

# Senate Bill 108

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## SUMMARY

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

Makes changes to program for property tax special assessment of historic property.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to historic property special assessment; creating new provisions; amending ORS 93.040,  
3 215.213, 215.283, 358.475, 358.480, 358.487, 358.490, 358.495, 358.499, 358.500, 358.505, 358.509,  
4 358.515, 358.525, 358.528, 358.543, 358.545 and 447.145; repealing ORS 358.511, 358.540 and  
5 358.541; and prescribing an effective date.

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

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

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

9 [(1) "*Americans with Disabilities Act*" means the *Americans with Disabilities Act of 1990 (P.L.*  
10 *101-336), as amended.*]

11 [(2) "*Certify*," "*certified*" and "*certification*" refer to the approval of historic property by the State  
12 *Historic Preservation Officer for classification and special assessment under ORS 358.495.*]

13 [(3) "*Classified*" and "*classification*" refer to the recognition of property by the State Historic  
14 *Preservation Officer as historic property as defined in this section.*]

15 [(4) "*Commercial building*" means improved property used in a trade or business or held for the  
16 *production of income, not including residential rental property.*]

17 **(1) "Commercial property" means improved real property that is used in a trade or**  
18 **business or held for the production of income.**

19 [(5) "*Condominium*" means, with respect to property submitted to the provisions of ORS 100.005 to  
20 *100.627:*]

21 [(a) *The land, if any, whether fee simple, leasehold, easement or other interest or combination*  
22 *thereof, and whether contiguous or noncontiguous;*]

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

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

25 [(6) "*Condominium unit*" means a part of the property:]

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

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

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

29 [(7) "*Condominium unit owner*" means, except to the extent the declaration or bylaws provide oth-  
30 *erwise, the person owning fee simple interest in a condominium unit, the holder of a vendee's interest*

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

1 *in a condominium unit under a recorded installment contract of sale or, in the case of a leasehold*  
 2 *condominium, the holder of the leasehold estate in a condominium unit.]*

3 [(8)] (2) “Contributing resource” means a building, site or structure that adds to the historic  
 4 significance of [a] **an** historic property or historic district.

5 (3) **“Date of application” means the date on which the State Historic Preservation Officer**  
 6 **determines under ORS 358.490 that an application for classification and special assessment**  
 7 **as historic property meets the requirements of ORS 358.487.**

8 [(9) “Developer” means, with respect to a condominium, a declarant who records a declaration  
 9 under ORS 100.100 or a supplemental declaration under ORS 100.110 or any person who purchases  
 10 an interest in a condominium from a declarant, successor declarant or subsequent developer for the  
 11 primary purpose of resale.]

12 [(10)] (4) “Governing body” means the city or county legislative body having jurisdiction over  
 13 the property that is the subject of an application for **certification and special assessment as his-**  
 14 **toric property** [*special assessment*] under ORS 358.487 to 358.543.

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

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

19 [(b) *Is currently not a contributing resource in a listed national register district or property but*  
 20 *that, in the opinion of the State Historic Preservation Officer, is eligible to become a contributing re-*  
 21 *source as a result of a proposed preservation plan; or]*

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

24 [(12)] (5) “Historic rehabilitation standards” means the United States Secretary of the Interior’s  
 25 Standards [*for Rehabilitation*] as in effect on [September 28, 2009] **the effective date of this 2021**  
 26 **Act.**

27 [(13)] (6) “Maintenance” means action taken to:

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

30 (b) Protect and repair the condition of the property with the least possible impact on the his-  
 31 toric character of the property.

32 [(14)] (7) “Owner” means a purchaser of real property under a recorded instrument of sale. In  
 33 the case of multiple purchasers, “owner” may [be] **include** a designee of the purchasers.

34 [(15)] (8)(a) “Preservation”[:]

35 [(a)] means the act or process of applying measures necessary to sustain the existing form, in-  
 36 tegrity and materials of an historic property, including but not limited to the ongoing maintenance  
 37 and repair of historic materials.

38 (b) **Preservation** does not include the extensive replacement of historic materials or new con-  
 39 struction.

40 [(16)] (9) “Preservation plan” means a written document, photographs and drawings that outline  
 41 the work of preservation, maintenance and rehabilitation:

42 (a) **That is** proposed for completion [*while*] **during the period for which** the property [*is re-*  
 43 *ceiving*] **is granted special assessment as** historic property [*special assessment*]; **or**

44 (b) **That was** completed not more than 24 months before the date of application [*for historic*  
 45 *property special assessment*].

1        [(17)] **(10)** “Rehabilitation” means the process of repairing or altering [a] **an** historic property  
 2 in order to return the property to a state of utility in which an efficient contemporary use is pos-  
 3 sible, while preserving those portions and features of the property that are significant to the his-  
 4 toric, architectural and cultural values of the property.

5        [(18)] **(11)** “Seismic improvement” means construction or other measures that improve the seis-  
 6 mic performance or structural stability of property or that reduce the potential for heavy structural  
 7 damage to property or harm to people in or adjacent to the property in the event of an earthquake.

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

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

12        358.487. (1) An owner of [*historic*] **commercial** property [*desiring*] **seeking** classification and  
 13 special assessment **as historic property** under ORS 358.487 to 358.543 for the property [*shall*] **must**  
 14 apply to the State Historic Preservation Officer on forms approved by the officer.

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

16        (a) A preservation plan [*as defined in ORS 358.480. The preservation plan must commit*] **that:**

17        **(A) Commits** the applicant to expend, within the first five years for which historic property  
 18 special assessment is granted, an amount not less than 10 percent of the historic property’s real  
 19 market value [*determined*] as of the [*assessment date for the first tax year to which the historic prop-*  
 20 *erty special assessment applies.*] **date of application;**

21        **(B)** [*The focus of the preservation plan must be*] **Focuses** on exterior features, especially those  
 22 visible from a public way, and **on** structural members of the property[.];

23        **(C) Meets the historic rehabilitation standards with respect to work proposed in the plan;**

24        **(D) May include** the treatment of significant interior features, as determined by the State His-  
 25 toric Preservation Officer[, *may also be included in the plan, but unless specifically required by the*  
 26 *officer, work in bathrooms, kitchens, basements and attics is not included in the preservation plan.*  
 27 *Work proposed in the plan must meet the historic rehabilitation standards.*]; **and**

28        **(E) May address compliance with the Americans with Disabilities Act of 1990 (P.L.**  
 29 **101-336), as amended, seismic improvements and improvements in energy and water conser-**  
 30 **vation.**

31        (b) [*Payment of*] An application fee [*equal to:*] **established by the State Historic Preservation**  
 32 **Officer by rule in an amount necessary to reimburse the officer for the actual costs of ad-**  
 33 **ministering ORS 358.480 to 358.545, excluding the cost of employee wages.**

34        [(A) *One-tenth of one percent of the assessed value of the property, as of the assessment date, for*  
 35 *the year in which application is made; or]*

36        [(B) *For property that does not have an assessed value, one-tenth of one percent of the product of*  
 37 *the real market value of the property for the tax year in which the application is made multiplied by*  
 38 *the ratio of the average maximum assessed value over the average real market value for that tax year*  
 39 *of property in the same area and property class.]*

40        (c) A copy of the property’s current **property** tax statement.

41        (d) Proof that the owner has property insurance on the property in an amount **at least** equal  
 42 to the [*replacement*] **assessed** value of the property **as of the date of application.**

43        (e) The written consent of the owner to the viewing of the property by the State Historic Pres-  
 44 ervation Officer.

45        (3) The application must be [*made*] **received** before April 1 of the assessment year for which

1 classification and special assessment as historic property are [*desired*] **sought**.

2 (4)(a) Property must **first** be classified as historic property in order to be [*certified for*] **special-**  
3 **assessed as** historic property [*special assessment*].

4 (b) [*Notwithstanding paragraph (a) of this subsection, property may be certified for historic prop-*  
5 *erty special assessment upon a determination of eligibility by the State Historic Preservation Officer*  
6 *under ORS 358.480 (11)(b) or (c). Property certified under this paragraph must become listed in the*  
7 *National Register of Historic Places within two years of certification under ORS 358.490.*] **Property**  
8 **may be classified as historic property only if the property:**

9 (A) **Is currently listed, either individually or as a contributing resource, in the National**  
10 **Register of Historic Places established and maintained under the National Historic Preser-**  
11 **vation Act of 1966 (P.L. 89-665); or**

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

14 (ii) **In the opinion of the State Historic Preservation Officer, is eligible to become a con-**  
15 **tributing resource as a result of a proposed preservation plan.**

16 (5) [*Classification and special assessment pursuant to an application made under this section are*  
17 *granted for 10 consecutive property tax years, starting in the tax year beginning on July 1 of the as-*  
18 *essment year described in subsection (3) of this section.*] **An owner of historic property seeking**  
19 **classification and special assessment for the property may reapply under this section 10**  
20 **years following the completion of a term of special assessment under a previous version, as**  
21 **described in ORS 358.499, of the program established under ORS 358.480 to 358.545.**

22 [(6)](6)(a) The application fee required under subsection (2) of this section **becomes**  
23 **nonrefundable after approval under ORS 358.490 of the application to which the fee relates.**

24 (b) **The application fee** shall be deposited in the State Parks and Recreation Department Fund  
25 for use by the State Parks and Recreation Director or for transfer to the Oregon Property Man-  
26 agement Account established under ORS 358.680 to 358.690[, *upon the advice of the State Advisory*  
27 *Committee on Historic Preservation. The application fee becomes nonrefundable after certification as*  
28 *described in ORS 358.495*].

29 **SECTION 3.** ORS 358.490 is amended to read:

30 358.490. (1)(a) After an application is [*submitted*] **filed** under ORS 358.487, the State Historic  
31 Preservation Officer:

32 (A) Shall [*first review the application to*] determine whether the application meets the require-  
33 ments of ORS 358.487; and

34 (B) May view the premises **of the property that is the subject of the application.**

35 (b) If the officer determines that the application does not meet the requirements of ORS 358.487,  
36 the officer shall [*return the application*] **provide the applicant** with [*an*] **a written** explanation for  
37 the [*nonacceptance*] **determination.**

38 (c) If the officer determines that the application [*is complete*] **meets the requirements of ORS**  
39 **358.487**, the officer shall mail or otherwise transmit copies of the application to the appropriate  
40 county assessor, local landmark commission and governing body.

41 (2) Within 30 days [*from*] **after** the date **on which** the State Historic Preservation Officer  
42 transmits the copy of the application under subsection (1)(c) of this section[.];

43 (a) The county assessor shall review the application for accuracy and completeness of de-  
44 scription and other matters within the expertise of the county assessor[,] and shall make recom-  
45 mendations regarding the validity and appropriateness of the application to the officer.

1        [(3) (b) *[Within 30 days from the date the State Historic Preservation officer transmits the copy*  
 2 *of the application under subsection (1) of this section,]* The governing body shall review the applica-  
 3 tion for matters relating to public benefit and shall make recommendations regarding the classi-  
 4 fication to the officer.

5        [(4) (3) During the review process of each application, the State Historic Preservation Officer  
 6 shall consider the county assessor's and governing body's recommendations submitted under [*sub-*  
 7 *sections (2) and (3)*] **subsection (2)** of this section.

8        [(5)(a) (4)(a) After [*receiving*] **considering the** recommendations from the county assessor and  
 9 governing body under [*subsections (2) and (3)*] **subsection (3)** of this section, the State Historic  
 10 Preservation Officer shall approve or deny the application or approve the application with condi-  
 11 tions.

12        (b) The officer may approve the application with respect to only part of the property that is the  
 13 subject of the application. However, if any part of the application is denied, the applicant may  
 14 withdraw the application.

15        (c) The officer may not [*disapprove the*] **deny an** application solely because of the potential loss  
 16 of revenue that might result from granting the [*application*] **special assessment**.

17        **(d) An application that has not been denied under paragraph (a) of this subsection on or**  
 18 **before July 1 of the assessment year is deemed approved.**

19        **(e) The approval of an application under this section has the effect of classifying the**  
 20 **property that is the subject of the application as historic property and granting the property**  
 21 **special assessment under ORS 358.487 to 358.543.**

22        [(6) (5) Property classified as historic property [*under ORS 358.487 to 358.543*] **and granted**  
 23 **special assessment under this section** is entitled to any other exemption or special assessment  
 24 provided by law **for which the property is eligible**.

25        [(7) (6) A preservation plan that has been approved by the State Historic Preservation Officer  
 26 may be amended from time to time, [*either*] at the request of the owner or [*at the request of the State*  
 27 *Historic Preservation*] **the** officer. The amendments may be approved, approved in part or [*disap-*  
 28 *proved*] **denied** by the [*State Historic Preservation*] officer. [*To the extent the*] **Any** amendments **that**  
 29 are approved[, *amendments shall*] become part of the preservation plan [*that must be carried out in*  
 30 *order that the property not be disqualified as historic property*] **and are subject to all applicable**  
 31 **requirements as if the amendments had been included in the original preservation plan.**

32        **SECTION 4.** ORS 358.495 is amended to read:

33        358.495. [(1)(a) (1) [*Immediately*] **As soon as practicable** following approval or [*disapproval*]  
 34 **denial** of an application under ORS 358.490, **but in no event later than July 1 of the property**  
 35 **tax year for which classification and special assessment as historic property are first sought,**  
 36 the State Historic Preservation Officer shall notify [*the county assessor,*] **in writing:**

37        **(a)** The governing body and the applicant of the decision [*in writing not later than July 1 of the*  
 38 *tax year for which classification and special assessment are first desired.*]; **and**

39        **(b) If the application is approved, the county assessor.**

40        [(b) *An application not denied on or before July 1 pursuant to paragraph (a) of this subsection is*  
 41 *deemed approved, and the property that is the subject of the application is historic property that qual-*  
 42 *ifies under ORS 358.487 to 358.543.*]

43        (2) [*If the State Historic Preservation officer determines that the historic property qualifies under*  
 44 *ORS 358.487 to 358.543, the officer shall,*] **For each application that is approved:**

45        **(a)** Not later than July 1 of the **first property** tax year for which the property **that is the**

1 **subject of the application** is *[first certified for]* **granted** historic property special assessment, **the**  
 2 **State Historic Preservation Officer shall:**

3 *[(a)]* **(A)** Notify the local landmark commission **in writing** that the property *[is certified.]* **has**  
 4 **been classified and granted special assessment as historic property;**

5 *[(b)]* **(B)** *[Certify the property's qualification in writing and]* **Create a written record that states**  
 6 **the facts and lists any condition on which the special assessment is based; and**

7 **(C)** *[File a copy of the certificate with the county assessor and the governing body. The certificate*  
 8 *shall state the facts and list any condition on which the approval is based.]* **Provide a written**  
 9 **statement to the county assessor and the governing body that the property has been classi-**  
 10 **fied and granted special assessment as historic property, and provide a copy of the written**  
 11 **statement to the owner of the historic property.**

12 *[(c)]* **(b)** **Within 90 days after providing the written statement under paragraph (a)(C) of**  
 13 **this subsection, the officer shall** record a notice with the county clerk in the county in which the  
 14 *[certified]* historic property is located stating that the property *[is certified for]* **has been classified**  
 15 **and granted special assessment as** historic property *[special assessment].*

16 *[(d)]* **(c)** **Within one year after receiving the copy of the written statement under para-**  
 17 **graph (a)(C) of this subsection,** *[provide the owner of the property with a plaque.]* the owner shall  
 18 install *[the]* a plaque on the **historic** property in a location that is visible from a public right of way.

19 **(3)** The county assessor shall assess *[historic property certified under this section on the basis*  
 20 *provided in]* **historic property granted special assessment under ORS 358.490 in accordance**  
 21 **with** ORS 358.505, and, **for each property tax year that** the historic property is *[classified and*  
 22 *assessed under ORS 358.505]* **specially assessed,** shall enter on the assessment and tax roll that the  
 23 property is being specially assessed as historic property, and is subject to potential additional taxes  
 24 as provided in ORS 358.525, by adding the notation "historic property (potential additional tax)."

25 **(4)** *[If the State Historic Preservation Officer determines that the property does not qualify for*  
 26 *classification and assessment under ORS 358.487 to 358.543]* **For each application that is denied,**  
 27 the State Historic Preservation Officer shall give written notice of the denial to the applicant. The  
 28 notice shall state the reasons for the denial.

29 *[(5)(a)]* **(5)** Any owner, governing body or county assessor *[affected]* **aggrieved** by a determi-  
 30 nation of the State Historic Preservation Officer made under ORS 358.487 to 358.543 may request  
 31 *[review of the determination:]* **a contested case hearing of the determination according to the**  
 32 **provisions of ORS chapter 183. The administrative law judge presiding at the contested case**  
 33 **hearing shall determine the final order in the case.**

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

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

36 *[(b)]* After the review described in paragraph (a) of this subsection, any party may request a con-  
 37 tested case hearing of the decision according to the provisions of ORS chapter 183. The administrative  
 38 law judge presiding at the contested case hearing shall determine the final order in the case.]

39 **SECTION 5.** ORS 358.499 is amended to read:

40 358.499. (1) Property first classified and specially assessed as historic property for a tax year  
 41 beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and re-  
 42 moved from special assessment as provided under ORS 358.487 to 358.543 as those sections were in  
 43 existence and in effect on December 31, 1992.

44 (2) Property may be classified and specially assessed **as historic property** under ORS 358.487  
 45 to 358.543 pursuant to **an** application filed under ORS 358.487 on or after September 9, 1995, and

1 first applicable for the **property** tax year 1996-1997 or any **property** tax year thereafter.

2 (3) Property may not be classified and specially assessed as **historic property** pursuant to an  
3 application filed under ORS [358.487 or] 358.540, [if the application is filed] **as in effect on the day**  
4 **that is immediately before the effective date of this 2021 Act**, on or after July 1, [2022] **2020**.

5 (4) **Property may not be classified and specially assessed as historic property pursuant**  
6 **to an application filed under ORS 358.487 on or after July 1, 2031.**

7 **SECTION 6.** ORS 358.500 is amended to read:

8 358.500. (1)(a) The owner of property [certified for special assessment as historic property under  
9 ORS 358.490] **classified and specially assessed as historic property under ORS 358.480 to**  
10 **358.545** shall submit written progress reports concerning the preservation plan to the State Historic  
11 Preservation Officer in a form, **on a schedule and including content** prescribed by the officer, on  
12 or before December 31 [of] **for the property tax years ending on June 30** of the third, sixth and  
13 ninth years of the **period for which the historic property** [special assessment period under ORS  
14 358.487 to 358.543] **is specially assessed.**

15 [(2)] (b) [In addition to the reports required under subsection (1) of this section, at the end of the  
16 first five years for which historic property special assessment is granted, the owner shall submit a re-  
17 port demonstrating] **The report for the sixth year required under this subsection must dem-**  
18 **onstrate** compliance with the expenditure commitment under the preservation plan as [described  
19 in] **required under** ORS 358.487 (2)(a).

20 (c) **All reports required under this subsection must demonstrate that all work meets the**  
21 **historic rehabilitation standards.**

22 [(3)(a)] (2)(a) The State Historic Preservation Officer is at all times authorized to demand and  
23 receive [reports] from owners of property classified and specially assessed as historic property [under  
24 ORS 358.487 to 358.543 as to] **reports demonstrating** the continued [qualification] **eligibility** of the  
25 [property for historic] property **for** classification and special assessment **as historic property.** [The  
26 content of reports and times for reporting under this subsection shall be determined by the officer.]

27 (b) If [the owner fails], after 30 days' written notice by mail, return receipt requested, **the owner**  
28 **fails** to comply with the officer's demand, the officer shall immediately notify the **county** assessor  
29 and the assessor shall [withdraw] **disqualify** the property [from] **for the** special assessment [and  
30 apply the penalties provided by ORS 358.525] **as provided in ORS 358.515 (1)(f).**

31 [(b)] (3) The State Historic Preservation Officer may conduct on-site inspections of historic  
32 property granted special assessment, with or without cause, upon 30 days' notice.

33 (4)(a) Before starting any work that is described in a preservation plan or that affects historic  
34 features of property [certified] **classified and specially assessed** as historic property [pursuant to  
35 this chapter] **under ORS 358.480 to 358.545**, the owner of the **historic** property must apply for and  
36 receive written approval:

37 [(A)] (a) From the [local] governing body if:

38 [(i)] (A) The governing body has [a] **an** historic preservation ordinance and review process that  
39 has been approved by the State Historic Preservation Officer and under which the historic property  
40 is already regulated;

41 [(ii)] (B) The proposed work requires historic review by the governing body's historic preserva-  
42 tion ordinance and review process; and

43 [(iii)] (C) The governing body has not requested that approval of work pursuant to this section  
44 be handled by the [State Historic Preservation] officer; or

45 [(B)] (b) If the conditions in [subparagraph (A)] **paragraph (a)** of this [paragraph] **subsection**

1 have not been met, from the [State Historic Preservation] officer.

2 [(b) All work must meet the historic rehabilitation standards.]

3 (5)(a) If the governing body's approval is required under subsection (4) of this section, the gov-  
 4 erning body shall:

5 (A) Notify the State Historic Preservation Officer of the proposed work[. *The governing body*  
 6 *shall*]; **and**

7 (B) Allow the officer at least 14 **calendar** days to comment on the proposed work before making  
 8 a decision on the application.

9 **(b) The governing body's approval is not valid if the officer is not given the opportunity**  
 10 **to comment as provided in paragraph (a)(B) of this subsection.**

11 **SECTION 7.** ORS 358.505 is amended to read:

12 358.505. (1)(a) Except as provided in [paragraphs (b) and (c)] **paragraph (b)** of this subsection,  
 13 for property [certified for] **granted** special assessment as historic property under ORS [358.490]  
 14 **358.480 to 358.545**, the county assessor shall [for 10 consecutive tax years] list on the assessment and  
 15 tax roll **for 10 consecutive property tax years** a specially assessed value that equals the assessed  
 16 value of the property [at the time] **as of the date of** application [was made under ORS 358.487].

17 (b) If the property [certified for] **granted** special assessment as historic property was **otherwise**  
 18 exempt or specially assessed [at the time the] **for purposes of ad valorem property taxation as**  
 19 **of the date of** application [was made], the county assessor shall [for 10 consecutive tax years] list  
 20 on the assessment and tax roll **for 10 consecutive property tax years** a specially assessed value  
 21 that equals the product of the real market value of the **historic** property for the **property** tax year  
 22 in which the application was [made] **received** multiplied by the ratio of the average maximum as-  
 23 sessed value over the average real market value for that **property** tax year of property in the same  
 24 area and property class.

25 **(c) For purposes of determining specially assessed value under this subsection, historic**  
 26 **property may not be reassessed as of a date that is later than the date of application.**

27 **(d) Work not included in the preservation plan required under ORS 358.487 (2)(a) may be**  
 28 **assessed separately.**

29 [(c) If the property certified for special assessment as historic property is a condominium unit being  
 30 assessed upon initial sale by the developer, the county assessor shall for the tax years of the remaining  
 31 term of historic property special assessment list on the assessment and tax roll a specially assessed  
 32 value that equals the product of the real market value of the property for the tax year in which the  
 33 initial sale took place multiplied by the ratio of the average maximum assessed value over the average  
 34 real market value for that tax year of property in the same area and property class.]

35 [(d) For property certified under ORS 358.490 for a second term of special assessment as historic  
 36 property under ORS 358.540, the county assessor shall, for 10 consecutive tax years after the date of  
 37 the filing of the application under ORS 358.487 for the second term, list on the assessment and tax roll  
 38 a specially assessed value that equals the real market value of the property for the assessment year in  
 39 which the application is made.]

40 (2)(a) [Notwithstanding ORS 308.149 (2),] For the first **property** tax year [of an initial or second  
 41 10-year period of] **for which** historic property **has been granted** special assessment, the maximum  
 42 assessed value of **the historic** property [subject to historic property special assessment] shall equal  
 43 the specially assessed value of the **historic** property **determined** under subsection (1) of this section  
 44 multiplied by the ratio, not greater than 1.00, of the maximum assessed value the **historic** property  
 45 would have had if the property were not specially assessed **as historic property** over the real



1 market value of the **historic** property.

2 (b) For each **property** tax year after the first **property** tax year during which the property is  
3 *[subject to special assessment]* **specialy assessed** as historic property, the **historic** property's max-  
4 imum assessed value equals 103 percent of the property's assessed value from the prior year or 100  
5 percent of the property's maximum assessed value from the prior year, whichever is greater.

6 (3) The assessed value of property that is *[classified as historic property for the]* **specialy as-**  
7 **essed as historic property for a property** tax year shall equal the least of:

8 (a) The **historic** property's specially assessed value as determined under subsection (1) of this  
9 section;

10 (b) The **historic** property's maximum assessed value as determined under subsection (2) of this  
11 section; or

12 (c) The **historic** property's real market value as of the assessment date for the **property** tax  
13 year.

14 (4) The *[entitlement]* **eligibility** of **historic** property *[to the]* **for** special assessment *[provisions*  
15 *of]* **under** this section shall be determined as of July 1. If the **historic** property becomes disqualified  
16 on or after July 1, its assessment for that **property tax** year shall continue as provided in this  
17 section.

18 (5) Assessed value, as defined and determined under ORS 308.146, shall be determined for prop-  
19 erty *[classified]* **specialy assessed** as historic property by the county assessor **for each property**  
20 **tax** year. The assessed value so determined for any **property tax** year shall be subject to appeal to  
21 the county board of property tax appeals within the time and in the manner provided in ORS chapter  
22 309 and shall be subject to appeal *[thereafter]* to the Oregon Tax Court and to the Oregon Supreme  
23 Court within the time and in the manner provided for appeals of value determination for purposes  
24 of ad valorem property taxation.

25 **SECTION 8.** ORS 358.509 is amended to read:

26 358.509. (1) **A county assessor, local landmark commission or governing body shall request**  
27 **the State Historic Preservation Officer to determine whether historic property that is lo-**  
28 **cated in their respective jurisdictions and classified and specialy assessed as historic prop-**  
29 **erty under ORS 358.480 to 358.545 continues to be eligible for classification and special**  
30 **assessment** if *[the county assessor, local landmark commission or governing body has]* **there is** rea-  
31 son to believe that **the historic** property *[classified as historic property]*:

32 (a) Is not being maintained, rehabilitated or preserved as required under:

33 (A) The preservation plan approved for the property, as amended[,]; or *[as required under]*

34 (B) Rules established by the Department of Revenue or the *[State Historic Preservation]*  
35 officer[,]; or

36 (b) **Is** otherwise no longer *[qualifies]* **eligible** for classification *[and]* **or** special assessment as  
37 historic property[, *the county assessor, local landmark commission or governing body shall request the*  
38 *State Historic Preservation Officer to determine if the property continues to qualify].*

39 (2) The request *[shall]* **must** be in writing and state the reasons why the *[continuing qualifica-*  
40 *tion is]* **classification or special assessment is being** questioned.

41 (3) Upon receipt of the request, the State Historic Preservation Officer may initiate a *[continuing*  
42 *qualification]* review **of the historic property's eligibility for the classification and special**  
43 **assessment.**

44 (4) If a review is initiated, the State Historic Preservation Officer or a designee of the officer  
45 shall inspect the **historic** property and may take whatever steps are necessary to determine *[if]*

1 **whether** the **historic** property continues to *[qualify]* **be eligible** for **the classification and** special  
2 assessment.

3 **(5) Within 60 days after receipt of a request under subsection (1) of this section**, the State  
4 Historic Preservation Officer shall notify the county assessor, **local landmark commission or**  
5 **governing body** of the determination made pursuant to the request *[within 60 days after the request*  
6 *is received]*.

7 **SECTION 9.** ORS 358.515 is amended to read:

8 358.515. (1) *[When]* Property **that** has *[once]* been classified and **specialy** assessed as historic  
9 property *[pursuant to application filed under ORS 358.487, it]* **under ORS 358.480 to 358.545** remains  
10 classified and *[is granted the special assessment provided by ORS 358.505]* **specialy assessed** until  
11 it *[becomes]* **is** disqualified for classification and special assessment by:

12 (a) Expiration of *[an initial or second]* **the** 10-year period of special assessment.

13 (b) Sale or transfer to a governmental or nonprofit entity that is exempt from **ad valorem**  
14 property taxation.

15 (c) *[The]* Destruction or *[substantial]* alteration *[of the property]* by acts of nature or other events  
16 for which the owner is not responsible.

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

18 *[(e)]* **(d)** Written notice by the *[taxpayer]* **owner** to the **county** assessor to *[remove]* **discontinue**  
19 the special assessment.

20 *[(f)]* **(e)** The owner's failure to:

21 **(A)** Maintain, preserve or rehabilitate the **historic** property *[or to];*

22 **(B)** Comply with the expenditure commitment *[in accordance with]* **under** the preservation plan  
23 **as required under ORS 358.487 (2)(a);** or

24 **(C) Comply with** the historic rehabilitation standards.

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

26 *[(h) Failure of the property to be listed in the National Register of Historic Places either individ-*  
27 *ually or as a contributing resource in a listed historic district or property within two years of certi-*  
28 *fication as required under ORS 358.487 (4)(b).]*

29 *[(i)]* **(g)** The owner's failure to obtain*[, or the lapse of,]* **or to maintain** the property insurance  
30 required under ORS 358.487 (2)(d).

31 *[(j)]* **(h)** The owner's demolition of the **historic** property.

32 *[(k)]* **(i)** The owner's *[substantial]* alteration of the **historic** property in a way that does not meet  
33 the historic rehabilitation standards.

34 **(j) The property ceases to be commercial property.**

35 *(2)[(a)]* When*[, for any reason,]* the **historic** property or any portion **of the property** ceases to  
36 *[qualify]* **be eligible for classification and special assessment** as historic property **for any**  
37 **reason**, the owner *[at the time of change]* shall notify the **county** assessor and the State Historic  
38 Preservation Officer of the change *[prior to]* **before** the next *[January 1]* assessment date.

39 *[(b)]* **(3)** The **State Historic Preservation** Officer *[makes]* **shall make the** final  
40 *[determinations]* **determination** of whether historic property is disqualified for special assessment  
41 under ORS 358.487 to 358.543.

42 *[(3)]* **(4)** Except *[as provided by]* **in the circumstances described in** subsection (1)(a) of this  
43 section, disqualification does not constitute completion of a 10-year period of special assessment  
44 *[certified under ORS 358.490]* **under ORS 358.480 to 358.545** or preclude *[a]* property's future special  
45 assessment under ORS 358.487 to 358.543.

1        [(4) *The State Historic Preservation Officer shall notify the owner in writing before July 1 of the*  
 2 *10th and final year for which property is certified for special assessment under ORS 358.490 that the*  
 3 *special assessment is due to expire and shall outline the options available to the owner upon disquali-*  
 4 *fication upon expiration of an initial or second 10-year period of special assessment, as applicable.*]

5        (5) Upon expiration [of an initial or second] **under subsection (1)(a) of this section of a** 10-year  
 6 period of special assessment, the State Historic Preservation Officer shall notify the owner, the  
 7 governing body and the county assessor that the term has expired.

8        **SECTION 10.** ORS 358.525 is amended to read:

9        358.525. (1) Except as provided in subsection (4) of this section, whenever property that has  
 10 [received special assessment] **been specially assessed** as historic property under ORS 358.487 to  
 11 358.543 [becomes] **is** disqualified for **special** assessment as provided in ORS 358.515, there [is] **shall**  
 12 **be** added to the tax extended against the property on the next general property tax roll, to be col-  
 13 lected and distributed in the same manner as the remainder of [real property tax] **the ad valorem**  
 14 **property taxes:**

15        (a) Additional taxes equal to the difference, **as of January 1 of the assessment year in which**  
 16 **the property was disqualified for special assessment,** between the taxes assessed against the  
 17 property and the taxes that would [otherwise] have been assessed against the property **had the**  
 18 **property not been specially assessed as historic property under ORS 358.480 to 358.545,** for  
 19 each of the [last 10] **property tax** years [(or a lesser number of years corresponding to the years of  
 20 *assessment as historic property applicable to the property) as of January 1 of the assessment year for*  
 21 *which the property was disqualified for special assessment] **for which the historic property was***  
 22 **actually specially assessed;**

23        (b) An amount equal to the sum of the interest, **as computed under ORS 311.505,** on each  
 24 year's additional taxes [computed under ORS 311.505], from November 15 of the **first property** tax  
 25 year for which [back] **additional** taxes are being added to July 1 of the **property** tax year of dis-  
 26 qualification; and

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

29        (2) Whenever property that has [received special assessment] **been specially assessed** as historic  
 30 property [under ORS 358.505 becomes] **is** disqualified for **the special** assessment and the notice re-  
 31 quired [by] **under** ORS 358.515 (2) [is not] **has not been** given, the **county** assessor shall:

32        (a) Determine the date [that] **on which** the notice should have been given[, shall];

33        (b) Notify the owner [thereof] **of the failure to give notice and the date of delinquency;**  
 34 and[.]

35        (c) Notwithstanding ORS 311.235, [there shall be added] **add** to the tax extended against the  
 36 property on the next general property tax roll, to be collected and distributed in the same manner  
 37 as the remainder of the [real property tax] **ad valorem property taxes,** in full payment of all taxes  
 38 and penalties accruing from the disqualification, the sum of the following:

39        [(a)] (A) Additional taxes equal to the difference between the [total amount of taxes that would  
 40 have been due on] **taxes assessed against** the **historic** property [for each year, not to exceed the last  
 41 10 years, in which special assessment under ORS 358.505 was in effect for the property (even though  
 42 *erroneously)] and the taxes that would have been [due had special assessment not been in effect] **as-***  
 43 **essed against the property had the property not been specially assessed as historic property,**  
 44 **for each of the property tax years for which the historic property was actually specially as-**  
 45 **essed;**

1        [(b)] **(B)** An amount equal to the sum of the interest, **as computed under ORS 311.505**, on each  
 2 year's additional taxes [*computed under ORS 311.505*], from November 15 of the **first property** tax  
 3 year for which additional taxes are being added to July 1 of the **property** tax year of disqualifica-  
 4 tion; and

5        [(c)] **(C)** [*An additional*] A penalty **in the amount** of 15 percent of the amount [*in*] **computed**  
 6 **under** paragraph [(a)] **(c)** of this subsection.

7        (3) [*Prior to adding*] **For property disqualified under ORS 358.515 (1)(e) to (j), the county**  
 8 **assessor shall notify the owner of the property by mail, return receipt requested, of the**  
 9 **disqualification before adding any additional amount imposed under subsection (1) or (2) of**  
 10 **this section** to the tax extended against the property on the next general property tax roll [*any*  
 11 *additional amount imposed by subsection (1) or (2) of this section, in the case of disqualification pur-*  
 12 *suant to ORS 358.515 (1)(f) to (k), the assessor shall notify the owner of the property by mail, return*  
 13 *receipt requested, of the disqualification*].

14        (4) Additional [*tax or penalty*] **taxes, interest and penalties** may not be imposed under sub-  
 15 section (1) or (2) of this section in the case of property disqualified [*pursuant to*] **under:**

16        (a) ORS 358.515 (1)(a), (b)[, (c) or (d)] **or (c)**; or

17        (b) ORS 358.515 [(1)(e)] **(1)(d)** if the written notice is accompanied by proof that the owner has  
 18 complied with the expenditure commitment under the preservation plan as [*described in*] **required**  
 19 **under** ORS 358.487 (2)(a).

20        (5) The amount determined to be due under subsection (1) or (2) of this section may be paid to  
 21 the tax collector prior to the completion of the next general property tax roll, pursuant to ORS  
 22 311.370.

23        (6) Additional taxes collected under this section shall be deemed to have been imposed in the  
 24 **property tax** year to which the additional taxes relate.

25        **SECTION 11.** ORS 358.528 is amended to read:

26        358.528. When any property has been classified and specially assessed as historic property under  
 27 ORS 358.487 to 358.543 and the owner or [*other qualified person*] **the owner's legal representative**  
 28 applies for a change in the classification under another special assessment program, the applicant  
 29 shall have 30 **calendar** days [*thereafter*] **following the filing of the application** within which to  
 30 withdraw the application, by giving written notice to the public official or agency to whom the ap-  
 31 plicant applied for the change in classification. If no notice of withdrawal is given by the applicant,  
 32 the application shall be acted upon and the change in classification made, as otherwise provided by  
 33 law.

34        **SECTION 12.** ORS 358.543 is amended to read:

35        358.543. [(1)(a)] **(1)** The value of new construction or additions to [*historic properties certified for*  
 36 *special assessment*] **property classified and specially assessed as historic property** under ORS  
 37 358.487 to 358.543 [*is*] **shall be** assessed in the same manner as the original historic property under  
 38 ORS 358.505 if the [*additions or*] **new construction or additions:**

39        [(A)] **(a)** Were included in the preservation plan approved [*pursuant to*] **under** ORS [*358.540*]  
 40 **358.490**; and

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

42        [(b)] **(2)** Notwithstanding [*paragraph (a) of this*] subsection **(1) of this section**, [*additions or*] new  
 43 construction **or additions** [*are not assessed under ORS 358.505*] **may not be specially assessed as**  
 44 **historic property** if the [*local*] governing body or the State Historic Preservation Officer, in ac-  
 45 cordance with ORS 358.500 (4), determines that the **new construction or** additions [*or*

1 *improvements*] are[.] **independent structures as determined by use or ownership.**

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

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

4 [(C) *independent structures as determined by use or ownership.*]

5 [(c) (3) If [*additions or*] new construction **or additions** described in [*paragraph (b)*] **subsection**  
6 **(2) of this section** are disqualified for any reason listed in ORS 358.515 (1), the entire property may  
7 be disqualified for historic property special assessment.

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

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

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

16 [(b) *Initial sale of a condominium unit by the developer disqualifies the unit within the meaning*  
17 *of section 11 (1)(c)(E), Article XI of the Oregon Constitution.*]

18 [(c) *Upon disqualification due to initial sale, the condominium unit is requalified without further*  
19 *application for the remaining term of the current 10-year period of historic property special*  
20 *assessment.*]

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

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

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

28 **SECTION 13.** ORS 358.545 is amended to read:

29 358.545. The Director of the Department of Revenue and the State Historic Preservation Officer  
30 shall adopt rules within their areas of expertise as necessary to carry out the purposes of [*special*  
31 *assessment under*] ORS 358.487 to 358.543.

32 **SECTION 14.** ORS 358.475 is amended to read:

33 358.475. The Legislative Assembly hereby declares that it is in the best interest of the state to  
34 maintain, preserve and rehabilitate properties of Oregon historical significance. Historic preserva-  
35 tion incentive programs provide a public benefit by encouraging preservation and appropriate reha-  
36 bilitation of significant historic properties. These historically significant portions of the built  
37 environment contain the visual and intellectual record of our irreplaceable cultural heritage. They  
38 link us with our past traditions and values, establish standards and perspectives for measuring our  
39 present achievements and set goals for future accomplishments. To the extent that Oregon's historic  
40 preservation incentive programs encourage the preservation and appropriate rehabilitation of sig-  
41 nificant historical property, the programs create a positive partnership between the public good and  
42 private property that promotes economic development; tourism; energy and resource conservation;  
43 [*sustainability*]; neighborhood, downtown and rural revitalization; efficient use of public  
44 infrastructure; and civic pride in our shared historical and cultural foundations.

45 **SECTION 15.** ORS 93.040 is amended to read:

1       93.040. (1) The following statement shall be included in the body of an instrument transferring  
2 or contracting to transfer fee title to real property except for owner's sale agreements or earnest  
3 money receipts, or both, as provided in subsection (2) of this section: "BEFORE SIGNING OR AC-  
4 CEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE  
5 ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336  
6 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17,  
7 CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.  
8 THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS IN-  
9 STRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE  
10 SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE  
11 PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DE-  
12 PARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY  
13 ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE  
14 APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS  
15 AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE  
16 ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300,  
17 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007,  
18 SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7,  
19 CHAPTER 8, OREGON LAWS 2010."

20       (2) In all owner's sale agreements and earnest money receipts, there shall be included in the  
21 body of the instrument the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRU-  
22 MENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.  
23 THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR  
24 FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND  
25 THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS  
26 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON  
27 TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY,  
28 UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424,  
29 OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND  
30 SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS  
31 INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK  
32 WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT  
33 THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PAR-  
34 CEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT  
35 OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND  
36 TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER  
37 ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON  
38 LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS  
39 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

40       (3) In all owners' sale agreements and earnest money receipts **related to property** subject to  
41 ORS 358.505, there shall be included in the body of the instrument or by addendum the following  
42 statement: "THE PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL  
43 ASSESSMENT UNDER ORS 358.505."

44       (4) An action may not be maintained against the county recording officer for recording an in-  
45 strument that does not contain the statement required in subsection (1) or (2) of this section.

1 (5) An action may not be maintained against any person for failure to include in the instrument  
2 the statement required in subsection (1) or (2) of this section, or for recording an instrument that  
3 does not contain the statement required in subsection (1) or (2) of this section, unless the person  
4 acquiring or agreeing to acquire fee title to the real property would not have executed or accepted  
5 the instrument but for the absence in the instrument of the statement required by subsection (1) or  
6 (2) of this section. An action may not be maintained by the person acquiring or agreeing to acquire  
7 fee title to the real property against any person other than the person transferring or contracting  
8 to transfer fee title to the real property.

9 (6) A transfer of death deed and an instrument revoking a transfer of death deed are not in-  
10 struments subject to this section.

11 **SECTION 16.** ORS 215.213 is amended to read:

12 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
13 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

20 (A) ORS 215.275; or

21 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and  
22 469.300.

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

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

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

38 (g) Operations for the exploration for and production of geothermal resources as defined by ORS  
39 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
40 compressors, separators and other customary production equipment for an individual well adjacent  
41 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
42 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

20 (n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has  
21 been listed in a county inventory as historic property as *[defined in ORS 358.480]* **described in ORS**  
22 **358.487 (4)(b)**.

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

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

25 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
26 215.291.

27 (r) Farm stands if:

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

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

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

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



1 for the property. An operator may charge users of the property a fee that does not exceed the  
2 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model  
3 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
4 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
5 ground.

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

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

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

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

14 (A) A public right of way;

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

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

18 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
19 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
20 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
21 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of  
22 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-  
23 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this  
24 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application  
25 of biosolids is limited to treatment using treatment facilities that are portable, temporary and  
26 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land  
27 application of biosolids is authorized under the license, permit or other approval.

28 (z) Dog training classes or testing trials, which may be conducted outdoors or in farm buildings  
29 in existence on January 1, 2019, when:

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

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

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

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

36 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
37 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
38 215.296:

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

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

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

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

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

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

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

12 (d) Operations conducted for:

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

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

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

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

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

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

33 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the  
34 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-  
35 cility may be established as a commercial utility facility as provided in ORS 215.447. A renewable  
36 energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing

1 body shall notify:

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

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

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

15 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
16 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

45 (B) The duration of the agri-tourism or other commercial event or activity does not exceed 72

- 1 consecutive hours;
- 2 (C) The maximum attendance at the agri-tourism or other commercial event or activity does not  
3 exceed 500 people;
- 4 (D) The maximum number of motor vehicles parked at the site of the agri-tourism or other  
5 commercial event or activity does not exceed 250 vehicles;
- 6 (E) The agri-tourism or other commercial event or activity complies with ORS 215.296;
- 7 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary  
8 structures, or in existing permitted structures, subject to health and fire and life safety require-  
9 ments; and
- 10 (G) The agri-tourism or other commercial event or activity complies with conditions established  
11 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 vehicles and any antic-  
15 ipated 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 county may authorize,  
18 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-  
19 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-  
20 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision  
21 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.  
22 To approve an expedited, single-event license, the governing body of a county or its designee must  
23 determine that the proposed agri-tourism or other commercial event or activity meets any local  
24 standards that apply, and the agri-tourism or other commercial event or activity:
- 25 (A) Must be incidental and subordinate to existing farm use on the tract;
- 26 (B) May not begin before 6 a.m. or end after 10 p.m.;
- 27 (C) May not involve more than 100 attendees or 50 vehicles;
- 28 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 29 (E) May not require or involve the construction or use of a new permanent structure in con-  
30 nection with the agri-tourism or other commercial event or activity;
- 31 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining  
32 properties consent, in writing, to the location; and
- 33 (G) Must comply with applicable health and fire and life safety requirements.
- 34 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to  
35 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited  
36 use permit that is personal to the applicant and is not transferred by, or transferable with, a  
37 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any  
38 local standards that apply, and the agri-tourism or other commercial events or activities:
- 39 (A) Must be incidental and subordinate to existing farm use on the tract;
- 40 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 41 (C) May not require that a new permanent structure be built, used or occupied in connection  
42 with the agri-tourism or other commercial events or activities;
- 43 (D) Must comply with ORS 215.296;
- 44 (E) May not, in combination with other agri-tourism or other commercial events or activities  
45 authorized in the area, materially alter the stability of the land use pattern in the area; and

1 (F) Must comply with conditions established for:

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

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

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

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

11 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

1 events and activities.

2 **SECTION 17.** ORS 215.283 is amended to read:

3 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

6 (c) Utility facilities necessary for public service, including wetland waste treatment systems but  
7 not including commercial facilities for the purpose of generating electrical power for public use by  
8 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
9 may 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 ORS 215.274 and  
12 469.300.

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

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

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

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

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

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

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

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

44 (L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has  
45 been listed in a county inventory as historic property as *[defined in ORS 358.480]* **described in ORS**



1 **358.487 (4)(b).**

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

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

4 (o) Farm stands if:

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

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

14 (p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
15 215.291.

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

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

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

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

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

35 (A) A public right of way;

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

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

39 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
40 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
41 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
42 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of  
43 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-  
44 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this  
45 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application

1 of biosolids is limited to treatment using treatment facilities that are portable, temporary and  
2 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land  
3 application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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

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

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

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

19 (b) Operations conducted for:

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

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

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

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

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

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

38 (e) Community centers owned by a governmental agency or a nonprofit community organization  
39 and operated primarily by and for residents of the local rural community. A community center au-  
40 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
41 gency and transitional shelter, preparation and service of meals, vocational and educational  
42 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
43 income replacement and substance abuse services, only in a facility that is in existence on January  
44 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
45 replacement or substance abuse services.

- 1 (f) Golf courses on land:
- 2 (A) Determined not to be high-value farmland, as defined in ORS 195.300 (10); or
- 3 (B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:
- 4 (i) Is not otherwise described in ORS 195.300 (10);
- 5 (ii) Is surrounded on all sides by an approved golf course; and
- 6 (iii) Is west of U.S. Highway 101.
- 7 (g) Commercial utility facilities for the purpose of generating power for public use by sale. If the
- 8 area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation fa-
- 9 cility may be established as a commercial utility facility as provided in ORS 215.447. A renewable
- 10 energy facility as defined in ORS 215.446 may be established as a commercial utility facility.
- 11 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
- 12 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
- 13 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
- 14 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
- 15 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
- 16 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
- 17 granted through waiver action by the Oregon Department of Aviation in specific instances. A
- 18 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
- 19 ject to any applicable rules of the Oregon Department of Aviation.
- 20 (i) Home occupations as provided in ORS 215.448.
- 21 (j) A facility for the primary processing of forest products, provided that such facility is found
- 22 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
- 23 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
- 24 renewable. These facilities are intended to be only portable or temporary in nature. The primary
- 25 processing of a forest product, as used in this section, means the use of a portable chipper or stud
- 26 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
- 27 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
- 28 contiguous land where the primary processing facility is located.
- 29 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
- 30 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
- 31 mental Quality together with equipment, facilities or buildings necessary for its operation.
- 32 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
- 33 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
- 34 hardship suffered by the existing resident or a relative of the resident. Within three months of the
- 35 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
- 36 ished or, in the case of an existing building, the building shall be removed, demolished or returned
- 37 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
- 38 view of the hardship claimed under this paragraph. A temporary residence approved under this
- 39 paragraph is not eligible for replacement under subsection (1)(p) of this section.
- 40 (m) Transmission towers over 200 feet in height.
- 41 (n)(A) Commercial dog boarding kennels; or
- 42 (B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of
- 43 this section.
- 44 (o) Residential homes as defined in ORS 197.660, in existing dwellings.
- 45 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (B) All individuals conducting therapeutic or counseling activities are acting within the proper

1 scope of any licenses required by the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (i) Planned hours of operation;

31 (ii) Access, egress and parking;

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

34 (iv) Sanitation and solid waste.

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

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

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

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

- 1 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 2 (E) May not require or involve the construction or use of a new permanent structure in con-
- 3 nection with the agri-tourism or other commercial event or activity;
- 4 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
- 5 properties consent, in writing, to the location; and
- 6 (G) Must comply with applicable health and fire and life safety requirements.
- 7 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
- 8 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
- 9 use permit that is personal to the applicant and is not transferred by, or transferable with, a
- 10 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
- 11 local standards that apply, and the agri-tourism or other commercial events or activities:
- 12 (A) Must be incidental and subordinate to existing farm use on the tract;
- 13 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 14 (C) May not require that a new permanent structure be built, used or occupied in connection
- 15 with the agri-tourism or other commercial events or activities;
- 16 (D) Must comply with ORS 215.296;
- 17 (E) May not, in combination with other agri-tourism or other commercial events or activities
- 18 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 19 (F) Must comply with conditions established for:
- 20 (i) The types of agri-tourism or other commercial events or activities that are authorized during
- 21 each calendar year, including the number and duration of the agri-tourism or other commercial
- 22 events and activities, the anticipated daily attendance and the hours of operation;
- 23 (ii) The location of existing structures and the location of proposed temporary structures to be
- 24 used in connection with the agri-tourism or other commercial events or activities;
- 25 (iii) The location of access and egress and parking facilities to be used in connection with the
- 26 agri-tourism or other commercial events or activities;
- 27 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
- 28 public roads; and
- 29 (v) Sanitation and solid waste.
- 30 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
- 31 or other commercial events or activities that occur more frequently or for a longer period or that
- 32 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
- 33 commercial events or activities comply with any local standards that apply and the agri-tourism or
- 34 other commercial events or activities:
- 35 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
- 36 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;
- 37 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
- 38 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
- 39 and
- 40 (D) Do not exceed 18 events or activities in a calendar year.
- 41 (5) A holder of a permit authorized by a county under subsection (4)(d) of this section must re-
- 42 quest review of the permit at four-year intervals. Upon receipt of a request for review, the county
- 43 shall:
- 44 (a) Provide public notice and an opportunity for public comment as part of the review process;
- 45 and

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

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

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

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

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

20 **SECTION 18.** ORS 447.145 is amended to read:

21 447.145. (1) All new fixtures approved for installation during construction, reconstruction, al-  
22 teration and repair of buildings and other structures under ORS 447.020 shall comply with rules  
23 adopted by the Director of the Department of Consumer and Business Services. The rules shall be  
24 consistent with performance requirements and test procedures established by the American National  
25 Standards Institute, or other equivalent recognized North American standards and procedures. Ex-  
26 cept for used fixtures allowed under subsection (4) of this section, the average amount of water used  
27 by new or replacement fixtures under the applicable test procedures shall not exceed:

- 28 (a) 1.6 gallons or 6.06 liters per flush for toilets;  
29 (b) 1.0 gallons or 3.785 liters per flush for urinals;  
30 (c) 2.5 gallons or 9.46 liters per minute for shower heads; and  
31 (d) 2.5 gallons or 9.46 liters per minute for interior faucets.

32 (2) Notwithstanding subsection (1) of this section, the director by rule shall provide for ex-  
33 emptions to the requirements under subsection (1) of this section if:

34 (a) The reconstruction, alteration or repair of a building does not include the installation of new  
35 or replacement toilets or urinals, shower heads or faucets within the building;

36 (b) Due to the capacity, design or installation of the plumbing or sewage system within an ex-  
37 isting building, toilets or urinals required by subsection (1) of this section would, if installed in the  
38 building, be unable to meet the performance requirements of the American National Standards In-  
39 stitute or other equivalent recognized North American standards as adopted by rule;

40 (c) The fixtures and fittings necessary to perform a specialized function, including but not lim-  
41 ited to emergency showers and aspirator faucets, cannot meet the requirements;

42 (d) The installation of fixtures that do not comply with subsection (1) of this section is necessary  
43 to maintain the historic character of a structure [*listed*] **classified as historic property** under ORS  
44 358.480 to 358.545; or

45 (e) The fixtures and fittings to be installed are specifically designed to withstand unusual abuse

1 or installation in a penal institution or are located in an area with special needs, such as a labo-  
2 ratory, hospital, nursing home or other health care facility.

3 (3) No person shall sell or offer for sale any new toilet, urinal, shower head or faucet that has  
4 not been approved under ORS 447.020.

5 (4) On or after December 31, 1995, no person shall sell or offer for sale any used toilet, urinal,  
6 shower head or interior faucet that does not meet the conservation standards established in sub-  
7 section (1) of this section.

8 (5) The director shall adopt rules and regulations for marking, labeling or otherwise identifying  
9 fixtures that meet the standards of this section.

10 **SECTION 19. ORS 358.511, 358.540 and 358.541 are repealed.**

11 **SECTION 20. ORS 358.480, 358.499 and 358.545 are added to and made a part of ORS  
12 358.487 to 358.543.**

13 **SECTION 21. The amendments to ORS 93.040, 215.213, 215.283, 358.475, 358.480, 358.487,  
14 358.490, 358.495, 358.499, 358.500, 358.505, 358.509, 358.515, 358.525, 358.528, 358.543, 358.545 and  
15 447.145 by sections 1 to 18 of this 2021 Act and the repeal of ORS 358.511, 358.540 and 358.541  
16 by section 19 of this 2021 Act apply to applications for classification and special assessment  
17 under ORS 358.480 to 358.543 filed on or after the effective date of this 2021 Act for property  
18 tax years beginning on or after July 1, 2021.**

19 **SECTION 22. Nothing in the amendments to ORS 93.040, 215.213, 215.283, 358.475, 358.480,  
20 358.487, 358.490, 358.495, 358.499, 358.500, 358.505, 358.509, 358.515, 358.525, 358.528, 358.543,  
21 358.545 and 447.145 by sections 1 to 18 of this 2021 Act and the repeal of ORS 358.511, 358.540  
22 and 358.541 by section 19 of this 2021 Act affects the classification of property as historic  
23 property under ORS 358.480 to 358.543 before the effective date of this 2021 Act. Such prop-  
24 erty may continue to receive special assessment under ORS 358.480 to 358.545 until the  
25 completion of the term of special assessment under ORS 358.480 to 358.545 as in effect on the  
26 day before the effective date of this 2021 Act.**

27 **SECTION 23. This 2021 Act takes effect on the 91st day after the date on which the 2021  
28 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

29