposes of the credit allowed under this section, consistent with ORS**
11 **469B.403.** The department shall **by rule establish policies and procedures for the certification**
12 **of credits under this section and shall** provide written certification to *[taxpayers]* **persons** that
13 are eligible to claim the credit under this section.

14 (b) *[The State Department of Energy may charge and collect a fee from taxpayers for certification*
15 *of credits under this section. The fee may not exceed the cost to the department of determining the*
16 *amount of certified cost]* **By rule and after hearing, the department shall adopt a schedule of**
17 **reasonable fees that the department may require of applicants for the administration of**
18 **credits under this section. Before adopting or revising the fees, the department shall esti-**
19 **mate the total cost of administration to the department. The fees must be used to recover**
20 **the anticipated cost of administering credits under this section, including filing, investigat-**
21 **ing, granting and rejecting applications for certification and ensuring compliance with this**
22 **section and ORS 315.144 and 469B.403 and section 2 of this 2015 Act, and may not exceed the**
23 **total cost estimated by the department. Any excess fees must be used by the department to**
24 **reduce any potential future fee increases.**

25 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax
26 year, of *[taxpayers]* **persons** for which a credit is certified under this section, upon request of the
27 Department of Revenue.

28 [(6)] (4) The amount of the credit claimed under this section for any tax year may not exceed
29 the tax liability of the taxpayer.

30 [(7)] (5) Each agricultural producer or biomass collector shall maintain the written documenta-
31 tion of the amount certified for tax credit under this section in its records for a period of at least
32 five years after the tax year *[in]* **for** which the credit is *[claimed]* **certified** and provide the written
33 documentation to the Department of Revenue upon request.

34 [(8)] (6) The credit shall be claimed on a form prescribed by the Department of Revenue that
35 contains the information required by the department.

36 [(9)] (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer
37 in a particular tax year may be carried forward and offset against the taxpayer's tax liability for
38 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
39 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
40 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
41 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
42 succeeding tax year, but may not be carried forward for any tax year thereafter.

43 [(10)] (8) In the case of a credit allowed under this section:

44 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
45 ORS 316.117.

1 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident
 2 to resident occurs, the credit allowed by this section shall be determined in a manner consistent
 3 with ORS 316.117.

4 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
 5 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this
 6 section shall be prorated or computed in a manner consistent with ORS 314.085.

7 **SECTION 4.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,
 8 Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, and section 2, chapter 730, Oregon
 9 Laws 2011, is amended to read:

10 **Sec. 6.** (1) ORS 315.141, 315.144 and [469.790] **469B.403** apply to tax credits for tax years be-
 11 ginning on or after January 1, 2007, and before January 1, [2018] **2022**.

12 (2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain
 13 (other than nongrain wheat material) for tax years beginning before January 1, 2009, or on or after
 14 January 1, [2018] **2022**.

15 **SECTION 5.** ORS 315.144 is amended to read:

16 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit
 17 to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

18 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which
 19 the return is due for the tax year in which the credit may first be claimed. After that date, no
 20 portion of a credit allowed under ORS 315.141 may be transferred.

21 (3) To transfer the tax credit, the [taxpayer earning] **person eligible for** the credit and the
 22 taxpayer that will claim the credit shall, on or before the date prescribed in subsection (2) of this
 23 section, jointly file a notice of tax credit transfer with the Department of Revenue. The notice shall
 24 be given on a form prescribed by the department that contains all of the following:

- 25 (a) The name and address of the transferor and transferee;
- 26 (b) The amount of the tax credit that is being transferred;
- 27 (c) The amount of the tax credit that is being retained by the transferor; and
- 28 (d) Any other information required by the department.

29 (4) The State Department of Energy may establish by rule a minimum discounted value of a tax
 30 credit under this section.

31 (5) The Department of Revenue, in consultation with the State Department of Energy, may by
 32 rule establish procedures for the transfer of tax credits provided by this section.

33 **SECTION 6.** ORS 469B.403 is amended to read:

34 469B.403. (1) To be eligible for the tax credit under ORS 315.141, the biomass must be produced
 35 or collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon.

36 (2) **In order to apply for the tax credit under ORS 315.141, an agricultural producer or**
 37 **biomass collector must hold title to the eligible biomass at the time of delivery to a biofuel**
 38 **producer.**

39 (3) The credit rates for biomass are:

40 [(1)] (a) For oilseed crops, \$0.05 per pound.

41 [(2)] (b) For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per
 42 bushel.

43 [(3)] (c) For virgin oil or alcohol delivered for production in Oregon from Oregon-based
 44 feedstock, \$0.10 per gallon.

45 (d) **For waste fats, oils other than used cooking oil, and grease, \$0.10 per gallon.**

1 [(4) (e) For used cooking oil [*or waste grease, \$0.10*], **\$0.05** per gallon.

2 [(5) (f) For wastewater biosolids, \$10.00 per wet ton.

3 [(6) (g) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland
4 property in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing
5 or slash resulting from harvest or forest health stewardship, \$10.00 per bone dry ton.

6 [(7) (h) For grass, wheat, straw or other [*vegetative biomass from agricultural crops*] **agricul-**
7 **tural residues**, \$10.00 per bone dry ton.

8 (i) **For food processing residues, \$5.00 per wet ton.**

9 [(8) (j) For animal manure [*or rendering offal*], \$5.00 per [*wet ton*] **dry ton of total solids.**

10 (k) **For food waste collected from residential, commercial or institutional sources, \$5.00**
11 **per wet ton.**

12 (L) **For rendering offal or tallow, \$5.00 per wet ton.**

13 (4) **The State Department of Energy may adopt rules to adjust the credit rates provided**
14 **under this section. The department may adjust the credit rates only once in any calendar**
15 **year, and an adjustment may not exceed 50 percent of the existing credit rate. A change in**
16 **credit rates may go into effect only for tax years beginning in the calendar year following**
17 **the rulemaking proceeding that adjusted the credit rates. In adjusting the credit rates under**
18 **this subsection, the department must take into consideration market conditions for each**
19 **feedstock including, but not limited to, processing and transportation costs, technology ad-**
20 **vancements and alternative uses.**

21 **SECTION 7. Sections 8 and 9 of this 2015 Act are added to and made a part of ORS**
22 **chapter 315.**

23 **SECTION 8. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if**
24 **the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed for energy**
25 **production by bioenergy facilities, as described in section 11 of this 2015 Act. A credit may**
26 **not be claimed under this section for energy production utilizing biomass for which a credit**
27 **is claimed under ORS 315.141.**

28 (2) **Prior to earning the credit under this section, an owner, operator or lessee of a**
29 **bioenergy facility shall obtain written documentation of eligibility for the credit, and of the**
30 **amount certified for the credit, from the State Department of Energy.**

31 (3) **The owner, operator or lessee of each bioenergy facility shall maintain the written**
32 **documentation required under subsection (2) of this section in its records for a period of at**
33 **least five years after the tax year for which the credit is certified and shall provide the**
34 **written documentation to the Department of Revenue upon request.**

35 (4) **The credit shall be claimed on a form prescribed by the Department of Revenue that**
36 **contains the information required by the department.**

37 (5) **By rule and after hearing, the State Department of Energy shall adopt a schedule of**
38 **reasonable fees that the department may require of applicants for the administration of**
39 **credits under this section. Before adopting or revising the fees, the department shall esti-**
40 **mate the total cost of administration to the department. The fees must be used to recover**
41 **the anticipated cost of administering credits under this section, including filing, investigat-**
42 **ing, granting and rejecting applications for certification and ensuring compliance with this**
43 **section and section 9 of this 2015 Act, and may not exceed the total cost estimated by the**
44 **department. Any excess fees must be used by the department to reduce any potential future**
45 **fee increases.**

1 (6) The State Department of Energy may enter into performance agreements with the
2 owner, operator or lessee of each bioenergy facility to establish the terms and conditions,
3 including but not limited to the applicable credit rates and requirements for feedstock, op-
4 erations and reporting, under which credits will be allowed under this section.

5 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer
6 in a particular tax year may be carried forward and offset against the taxpayer's tax liability
7 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
8 year may be carried forward and used in the second succeeding tax year, and likewise any
9 credit not used in that second succeeding tax year may be carried forward and used in the
10 third succeeding tax year, and any credit not used in that third succeeding tax year may be
11 carried forward and used in the fourth succeeding tax year, but may not be carried forward
12 for any tax year thereafter.

13 (8) In the case of a credit allowed under this section:

14 (a) A nonresident shall be allowed the credit under this section in the proportion provided
15 in ORS 316.117.

16 (b) If a change in the status of the taxpayer from resident to nonresident or from non-
17 resident to resident occurs, the credit allowed by this section shall be determined in a man-
18 ner consistent with ORS 316.117.

19 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
20 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit
21 allowed under this section shall be prorated or computed in a manner consistent with ORS
22 314.085.

23 **SECTION 9.** (1) An owner, operator or lessee of a bioenergy facility that has obtained a
24 tax credit under section 8 of this 2015 Act may transfer the credit to a taxpayer subject to
25 tax under ORS chapter 316, 317 or 318.

26 (2) A tax credit allowed under section 8 of this 2015 Act may be transferred on or before
27 the date on which the return is due for the tax year in which the credit may first be claimed.
28 After that date, no portion of a credit allowed under section 8 of this 2015 Act may be
29 transferred.

30 (3) To transfer the tax credit, the owner, operator or lessee of the bioenergy facility eli-
31 gible for the credit and the taxpayer that will claim the credit shall, on or before the date
32 prescribed in subsection (2) of this section, jointly file a notice of tax credit transfer with the
33 Department of Revenue. The notice shall be given on a form prescribed by the department
34 that contains all of the following:

35 (a) The name and address of the transferor and transferee;

36 (b) The amount of the tax credit that is being transferred;

37 (c) The amount of the tax credit that is being retained by the transferor; and

38 (d) Any other information required by the department.

39 (4) The State Department of Energy may establish by rule a minimum discounted value
40 of a tax credit under this section.

41 (5) The Department of Revenue, in consultation with the State Department of Energy,
42 may by rule establish procedures for the transfer of tax credits provided by this section.

43 **SECTION 10.** ORS 315.053 is amended to read:

44 315.053. An income tax credit allowed under ORS 315.141, 315.331, 315.336, 315.341 or 315.354
45 or section 12, chapter 855, Oregon Laws 2007, or section 8 of this 2015 Act may be transferred or

1 sold only to one or more of the following:

- 2 (1) A C corporation.
- 3 (2) An S corporation.
- 4 (3) A personal income taxpayer.

5 **SECTION 11.** (1) The State Department of Energy shall establish a pilot program intended
 6 to facilitate transition to tax incentives allowed per unit of energy production from the cur-
 7 rent system of incentives allowed per unit of biomass feedstock under ORS 315.141. During
 8 the pilot program the department shall evaluate the effectiveness of energy production-based
 9 incentives, including income tax credits, for bioenergy facilities. The goals of the pilot pro-
 10 gram are to:

11 (a) Support electrical energy production that utilizes woody biomass derived from forest
 12 health restoration projects;

13 (b) Support thermal energy production for space heating from woody biomass; and

14 (c) Support energy or transportation fuel production from biogas that utilizes waste fats,
 15 oils or grease, food processing residues or food wastes from residential, commercial or in-
 16 stitutional sources that would otherwise be destined for landfill disposal.

17 (2) As part of the pilot program, tax credits for energy production shall be allowed as
 18 provided in section 8 of this 2015 Act.

19 (3) The department shall adopt rules to establish the eligibility requirements, selection
 20 criteria and method for determining credit rates for the credit allowed under this section.

21 The eligibility requirements and selection criteria may include the following factors:

- 22 (a) Amount of energy production.
- 23 (b) Contribution to state energy, natural resource and water management goals.
- 24 (c) Conversion efficiency.
- 25 (d) Geographic location.
- 26 (e) Employment positions created or sustained.
- 27 (f) Reduction in emissions of particulate matter.
- 28 (g) Technology-specific energy production standards.

29 (4) In determining credit rates that will be provided in a performance agreement, the
 30 department may include the following factors:

- 31 (a) Energy production costs.
- 32 (b) Value of the energy produced.

33 **SECTION 12.** Energy production for which credits are allowed under section 8 of this 2015
 34 Act may not exceed:

35 (1) For efficient electrical energy production from woody biomass collected from forest
 36 health improvement projects, the equivalent of 15 average annual megawatts of electricity
 37 production.

38 (2) For efficient thermal energy production from woody biomass, the equivalent of 100,000
 39 therms of annual thermal energy production.

40 (3) For biogas production from waste fats, oils or grease, food processing residues or food
 41 wastes from residential, commercial or institutional sources, the equivalent of 650 million
 42 standard cubic feet of biogas.

43 **SECTION 13.** The total amount of tax credits certified under section 8 of this 2015 Act
 44 may not exceed:

- 45 (1) \$15 million for any biennium.

1 **(2) \$3.75 million for the six months beginning July 1, 2021, and ending December 31, 2021.**

2 **SECTION 14. The State Department of Energy shall submit a report to an interim com-**
3 **mittee of the Legislative Assembly related to revenue no later than January 1 of each odd-**
4 **numbered year. The report must evaluate the effectiveness, for promoting bioenergy**
5 **production, of the tax credit allowed under section 8 of this 2015 Act compared to tax credits**
6 **allowed under ORS 315.141 or grants issued for renewable energy production systems under**
7 **ORS 469B.256.**

8 **SECTION 15. (1) Section 2 of this 2015 Act and the amendments to ORS 315.141, 315.144**
9 **and 469B.403 by sections 3, 5 and 6 of this 2015 Act apply to tax years beginning on or after**
10 **January 1, 2016.**

11 **(2) Sections 8, 9, 11 and 12 of this 2015 Act and the amendments to ORS 315.053 by section**
12 **10 of this 2015 Act apply to tax years beginning on or after January 1, 2016, and before Jan-**
13 **uary 1, 2022, and to energy production occurring on or after January 1, 2016, and before**
14 **January 1, 2022.**

15 **SECTION 16. Section 11 of this 2015 Act becomes operative on January 1, 2016.**

16 **SECTION 17. Section 11 of this 2015 Act is repealed on January 2, 2022.**

17 **SECTION 18. ORS 314.752 is amended to read:**

18 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
19 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
20 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
21 allowable to the shareholders of the S corporation.

22 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
23 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
24 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
25 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
26 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
27 manner prescribed under section 1377(a) of the Internal Revenue Code.

28 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
29 of this section shall be determined as if such item were realized directly from the source from which
30 realized by the corporation, or incurred in the same manner as incurred by the corporation.

31 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
32 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
33 316.117, then that provision shall apply to the nonresident shareholder.

34 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
35 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
36 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
37 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
38 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
39 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
40 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
41 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
42 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
43 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
44 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
45 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing

1 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
 2 merce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations nec-
 3 essary to operate an alternative fuel vehicle) **and section 8 of this 2015 Act (bioenergy**
 4 **production).**

5 **SECTION 19.** ORS 318.031 is amended to read:

6 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 7 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 8 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 9 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
 10 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 8 of this 2015**
 11 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

12 **SECTION 20.** ORS 215.203 is amended to read:

13 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
 14 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
 15 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
 16 only when such zoning is consistent with the comprehensive plan.

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

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

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

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

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

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

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

45 (F) Except for land under a single family dwelling, land under buildings supporting accepted

1 farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)
 2 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
 3 under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

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

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

12 (K) Land used for the processing of farm crops into biofuel, as defined in [ORS 315.141] **section**
 13 **2 of this 2015 Act**, if:

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

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

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

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

22 (3) “Cultured Christmas trees” means trees:

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

25 (b) Of a marketable species;

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

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

31 **SECTION 21.** ORS 215.213 is amended to read:

32 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
 33 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

40 (A) ORS 215.275; or

41 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 42 469.300.

43 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 44 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
 45 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm

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

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

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

13 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
14 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
15 compressors, separators and other customary production equipment for an individual well adjacent
16 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
17 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

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

44 (q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
45 of a lawfully established dwelling.

1 (r) Farm stands if:

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

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

11 (s) An armed forces reserve center, if the center is within one-half mile of a community college.
 12 For purposes of this paragraph, “armed forces reserve center” includes an armory or National
 13 Guard support facility.

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

25 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in
 26 [ORS 315.141] **section 2 of this 2015 Act**, if the facility is located on a farm operation that provides
 27 at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter,
 28 processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is estab-
 29 lished or used for the processing facility or establishment, the farm operator may not devote more
 30 than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the
 31 floor area designated for preparation, storage or other farm use. A processing facility or establish-
 32 ment must comply with all applicable siting standards but the standards may not be applied in a
 33 manner that prohibits the siting of the processing facility or establishment.

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

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

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

41 (A) A public right of way;

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

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

45 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-

1 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
 2 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
 3 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
 4 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
 5 exclusive farm use zone under this chapter.

6 (z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
 7 farm buildings, when:

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

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

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

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

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

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

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

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

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

31 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
 32 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

33 (d) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (q) Reconstruction or modification of public roads and highways involving the removal or dis-

1 placement of buildings but not resulting in the creation of new land parcels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),

1 one single-family dwelling, not provided in conjunction with farm use, may be established in any
2 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
3 is not larger than three acres upon written findings showing:

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

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

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

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

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

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

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

27 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
28 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

45 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable

1 goal with which the facility or improvement does not comply; or

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

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

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

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

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

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

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

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

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

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

24 (i) Planned hours of operation;

25 (ii) Access, egress and parking;

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

28 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

10 (D) Must comply with ORS 215.296;

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

13 (F) Must comply with conditions established for:

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

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

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

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

23 (v) Sanitation and solid waste.

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

29 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
 30 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

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

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

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

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

44 (a) A county may authorize the use of temporary structures established in connection with the
 45 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-

1 tion. However, the temporary structures must be removed at the end of the agri-tourism or other
2 event or activity. The county may not approve an alteration to the land in connection with an
3 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
4 including, but not limited to, grading, filling or paving.

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

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

14 **SECTION 22.** ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, is
15 amended to read:

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

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

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

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

24 (A) ORS 215.275; or

25 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
26 469.300.

27 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
28 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
29 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
30 operator does or will require the assistance of the relative in the management of the farm use and
31 the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
32 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
33 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
34 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
35 shall operate as a partition of the homesite to create a new parcel.

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

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

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

1 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

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

28 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

32 (C) Has interior wiring for interior lights;

33 (D) Has a heating system; and

34 (E) In the case of replacement:

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

1 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
2 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
3 and release statements filed under this paragraph; and

4 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
5 ished within three months after the deferred replacement permit is issued. A deferred replacement
6 permit allows construction of the replacement dwelling at any time. If, however, the established
7 dwelling is not removed or demolished within three months after the deferred replacement permit
8 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
9 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
10 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
11 or otherwise, except by the applicant to the spouse or a child of the applicant.

12 (r) Farm stands if:

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

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

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

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

36 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in
37 **[ORS 315.141] section 2 of this 2015 Act**, if the facility is located on a farm operation that provides
38 at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter,
39 processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is estab-
40 lished or used for the processing facility or establishment, the farm operator may not devote more
41 than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the
42 floor area designated for preparation, storage or other farm use. A processing facility or establish-
43 ment must comply with all applicable siting standards but the standards may not be applied in a
44 manner that prohibits the siting of the processing facility or establishment.

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

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

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

7 (A) A public right of way;

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

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

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

17 (z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
18 farm buildings, when:

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

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

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

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

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

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

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

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

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

42 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
43 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

44 (d) Operations conducted for:

45 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas

1 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

45 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not

1 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
2 shall not include any species under quarantine by the State Department of Agriculture or the United
3 States Department of Agriculture. The county shall provide notice of all applications under this
4 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
5 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
6 tive decision or initial public hearing on the application.

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

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

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

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

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

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

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

20 (u) A living history museum related to resource based activities owned and operated by a gov-
21 ernmental agency or a local historical society, together with limited commercial activities and fa-
22 cilities that are directly related to the use and enjoyment of the museum and located within
23 authentic buildings of the depicted historic period or the museum administration building, if areas
24 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
25 the museum administration buildings and parking lot are located within one quarter mile of the
26 metropolitan urban growth boundary. As used in this paragraph:

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

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

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

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

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

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

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

1 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
 2 showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

38 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
 39 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) Planned hours of operation;

36 (ii) Access, egress and parking;

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

39 (iv) Sanitation and solid waste.

40 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
 41 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
 42 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
 43 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
 44 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
 45 To approve an expedited, single-event license, the governing body of a county or its designee must

1 determine that the proposed agri-tourism or other commercial event or activity meets any local
 2 standards that apply, and the agri-tourism or other commercial event or activity:

- 3 (A) Must be incidental and subordinate to existing farm use on the tract;
- 4 (B) May not begin before 6 a.m. or end after 10 p.m.;
- 5 (C) May not involve more than 100 attendees or 50 vehicles;
- 6 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 7 (E) May not require or involve the construction or use of a new permanent structure in con-
 8 nection with the agri-tourism or other commercial event or activity;
- 9 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
 10 properties consent, in writing, to the location; and
- 11 (G) Must comply with applicable health and fire and life safety requirements.

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

- 17 (A) Must be incidental and subordinate to existing farm use on the tract;
- 18 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 19 (C) May not require that a new permanent structure be built, used or occupied in connection
 20 with the agri-tourism or other commercial events or activities;
- 21 (D) Must comply with ORS 215.296;
- 22 (E) May not, in combination with other agri-tourism or other commercial events or activities
 23 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 24 (F) Must comply with conditions established for:
 - 25 (i) The types of agri-tourism or other commercial events or activities that are authorized during
 26 each calendar year, including the number and duration of the agri-tourism or other commercial
 27 events and activities, the anticipated daily attendance and the hours of operation;
 - 28 (ii) The location of existing structures and the location of proposed temporary structures to be
 29 used in connection with the agri-tourism or other commercial events or activities;
 - 30 (iii) The location of access and egress and parking facilities to be used in connection with the
 31 agri-tourism or other commercial events or activities;
 - 32 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
 33 public roads; and
 - 34 (v) Sanitation and solid waste.

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

- 40 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
 41 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 42 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 43 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
 44 and
- 45 (D) Do not exceed 18 events or activities in a calendar year.

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

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

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

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

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

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

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

25 **SECTION 23.** ORS 215.283 is amended to read:

26 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

33 (A) ORS 215.275; or

34 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 35 469.300.

36 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 37 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
 38 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 39 operator does or will require the assistance of the relative in the management of the farm use and
 40 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 41 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
 42 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
 43 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
 44 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 45 shall operate as a partition of the homesite to create a new parcel.

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

3 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
4 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
5 compressors, separators and other customary production equipment for an individual well adjacent
6 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
7 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

26 (o) Farm stands if:

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

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

36 (p) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
37 of a lawfully established dwelling.

38 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
39 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
40 area or placed on a permanent foundation unless the building or facility preexisted the use approved
41 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
42 the surface preexisted the use approved under this paragraph. An owner of property used for the
43 purpose authorized in this paragraph may charge a person operating the use on the property rent
44 for the property. An operator may charge users of the property a fee that does not exceed the
45 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model

1 aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
2 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
3 ground.

4 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in [ORS
5 315.141] **section 2 of this 2015 Act**, if the facility is located on a farm operation that provides at
6 least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter,
7 processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is estab-
8 lished or used for the processing facility or establishment, the farm operator may not devote more
9 than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the
10 floor area designated for preparation, storage or other farm use. A processing facility or establish-
11 ment must comply with all applicable siting standards but the standards may not be applied in a
12 manner that prohibits the siting of the processing facility or establishment.

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

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

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

20 (A) A public right of way;

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

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

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

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

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

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

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

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

41 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
42 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(r) of this section.

43 (b) Operations conducted for:

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

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

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

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

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

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

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

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

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

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

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

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

45 (k) A site for the disposal of solid waste approved by the governing body of a city or county or

1 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
2 mental Quality together with equipment, facilities or buildings necessary for its operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 simulate past activities and events; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (i) Planned hours of operation;

40 (ii) Access, egress and parking;

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

43 (iv) Sanitation and solid waste.

44 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
 45 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-

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

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

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

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

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

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

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

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

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

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

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

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

25 (D) Must comply with ORS 215.296;

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

28 (F) Must comply with conditions established for:

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

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

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

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

38 (v) Sanitation and solid waste.

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

44 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
 45 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

3 and

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

5 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-
6 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county
7 shall:

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

10 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
11 tions of approval required by the permit and the standards established by subsection (4)(d) of this
12 section.

13 (6) For the purposes of subsection (4) of this section:

14 (a) A county may authorize the use of temporary structures established in connection with the
15 agri-tourism or other commercial events or activities authorized under subsection (4) of this section.
16 However, the temporary structures must be removed at the end of the agri-tourism or other event
17 or activity. The county may not approve an alteration to the land in connection with an agri-tourism
18 or other commercial event or activity authorized under subsection (4) of this section, including, but
19 not limited to, grading, filling or paving.

20 (b) The county may issue the limited use permits authorized by subsection (4)(c) of this section
21 for two calendar years. When considering an application for renewal, the county shall ensure com-
22 pliance with the provisions of subsection (4)(c) of this section, any local standards that apply and
23 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
24 authorized by the permit.

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

29 **SECTION 24.** ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is
30 amended to read:

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

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

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

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

38 (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (o) Farm stands if:

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

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

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

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

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

45 (C) Has interior wiring for interior lights;

1 (D) Has a heating system; and

2 (E) In the case of replacement:

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

17 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
 18 ished within three months after the deferred replacement permit is issued. A deferred replacement
 19 permit allows construction of the replacement dwelling at any time. If, however, the established
 20 dwelling is not removed or demolished within three months after the deferred replacement permit
 21 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
 22 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
 23 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
 24 or otherwise, except by the applicant to the spouse or a child of the applicant.

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

36 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in [ORS
 37 315.141] **section 2 of this 2015 Act**, if the facility is located on a farm operation that provides at
 38 least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter,
 39 processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is estab-
 40 lished or used for the processing facility or establishment, the farm operator may not devote more
 41 than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the
 42 floor area designated for preparation, storage or other farm use. A processing facility or establish-
 43 ment must comply with all applicable siting standards but the standards may not be applied in a
 44 manner that prohibits the siting of the processing facility or establishment.

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

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

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

7 (A) A public right of way;

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

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

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

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

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

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

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

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

28 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
 29 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(r) of this section.

30 (b) Operations conducted for:

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

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

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

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

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

1 internal cooking appliance.

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

4 (e) Community centers owned by a governmental agency or a nonprofit community organization
5 and operated primarily by and for residents of the local rural community. A community center au-
6 thorized under this paragraph may provide services to veterans, including but not limited to emer-
7 gency and transitional shelter, preparation and service of meals, vocational and educational
8 counseling and referral to local, state or federal agencies providing medical, mental health, disability
9 income replacement and substance abuse services, only in a facility that is in existence on January
10 1, 2006. The services may not include direct delivery of medical, mental health, disability income
11 replacement or substance abuse services.

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

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

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

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

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

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

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

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

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

45 (B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of

1 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (i) Planned hours of operation;

27 (ii) Access, egress and parking;

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

30 (iv) Sanitation and solid waste.

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

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

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

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

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

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

45 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining

1 properties consent, in writing, to the location; and

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

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

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

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

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

12 (D) Must comply with ORS 215.296;

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

15 (F) Must comply with conditions established for:

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

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

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

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

25 (v) Sanitation and solid waste.

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

31 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
 32 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

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

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

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

37 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-
 38 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county
 39 shall:

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

42 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
 43 tions of approval required by the permit and the standards established by subsection (4)(d) of this
 44 section.

45 (6) For the purposes of subsection (4) of this section:

1 (a) A county may authorize the use of temporary structures established in connection with the
2 agri-tourism or other commercial events or activities authorized under subsection (4) of this section.
3 However, the temporary structures must be removed at the end of the agri-tourism or other event
4 or activity. The county may not approve an alteration to the land in connection with an agri-tourism
5 or other commercial event or activity authorized under subsection (4) of this section, including, but
6 not limited to, grading, filling or paving.

7 (b) The county may issue the limited use permits authorized by subsection (4)(c) of this section
8 for two calendar years. When considering an application for renewal, the county shall ensure com-
9 pliance with the provisions of subsection (4)(c) of this section, any local standards that apply and
10 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
11 authorized by the permit.

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

16 **SECTION 25.** ORS 308A.056 is amended to read:

17 308A.056. (1) As used in ORS 308A.050 to 308A.128, “farm use” means the current employment
18 of land for the primary purpose of obtaining a profit in money by:

19 (a) Raising, harvesting and selling crops.

20 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
21 or the produce thereof.

22 (c) Dairying and selling dairy products.

23 (d) Stabling or training equines, including but not limited to providing riding lessons, training
24 clinics and schooling shows.

25 (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
26 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.

27 (f) On-site constructing and maintaining equipment and facilities used for the activities described
28 in this subsection.

29 (g) Preparing, storing or disposing of, by marketing, donation to a local food bank or school or
30 otherwise, the products or by-products raised for human or animal use on land described in this
31 section.

32 (h) Implementing a remediation plan previously presented to the assessor for the county in
33 which the land that is the subject of the plan is located.

34 (i) Using land described in this section for any other agricultural or horticultural use or animal
35 husbandry or any combination thereof.

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

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

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

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

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

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

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

7 (f) Except for land under a single family dwelling, land under buildings supporting accepted
 8 farming practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)
 9 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
 10 under ORS 215.213 (2)(c) and 215.283 (2)(a);

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

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

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

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

20 (k) Land subject to a remediation plan previously presented to the assessor for the county in
 21 which the land that is the subject of the plan is located; or

22 (L) Land used for the processing of farm crops into biofuel, as defined in [ORS 315.141] **section**
 23 **2 of this 2015 Act**, if:

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

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

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

29 (4) As used in this section:

30 (a) "Accepted farming practice" means a mode of operation that is common to farms of a similar
 31 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
 32 arily utilized in conjunction with farm use.

33 (b) "Cultured Christmas trees" means trees:

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

36 (B) Of a marketable species;

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

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

41 (i) Basal pruning;

42 (ii) Fertilizing;

43 (iii) Insect and disease control;

44 (iv) Stump culture;

45 (v) Soil cultivation; or

1 (vi) Irrigation.

2 **SECTION 26.** ORS 315.465 is amended to read:

3 315.465. (1) As used in this section and ORS 315.469:

4 (a) "Alternative fuel vehicle" means a motor vehicle that can operate on a fuel blend.

5 (b) "Biodiesel" has the meaning given that term in ORS 646.905.

6 (c) "Biomass" has the meaning given that term in [ORS 315.141] **section 2 of this 2015 Act.**

7 (d) "Bone dry ton" means matter that is dried to less than one percent moisture content and
8 that weighs 2,000 pounds.

9 (e) "Fuel blend" means diesel fuel of blends equal to or exceeding 99 percent biodiesel or gaso-
10 line of a blend equal to or exceeding 85 percent methanol or ethanol.

11 (2)(a) A resident individual shall be allowed a credit against the taxes otherwise due under ORS
12 chapter 316 for costs paid or incurred to purchase fuel blends for use in an alternative fuel vehicle.

13 (b) A resident individual shall be allowed a credit against the taxes otherwise due under ORS
14 chapter 316 for costs paid or incurred to purchase forest, rangeland or agriculture waste or residue
15 densified and dried prepared solid biofuel that contains 100 percent biomass.

16 (3) The amount of the credit shall be calculated as follows:

17 (a) Determine the quantity of fuel blend or solid biofuel purchased by the taxpayer during the
18 tax year;

19 (b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469B.400;
20 and

21 (c) Multiply the quantity of fuel blend or solid biofuel in a particular category by the appropri-
22 ate credit rate for that category, expressed in dollars and cents.

23 (4) Notwithstanding subsection (3) of this section:

24 (a) The credit allowed under this section for diesel blended fuel is equal to \$0.50 per gallon and
25 in any one tax year may not exceed \$200 per Oregon registered motor vehicle that is owned or
26 leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using
27 a fuel blend.

28 (b) The credit allowed for gasoline blended fuel is equal to \$0.50 per gallon and in any one tax
29 year may not exceed \$200 per Oregon registered motor vehicle that is owned or leased by the tax-
30 payer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

31 (c) The credit allowed for forest, rangeland or agriculture waste or residue densified and dried
32 prepared solid biofuel is equal to \$10 per bone dry ton of solid biofuel and in any one tax year may
33 not exceed \$200 per taxpayer.

34 (d) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and
35 may not be carried forward to a subsequent tax year.

36 (5) For each tax year for which a credit is claimed under this section, the taxpayer shall main-
37 tain records sufficient to determine the taxpayer's purchase of qualifying fuel blends. A taxpayer
38 shall maintain the records required under this subsection for at least five years.

39 (6) A nonresident shall be allowed the credit under this section in the proportion provided in
40 ORS 316.117.

41 (7) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
42 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
43 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

44 (8) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
45 resident occurs, the credit allowed by this section shall be determined in a manner consistent with

1 ORS 316.117.

2 (9) A husband and wife who file separate returns for a taxable year may each claim a share of
3 the tax credit that would have been allowed on a joint return in proportion to the contribution of
4 each.

5 **SECTION 27.** ORS 469B.250 is amended to read:

6 469B.250. As used in ORS 469B.250 to 469B.265:

7 (1) "Biomass" has the meaning given that term in [ORS 315.141] **section 2 of this 2015 Act.**

8 (2) "Cost" means the actual cost of the acquisition, construction and installation of the
9 renewable energy production system paid by the applicant for the system, before considering utility
10 incentives.

11 (3) "Renewable energy production system" means a system that uses biomass, solar, geothermal,
12 hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to
13 produce energy.

14 (4) "Solar technology" means any system, mechanism or series of mechanisms, including
15 photovoltaic systems, that uses solar radiation to generate electrical energy.

16 **SECTION 28. This 2015 Act takes effect on the 91st day after the date on which the 2015**
17 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

18