

Enrolled

Senate Bill 588

Sponsored by COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT (at the request of Oregon Farm Bureau)

CHAPTER .....

AN ACT

Relating to activities in exclusive farm use zones; amending ORS 215.203, 215.213, 215.263 and 215.283.

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

SECTION 1. ORS 215.203 is amended to read:

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

(2)(a) As used in this section, 'farm use' means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. 'Farm use' includes the preparation { + , + } { - and - } storage { + and disposal by marketing or otherwise + } of the products { + or by-products + } raised on such land for human { + or animal + } use { - and animal use and disposal by marketing or otherwise - } . 'Farm use' also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. 'Farm use' also includes the propagation, cultivation, maintenance and harvesting of aquatic species { - . It - } { + and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. 'Farm use' includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. 'Farm use' + } does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (1)(e) or 321.415 (5).

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

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

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

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

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

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

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

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

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

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

(J) Any land described under ORS 321.267 (1)(e) or 321.415 (5); and

{ - (K) Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming. - }

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

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

(3) 'Cultured Christmas trees' means trees:

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

(b) Of a marketable species;

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

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

SECTION 2. ORS 215.213 is amended to read:

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

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

- (b) Churches and cemeteries in conjunction with churches.
- (c) The propagation or harvesting of a forest product.
- (d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
- (e) A dwelling on real property used for farm use if the dwelling is:
  - (A) Located on the same lot or parcel as the dwelling of the farm operator; and
  - (B) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.
- (f) Nonresidential buildings customarily provided in conjunction with farm use.
- (g) A dwelling customarily provided in conjunction with farm use if the dwelling is on a lot or parcel that is managed as part of a farm operation not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.
- (h) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).
- (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).
- (j) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.
- (k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- (l) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county.
- (m) Climbing and passing lanes within the right of way existing as of July 1, 1987.
- (n) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- (o) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (p) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

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

(r) Seasonal farmworker housing as defined in ORS 197.675.

(s) Creation of, restoration of or enhancement of wetlands.

(t) A winery, as described in ORS 215.452.

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

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(v) Farm stands, if:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

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

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

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

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

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

(A) Consists of 20 or more acres; and

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

(b) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than

required under paragraph (a) of this subsection, if the lot or parcel:

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

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

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

(d) Operations conducted for:

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

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

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

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

(e) Community centers owned and operated by a governmental agency or a nonprofit community organization, hunting and fishing preserves, parks, playgrounds and campgrounds.

(f) Golf courses.

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

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

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

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or

buildings necessary for its operation.

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

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

(m) The propagation, cultivation, maintenance and harvesting of aquatic species.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

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

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

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

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

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

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

(B) As used in this paragraph:

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

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

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

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

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the

terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if

it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designate considers necessary.

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

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

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

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

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

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

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

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

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

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

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

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

(8) A person who sells or otherwise transfers real property in

an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

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

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

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

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

SECTION 3. ORS 215.283 is amended to read:

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

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

(b) Churches and cemeteries in conjunction with churches.

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

(d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.

(e) A dwelling on real property used for farm use if the dwelling is:

(A) Located on the same lot or parcel as the dwelling of the farm operator; and

(B) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

(f) The dwellings and other buildings customarily provided in conjunction with farm use.

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

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

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

(j) The breeding, kenneling and training of greyhounds for racing { - in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county - } .



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

(L) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel

lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

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

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

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

(p) Seasonal farmworker housing as defined in ORS 197.675.

(q) Creation of, restoration of or enhancement of wetlands.

(r) A winery, as described in ORS 215.452.

(s) Farm stands, if:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

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

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

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

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

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

(a) Commercial activities that are in conjunction with farm use { + but not including the processing of farm crops as described

in subsection (1)(u) of this section + }.

(b) Operations conducted for:

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

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

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

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

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.

(d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.

(e) Golf courses.

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

(g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

(h) Home occupations as provided in ORS 215.448.

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

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

(k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(L) Transmission towers over 200 feet in height.

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

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

(o) The propagation, cultivation, maintenance and harvesting of

aquatic species.

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

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

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

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

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

{ + (u) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210. + }

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

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

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

SECTION 4. ORS 215.263 is amended to read:

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

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

(a) That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or

(b) The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 197.251.

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

(4) The governing body of a county may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (3) or (4).

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

(6) This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

(7) The governing body of a county shall not approve any proposed division of a lot or parcel described in ORS 215.213 (1)(e) { + , + } { - or - } 215.283 (1)(e) or 215.284 (1) or

(2) { + , or a proposed division that separates a processing facility from the farm operation specified in ORS 215.213 (1)(x) or 215.283 (1)(u) + }.

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

(a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4); and

(b) For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).

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

(10) Parcels used or to be used for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

SECTION 5. { + The amendments to ORS 215.203 by section 1 of this Act apply to tax years beginning on or after July 1, 1997. + }

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Repassed by Senate June 25, 1997

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Secretary of Senate

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President of Senate

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Speaker of House

Received by Governor:

.....M.,....., 1997

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.....  
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# Journal of the Senate

**REGULAR SESSION**

**Beginning January 13 and  
ending July 5, 1997**

**174 Calendar Days**



**SIXTY-NINTH LEGISLATIVE ASSEMBLY  
OF THE STATE OF OREGON**

**Published Under Direction  
of  
BRADY ADAMS  
President of the Senate**

defendant and certain expenses to plaintiff who prevails in action.

**SB 585** By Senator FERRIOLI (at the request of Pacific NW Paint Council) -- Relating to hazardous substance fees.

3-7(S) Introduction and first reading. Referred to President's desk.  
 3-10 Referred to Livability, then Ways and Means.  
 4-24 Public Hearing held.  
 4-29 Public Hearing and Work Session held.  
 5-1 Work Session held.  
 5-15 Public Hearing held.  
 7-5 In committee upon adjournment.

Changes basis for assessing hazardous substance fees to fund Community Right to Know and Protection Act. Eliminates hazardous substance fee assessment to fund Toxics Use Reduction and Hazardous Waste Reduction Act and Orphan Site Account.

**SB 586** By COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT -- Relating to merger of corporate entities.

3-3(S) Introduction and first reading. Referred to President's desk.  
 3-4 Referred to Business, Law, and Government.  
 3-27 Public Hearing and Work Session held.  
 4-1 Recommendation: Do pass.  
 4-2 Second reading.  
 Third reading. Carried by Brown. Passed.  
 Ayes, 23 --Nays, 1, Wilde, Attending Legislative Business, 6---Bryant, Dwyer, Kintigh, Shannon, Stull, Yih.  
 President Adams declared potential conflict of interest.  
 4-3(H) First reading. Referred to Speaker's desk.  
 4-7 Referred to Judiciary.  
 5-15 Assigned to Subcommittee on Civil Law.  
 5-19 Public Hearing and Work Session held.  
 5-20 Returned to Full Committee.  
 5-23 Work Session held.  
 5-28 Recommendation: Do pass.  
 5-30 Second reading.  
 6-2 Rules suspended. Taken from today's Calendar and placed in proper order on Tuesday, June 3 Calendar.  
 6-3 Rules suspended. Taken from today's Calendar and placed in proper order on Wednesday, June 4 Calendar.  
 6-4 Rules suspended. Taken from today's Calendar and placed in proper order on Thursday, June 5 Calendar.  
 6-5 Rules suspended. Taken from today's Calendar and placed in proper order on Friday, June 6 Calendar.  
 6-6 Rules suspended. Taken from today's Calendar and placed in proper order on Monday, June 9 Calendar.  
 6-9 Rules suspended. Taken from today's Calendar and placed in proper order on Tuesday, June 10 Calendar.  
 6-10 Rules suspended. Taken from today's Calendar and placed in proper order on Wednesday, June 11 Calendar.  
 6-11 Third reading. Carried by Bowman. Passed.  
 Ayes, 44 --Nays, 1, Roberts, Excused, 1--Ross, Excused for business of the House, 14---Beyer, R., Carter, Johnson, Lewis, Minnis, Prozanski, Repine, Shetterly, Snodgrass, Starr, Sunseri, Uherbelau, Watt, Wells.  
 6-19(S) President signed.  
 6-20(H) Speaker signed.  
 6-25(S) Governor signed.  
 Chapter 392, 1997 Laws.  
 Effective date, October 04, 1997.

Allows parent corporation to merge itself into certain subsidiary corporation without shareholder approval. Specifies requirements for plan of merger.

**SB 587** By COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT (at the request of Jackie Nave) -- Relating to vehicle accidents.

3-4(S) Introduction and first reading. Referred to President's desk.  
 3-5 Referred to Transportation.  
 4-25 Public Hearing held.  
 5-16 Public Hearing held.  
 7-5 In committee upon adjournment.

Creates offense of failure to perform the duties of a driver in an accident when no other vehicle is damaged. Punishes offense by maximum fine of \$75.

**SB 588** By COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT (at the request of Oregon Farm Bureau) -- Relating to activities in exclusive farm use zones.

3-4(S) Introduction and first reading. Referred to President's desk.  
 3-6 Referred to Livability.  
 4-10 Public Hearing held.  
 5-1 Public Hearing and Work Session held.  
 5-19 Recommendation: Do pass with amendments. (Printed A-Eng.)  
 5-20 Second reading.  
 5-21 Third Reading. Carried by Ferrioli. Passed.  
 Ayes, 17 --Nays, 8, Baker, Brown, Burdick, Castillo, Dwyer, Gordly, Trow, Wilde, Excused, 1--President Adams, Attending Legislative Business, 4---Dukes, Lim, Nelson, Stull.  
 George declared potential conflict of interest.  
 5-22(H) First reading. Referred to Speaker's desk.  
 5-27 Referred to Environment and Energy.  
 5-30 Public Hearing held.  
 6-4 Work Session held.  
 6-11 Work Session held.  
 6-16 Recommendation: Do pass with amendments and be printed B-Engrossed.  
 6-18 Second reading.  
 6-19 Rules suspended. Taken from today's Calendar and placed in proper order on Friday, June 20 Calendar.  
 6-20 Third reading. Carried by Fahey. Passed.  
 Ayes, 40 --Nays, 7, Beck, Bowman, Deckert, Prozanski, Rasmussen, Ross, Wooten, Excused, 3--Courtney, Milne, Oakley, Excused for business of the House, 10---Beyer, L., Carter, Johnson, Lehman, Markham, Messerle, Piercy, Snodgrass, Welsh, Whelan.  
 6-25(S) Senate concurred in House amendments and repassed bill.  
 Ayes, 17 --Nays, 6, Baker, Brown, Castillo, Dwyer, Gordly, Trow, Excused, 2--Duncan, George, Attending Legislative Business, 5---Burdick, Hannon, Stull, Timms, President Adams.  
 7-11 President signed.  
 7-16(H) Speaker signed.  
 8-14(S) Governor signed.  
 Chapter 862, 1997 Laws.  
 Effective date, October 04, 1997.

Expands description of activities that qualify as farm use in exclusive farm use zone. Allows facilities for processing farm crops with certain restrictions. Makes related changes.

**SB 589** By COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT (at the request of John Shaw) -- Relating to traffic lanes.

3-3(S) Introduction and first reading. Referred to President's desk.  
 3-4 Referred to Transportation.  
 4-25 Public Hearing held.  
 5-16 Public Hearing held.  
 7-5 In committee upon adjournment.

Defines auxiliary lane. Requires trucks to use auxiliary lane under specified circumstances. Punishes failure to use auxiliary lane by maximum \$300 fine.