

D R A F T

SUMMARY

Limits program for property tax special assessment of historic property to commercial property. Requires preservation plan to have aim of preventing displacement, reversing impacts of, or preventing, community disinvestment and engaging and serving underrepresented histories. Reduces minimum expenditure commitment to five percent of historic property's real market value. Requires, for rehabilitation work in city with population of at least 30,000, at least 50 percent of services to be performed by minority-owned business, woman-owned business or emerging small business.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to special assessment of historic property; creating new provisions;
3 amending ORS 215.213, 215.283, 358.480, 358.487, 358.495, 358.499, 358.500,
4 358.505, 358.515, 358.525, 358.540 and 358.543; and prescribing an effective
5 date.

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

6 **SECTION 1.** ORS 358.480 is amended to read:

7
8 358.480. As used in ORS 358.480 to 358.545, unless the context requires
9 otherwise:

10 (1) "Americans with Disabilities Act" means the Americans with Disabil-
11 ities Act of 1990 (P.L. 101-336), as amended.

12 [(2) "Certify," "certified" and "certification" refer to the approval of historic
13 property by the State Historic Preservation Officer for classification and spe-
14 cial assessment under ORS 358.495.]

15 [(3) "Classified" and "classification" refer to the recognition of property by
16 the State Historic Preservation Officer as historic property as defined in this

1 *section.*]

2 [(4) “Commercial building” means improved property used in a trade or
3 business or held for the production of income, not including residential rental
4 property.]

5 **(2) “Commercial property” means improved real property that is
6 used in a trade or business or held for the production of income.**

7 [(5) “Condominium” means, with respect to property submitted to the pro-
8 visions of ORS 100.005 to 100.627:]

9 [(a) The land, if any, whether fee simple, leasehold, easement or other in-
10 terest or combination thereof, and whether contiguous or noncontiguous;]

11 [(b) Any buildings, improvements and structures on the property; and]

12 [(c) Any easements, rights and appurtenances belonging to the property.]

13 [(6) “Condominium unit” means a part of the property:]

14 [(a) That is described in ORS 100.020 (3);]

15 [(b) That is intended for any type of independent ownership; and]

16 [(c) The boundaries of which are described pursuant to ORS 100.105
17 (1)(d).]

18 [(7) “Condominium unit owner” means, except to the extent the declaration
19 or bylaws provide otherwise, the person owning fee simple interest in a con-
20 dominium unit, the holder of a vendee’s interest in a condominium unit under
21 a recorded installment contract of sale or, in the case of a leasehold condo-
22 minium, the holder of the leasehold estate in a condominium unit.]

23 [(8)] **(3)** “Contributing resource” means a building, site or structure that
24 adds to the historic significance of [a] **an** historic property or historic dis-
25 trict.

26 [(9) “Developer” means, with respect to a condominium, a declarant who
27 records a declaration under ORS 100.100 or a supplemental declaration under
28 ORS 100.110 or any person who purchases an interest in a condominium from
29 a declarant, successor declarant or subsequent developer for the primary pur-
30 pose of resale.]

31 [(10)] **(4)** “Governing body” means the city or county legislative body

1 having jurisdiction over the property that is the subject of an application for
2 **classification and special assessment as** historic property [*special assess-*
3 *ment*] under ORS 358.487 to 358.543.

4 [(11) “*Historic property*” means real property that:]

5 [(a) *Is currently listed, either individually or as a contributing resource, in*
6 *the National Register of Historic Places established and maintained under the*
7 *National Historic Preservation Act of 1966 (P.L. 89-665);]*

8 [(b) *Is currently not a contributing resource in a listed national register*
9 *district or property but that, in the opinion of the State Historic Preservation*
10 *Officer, is eligible to become a contributing resource as a result of a proposed*
11 *preservation plan; or]*

12 [(c) *Has been determined to be eligible for listing in the National Register*
13 *of Historic Places by the State Historic Preservation Officer.]*

14 [(12)] (5) “Historic rehabilitation standards” means the United States
15 Secretary of the Interior’s Standards [*for Rehabilitation*] as in effect on
16 [September 28, 2009] **the effective date of this 2022 Act.**

17 [(13)] (6) “Maintenance” means action taken to:

18 (a) Mitigate wear and deterioration of [a] **an** historic property without
19 altering the historic character of the property[, *including action taken to*];

20 **or**

21 (b) Protect and repair the condition of the property with the least possi-
22 ble impact on the historic character of the property.

23 [(14)] (7) “Owner” means a purchaser of real property under a recorded
24 instrument of sale. In the case of multiple purchasers, “owner” may [be] **in-**
25 **clude** a designee of the purchasers.

26 [(15)] (8)(a) “Preservation”[:]

27 [(a)] means the act or process of applying measures necessary to sustain
28 the existing form, integrity and materials of an historic property, including
29 but not limited to the ongoing maintenance and repair of historic materials.

30 (b) “**Preservation**” does not include the extensive replacement of historic
31 materials or new construction.

1 [(16)] (9) “Preservation plan” means a written document, photographs and
2 drawings that outline the work of preservation, maintenance and rehabili-
3 tation:

4 (a) That is proposed for completion [*while*] **during the period for which**
5 the property [*is receiving*] **is granted special assessment as** historic prop-
6 erty [*special assessment*]; or

7 (b) That **was** completed not more than 24 months before the date of ap-
8 plication [*for historic property special assessment*] **under ORS 358.487.**

9 [(17)] (10) “Rehabilitation” means:

10 (a) The process of repairing or altering [*a*] **an** historic property in order
11 to return the property to a state of utility in which an efficient contemporary
12 use is possible, while preserving those portions and features of the property
13 that are significant to the historic, architectural and cultural values of the
14 property[.]; **or**

15 (b) **Structural modernization.**

16 [(18)] (11) “Seismic improvement” means construction or other measures
17 that improve the seismic performance or structural stability of property or
18 that reduce the potential for heavy structural damage to property or harm
19 to people in or adjacent to the property in the event of an earthquake.

20 (12) **“Structural modernization” means seismic improvements,**
21 **climate-related projects to protect against the impacts of climate**
22 **change and fire suppression projects.**

23 [(19)] “Sustainability” means, with respect to historic property, fulfilling
24 present and future needs by using, without harming, renewable resources and
25 unique human and environmental systems of a site, including air, water, land,
26 energy, human ecology and other sustainable systems.]

27 **SECTION 2.** ORS 358.487 is amended to read:

28 358.487. (1) An owner of [*historic*] **commercial** property [*desiring*] **seek-**
29 **ing** classification and special assessment **as historic property** under ORS
30 358.487 to 358.543 for the property [*shall*] **must** apply to the State Historic
31 Preservation Officer on forms approved by the officer.

1 (2) The application must include or be accompanied by:

2 (a) A preservation plan [*as defined in ORS 358.480*] **that meets the re-**
3 **quirements of subsection (3) of this section.** [*The preservation plan must*
4 *commit the applicant to expend, within the first five years for which historic*
5 *property special assessment is granted, an amount not less than 10 percent of*
6 *the historic property's real market value determined as of the assessment date*
7 *for the first tax year to which the historic property special assessment applies.*
8 *The focus of the preservation plan must be on exterior features, especially those*
9 *visible from a public way, and structural members of the property. The treat-*
10 *ment of significant interior features, as determined by the State Historic*
11 *Preservation Officer, may also be included in the plan, but unless specifically*
12 *required by the officer, work in bathrooms, kitchens, basements and attics is*
13 *not included in the preservation plan. Work proposed in the plan must meet*
14 *the historic rehabilitation standards.*]

15 (b) Payment of an application fee equal to:

16 (A) One-tenth of one percent of the assessed value of the property, as of
17 the assessment date, for the year in which application is made; or

18 (B) For property that does not have an assessed value, one-tenth of one
19 percent of the product of the real market value of the property for the tax
20 year in which the application is made multiplied by the ratio of the average
21 maximum assessed value over the average real market value for that tax year
22 of property in the same area and property class.

23 (c) A copy of the property's current tax statement.

24 (d) Proof that the owner has property insurance on the property in an
25 amount equal to the replacement value of the property.

26 (e) The written consent of the owner to the viewing of the property by
27 the State Historic Preservation Officer.

28 **(3)(a) The preservation plan must set forth in detail projects for**
29 **improvements to the historic property that:**

30 **(A)(i) Promote compliance with the Americans with Disabilities**
31 **Act; or**

1 (ii) **Constitute structural modernization;**

2 (B) **Aim to prevent displacement, including cultural displacement,**
3 **by providing an opportunity to stay in a cultural community or al-**
4 **lowing for economic growth that would not occur if displacement oc-**
5 **curred;**

6 (C) **Aim to reverse the impacts of, or prevent, community disin-**
7 **vestment that has resulted in cultural displacement; and**

8 (D) **Engage and serve underrepresented histories.**

9 (b) **The preservation plan must commit the applicant to expend,**
10 **within the first five years for which historic property special assess-**
11 **ment is granted, an amount not less than five percent of the historic**
12 **property's real market value determined as of the assessment date for**
13 **the first tax year to which the historic property special assessment**
14 **applies.**

15 (c) **The focus of the preservation plan must be on exterior features,**
16 **especially those visible from a public way, and structural members of**
17 **the property. The treatment of significant interior features, as deter-**
18 **mined by the State Historic Preservation Officer, may also be included**
19 **in the plan.**

20 (d) **Work proposed in the plan must meet the historic rehabilitation**
21 **standards.**

22 [(3)] (4) The application must be [*made*] **received** before April 1 of the
23 assessment year for which classification and special assessment as historic
24 property are [*desired*] **sought**.

25 [(4)(a)] (5)(a) Property must **first** be classified as historic property in or-
26 der to be [*certified for*] **specialy assessed as** historic property [*special as-*
27 *essment*].

28 [(b) *Notwithstanding paragraph (a) of this subsection, property may be*
29 *certified for historic property special assessment upon a determination of el-*
30 *igibility by the State Historic Preservation Officer under ORS 358.480 (11)(b)*
31 *or (c). Property certified under this paragraph must become listed in the Na-*

1 *tional Register of Historic Places within two years of certification under ORS*
2 *358.490.]*

3 **(b) Property may be classified as historic property only if the**
4 **property:**

5 **(A) Is currently listed, either individually or as a contributing re-**
6 **source, in the National Register of Historic Places established and**
7 **maintained under the National Historic Preservation Act of 1966 (P.L.**
8 **89-665); or**

9 **(B)(i) Is a building, structure, object or site that is on or within an**
10 **historic property currently listed in the National Register of Historic**
11 **Places; and**

12 **(ii) In the opinion of the State Historic Preservation Officer, is eli-**
13 **gible to become a contributing resource as a result of a proposed**
14 **preservation plan.**

15 ~~[(5)]~~ **(6)** Classification and special assessment pursuant to an application
16 made under this section are granted for 10 consecutive property tax years,
17 starting in the tax year beginning on July 1 of the assessment year described
18 in subsection ~~[(3)]~~ **(4)** of this section.

19 ~~[(6)]~~ **(7)** The application fee required under subsection (2) of this section
20 shall be deposited in the State Parks and Recreation Department Fund for
21 use by the State Parks and Recreation Director or for transfer to the Oregon
22 Property Management Account established under ORS 358.680 to 358.690,
23 upon the advice of the State Advisory Committee on Historic Preservation.
24 The application fee becomes nonrefundable after ~~[certification]~~ **classification**
25 as described in ORS 358.495.

26 **SECTION 3.** ORS 358.495 is amended to read:

27 358.495. (1)(a) Immediately following approval or disapproval of an appli-
28 cation under ORS 358.490, the State Historic Preservation Officer shall no-
29 tify the county assessor, the governing body and the applicant of the decision
30 in writing not later than July 1 of the tax year for which classification and
31 special assessment are first desired.

1 (b) An application not denied on or before July 1 pursuant to paragraph
2 (a) of this subsection is deemed approved, and the property that is the subject
3 of the application is historic property that qualifies under ORS 358.487 to
4 358.543.

5 (2) If the State Historic Preservation Officer determines that the historic
6 property qualifies under ORS 358.487 to 358.543, the officer shall, not later
7 than July 1 of the tax year for which the property is first [*certified for*]
8 **granted** historic property special assessment:

9 (a) Notify the local landmark commission that the property [*is certified*]
10 **has been classified and granted special assessment as historic**
11 **property.**

12 [*(b) Certify the property's qualification in writing and file a copy of the*
13 *certificate with the county assessor and the governing body. The certificate*
14 *shall state the facts and list any condition on which the approval is based.*]

15 (b) **Create a written record that states the facts and lists any con-**
16 **dition on which the special assessment is based.**

17 (c) **Provide a written statement to the county assessor and the**
18 **governing body that the property has been classified and granted spe-**
19 **cial assessment as historic property, and provide a copy of the written**
20 **statement to the owner of the historic property.**

21 [(c)] (d) Record a notice with the county clerk in the county in which the
22 [*certified*] historic property is located stating that the property [*is certified*
23 *for*] **has been classified and granted special assessment as** historic
24 property [*special assessment*].

25 [(d)] (e) Provide the owner of the property with a plaque. The owner
26 shall install the plaque on the **historic** property in a location that is visible
27 from a public right of way.

28 (3) The county assessor shall assess historic property [*certified under this*
29 *section on the basis provided in*] **granted special assessment under ORS**
30 **358.490 in accordance with** ORS 358.505, and each year the historic property
31 is classified and assessed under ORS 358.505 shall enter on the assessment

1 and tax roll that the property is being specially assessed as historic property
2 and is subject to potential additional taxes as provided in ORS 358.525 by
3 adding the notation “historic property (potential additional tax).”

4 (4) If the State Historic Preservation Officer determines that the property
5 does not qualify for classification and assessment under ORS 358.487 to
6 358.543, the State Historic Preservation Officer shall give written notice of
7 the denial to the applicant. The notice shall state the reasons for the denial.

8 (5)[(a)] Any owner, governing body or county assessor [*affected*]
9 **aggrieved** by a determination of the State Historic Preservation Officer
10 made under ORS 358.487 to 358.543 may request [*review of the*
11 *determination:*] **a contested case hearing of the determination according**
12 **to the provisions of ORS chapter 183. The administrative law judge**
13 **presiding at the contested case hearing shall determine the final order**
14 **in the case.**

15 [(A) Pursuant to an appeal process established by the local governing body,
16 if any; or]

17 [(B) By the Historic Assessment Review Committee.]

18 [(b) After the review described in paragraph (a) of this subsection, any
19 party may request a contested case hearing of the decision according to the
20 provisions of ORS chapter 183. The administrative law judge presiding at the
21 contested case hearing shall determine the final order in the case.]

22 **SECTION 4.** ORS 358.499 is amended to read:

23 358.499. (1) Property first classified and specially assessed as historic
24 property for a tax year beginning on or before July 1, 1994, shall continue
25 to be so classified, specially assessed and removed from special assessment
26 as provided under ORS 358.487 to 358.543 as those sections were in existence
27 and in effect on December 31, 1992.

28 (2) Property may be classified and specially assessed **as historic property**
29 under ORS 358.487 to 358.543 pursuant to **an** application filed under ORS
30 358.487 on or after September 9, 1995, and first applicable for the **property**
31 tax year 1996-1997 or any **property** tax year thereafter.

1 (3) Property may not be classified and specially assessed **as historic**
2 **property** pursuant to **an** application filed under ORS 358.487 or 358.540 if
3 the application is filed on or after July 1, [2022] **2023**.

4 **SECTION 5.** ORS 358.500 is amended to read:

5 358.500. (1) The owner of property [*certified for special assessment as his-*
6 *toric property under ORS 358.490*] **classified and specially assessed as**
7 **historic property under ORS 358.480 to 358.545** shall submit written
8 progress reports concerning the preservation plan to the State Historic
9 Preservation Officer in a form prescribed by the officer on or before Decem-
10 ber 31 of the third, sixth and ninth years of the historic property special
11 assessment period under ORS 358.487 to 358.543.

12 (2) In addition to the reports required under subsection (1) of this section,
13 at the end of the first five years for which historic property special assess-
14 ment is granted, the owner shall submit a report demonstrating compliance
15 with the expenditure commitment under the preservation plan as described
16 in ORS 358.487 [(2)(a)] **(3)**.

17 (3)(a) The State Historic Preservation Officer is at all times authorized
18 to demand and receive reports from owners of property classified and spe-
19 cially assessed as historic property under ORS 358.487 to 358.543 as to the
20 continued qualification of the property for historic property classification
21 and special assessment. The content of reports and times for reporting under
22 this subsection shall be determined by the officer. If the owner fails, after
23 30 days' written notice by mail, return receipt requested, to comply with the
24 officer's demand, the officer shall immediately notify the assessor and the
25 assessor shall withdraw the property from special assessment and apply the
26 penalties provided by ORS 358.525.

27 (b) The State Historic Preservation Officer may conduct on-site in-
28 spections of historic property granted special assessment, with or without
29 cause, upon 30 days' notice.

30 (4)(a) Before starting any work that is described in a preservation plan
31 or that affects historic features of property [*certified*] **classified and spe-**

1 **cially assessed** as historic property [*pursuant to this chapter*] **under ORS**
2 **358.480 to 358.545**, the owner of the **historic** property must apply for and
3 receive written approval:

4 (A) From the local governing body if:

5 (i) The governing body has a historic preservation ordinance and review
6 process that has been approved by the State Historic Preservation Officer
7 and under which the historic property is already regulated;

8 (ii) The proposed work requires historic review by the governing body's
9 historic preservation ordinance and review process; and

10 (iii) The governing body has not requested that approval of work pursuant
11 to this section be handled by the State Historic Preservation Officer; or

12 (B) If the conditions in subparagraph (A) of this paragraph have not been
13 met, from the State Historic Preservation Officer.

14 (b) All work must meet the historic rehabilitation standards.

15 (5) If the governing body's approval is required under subsection (4) of
16 this section, the governing body shall notify the State Historic Preservation
17 Officer of the proposed work. The governing body shall allow the officer at
18 least 14 days to comment on the proposed work before making a decision on
19 the application.

20 **SECTION 6.** ORS 358.505 is amended to read:

21 358.505. (1)(a) Except as provided in [*paragraphs (b) and (c)*] **paragraph**
22 **(b)** of this subsection, for property [*certified for*] **granted** special assessment
23 as historic property under ORS [*358.490*] **358.480 to 358.545**, the county
24 assessor shall for 10 consecutive tax years list on the assessment and tax roll
25 a specially assessed value that equals the assessed value of the property at
26 the time application was made under ORS 358.487.

27 (b) If the property [*certified for*] **granted** special assessment as historic
28 property was exempt or specially assessed at the time the application was
29 made, the county assessor shall for 10 consecutive tax years list on the as-
30 sessment and tax roll a specially assessed value that equals the product of
31 the real market value of the property for the tax year in which the applica-

1 tion was made multiplied by the ratio of the average maximum assessed
2 value over the average real market value for that tax year of property in the
3 same area and property class.

4 *[(c) If the property certified for special assessment as historic property is*
5 *a condominium unit being assessed upon initial sale by the developer, the*
6 *county assessor shall for the tax years of the remaining term of historic prop-*
7 *erty special assessment list on the assessment and tax roll a specially assessed*
8 *value that equals the product of the real market value of the property for the*
9 *tax year in which the initial sale took place multiplied by the ratio of the av-*
10 *erage maximum assessed value over the average real market value for that tax*
11 *year of property in the same area and property class.]*

12 *[(d)]* **(c)** For property *[certified under ORS 358.490]* **granted special as-**
13 **essment as historic property** for a second term of special assessment as
14 historic property under ORS 358.540, the county assessor shall, for 10 con-
15 secutive tax years after the date of the filing of the application under ORS
16 358.487 for the second term, list on the assessment and tax roll a specially
17 assessed value that equals the real market value of the property for the as-
18 sessment year in which the application is made.

19 (2)(a) Notwithstanding ORS 308.149 (2), for the first tax year of an initial
20 or second 10-year period of historic property special assessment, the maxi-
21 mum assessed value of property subject to historic property special assess-
22 ment shall equal the specially assessed value of the property under
23 subsection (1) of this section *[multiplied by the ratio, not greater than 1.00,*
24 *of the maximum assessed value the property would have had if the property*
25 *were not specially assessed over the real market value of the property].*

26 (b) For each tax year after the first tax year during which the property
27 is subject to special assessment as historic property, the property's maximum
28 assessed value equals 103 percent of the property's assessed value from the
29 prior year or 100 percent of the property's maximum assessed value from the
30 prior year, whichever is greater.

31 (3) The assessed value of property that is classified as historic property

1 for the tax year shall equal the least of:

2 (a) The property's specially assessed value as determined under subsection
3 (1) of this section;

4 (b) The property's maximum assessed value as determined under sub-
5 section (2) of this section; or

6 (c) The property's real market value as of the assessment date for the tax
7 year.

8 (4) The entitlement of property to the special assessment provisions of
9 this section shall be determined as of July 1. If the property becomes dis-
10 qualified on or after July 1, its assessment for that year shall continue as
11 provided in this section.

12 (5) Assessed value, as defined and determined under ORS 308.146, shall
13 be determined for property classified as historic property by the county
14 assessor each year. The assessed value so determined for any year shall be
15 subject to appeal to the county board of property tax appeals within the time
16 and in the manner provided in ORS chapter 309 and shall be subject to ap-
17 peal thereafter to the Oregon Tax Court and to the Oregon Supreme Court
18 within the time and in the manner provided for appeals of value determi-
19 nation for purposes of ad valorem property taxation.

20 **SECTION 7.** ORS 358.515 is amended to read:

21 358.515. (1) When property has once been classified and **specially** assessed
22 as historic property [*pursuant to application filed under ORS 358.487*] **under**
23 **ORS 358.480 to 358.545**, it remains classified and [*is granted the special as-*
24 *essment provided by ORS 358.505*] **specially assessed** until it becomes dis-
25 qualified for classification and special assessment by:

26 (a) Expiration of an initial or second 10-year period of special assessment.

27 (b) Sale or transfer to a governmental or nonprofit entity that is exempt
28 from property taxation.

29 (c) The destruction or substantial alteration of the property by acts of
30 nature or other events for which the owner is not responsible.

31 [*(d) Initial sale of a condominium as provided in ORS 358.543 (3)(b).*]

1 [(e)] (d) Written notice by the taxpayer to the assessor to remove the
2 special assessment.

3 [(f)] (e) The owner's failure to maintain, preserve or rehabilitate the
4 property or to comply with the expenditure commitment in accordance with
5 the preservation plan or the historic rehabilitation standards.

6 [(g)] (f) The owner's failure to submit required reports.

7 (g) **The property's ceasing to be commercial property.**

8 [(h)] *Failure of the property to be listed in the National Register of Historic*
9 *Places either individually or as a contributing resource in a listed historic*
10 *district or property within two years of certification as required under ORS*
11 *358.487 (4)(b).]*

12 [(i)] (h) The owner's failure to obtain, or the lapse of, the property in-
13 surance required under ORS 358.487 (2)(d).

14 [(j)] (i) The owner's demolition of the property.

15 [(k)] (j) The owner's substantial alteration of the property in a way that
16 does not meet the historic rehabilitation standards.

17 (2)(a) When, for any reason, the property or any portion ceases to qualify
18 as historic property, the owner at the time of change shall notify the
19 assessor and the State Historic Preservation Officer of the change prior to
20 the next January 1 assessment date.

21 (b) The officer makes final determinations of whether historic property
22 is disqualified for special assessment under ORS 358.487 to 358.543.

23 (3) Except as provided by subsection (1)(a) of this section, disqualification
24 does not constitute completion of a 10-year period of special assessment
25 [*certified under ORS 358.490*] **under ORS 358.480 to 358.545** or preclude a
26 property's future special assessment under ORS 358.487 to 358.543.

27 (4) The State Historic Preservation Officer shall notify the owner in
28 writing before July 1 of the 10th and final year for which property is [*certi-*
29 *fied for*] **granted** special assessment under ORS [*358.490*] **358.480 to 358.545**
30 that the special assessment is due to expire and shall outline the options
31 available to the owner upon disqualification upon expiration of an initial or

1 second 10-year period of special assessment, as applicable.

2 (5) Upon expiration of an initial or second 10-year period of special as-
3 sessment, the State Historic Preservation Officer shall notify the owner, the
4 governing body and the county assessor that the term has expired.

5 **SECTION 8.** ORS 358.525 is amended to read:

6 358.525. (1) Except as provided in subsection (4) of this section, whenever
7 property that has received special assessment as historic property under ORS
8 358.487 to 358.543 becomes disqualified for assessment as provided in ORS
9 358.515, there is added to the tax extended against the property on the next
10 general property tax roll, to be collected and distributed in the same manner
11 as the remainder of real property tax:

12 (a) Additional taxes equal to the difference between the taxes assessed
13 against the property and the taxes that would otherwise have been assessed
14 against the property for each of the last 10 years (or a lesser number of years
15 corresponding to the years of assessment as historic property applicable to
16 the property) as of January 1 of the assessment year for which the property
17 was disqualified for special assessment;

18 (b) An amount equal to the sum of the interest on each year's additional
19 taxes computed under ORS 311.505 from November 15 of the tax year for
20 which back taxes are being added to July 1 of the tax year of disqualifica-
21 tion; and

22 (c) A penalty in the amount of 15 percent of the amount computed under
23 paragraph (a) of this subsection.

24 (2) Whenever property that has received special assessment as historic
25 property under ORS 358.505 becomes disqualified for assessment and the no-
26 tice required by ORS 358.515 (2) is not given, the assessor shall determine
27 the date that the notice should have been given, shall notify the owner
28 thereof and, notwithstanding ORS 311.235, there shall be added to the tax
29 extended against the property on the next general property tax roll, to be
30 collected and distributed in the same manner as the remainder of the real
31 property tax, in full payment of all taxes and penalties accruing from the

1 disqualification, the sum of the following:

2 (a) Additional taxes equal to the difference between the total amount of
3 taxes that would have been due on the property for each year, not to exceed
4 the last 10 years, in which special assessment under ORS 358.505 was in ef-
5 fect for the property (even though erroneously) and the taxes that would
6 have been due had special assessment not been in effect;

7 (b) An amount equal to the sum of the interest on each year's additional
8 taxes computed under ORS 311.505 from November 15 of the tax year for
9 which additional taxes are being added to July 1 of the tax year of disqual-
10 ification; and

11 (c) An additional penalty of 15 percent of the amount in paragraph (a)
12 of this subsection.

13 (3) Prior to adding to the tax extended against the property on the next
14 general property tax roll any additional amount imposed by subsection (1)
15 or (2) of this section, in the case of disqualification pursuant to ORS 358.515
16 ~~[(1)(f) to (k)] (1)(e) to (j)~~, the assessor shall notify the owner of the property
17 by mail, return receipt requested, of the disqualification.

18 (4) Additional tax or penalty may not be imposed under subsection (1) or
19 (2) of this section in the case of property disqualified pursuant to:

20 (a) ORS 358.515 (1)(a), ~~[(b), (c) or (d)] (b) or (c)~~; or

21 (b) ORS 358.515 ~~[(1)(e)] (1)(d)~~ if the written notice is accompanied by
22 proof that the owner has complied with the expenditure commitment under
23 the preservation plan as described in ORS 358.487 ~~[(2)(a)] (3)~~.

24 (5) The amount determined to be due under subsection (1) or (2) of this
25 section may be paid to the tax collector prior to the completion of the next
26 general property tax roll, pursuant to ORS 311.370.

27 (6) Additional taxes collected under this section shall be deemed to have
28 been imposed in the year to which the additional taxes relate.

29 **SECTION 9.** ORS 358.540 is amended to read:

30 358.540. (1) Property classified as historic property under ORS 358.487 to
31 358.543 is entitled to any other exemption or special assessment provided by

1 law.

2 (2) Property that has been [*certified*] **classified** for special assessment
3 under ORS 358.490 and received special assessment under ORS 358.505 for 10
4 years, at the completion of the 10-year term, is disqualified from historic
5 property special assessment.

6 (3)(a) Notwithstanding subsection (2) of this section, following completion
7 of the initial 10-year period of historic property classification and disquali-
8 fication under subsection (2) of this section, the owner of property classified
9 as historic property may reapply under ORS 358.487 for one additional
10 10-year period of special assessment under ORS 358.487 to 358.543.

11 (b) Following completion of the second 10-year term of special assessment,
12 the historic property is disqualified from historic property special assessment
13 and is not again eligible for special assessment under ORS 358.487 to 358.543.

14 (4)(a) An application filed under subsection (3) of this section must be
15 filed in the manner provided under ORS 358.487 and be accompanied by a
16 preservation plan [*detailing:*] **that meets the requirements of ORS 358.487**
17 **(3).**

18 [(a)] **(b)** [*Improvements to the historic property that*] **The preservation**
19 **plan must set forth in detail:**

20 (A) [*Promote compliance with the Americans with Disabilities Act*] **How**
21 **the projects to be undertaken comply with ORS 358.487 (3);**

22 [(B) *Will result in seismic improvement; or*]

23 [(C) *Will result in improvements in energy conservation or sustainability;*]

24 [(b)] **(B)** The costs associated with the improvements, which costs [*are*]
25 **must be** in an amount not less than [10] **five** percent of the historic
26 property's real market value determined as of the date of the application
27 filed under subsection (3) of this section; and

28 [(c)] **(C)** A schedule of the dates on which work on the improvements will
29 be begun and completed.

30 (5)(a) An application filed under subsection (3) of this section may be
31 approved only upon a finding by the State Historic Preservation Officer that

1 the preservation plan submitted with the application pursuant to subsection
 2 (4) of this section will, if implemented, result in a significant investment in
 3 the historic property that promotes compliance with Americans with Disa-
 4 bilities Act or that results in [*seismic improvements or improvements in en-
 5 ergy conservation or sustainability to the property*] **structural**
 6 **modernization.**

7 (b) For residential property, an application filed under subsection (3) of
 8 this section that is otherwise in compliance with the application require-
 9 ments may be approved only if a second term of historic property classifica-
 10 tion and special assessment is not prohibited under ORS 358.541.

11 (6) An application for a second 10-year period of special assessment as
 12 historical property shall be [*certified*] **reviewed** in accordance with ORS
 13 358.490.

14 (7) A determination under ORS 358.490 with respect to an application for
 15 a second 10-year period of special assessment as historical property is subject
 16 to the notice, [*certification*] **classification** and filing requirements and [*re-
 17 view rights*] **the right to a contested case hearing** described in ORS
 18 358.495.

19 (8) The owner of property [*certified for*] **granted** a second 10-year period
 20 of special assessment under this section is subject to the reporting require-
 21 ments under ORS 358.500.

22 (9) Property [*certified for*] **granted** a second 10-year period of special as-
 23 sessment under this section is subject to penalties upon disqualification as
 24 provided by ORS 358.525.

25 **SECTION 10.** ORS 358.543 is amended to read:

26 358.543. [(1)(a)] (1) The value of new construction or additions to [*historic*
 27 *properties certified for special assessment*] **property classified and specially**
 28 **assessed as historic property** under ORS 358.487 to 358.543 is assessed in
 29 the same manner as the original historic property under ORS 358.505 if the
 30 additions or new construction:

31 [(A)] (a) Were included in the preservation plan approved pursuant to

1 ORS 358.540; and

2 [(B)] (b) Meet the historic rehabilitation standards [*as defined in ORS*
3 *358.480*].

4 [(b)] (2) Notwithstanding [*paragraph (a) of this*] subsection (1) of this
5 **section**, additions or new construction are not assessed under ORS 358.505
6 if the local governing body or the State Historic Preservation Officer, in
7 accordance with ORS 358.500 (4), determines that the additions or improve-
8 ments are:

9 [(A)] (a) Sited on the property in a manner more suitable for primary
10 historic buildings in the area;

11 [(B)] (b) Of a size or scale more appropriate to primary historic buildings
12 in the area; or

13 [(C)] (c) Independent structures as determined by use or ownership.

14 [(c)] (3) If additions or new construction described in [*paragraph (b)*]
15 **subsection (2) of this section** are disqualified for any reason listed in ORS
16 358.515 (1), the entire property may be disqualified for historic property spe-
17 cial assessment.

18 [(2)(a)] *Buildings divided into condominiums are eligible for special as-*
19 *essment as historic property under ORS 358.505 only in their entirety on the*
20 *basis of one application pursuant to ORS 358.487.]*

21 [(b)] *No individual condominium unit owner may opt out at the time of*
22 *certification pursuant to this chapter or seek disqualification once the building*
23 *has been certified. At the time application is made, a letter to this effect must*
24 *be delivered to each condominium unit owner.]*

25 [(3)(a)] *When a building that is certified as historic property is divided into*
26 *condominium units, the assessor shall calculate the specially assessed value*
27 *of the entire building pursuant to ORS 358.505 (1)(a) or (b), as applicable.]*

28 [(b)] *Initial sale of a condominium unit by the developer disqualifies the*
29 *unit within the meaning of section 11 (1)(c)(E), Article XI of the Oregon Con-*
30 *stitution.]*

31 [(c)] *Upon disqualification due to initial sale, the condominium unit is re-*

1 *qualified without further application for the remaining term of the current*
2 *10-year period of historic property special assessment.]*

3 *[(d) Upon requalification after initial sale, the assessor shall calculate the*
4 *specially assessed value of the condominium unit pursuant to ORS 358.505*
5 *(1)(c).]*

6 *[(e) Upon sale of individual condominium units, a notice of the building's*
7 *classification and special assessment as historic property in its entirety must*
8 *be attached to each deed. Recording fees for all condominium units must be*
9 *paid by the condominium association.]*

10 *[(4) If the building qualifies for a second 10-year period under ORS 358.540,*
11 *each condominium unit is separately assessed pursuant to the applicable pro-*
12 *visions of ORS 358.505.]*

13 **SECTION 11. Section 12 of this 2022 Act is added to and made a part**
14 **of ORS 358.480 to 358.545.**

15 **SECTION 12. (1) This section applies to historic property granted**
16 **special assessment under ORS 358.480 to 358.545 that is located within**
17 **the boundaries of a city with a population of at least 30,000 according**
18 **to the most recently available population figure for the city from the**
19 **Portland State University Population Research Center.**

20 **(2)(a) For rehabilitation work on historic property described in**
21 **subsection (1) of this section, at least 50 percent of the rehabilitation**
22 **services must be performed by at least one of the following businesses**
23 **that is operated for profit and has been certified by the Certification**
24 **Office for Business Inclusion and Diversity under ORS 200.055:**

25 **(A) A minority-owned business;**

26 **(B) A woman-owned business; or**

27 **(C) An emerging small business.**

28 **(b) The businesses listed in paragraph (a)(A) to (C) of this sub-**
29 **section have the meanings given those terms in ORS 200.005.**

30 **SECTION 13. ORS 215.213 is amended to read:**

31 **215.213. (1) In counties that have adopted marginal lands provisions under**

1 ORS 197.247 (1991 Edition), the following uses may be established in any area
2 zoned for exclusive farm use:

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

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

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

10 (A) ORS 215.275; or

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

13 (d) A dwelling on real property used for farm use if the dwelling is oc-
14 cupied by a relative of the farm operator or the farm operator's spouse,
15 which means a child, parent, stepparent, grandchild, grandparent,
16 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,
17 if the farm operator does or will require the assistance of the relative in the
18 management of the farm use and the dwelling is located on the same lot or
19 parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to
20 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if
21 the owner of a dwelling described in this paragraph obtains construction fi-
22 nancing or other financing secured by the dwelling and the secured party
23 forecloses on the dwelling, the secured party may also foreclose on the
24 homesite, as defined in ORS 308A.250, and the foreclosure shall operate as
25 a partition of the homesite to create a new parcel.

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

28 (f) Subject to ORS 215.279, primary or accessory dwellings customarily
29 provided in conjunction with farm use. For a primary dwelling, the dwelling
30 must be on a lot or parcel that is managed as part of a farm operation and
31 is not smaller than the minimum lot size in a farm zone with a minimum lot

1 size acknowledged under ORS 197.251.

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

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

11 (i) One manufactured dwelling or recreational vehicle, or the temporary
12 residential use of an existing building, in conjunction with an existing
13 dwelling as a temporary use for the term of a hardship suffered by the ex-
14 isting resident or a relative of the resident. Within three months of the end
15 of the hardship, the manufactured dwelling or recreational vehicle shall be
16 removed or demolished or, in the case of an existing building, the building
17 shall be removed, demolished or returned to an allowed nonresidential use.
18 The governing body or its designee shall provide for periodic review of the
19 hardship claimed under this paragraph. A temporary residence approved un-
20 der this paragraph is not eligible for replacement under paragraph (q) of this
21 subsection.

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

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

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

31 (m) Minor betterment of existing public road and highway related facili-

1 ties, such as maintenance yards, weigh stations and rest areas, within right
2 of way existing as of July 1, 1987, and contiguous public-owned property
3 utilized to support the operation and maintenance of public roads and high-
4 ways.

5 (n) A replacement dwelling to be used in conjunction with farm use if the
6 existing dwelling has been listed in a county inventory as historic property
7 as [*defined in ORS 358.480*] **described in ORS 358.487 (5)(b)**.

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

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

10 (q) Alteration, restoration or replacement of a lawfully established
11 dwelling, as described in ORS 215.291.

12 (r) Farm stands if:

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

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

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

27 (t) A site for the takeoff and landing of model aircraft, including such
28 buildings or facilities as may reasonably be necessary. Buildings or facilities
29 shall not be more than 500 square feet in floor area or placed on a permanent
30 foundation unless the building or facility preexisted the use approved under
31 this paragraph. The site shall not include an aggregate surface or hard sur-

1 face area unless the surface preexisted the use approved under this para-
2 graph. An owner of property used for the purpose authorized in this
3 paragraph may charge a person operating the use on the property rent for
4 the property. An operator may charge users of the property a fee that does
5 not exceed the operator's cost to maintain the property, buildings and facil-
6 ities. As used in this paragraph, "model aircraft" means a small-scale version
7 of an airplane, glider, helicopter, dirigible or balloon that is used or intended
8 to be used for flight and is controlled by radio, lines or design by a person
9 on the ground.

10 (u) A facility for the processing of farm products as described in ORS
11 215.255.

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

13 (w) Irrigation reservoirs, canals, delivery lines and those structures and
14 accessory operational facilities, not including parks or other recreational
15 structures and facilities, associated with a district as defined in ORS 540.505.

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

20 (A) A public right of way;

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

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

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

1 chapter. For the purposes of this paragraph, onsite treatment of septage prior
2 to the land application of biosolids is limited to treatment using treatment
3 facilities that are portable, temporary and transportable by truck trailer, as
4 defined in ORS 801.580, during a period of time within which land applica-
5 tion of biosolids is authorized under the license, permit or other approval.

6 (z) Dog training classes or testing trials, which may be conducted out-
7 doors or in farm buildings in existence on January 1, 2019, when:

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

11 (B) The number of dogs participating in a testing trial does not exceed
12 60 and the number of testing trials to be conducted on-site is limited to four
13 or fewer trials per calendar year.

14 (aa) A cider business, as described in ORS 215.451.

15 (bb) A farm brewery, as described in ORS 215.449.

16 (2) In counties that have adopted marginal lands provisions under ORS
17 197.247 (1991 Edition), the following uses may be established in any area
18 zoned for exclusive farm use subject to ORS 215.296:

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

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

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

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

30 (A) Has produced at least \$20,000 in annual gross farm income in two
31 consecutive calendar years out of the three calendar years before the year

1 in which the application for the dwelling was made or is planted in peren-
2 nials capable of producing upon harvest an average of at least \$20,000 in
3 annual gross farm income; or

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

6 (c) Commercial activities that are in conjunction with farm use, including
7 the processing of farm crops into biofuel not permitted under ORS 215.203
8 (2)(b)(K) or 215.255.

9 (d) Operations conducted for:

10 (A) Mining and processing of geothermal resources as defined by ORS
11 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted
12 under subsection (1)(g) of this section;

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

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

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

18 (e) Community centers owned by a governmental agency or a nonprofit
19 community organization and operated primarily by and for residents of the
20 local rural community, hunting and fishing preserves, public and private
21 parks, playgrounds and campgrounds. Subject to the approval of the county
22 governing body or its designee, a private campground may provide yurts for
23 overnight camping. No more than one-third or a maximum of 10 campsites,
24 whichever is smaller, may include a yurt. The yurt shall be located on the
25 ground or on a wood floor with no permanent foundation. Upon request of
26 a county governing body, the Land Conservation and Development Commis-
27 sion may provide by rule for an increase in the number of yurts allowed on
28 all or a portion of the campgrounds in a county if the commission determines
29 that the increase will comply with the standards described in ORS 215.296
30 (1). A public park or campground may be established as provided under ORS
31 195.120. As used in this paragraph, "yurt" means a round, domed shelter of

1 cloth or canvas on a collapsible frame with no plumbing, sewage disposal
2 hookup or internal cooking appliance.

3 (f) Golf courses on land determined not to be high-value farmland as de-
4 fined in ORS 195.300.

5 (g) Commercial utility facilities for the purpose of generating power for
6 public use by sale. If the area zoned for exclusive farm use is high-value
7 farmland, a photovoltaic solar power generation facility may be established
8 as a commercial utility facility as provided in ORS 215.447. A renewable
9 energy facility as defined in ORS 215.446 may be established as a commercial
10 utility facility.

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

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

1 or contiguous land where the primary processing facility is located.

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

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

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

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

10 (m) The propagation, cultivation, maintenance and harvesting of aquatic
11 species that are not under the jurisdiction of the State Fish and Wildlife
12 Commission or insect species. Insect species shall not include any species
13 under quarantine by the State Department of Agriculture or the United
14 States Department of Agriculture. The county shall provide notice of all
15 applications under this paragraph to the State Department of Agriculture.
16 Notice shall be provided in accordance with the county's land use regu-
17 lations but shall be mailed at least 20 calendar days prior to any adminis-
18 trative decision or initial public hearing on the application.

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

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

21 (p) Construction of additional passing and travel lanes requiring the ac-
22 quisition of right of way but not resulting in the creation of new land par-
23 cels.

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

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

31 (s) A destination resort that is approved consistent with the requirements

1 of any statewide planning goal relating to the siting of a destination resort.

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

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

13 (A) "Living history museum" means a facility designed to depict and in-
14 terpret everyday life and culture of some specific historic period using au-
15 thentic buildings, tools, equipment and people to simulate past activities and
16 events; and

17 (B) "Local historical society" means the local historical society, recog-
18 nized as such by the county governing body and organized under ORS chap-
19 ter 65.

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

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

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

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

1 (z) Equine and equine-affiliated therapeutic and counseling activities,
2 provided:

3 (A) The activities are conducted in existing buildings that were lawfully
4 constructed on the property before January 1, 2019, or in new buildings that
5 are accessory, incidental and subordinate to the farm use on the tract; and

6 (B) All individuals conducting therapeutic or counseling activities are
7 acting within the proper scope of any licenses required by the state.

8 (aa) Child care facilities, preschool recorded programs or school-age re-
9 corded programs that are:

10 (A) Authorized under ORS 329A.250 to 329A.450;

11 (B) Primarily for the children of residents and workers of the rural area
12 in which the facility or program is located; and

13 (C) Colocated with a community center or a public or private school al-
14 lowed under this subsection.

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

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

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

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

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

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

11 (b) If the lot or parcel is located within the Willamette River Greenway,
12 a floodplain or a geological hazard area, the dwelling complies with condi-
13 tions imposed by local ordinances relating specifically to the Willamette
14 River Greenway, floodplains or geological hazard areas, whichever is appli-
15 cable; and

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

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

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

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

24 (6) The notice required in subsection (5) of this section shall specify that
25 persons have 15 days following the date of postmark of the notice to file a
26 written objection on the grounds only that the dwelling or activities associ-
27 ated with it would force a significant change in or significantly increase the
28 cost of accepted farming practices on nearby lands devoted to farm use. If
29 no objection is received, the governing body or its designee shall approve or
30 disapprove the application. If an objection is received, the governing body
31 shall set the matter for hearing in the manner prescribed in ORS 215.402 to

1 215.438. The governing body may charge the reasonable costs of the notice
2 required by subsection (5)(a) of this section to the applicant for the permit
3 requested under subsection (4) of this section.

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

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

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

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

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

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

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

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

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

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

30 (11) The following agri-tourism and other commercial events or activities
31 that are related to and supportive of agriculture may be established in any

1 area zoned for exclusive farm use:

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

7 (A) The agri-tourism or other commercial event or activity is incidental
8 and subordinate to existing farm use on the tract;

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

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

13 (D) The maximum number of motor vehicles parked at the site of the
14 agri-tourism or other commercial event or activity does not exceed 250 ve-
15 hicles;

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

18 (F) The agri-tourism or other commercial event or activity occurs out-
19 doors, in temporary structures, or in existing permitted structures, subject
20 to health and fire and life safety requirements; and

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

23 (i) Planned hours of operation;

24 (ii) Access, egress and parking;

25 (iii) A traffic management plan that identifies the projected number of
26 vehicles and any anticipated use of public roads; and

27 (iv) Sanitation and solid waste.

28 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
29 county may authorize, through an expedited, single-event license, a single
30 agri-tourism or other commercial event or activity on a tract in a calendar
31 year by an expedited, single-event license that is personal to the applicant

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

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

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

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

11 (D) May not include the artificial amplification of music or voices before
12 8 a.m. or after 8 p.m.;

13 (E) May not require or involve the construction or use of a new perma-
14 nent structure in connection with the agri-tourism or other commercial event
15 or activity;

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

18 (G) Must comply with applicable health and fire and life safety require-
19 ments.

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

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

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

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

1 (D) Must comply with ORS 215.296;

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

5 (F) Must comply with conditions established for:

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

10 (ii) The location of existing structures and the location of proposed tem-
11 porary structures to be used in connection with the agri-tourism or other
12 commercial events or activities;

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

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

17 (v) Sanitation and solid waste.

18 (d) In addition to paragraphs (a) to (c) of this subsection, a county may
19 authorize agri-tourism or other commercial events or activities that occur
20 more frequently or for a longer period or that do not otherwise comply with
21 paragraphs (a) to (c) of this subsection if the agri-tourism or other commer-
22 cial events or activities comply with any local standards that apply and the
23 agri-tourism or other commercial events or activities:

24 (A) Are incidental and subordinate to existing commercial farm use of the
25 tract and are necessary to support the commercial farm uses or the com-
26 mercial agricultural enterprises in the area;

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

29 (C) Occur on a lot or parcel that complies with the acknowledged mini-
30 mum lot or parcel size; and

31 (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)
2 of this section must request review of the permit at four-year intervals. Upon
3 receipt of a request for review, the county shall:

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

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

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

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

18 (b) The county may issue the limited use permits authorized by subsection
19 (11)(c) of this section for two calendar years. When considering an applica-
20 tion for renewal, the county shall ensure compliance with the provisions of
21 subsection (11)(c) of this section, any local standards that apply and condi-
22 tions that apply to the permit or to the agri-tourism or other commercial
23 events or activities authorized by the permit.

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

29 **SECTION 14.** ORS 215.283 is amended to read:

30 215.283. (1) The following uses may be established in any area zoned for
31 exclusive farm use:

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

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

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

8 (A) ORS 215.275; or

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

11 (d) A dwelling on real property used for farm use if the dwelling is oc-
12 cupied by a relative of the farm operator or the farm operator's spouse,
13 which means a child, parent, stepparent, grandchild, grandparent,
14 stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either,
15 if the farm operator does or will require the assistance of the relative in the
16 management of the farm use and the dwelling is located on the same lot or
17 parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to
18 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if
19 the owner of a dwelling described in this paragraph obtains construction fi-
20 nancing or other financing secured by the dwelling and the secured party
21 forecloses on the dwelling, the secured party may also foreclose on the
22 homesite, as defined in ORS 308A.250, and the foreclosure shall operate as
23 a partition of the homesite to create a new parcel.

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

26 (f) Operations for the exploration for and production of geothermal re-
27 sources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005,
28 including the placement and operation of compressors, separators and other
29 customary production equipment for an individual well adjacent to the
30 wellhead. Any activities or construction relating to such operations shall not
31 be a basis for an exception under ORS 197.732 (2)(a) or (b).

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

4 (h) Climbing and passing lanes within the right of way existing as of July
5 1, 1987.

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

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

13 (k) Minor betterment of existing public road and highway related facili-
14 ties such as maintenance yards, weigh stations and rest areas, within right
15 of way existing as of July 1, 1987, and contiguous public-owned property
16 utilized to support the operation and maintenance of public roads and high-
17 ways.

18 (L) A replacement dwelling to be used in conjunction with farm use if the
19 existing dwelling has been listed in a county inventory as historic property
20 as [*defined in ORS 358.480*] **described in ORS 358.487 (5)(b)**.

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

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

23 (o) Farm stands if:

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

31 (B) The farm stand does not include structures designed for occupancy

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

4 (p) Alteration, restoration or replacement of a lawfully established
5 dwelling, as described in ORS 215.291.

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

20 (r) A facility for the processing of farm products as described in ORS
21 215.255.

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

23 (t) Irrigation reservoirs, canals, delivery lines and those structures and
24 accessory operational facilities, not including parks or other recreational
25 structures and facilities, associated with a district as defined in ORS 540.505.

26 (u) Utility facility service lines. Utility facility service lines are utility
27 lines and accessory facilities or structures that end at the point where the
28 utility service is received by the customer and that are located on one or
29 more of the following:

30 (A) A public right of way;

31 (B) Land immediately adjacent to a public right of way, provided the

1 written consent of all adjacent property owners has been obtained; or

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

3 (v) Subject to the issuance of a license, permit or other approval by the
4 Department of Environmental Quality under ORS 454.695, 459.205, 468B.050,
5 468B.053 or 468B.055, or in compliance with rules adopted under ORS
6 468B.095, and as provided in ORS 215.246 to 215.251, the land application of
7 reclaimed water, agricultural or industrial process water or biosolids, or the
8 onsite treatment of septage prior to the land application of biosolids, for
9 agricultural, horticultural or silvicultural production, or for irrigation in
10 connection with a use allowed in an exclusive farm use zone under this
11 chapter. For the purposes of this paragraph, onsite treatment of septage prior
12 to the land application of biosolids is limited to treatment using treatment
13 facilities that are portable, temporary and transportable by truck trailer, as
14 defined in ORS 801.580, during a period of time within which land applica-
15 tion of biosolids is authorized under the license, permit or other approval.

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

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

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

25 (B) The number of dogs participating in a testing trial does not exceed
26 60 and the number of testing trials to be conducted on-site is limited to four
27 or fewer trials per calendar year.

28 (y) A cider business, as described in ORS 215.451.

29 (z) A farm brewery, as described in ORS 215.449.

30 (2) The following nonfarm uses may be established, subject to the ap-
31 proval of the governing body or its designee in any area zoned for exclusive

1 farm use subject to ORS 215.296:

2 (a) Commercial activities that are in conjunction with farm use, including
3 the processing of farm crops into biofuel not permitted under ORS 215.203
4 (2)(b)(K) or 215.255.

5 (b) Operations conducted for:

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

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

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

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

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

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

29 (e) Community centers owned by a governmental agency or a nonprofit
30 community organization and operated primarily by and for residents of the
31 local rural community. A community center authorized under this paragraph

1 may provide services to veterans, including but not limited to emergency and
2 transitional shelter, preparation and service of meals, vocational and educa-
3 tional counseling and referral to local, state or federal agencies providing
4 medical, mental health, disability income replacement and substance abuse
5 services, only in a facility that is in existence on January 1, 2006. The ser-
6 vices may not include direct delivery of medical, mental health, disability
7 income replacement or substance abuse services.

8 (f) Golf courses on land:

9 (A) Determined not to be high-value farmland, as defined in ORS 195.300
10 (10); or

11 (B) Determined to be high-value farmland described in ORS 195.300 (10)(c)
12 if the land:

13 (i) Is not otherwise described in ORS 195.300 (10);

14 (ii) Is surrounded on all sides by an approved golf course; and

15 (iii) Is west of U.S. Highway 101.

16 (g) Commercial utility facilities for the purpose of generating power for
17 public use by sale. If the area zoned for exclusive farm use is high-value
18 farmland, a photovoltaic solar power generation facility may be established
19 as a commercial utility facility as provided in ORS 215.447. A renewable
20 energy facility as defined in ORS 215.446 may be established as a commercial
21 utility facility.

22 (h) Personal-use airports for airplanes and helicopter pads, including as-
23 sociated hangar, maintenance and service facilities. A personal-use airport,
24 as used in this section, means an airstrip restricted, except for aircraft
25 emergencies, to use by the owner, and, on an infrequent and occasional basis,
26 by invited guests, and by commercial aviation activities in connection with
27 agricultural operations. No aircraft may be based on a personal-use airport
28 other than those owned or controlled by the owner of the airstrip. Ex-
29 ceptions to the activities permitted under this definition may be granted
30 through waiver action by the Oregon Department of Aviation in specific in-
31 stances. A personal-use airport lawfully existing as of September 13, 1975,

1 shall continue to be permitted subject to any applicable rules of the Oregon
2 Department of Aviation.

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

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

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

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

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

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

31 (B) Dog training classes or testing trials that cannot be established under

1 subsection (1)(x) of 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
4 species that are not under the jurisdiction of the State Fish and Wildlife
5 Commission or insect species. Insect species shall not include any species
6 under quarantine by the State Department of Agriculture or the United
7 States Department of Agriculture. The county shall provide notice of all
8 applications under this paragraph to the State Department of Agriculture.
9 Notice shall be provided in accordance with the county's land use regu-
10 lations but shall be mailed at least 20 calendar days prior to any adminis-
11 trative decision or initial public hearing on the application.

12 (q) Construction of additional passing and travel lanes requiring the ac-
13 quisition of right of way but not resulting in the creation of new land par-
14 cels.

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

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

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

24 (u) Room and board arrangements for a maximum of five unrelated per-
25 sons in existing residences.

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

27 (w) Expansion of existing county fairgrounds and activities directly re-
28 lating to county fairgrounds governed by county fair boards established
29 pursuant to ORS 565.210.

30 (x) A living history museum related to resource based activities owned
31 and operated by a governmental agency or a local historical society, together

1 with limited commercial activities and facilities that are directly related to
2 the use and enjoyment of the museum and located within authentic buildings
3 of the depicted historic period or the museum administration building, if
4 areas other than an exclusive farm use zone cannot accommodate the mu-
5 seum and related activities or if the museum administration buildings and
6 parking lot are located within one quarter mile of an urban growth bound-
7 ary. As used in this paragraph:

8 (A) "Living history museum" means a facility designed to depict and in-
9 terpret everyday life and culture of some specific historic period using au-
10 thentic buildings, tools, equipment and people to simulate past activities and
11 events; and

12 (B) "Local historical society" means the local historical society recog-
13 nized by the county governing body and organized under ORS chapter 65.

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

18 (z) A landscape contracting business, as defined in ORS 671.520, or a
19 business providing landscape architecture services, as described in ORS
20 671.318, if the business is pursued in conjunction with the growing and
21 marketing of nursery stock on the land that constitutes farm use.

22 (aa) Public or private schools for kindergarten through grade 12, includ-
23 ing all buildings essential to the operation of a school, primarily for resi-
24 dents of the rural area in which the school is located.

25 (bb) Equine and equine-affiliated therapeutic and counseling activities,
26 provided:

27 (A) The activities are conducted in existing buildings that were lawfully
28 constructed on the property before January 1, 2019, or in new buildings that
29 are accessory, incidental and subordinate to the farm use on the tract; and

30 (B) All individuals conducting therapeutic or counseling activities are
31 acting within the proper scope of any licenses required by the state.

1 (cc) Guest ranches in eastern Oregon, as described in ORS 215.461.

2 (dd) Child care facilities, preschool recorded programs or school-age re-
3 corded programs that are:

4 (A) Authorized under ORS 329A.250 to 329A.450;

5 (B) Primarily for the children of residents and workers of the rural area
6 in which the facility or program is located; and

7 (C) Colocated with a community center or a public or private school al-
8 lowed under this subsection.

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

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

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

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

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

27 (A) The agri-tourism or other commercial event or activity is incidental
28 and subordinate to existing farm use on the tract;

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

31 (C) The maximum attendance at the agri-tourism or other commercial

1 event or activity does not exceed 500 people;

2 (D) The maximum number of motor vehicles parked at the site of the
3 agri-tourism or other commercial event or activity does not exceed 250 ve-
4 hicles;

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

7 (F) The agri-tourism or other commercial event or activity occurs out-
8 doors, in temporary structures, or in existing permitted structures, subject
9 to health and fire and life safety requirements; and

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

12 (i) Planned hours of operation;

13 (ii) Access, egress and parking;

14 (iii) A traffic management plan that identifies the projected number of
15 vehicles and any anticipated use of public roads; and

16 (iv) Sanitation and solid waste.

17 (b) In the alternative to paragraphs (a) and (c) of this subsection, a
18 county may authorize, through an expedited, single-event license, a single
19 agri-tourism or other commercial event or activity on a tract in a calendar
20 year by an expedited, single-event license that is personal to the applicant
21 and is not transferred by, or transferable with, a conveyance of the tract. A
22 decision concerning an expedited, single-event license is not a land use de-
23 cision, as defined in ORS 197.015. To approve an expedited, single-event li-
24 cense, the governing body of a county or its designee must determine that
25 the proposed agri-tourism or other commercial event or activity meets any
26 local standards that apply, and the agri-tourism or other commercial event
27 or activity:

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

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

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

31 (D) May not include the artificial amplification of music or voices before

1 8 a.m. or after 8 p.m.;

2 (E) May not require or involve the construction or use of a new perma-
3 nent structure in connection with the agri-tourism or other commercial event
4 or activity;

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

7 (G) Must comply with applicable health and fire and life safety require-
8 ments.

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

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

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

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

21 (D) Must comply with ORS 215.296;

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

25 (F) Must comply with conditions established for:

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

30 (ii) The location of existing structures and the location of proposed tem-
31 porary structures to be used in connection with the agri-tourism or other

1 commercial events or activities;

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

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

6 (v) Sanitation and solid waste.

7 (d) In addition to paragraphs (a) to (c) of this subsection, a county may
8 authorize agri-tourism or other commercial events or activities that occur
9 more frequently or for a longer period or that do not otherwise comply with
10 paragraphs (a) to (c) of this subsection if the agri-tourism or other commer-
11 cial events or activities comply with any local standards that apply and the
12 agri-tourism or other commercial events or activities:

13 (A) Are incidental and subordinate to existing commercial farm use of the
14 tract and are necessary to support the commercial farm uses or the com-
15 mercial agricultural enterprises in the area;

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

18 (C) Occur on a lot or parcel that complies with the acknowledged mini-
19 mum lot or parcel size; and

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

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

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

26 (b) Limit its review to events and activities authorized by the permit,
27 conformance with conditions of approval required by the permit and the
28 standards established by subsection (4)(d) of this section.

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

30 (a) A county may authorize the use of temporary structures established
31 in connection with the agri-tourism or other commercial events or activities

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

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

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

18 **SECTION 15. Section 12 of this 2022 Act and the amendments to**
19 **ORS 358.480, 358.487, 358.495, 358.499, 358.500, 358.505, 358.515, 358.525,**
20 **358.540 and 358.543 by sections 1 to 10 of this 2022 Act apply to property**
21 **tax years beginning on July 1, 2022.**

22 **SECTION 16. This 2022 Act takes effect on the 91st day after the**
23 **date on which the 2022 regular session of the Eighty-first Legislative**
24 **Assembly adjourns sine die.**

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