

# House Bill 4054

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Bobby Levy, Representative Andrea Valderrama)

## 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**.

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

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 [(7) "*Condominium unit owner*" means, except to the extent the declaration or bylaws provide oth-

**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.

erwise, the person owning fee simple interest in a condominium unit, the holder of a vendee's interest in a condominium unit under a recorded installment contract of sale or, in the case of a leasehold condominium, the holder of the leasehold estate in a condominium unit.]

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

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

[(10)] (4) "Governing body" means the city or county legislative body having jurisdiction over the property that is the subject of an application for **classification and special assessment as** historic property [special assessment] under ORS 358.487 to 358.543.

[(11)] "Historic property" means real property that:

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

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

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

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

[(13)] (6) "Maintenance" means action taken to:

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

(b) Protect and repair the condition of the property with the least possible impact on the historic character of the property.

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

[(15)] (8)(a) "Preservation"[:]

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

(b) "**Preservation**" does not include the extensive replacement of historic materials or new construction.

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

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

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

[(17)] (10) "Rehabilitation" means:

(a) The process of repairing or altering [a] **an** historic property in order to return the property

1 to a state of utility in which an efficient contemporary use is possible, while preserving those  
 2 portions and features of the property that are significant to the historic, architectural and cultural  
 3 values of the property[.]; **or**

4 **(b) Structural modernization.**

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

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

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

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

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

18 (a) A preservation plan [*as defined in ORS 358.480*] **that meets the requirements of sub-**  
 19 **section (3) of this section.** [*The preservation plan must commit the applicant to expend, within the*  
 20 *first five years for which historic property special assessment is granted, an amount not less than 10*  
 21 *percent of the historic property’s real market value determined as of the assessment date for the first*  
 22 *tax year to which the historic property special assessment applies. The focus of the preservation plan*  
 23 *must be on exterior features, especially those visible from a public way, and structural members of the*  
 24 *property. The treatment of significant interior features, as determined by the State Historic Preservation*  
 25 *Officer, may also be included in the plan, but unless specifically required by the officer, work in*  
 26 *bathrooms, kitchens, basements and attics is not included in the preservation plan. Work proposed in*  
 27 *the plan must meet the historic rehabilitation standards.]*

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

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

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

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

36 (d) Proof that the owner has property insurance on the property in an amount equal to the re-  
 37 placement value of the property.

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

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

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

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

44 **(B) Aim to prevent displacement, including cultural displacement, by providing an op-**  
 45 **portunity to stay in a cultural community or allowing for economic growth that would not**

1 occur if displacement occurred;

2 (C) Aim to reverse the impacts of, or prevent, community disinvestment that has re-  
3 sulted in cultural displacement; and

4 (D) Engage and serve underrepresented histories.

5 (b) The preservation plan must commit the applicant to expend, within the first five  
6 years for which historic property special assessment is granted, an amount not less than five  
7 percent of the historic property's real market value determined as of the assessment date  
8 for the first tax year to which the historic property special assessment applies.

9 (c) The focus of the preservation plan must be on exterior features, especially those  
10 visible from a public way, and structural members of the property. The treatment of signif-  
11 icant interior features, as determined by the State Historic Preservation Officer, may also  
12 be included in the plan.

13 (d) Work proposed in the plan must meet the historic rehabilitation standards.

14 [(3)] (4) The application must be *[made]* **received** before April 1 of the assessment year for which  
15 classification and special assessment as historic property are *[desired]* **sought**.

16 [(4)(a)] (5)(a) Property must **first** be classified as historic property in order to be *[certified for]*  
17 **specially assessed as** historic property *[special assessment]*.

18 *[(b) Notwithstanding paragraph (a) of this subsection, property may be certified for historic prop-*  
19 *erty special assessment upon a determination of eligibility by the State Historic Preservation Officer*  
20 *under ORS 358.480 (11)(b) or (c). Property certified under this paragraph must become listed in the*  
21 *National Register of Historic Places within two years of certification under ORS 358.490.]*

22 (b) Property may be classified as historic property only if the property:

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

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

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

30 [(5)] (6) Classification and special assessment pursuant to an application made under this section  
31 are granted for 10 consecutive property tax years, starting in the tax year beginning on July 1 of  
32 the assessment year described in subsection [(3)] (4) of this section.

33 [(6)] (7) The application fee required under subsection (2) of this section shall be deposited in  
34 the State Parks and Recreation Department Fund for use by the State Parks and Recreation Direc-  
35 tor or for transfer to the Oregon Property Management Account established under ORS 358.680 to  
36 358.690, upon the advice of the State Advisory Committee on Historic Preservation. The application  
37 fee becomes nonrefundable after *[certification]* **classification** as described in ORS 358.495.

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

39 358.495. (1)(a) Immediately following approval or disapproval of an application under ORS  
40 358.490, the State Historic Preservation Officer shall notify the county assessor, the governing body  
41 and the applicant of the decision in writing not later than July 1 of the tax year for which classi-  
42 fication and special assessment are first desired.

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

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

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

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

9 **(b) Create a written record that states the facts and lists any condition on which the**  
 10 **special assessment is based.**

11 **(c) Provide a written statement to the county assessor and the governing body that the**  
 12 **property has been classified and granted special assessment as historic property, and provide**  
 13 **a copy of the written statement to the owner of the historic property.**

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

17 *[(d)]* **(e) Provide the owner of the property with a plaque. The owner shall install the plaque**  
 18 **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]* **granted special assessment under ORS 358.490 in accordance with** ORS 358.505, and  
 21 each year the historic property is classified and assessed under ORS 358.505 shall enter on the as-  
 22 sessment and tax roll that the property is being specially assessed as historic property and is subject  
 23 to potential additional taxes as provided in ORS 358.525 by adding the notation "historic property  
 24 (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, the State Historic Preservation Officer  
 27 shall give written notice of the denial to the applicant. The notice shall state the reasons for the  
 28 denial.

29 *(5)[(a)]* Any owner, governing body or county assessor *[affected]* **aggrieved** by a determination  
 30 of the State Historic Preservation Officer made under ORS 358.487 to 358.543 may request *[review*  
 31 *of the determination:]* **a contested case hearing of the determination according to the provisions**  
 32 **of ORS chapter 183. The administrative law judge presiding at the contested case hearing**  
 33 **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 4.** 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 on or after July 1, [2022]  
4 **2023**.

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

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

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

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

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

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

29 (A) From the local governing body if:

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

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

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

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

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

40 (5) If the governing body's approval is required under subsection (4) of this section, the gov-  
41 erning body shall notify the State Historic Preservation Officer of the proposed work. The governing  
42 body shall allow the officer at least 14 days to comment on the proposed work before making a de-  
43 cision on the application.

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

45 358.505. (1)(a) Except as provided in [*paragraphs (b) and (c)*] **paragraph (b)** of this subsection,

1 for property [*certified for*] **granted** special assessment as historic property under ORS [358.490]  
 2 **358.480 to 358.545**, the county assessor shall for 10 consecutive tax years list on the assessment and  
 3 tax roll a specially assessed value that equals the assessed value of the property at the time appli-  
 4 cation was made under ORS 358.487.

5 (b) If the property [*certified for*] **granted** special assessment as historic property was exempt or  
 6 specially assessed at the time the application was made, the county assessor shall for 10 consecutive  
 7 tax years list on the assessment and tax roll a specially assessed value that equals the product of  
 8 the real market value of the property for the tax year in which the application was made multiplied  
 9 by the ratio of the average maximum assessed value over the average real market value for that tax  
 10 year of property in the same area and property class.

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

17 [(d)] (c) For property [*certified under ORS 358.490*] **granted special assessment as historic**  
 18 **property** for a second term of special assessment as historic property under ORS 358.540, the county  
 19 assessor shall, for 10 consecutive tax years after the date of the filing of the application under ORS  
 20 358.487 for the second term, list on the assessment and tax roll a specially assessed value that  
 21 equals the real market value of the property for the assessment year in which the application is  
 22 made.

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

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

33 (3) The assessed value of property that is classified as historic property for the tax year shall  
 34 equal the least of:

- 35 (a) The property's specially assessed value as determined under subsection (1) of this section;
- 36 (b) The property's maximum assessed value as determined under subsection (2) of this section;
- 37 or
- 38 (c) The property's real market value as of the assessment date for the tax year.

39 (4) The entitlement of property to the special assessment provisions of this section shall be de-  
 40 termined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that  
 41 year shall continue as provided in this section.

42 (5) Assessed value, as defined and determined under ORS 308.146, shall be determined for prop-  
 43 erty classified as historic property by the county assessor each year. The assessed value so deter-  
 44 mined for any year shall be subject to appeal to the county board of property tax appeals within the  
 45 time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the

1 Oregon Tax Court and to the Oregon Supreme Court within the time and in the manner provided  
2 for appeals of value determination for purposes of ad valorem property taxation.

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

4 358.515. (1) When property has once been classified and **specialy** assessed as historic property  
5 [*pursuant to application filed under ORS 358.487*] **under ORS 358.480 to 358.545**, it remains classified  
6 and [*is granted the special assessment provided by ORS 358.505*] **specialy assessed** until it becomes  
7 disqualified for classification and special assessment by:

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

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

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

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

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

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

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

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

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

22 [(i)] (h) The owner's failure to obtain, or the lapse of, the property insurance required under  
23 ORS 358.487 (2)(d).

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

25 [(k)] (j) The owner's substantial alteration of the property in a way that does not meet the his-  
26 toric rehabilitation standards.

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

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

32 (3) Except as provided by subsection (1)(a) of this section, disqualification does not constitute  
33 completion of a 10-year period of special assessment [*certified under ORS 358.490*] **under ORS**  
34 **358.480 to 358.545** or preclude a property's future special assessment under ORS 358.487 to 358.543.

35 (4) The State Historic Preservation Officer shall notify the owner in writing before July 1 of the  
36 10th and final year for which property is [*certified for*] **granted** special assessment under ORS  
37 [*358.490*] **358.480 to 358.545** that the special assessment is due to expire and shall outline the options  
38 available to the owner upon disqualification upon expiration of an initial or second 10-year period  
39 of special assessment, as applicable.

40 (5) Upon expiration of an initial or second 10-year period of special assessment, the State His-  
41 toric Preservation Officer shall notify the owner, the governing body and the county assessor that  
42 the term has expired.

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

44 358.525. (1) Except as provided in subsection (4) of this section, whenever property that has re-  
45 ceived special assessment as historic property under ORS 358.487 to 358.543 becomes disqualified for



1 assessment as provided in ORS 358.515, there is added to the tax extended against the property on  
 2 the next general property tax roll, to be collected and distributed in the same manner as the re-  
 3 mainder of real property tax:

4 (a) Additional taxes equal to the difference between the taxes assessed against the property and  
 5 the taxes that would otherwise have been assessed against the property for each of the last 10 years  
 6 (or a lesser number of years corresponding to the years of assessment as historic property applicable  
 7 to the property) as of January 1 of the assessment year for which the property was disqualified for  
 8 special assessment;

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

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

14 (2) Whenever property that has received special assessment as historic property under ORS  
 15 358.505 becomes disqualified for assessment and the notice required by ORS 358.515 (2) is not given,  
 16 the assessor shall determine the date that the notice should have been given, shall notify the owner  
 17 thereof and, notwithstanding ORS 311.235, there shall be added to the tax extended against the  
 18 property on the next general property tax roll, to be collected and distributed in the same manner  
 19 as the remainder of the real property tax, in full payment of all taxes and penalties accruing from  
 20 the disqualification, the sum of the following:

21 (a) Additional taxes equal to the difference between the total amount of taxes that would have  
 22 been due on the property for each year, not to exceed the last 10 years, in which special assessment  
 23 under ORS 358.505 was in effect for the property (even though erroneously) and the taxes that would  
 24 have been due had special assessment not been in effect;

25 (b) An amount equal to the sum of the interest on each year's additional taxes computed under  
 26 ORS 311.505 from November 15 of the tax year for which additional taxes are being added to July  
 27 1 of the tax year of disqualification; and

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

29 (3) Prior to adding to the tax extended against the property on the next general property tax  
 30 roll any additional amount imposed by subsection (1) or (2) of this section, in the case of disquali-  
 31 fication pursuant to ORS 358.515 [(1)(f) to (k)] **(1)(e) to (j)**, the assessor shall notify the owner of the  
 32 property by mail, return receipt requested, of the disqualification.

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

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

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

39 (5) The amount determined to be due under subsection (1) or (2) of this section may be paid to  
 40 the tax collector prior to the completion of the next general property tax roll, pursuant to ORS  
 41 311.370.

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

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

45 358.540. (1) Property classified as historic property under ORS 358.487 to 358.543 is entitled to

1 any other exemption or special assessment provided by law.

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

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

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

12 (4)(a) An application filed under subsection (3) of this section must be filed in the manner pro-  
 13 vided under ORS 358.487 and be accompanied by a preservation plan [*detailing:*] **that meets the**  
 14 **requirements of ORS 358.487 (3).**

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

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

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

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

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

24 [(c)] (C) A schedule of the dates on which work on the improvements will be begun and com-  
 25 pleted.

26 (5)(a) An application filed under subsection (3) of this section may be approved only upon a  
 27 finding by the State Historic Preservation Officer that the preservation plan submitted with the  
 28 application pursuant to subsection (4) of this section will, if implemented, result in a significant in-  
 29 vestment in the historic property that promotes compliance with Americans with Disabilities Act  
 30 or that results in [*seismic improvements or improvements in energy conservation or sustainability to*  
 31 *the property*] **structural modernization.**

32 (b) For residential property, an application filed under subsection (3) of this section that is  
 33 otherwise in compliance with the application requirements may be approved only if a second term  
 34 of historic property classification and special assessment is not prohibited under ORS 358.541.

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

37 (7) A determination under ORS 358.490 with respect to an application for a second 10-year pe-  
 38 riod of special assessment as historical property is subject to the notice, [*certification*] **classification**  
 39 and filing requirements and [*review rights*] **the right to a contested case hearing** described in ORS  
 40 358.495.

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

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

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

1 358.543. [(1)(a)] (1) The value of new construction or additions to [historic properties certified for  
 2 special assessment] **property classified and specially assessed as historic property** under ORS  
 3 358.487 to 358.543 is assessed in the same manner as the original historic property under ORS  
 4 358.505 if the additions or new construction:

5 [(A)] (a) Were included in the preservation plan approved pursuant to ORS 358.540; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 **SECTION 11. Section 12 of this 2022 Act is added to and made a part of ORS 358.480 to**  
 39 **358.545.**

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

44 **(2)(a) For rehabilitation work on historic property described in subsection (1) of this**  
 45 **section, at least 50 percent of the rehabilitation services must be performed by at least one**

1 **of the following businesses that is operated for profit and has been certified by the Certi-**  
2 **fication Office for Business Inclusion and Diversity under ORS 200.055:**

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

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

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

6 **(b) The businesses listed in paragraph (a)(A) to (C) of this subsection have the meanings**  
7 **given those terms in ORS 200.005.**

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

9 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
10 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

17 (A) ORS 215.275; or

18 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and  
19 469.300.

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

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

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

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

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

43 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
44 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
45 hardship suffered by the existing resident or a relative of the resident. Within three months of the

1 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
 2 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
 3 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
 4 view of the hardship claimed under this paragraph. A temporary residence approved under this  
 5 paragraph is not eligible for replacement under paragraph (q) of this subsection.

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

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

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

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

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

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

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

22 (q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
 23 215.291.

24 (r) Farm stands if:

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

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

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

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

1 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
2 ground.

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

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

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

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

11 (A) A public right of way;

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

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

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

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

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

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

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

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

33 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
34 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
35 215.296:

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

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

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

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

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

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

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

9 (d) Operations conducted for:

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

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

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

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

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

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

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

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

43 (i) A facility for the primary processing of forest products, provided that such facility is found  
44 to not seriously interfere with accepted farming practices and is compatible with farm uses de-  
45 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is

1 renewable. These facilities are intended to be only portable or temporary in nature. The primary  
 2 processing of a forest product, as used in this section, means the use of a portable chipper or stud  
 3 mill or other similar methods of initial treatment of a forest product in order to enable its shipment  
 4 to market. Forest products, as used in this section, means timber grown upon a parcel of land or  
 5 contiguous land where the primary processing facility is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

15 (aa) Child care facilities, preschool recorded programs or school-age recorded programs that are:

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

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

19 (C) Colocated with a community center or a public or private school allowed under this sub-  
 20 section.

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

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

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

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

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

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

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

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

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

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

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

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

18 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
 19 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) Planned hours of operation;

16 (ii) Access, egress and parking;

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

19 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

1 (D) Must comply with ORS 215.296;

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

4 (F) Must comply with conditions established for:

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

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

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

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

14 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

13 (A) ORS 215.275; or

14 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and  
 15 469.300.

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

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

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

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

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

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

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

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

1 ways.

2 (L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has  
 3 been listed in a county inventory as historic property as [*defined in ORS 358.480*] **described in ORS**  
 4 **358.487 (5)(b)**.

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

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

7 (o) Farm stands if:

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

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

17 (p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS  
 18 215.291.

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

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

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

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

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

38 (A) A public right of way;

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

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

42 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
 43 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
 44 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
 45 of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of

1 septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural pro-  
2 duction, or for irrigation in connection with a use allowed in an exclusive farm use zone under this  
3 chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application  
4 of biosolids is limited to treatment using treatment facilities that are portable, temporary and  
5 transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land  
6 application of biosolids is authorized under the license, permit or other approval.

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

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

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

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

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

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

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

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

22 (b) Operations conducted for:

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

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

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

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

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

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

41 (e) Community centers owned by a governmental agency or a nonprofit community organization  
42 and operated primarily by and for residents of the local rural community. A community center au-  
43 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
44 gency and transitional shelter, preparation and service of meals, vocational and educational  
45 counseling and referral to local, state or federal agencies providing medical, mental health, disability

1 income replacement and substance abuse services, only in a facility that is in existence on January  
2 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
3 replacement or substance abuse services.

4 (f) Golf courses on land:

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) The activities are conducted in existing buildings that were lawfully constructed on the

1 property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate  
 2 to the farm use on the tract; and

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

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

6 (dd) Child care facilities, preschool recorded programs or school-age recorded programs that are:

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

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

10 (C) Colocated with a community center or a public or private school allowed under this sub-  
 11 section.

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

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

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

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

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

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

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

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

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

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

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

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

39 (i) Planned hours of operation;

40 (ii) Access, egress and parking;

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

43 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (D) Must comply with ORS 215.296;

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

28 (F) Must comply with conditions established for:

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

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

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

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

38 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

29 **SECTION 15. Section 12 of this 2022 Act and the amendments to ORS 358.480, 358.487,  
30 358.495, 358.499, 358.500, 358.505, 358.515, 358.525, 358.540 and 358.543 by sections 1 to 10 of this  
31 2022 Act apply to property tax years beginning on July 1, 2022.**

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

34