Senate Bill 644

Sponsored by Senator GIROD

SUMMARY

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

 Makes various changes to laws relating to mining and mineral resources. Exempts certain small mining operations from exclusion certificate requirement. Exempts surface mining operations or exploration activities on federal lands from state bonding requirements if in compliance with federal financial guarantee requirements. Modifies certain permitting fees related to mining operations. Prohibits motorized in-stream placer mining in indigenous anadromous salmonid habitat and waters essential to recovery and conservation of Pacific lamprey, with certain exceptions.

A BILL FOR AN ACT

Relating to mineral resources; creating new provisions; amending ORS 215.283, 215.298, 516.080, 517.753, 517.800, 517.810, 517.920, 517.971, 517.973, 517.979 and 517.980; and repealing sections 2 and 4, chapter 783, Oregon Laws 2013.

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

MINING AND MINERAL RESOURCES, GENERALLY

SECTION 1. ORS 516.080 is amended to read:

516.080. (1) The State Department of Geology and Mineral Industries shall be administered by a governing board composed of five [citizens of Oregon appointed by the Governor.] residents of Oregon that, to the greatest extent practicable, are appointed to represent all geographic regions of this state. The Governor shall appoint members to the board as follows:

(a) One member representing the interests of local governments;
(b) One member representing coastal conservation interests;
(c) One member representing the aggregate material industry;
(d) One member representing the oil, gas or precious metals mining industries; and
(e) One member representing environmental interests.

(2)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. The term of a board member shall continue until a successor has been appointed and confirmed.

(b) All appointments shall be made subject to approval by the Senate in the manner provided in ORS 171.562 and 171.565.

(3) The board shall hold meetings four times each year and special meetings may be called by the chairperson or by a majority of the board.

(4) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495.

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.

LC 1147
(5) A majority of the members of the board constitutes a quorum for the transaction of business.

[6] The members of the State Department of Geology and Mineral Industries governing board must be citizens of this state. The members chosen shall, to the greatest extent possible, represent all geographic regions of the state.

SECTION 2. (1) Notwithstanding ORS 516.080, the members first appointed to the governing board of the State Department of Geology and Mineral Industries as provided by the amendments to ORS 516.080 by section 1 of this 2017 Act shall determine by lot the length of their terms such that:

(a) Two shall serve a term expiring on July 1, 2020; and

(b) Three shall serve a term expiring on July 1, 2022.

(2) On June 30, 2018, the terms of office of the current members of the governing board expire.

(3) A member is eligible for reappointment to the board if the member's term of office is terminated pursuant to this section.

SECTION 3. ORS 517.753 is amended to read:

517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (15), a person engaged in commercial sand, gravel or crushed stone mining must obtain an exclusion certificate from the State Department of Geology and Mineral Industries to engage in surface mining that results in the extraction of 5,000 cubic yards or less of minerals or affects less than one acre of land within a period of 12 consecutive calendar months. Except as provided in ORS 517.755, a mining operation subject to a valid exclusion certificate is not subject to the operating permit or reclamation requirements set forth in ORS 517.702 to 517.989.

(2) A person engaged in commercial sand, gravel or crushed stone mining shall submit an exclusion certificate application on a form provided by the department, accompanied by a fee not to exceed $400. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application shall be deemed approved.

(3) Each holder of an exclusion certificate shall annually pay to the department a renewal fee of $150, accompanied by a description of:

(a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;

(b) The total acreage of surface disturbance by the mining operation as of the date that the renewal is submitted; and

(c) Any additional information required by the department to determine that the mining operation continues to qualify for an exclusion certificate.

SECTION 4. ORS 517.800 is amended to read:

517.800. (1)(a) Except for an application for a mining operation submitted under ORS 517.910 to 517.989, each applicant for an operating permit under ORS 517.702 to 517.989 shall pay to the State Department of Geology and Mineral Industries a fee established by the State Geologist in an amount not to exceed $1,750.

(b) If an application for a new permit or an amendment to an existing permit requires extraordinary department resources because of concerns about slope stability or proximity to waters of the state or other environmentally sensitive areas, the applicant shall pay to the department an additional fee in an amount determined by the State Geologist [to be adequate to cover the additional costs for staff and other related expenses.] that is limited to covering the necessary additional costs incurred by the department in addressing the concerns in a manner sufficient to meet the requirements of federal, state and local law. The State Geologist shall consult with the ap-

[2]
(2) Annually, each holder of an operating permit shall pay to the department a base fee of $850, plus $0.0095 per ton of aggregate or mineral ore extracted during the previous 12-month period.

(3) If a reclamation plan is changed, the operator may be assessed for staff time and other related costs an amount not to exceed $1,750 in addition to the annual renewal fee. This subsection does not apply to a mining operation that is subject to the fee established by ORS 517.973 (2)(a).

(4) If, at operator request, the department responds to requests for information required by a local government in making a land use planning decision on behalf of the operator for a specific site, the State Geologist may require the operator to pay the department a fee for staff time and related costs. The department shall notify the operator in advance of the estimated costs of providing the information, and the actual amount assessed shall not exceed the estimate provided by the department.

(5) The State Geologist may require the operator of a site to pay to the department a special inspection fee in an amount not to exceed $500 for an inspection conducted under the following circumstances:
(a) Investigation of surface mining operations conducted without the operating permit required under ORS 517.790; or
(b) Investigation of surface mining operations conducted outside the area authorized in an operating permit.

(6) Upon request of an applicant or operator, the department shall provide an itemized list and documentation of expenses used to determine a fee under subsection (1)(b), (3) or (4) of this section.

(7) Notwithstanding the per ton fee established in subsection (2) of this section, the governing board of the department may lower to zero or raise the per ton fee up to $0.0095 if necessary to provide financial certainty to the department or to reflect actual expenses of the department in administering ORS 517.702 to 517.951.

(8) All fees collected by the department under this section shall be deposited in the Mined Land Regulation and Reclamation Program Subaccount within the Geology and Mineral Industries Account. The department shall prepare and submit to the governing board of the State Department of Geology and Mineral Industries an annual report on the financial status of the Mined Land Regulation and Reclamation Program Subaccount.

(9) The governing board of the department:
(a) Shall adopt by rule a procedure for the administrative review of the determinations of fees under this section.
(b) Shall adopt rules establishing the payment date for annual fees required under this section.
(c) May adopt rules establishing a late fee of up to five percent of the unpaid amount of an annual fee owed under this section if the annual fee is more than 60 days past due.

SECTION 5. The amendments to ORS 517.800 by section 4 of this 2017 Act apply to fees assessed on or after the effective date of this 2017 Act related to applications submitted under ORS 517.702 to 517.989 before, on or after the effective date of this 2017 Act.

SECTION 6. ORS 517.810 is amended to read:
517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or issuing or reissuing an exploration permit for any exploration activity, the State Department of Geology and Mineral Industries shall require that the applicant for the permit file with it a bond or security acceptable to the department in a sum to be determined by the department but in an amount not to exceed the total cost for reclamation if the department were to perform the recla-
mation. The decision of the department may be appealed to the governing board of the State Depart-
ment of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security
shall be conditioned upon the faithful performance of the reclamation plan and of the other re-
quirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

(2) Nothing in this section shall apply to:
(a) Any public body, as defined in ORS 174.109[;] or
(b) A surface mining operation or exploration activity located on federally managed lands
that is subject to and in compliance with all financial guarantee requirements imposed by
federal law.

(3) In lieu of the bond or other security required of the applicant in subsection (1) of this sec-
tion, the department may accept a similar security from the landowner, equal to the estimated cost
of reclamation as determined by the department in consultation with the operator or explorer. The
decision of the department may be appealed to the governing board as provided in ORS chapter 183.

(4) In lieu of the bond required by subsection (1) of this section, the department may accept a
blanket bond covering two or more surface mining sites or exploration projects operated by a single
company, owned by a single landowner or operated by all members of an established trade associ-
ation, in an amount, established by the department, not to exceed the amount of the bonds that
would be required for separate sites.

(5) The governing board shall identify by rule the procedures for the determination of the
amount of the bond or other security required of an applicant for an operating permit or exploration
permit. The rules:
(a) Shall provide an opportunity for participation by the applicant as part of the procedures; and
(b) May allow for the amount of the bond to be calculated and adjusted based upon the total
area expected to be in a disturbed condition in the following year as a result of the surface mining
or exploration operation.

(6) Any deposit of moneys accepted and held by the department as a form of security pursuant
to the provisions of this section shall be deposited in the Reclamation Guarantee Fund.

SECTION 7. (1) The amendments to ORS 517.810 by section 6 of this 2017 Act apply to
bonds and securities filed with the State Department of Geology and Mineral Industries be-
fore, on or after the effective date of this 2017 Act.

(2) An operator of a surface mining operation or exploration activity located on federally
managed lands that is subject to and in compliance with all financial guarantee requirements
imposed by federal law, and that was required to file a bond or security with the department
before the effective date of this 2017 Act, may, on or after the effective date of this 2017 Act, request
that the bond or security filed with the department be adjusted in accordance with
the amendments to ORS 517.810 by section 6 of this 2017 Act.

SECTION 8. ORS 517.920 is amended to read:
517.920. Each application for an operating permit under ORS 517.910 to 517.989 shall be ac-
accompanied by a fee. [sufficient to cover the costs of the State Department of Geology and Mineral In-
dustries in processing the application as determined by the department.] The fee required by this
section must be limited to an amount that covers only the costs incurred by the State De-
partment of Geology and Mineral Industries that are directly associated with and necessary
to processing the application in a manner that elicits the information required by federal, state and local law.

SECTION 9. The amendments to ORS 517.920 by section 8 of this 2017 Act apply to fees
assessed on or after the effective date of this 2017 Act related to applications submitted under ORS 517.910 to 517.989 before, on or after the effective date of this 2017 Act.

SECTION 10. ORS 517.971 is amended to read:

517.971. Each applicant for a permit to operate a mining operation shall submit a consolidated application to the State Department of Geology and Mineral Industries. The department and the permitting and cooperating agencies shall not begin deliberating on whether to issue a permit until the department receives an application fee and a complete consolidated application that includes:

1. Name and location of the proposed facility.
2. Name, mailing address and phone number of the applicant and a registered agent for the applicant.
3. The legal structure of the applicant as filed in the business registry with the Secretary of State and the legal residence of the applicant.
4. Mineral and surface ownership status of the proposed facility.
5. Baseline data, including but not limited to environmental, socioeconomic, historical, archaeological conditions, land use designations and special use designations in the area of the state in which the proposed mining operation is located.
6. Appropriate maps, aerial photos, cross sections, plans and documentation.
7. A proposed:
   a. Mine plan;
   b. Processing plan;
   c. Water budget;
   d. Fish and wildlife protection and mitigation plan;
   e. Operational monitoring and reporting plan;
   f. Reclamation and closure plan;
   g. Plan for controlling water runoff and run on;
   h. Operating plan;
   i. Solid and hazardous waste management plan;
   j. Plan for transporting and storing toxic chemicals;
   k. Employee training plan as required by agency rule;
   L. Seasonal or short term closure plan;
   m. Spill prevention and credible accident contingency plan;
   n. Post-closure monitoring and reporting plan; and
   o. Identification of special natural areas, including but not limited to areas designated as areas of critical environmental concern, research natural areas, outstanding natural areas and areas designated by the Oregon Natural Areas Plan, as defined in state rules and federal regulations.
8. All information required by the permitting agencies to determine whether to issue or deny the following permits as applicable to the proposed operation:
   a. Surface mining operating permits required under ORS 517.790 and 517.915;
   b. Fill and removal permits required under ORS 196.600 to 196.905;
   c. Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to store water under ORS 537.400 and impoundment structure approval under ORS 540.350 to 540.390;
   d. National Pollutant Discharge Elimination System permit under ORS 468B.050;
   e. Water pollution control facility permit under ORS 468B.050;
   f. Air contaminant discharge permit under ORS 468A.040 to 468A.060;
(g) Solid waste disposal permit under ORS 459.205;
(h) Permit for use of power driven machinery on forestland under ORS 477.625;
(i) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140;
(j) Hazardous waste storage permit under ORS 466.005 to 466.385;
(k) Local land use permits; and
(L) Any other state permit required for the mining operation.

(9) All other information required by the department, a permitting agency, a cooperating agency or the technical review team.

SECTION 11. ORS 517.973 is amended to read:

517.973. (1) In addition to any permit fee required by any other permitting agency, each notice of intent to submit a consolidated application under ORS 517.961 shall be accompanied by an initial fee established by the State Geologist in an amount not to exceed $1,260.

(2)(a) Annually on the anniversary date of the issuance of each such operating permit, each holder of an operating permit shall pay to the State Department of Geology and Mineral Industries a renewal fee established by the State Geologist in an amount not less than $2,500.

(b) In addition to the fee prescribed in paragraph (a) of this subsection, the department may charge an additional amount not to exceed $1,200 for inspections made at sites:

(A) Where surface mining was conducted without the permit required by ORS 517.790;
(B) Where surface mining has been abandoned; or
(C) Where surface mining was conducted in an area not described in the surface mining permit.

(3) Subject to the provisions of subsection (5) of this section, the prospective applicant or applicant shall pay all expenses incurred by the department and the permitting and cooperating agencies related to the consolidated application process under ORS 517.952 to 517.989. These expenses may include legal expenses, expenses incurred in processing and evaluating the consolidated application and expenses incurred in issuing a permit or final order and expenses of hiring a third party contractor under ORS 517.979 and 517.980.

(4) If the costs exceed the fee, the prospective applicant or applicant shall pay any excess costs shown in an itemized statement prepared by the department. In no event shall the department and permitting and cooperating agencies incur evaluation expenses in excess of 110 percent of the fee initially paid unless the department provides prior notification to the prospective applicant or applicant and a detailed projected budget the department believes necessary to complete the process or a portion of the process under ORS 517.952 to 517.989. If the costs are less than the fee paid, the excess shall be refunded to the prospective applicant or applicant.

(5) All expenses incurred by the department and the permitting and cooperating agencies under ORS 517.952 to 517.989 that are charged to or allocated to the fee paid by a prospective applicant or an applicant shall be necessary, just and reasonable. Upon request, the department shall provide a detailed justification for all charges to the prospective applicant or applicant.

SECTION 12. ORS 517.979 is amended to read:

517.979. (1) The State Department of Geology and Mineral Industries shall direct staff, or shall direct the applicant to hire a third party contractor, to:

(a) Prepare an environmental evaluation;
(b) Review baseline data submitted by the applicant; and
(c) Review application material if a permitting agency or a cooperating agency lacks the expertise.

(2) The applicant shall pay costs of hiring a third party contractor. If the [applicant] State
 Geologist shows cause why a particular third party contractor should not be allowed to perform a function under subsection (1) of this section, the [department] applicant shall hire an alternate contractor.

(3) The contents of the environmental evaluation under subsection (1) of this section shall include:

(a) An analysis of the reasonably foreseeable impacts of an activity including catastrophic consequences, even if the probability of occurrence is low, if the analysis is supported by credible scientific evidence and is not based on pure conjecture.

(b) An assessment of the total cumulative impact on the environment that results from the incremental impact of an action when added with other past, present and reasonably foreseeable future actions, regardless of the agency or persons that undertake the other action, or whether the actions are on private, state or federal land. To the extent possible, the department shall enter into a memorandum of agreement with federal agencies to ensure that information required by the state in evaluating the cumulative impact of a proposed mining operation may be used by the applicant to satisfy federal requirements for such an assessment.

(c) A review and analysis of alternatives analyzed by the applicant or a contractor hired by the applicant that:

(A) Rigorously explores and objectively evaluates all reasonable alternatives and briefly discusses alternatives that were eliminated and the reasons the alternatives were eliminated;

(B) Treats each alternative, including the proposed action, in detail so that the permitting agencies, cooperating agencies and the public may evaluate the comparative merits of the alternatives; and

(C) Identifies all alternatives within the authority of each permitting or cooperating agency.

(4) Upon completion of the environmental evaluation, the State Department of Geology and Mineral Industries shall provide notice in accordance with ORS 517.959. The notice shall state that the environmental evaluation is complete and that the persons may respond with written comments for a period of two weeks after the notice is given.

SECTION 13. ORS 517.980 is amended to read:

517.980. Concurrent with the development of the environmental evaluation, the State Department of Geology and Mineral Industries shall direct staff, or shall direct the applicant to hire a third party contractor, to prepare a socioeconomic impact analysis for the use of the applicant, local government and affected agencies.

LAND USE PROVISIONS

SECTION 14. ORS 215.283 is amended to read:

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

(a) Churches and cemeteries in conjunction with churches.

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

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

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

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

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

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

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

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

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

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

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

(m) Creation, restoration or enhancement of wetlands.

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

(o) Farm stands if:

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

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets,
(p) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement of a lawfully established dwelling.

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

(r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

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

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

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

(A) A public right of way;

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

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

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

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

(x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting farm buildings, when:
(A) The number of dogs participating in training does not exceed 10 dogs per training class and
the number of training classes to be held on-site does not exceed six per day; and
(B) The number of dogs participating in a testing trial does not exceed 60 and the number of
testing trials to be conducted on-site is limited to four or fewer trials per calendar year.
(y) In Baker, Grant, Harney, Lake, Malheur, Union and Wallowa Counties, mining,
crushing or stockpiling of aggregate and other mineral and other subsurface resources.
(2) The following nonfarm uses may be established, subject to the approval of the governing body
or its designee in any area zoned for exclusive farm use subject to ORS 215.296:
(a) Commercial activities that are in conjunction with farm use, including the processing of farm
crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(r) of this section.
(b) Operations conducted for:
(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;
(B) Except as provided in subsection (1)(y) of this section, mining, crushing or stockpiling
of aggregate and other mineral and other subsurface resources subject to ORS 215.298;
(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
(D) Processing of other mineral resources and other subsurface resources.
(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
approval of the county governing body or its designee, a private campground may provide yurts for
overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
foundation. Upon request of a county governing body, the Land Conservation and Development
Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
of the campgrounds in a county if the commission determines that the increase will comply with the
standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed
shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
internal cooking appliance.
(d) Parks and playgrounds. A public park may be established consistent with the provisions of
ORS 195.120.
(e) Community centers owned by a governmental agency or a nonprofit community organization
and operated primarily by and for residents of the local rural community. A community center au-
thorized under this paragraph may provide services to veterans, including but not limited to emer-
gency and transitional shelter, preparation and service of meals, vocational and educational
counseling and referral to local, state or federal agencies providing medical, mental health, disability
income replacement and substance abuse services, only in a facility that is in existence on January
1, 2006. The services may not include direct delivery of medical, mental health, disability income
replacement or substance abuse services.
(f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.
(g) Commercial utility facilities for the purpose of generating power for public use by sale.
(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
erations. No aircraft may be based on a personal-use airport other than those owned or controlled
by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) Home occupations as provided in ORS 215.448.

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

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

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

(m) Transmission towers over 200 feet in height.

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

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

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

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

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

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

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

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

(u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
(v) Operations for the extraction and bottling of water.

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

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

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

(B) “Local historical society” means the local historical society recognized by the county governing body and organized under ORS chapter 65.

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

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

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

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

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

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

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

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

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

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

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

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;
(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary
structures, or in existing permitted structures, subject to health and fire and life safety require-
ments; and
(G) The agri-tourism or other commercial event or activity complies with conditions established
for:
   (i) Planned hours of operation;
   (ii) Access, egress and parking;
   (iii) A traffic management plan that identifies the projected number of vehicles and any anticip-
   ated use of public roads; and
   (iv) Sanitation and solid waste.
(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
To approve an expedited, single-event license, the governing body of a county or its designee must
determine that the proposed agri-tourism or other commercial event or activity meets any local
standards that apply, and the agri-tourism or other commercial event or activity:
   (A) Must be incidental and subordinate to existing farm use on the tract;
   (B) May not begin before 6 a.m. or end after 10 p.m.;
   (C) May not involve more than 100 attendees or 50 vehicles;
   (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
   (E) May not require or involve the construction or use of a new permanent structure in con-
   nection with the agri-tourism or other commercial event or activity;
   (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
properties consent, in writing, to the location; and
   (G) Must comply with applicable health and fire and life safety requirements.
(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
use permit that is personal to the applicant and is not transferred by, or transferable with, a
conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
local standards that apply, and the agri-tourism or other commercial events or activities:
   (A) Must be incidental and subordinate to existing farm use on the tract;
   (B) May not, individually, exceed a duration of 72 consecutive hours;
   (C) May not require that a new permanent structure be built, used or occupied in connection
with the agri-tourism or other commercial events or activities;
   (D) Must comply with ORS 215.296;
   (E) May not, in combination with other agri-tourism or other commercial events or activities
authorized in the area, materially alter the stability of the land use pattern in the area; and
   (F) Must comply with conditions established for:
      (i) The types of agri-tourism or other commercial events or activities that are authorized during
each calendar year, including the number and duration of the agri-tourism or other commercial
events and activities, the anticipated daily attendance and the hours of operation;
      (ii) The location of existing structures and the location of proposed temporary structures to be
used in connection with the agri-tourism or other commercial events or activities;

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

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

(v) Sanitation and solid waste.

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

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

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

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

and

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

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

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

and

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

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

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

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

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

SECTION 15. ORS 215.283, as amended by section 8, chapter 462, Oregon Laws 2013, is
amended to read:

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

(a) Churches and cemeteries in conjunction with churches.
(b) The propagation or harvesting of a forest product.

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

   (A) ORS 215.275; or

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

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

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

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

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

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

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

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

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

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

   (m) Creation, restoration or enhancement of wetlands.

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

   (o) Farm stands if:

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

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

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

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

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

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

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

(r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
area to the processing facility or establishment, exclusive of the floor area designated for prepara-
tion, storage or other farm use. A processing facility or establishment must comply with all appli-
cable siting standards but the standards may not be applied in a manner that prohibits the siting
of the processing facility or establishment.

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

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

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

(A) A public right of way;

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

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

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

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

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

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

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

(y) In Baker, Grant, Harney, Lake, Malheur, Union and Wallowa Counties, mining,
crushing or stockpiling of aggregate and other mineral and other subsurface resources.

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

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

(b) Operations conducted for:
(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;
(B) **Except as provided in subsection (1)(y) of this section,** mining, crushing or stockpiling
of aggregate and other mineral and other subsurface resources subject to ORS 215.298;
(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
(D) Processing of other mineral resources and other subsurface resources.
(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
approval of the county governing body or its designee, a private campground may provide yurts for
overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
foundation. Upon request of a county governing body, the Land Conservation and Development
Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
of the campgrounds in a county if the commission determines that the increase will comply with the
standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed
shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
internal cooking appliance.
(d) Parks and playgrounds. A public park may be established consistent with the provisions of
ORS 195.120.
(e) Community centers owned by a governmental agency or a nonprofit community organization
and operated primarily by and for residents of the local rural community. A community center au-
thorized under this paragraph may provide services to veterans, including but not limited to emer-
gency and transitional shelter, preparation and service of meals, vocational and educational
counseling and referral to local, state or federal agencies providing medical, mental health, disability
income replacement and substance abuse services, only in a facility that is in existence on January
1, 2006. The services may not include direct delivery of medical, mental health, disability income
replacement or substance abuse services.
(f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.
(g) Commercial utility facilities for the purpose of generating power for public use by sale.
(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
erations. No aircraft may be based on a personal-use airport other than those owned or controlled
by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
granted through waiver action by the Oregon Department of Aviation in specific instances. A
personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
ject to any applicable rules of the Oregon Department of Aviation.
(i) Home occupations as provided in ORS 215.448.
(j) A facility for the primary processing of forest products, provided that such facility is found
to not seriously interfere with accepted farming practices and is compatible with farm uses de-
scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
renewable. These facilities are intended to be only portable or temporary in nature. The primary
processing of a forest product, as used in this section, means the use of a portable chipper or stud
mill or other similar methods of initial treatment of a forest product in order to enable its shipment
to market. Forest products, as used in this section, means timber grown upon a parcel of land or
contiguous land where the primary processing facility is located.

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

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

(m) Transmission towers over 200 feet in height.

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

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

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

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

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

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

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

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

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

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

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

(x) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. As used in this paragraph:
(A) “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) “Local historical society” means the local historical society recognized by the county governing body and organized under ORS chapter 65.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Planned hours of operation;

(ii) Access, egress and parking;

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Must comply with ORS 215.296;

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

(F) Must comply with conditions established for:

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

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

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

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

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;
(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and
(D) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
   (a) Provide public notice and an opportunity for public comment as part of the review process; and
   (b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4)(d) of this section.

(6) For the purposes of subsection (4) of this section:
   (a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (4) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (4) of this section, including, but not limited to, grading, filling or paving.
   (b) The county may issue the limited use permits authorized by subsection (4)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (4)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
   (c) The authorizations provided by subsection (4) of this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

SECTION 16. ORS 215.298 is amended to read:

215.298. (1) For purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A county may set standards for a lower volume or smaller surface area than that set forth in this subsection.
   (2) A permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.
   (3) For purposes of ORS 215.213 (2) and 215.283 [(2)] and this section, “mining” includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. “Mining” does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted
in the process of farming or cemetery operations, on-site road construction or other on-site con-
struction or nonsurface impacts of underground mines.

MOTORIZED IN-STREAM PLACER MINING

SECTION 17. Sections 2 and 4, chapter 783, Oregon Laws 2013, are repealed.

SECTION 18. (1) As used in this section:
(a) “Essential indigenous anadromous salmonid habitat” has the meaning given that term in ORS 196.810.
(b) “Motorized in-stream placer mining” means mining using any form of motorized equipment, including but not limited to the use of a motorized suction dredge, for the purpose of extracting precious metals from placer deposits of the beds or banks of the waters of the state.
(c) “Waters of the state” has the meaning given that term in ORS 468B.005.
(2) Except as provided in subsection (3) of this section, no motorized in-stream placer mining may be permitted to occur in the beds or banks of the waters of the state that:
(a) Are indigenous anadromous salmonid habitat; or
(b) Essential to the recovery and conservation of Pacific lamprey.
(3) This section does not apply to motorized in-stream placer mining within patented claims granted or unpatented mining claims located prior to the effective date of this 2017 Act.

CAPTIONS

SECTION 19. The unit captions used in this 2017 Act are provided only for the conven-
ience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.