

House Bill 2106

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture and Natural Resources)

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

1
2 Relating to mineral resources; creating new provisions; amending ORS 215.283, 215.298, 516.080,
3 517.753, 517.800, 517.810, 517.920, 517.971, 517.973, 517.979 and 517.980; and repealing sections 2
4 and 4, chapter 783, Oregon Laws 2013.

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

MINING AND MINERAL RESOURCES, GENERALLY

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7
8
9 **SECTION 1.** ORS 516.080 is amended to read:

10 516.080. (1) The State Department of Geology and Mineral Industries shall be administered by
11 a governing board composed of five [*citizens of Oregon appointed by the Governor.*] **residents of**
12 **Oregon that, to the greatest extent practicable, are appointed to represent all geographic**
13 **regions of this state. The Governor shall appoint members to the board as follows:**

14 (a) **One member representing the interests of local governments;**

15 (b) **One member representing coastal conservation interests;**

16 (c) **One member representing the aggregate material industry;**

17 (d) **One member representing the oil, gas or precious metals mining industries; and**

18 (e) **One member representing environmental interests.**

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

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

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

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

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

1 292.495.

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

3 [(6) *The members of the State Department of Geology and Mineral Industries governing board must*
4 *be citizens of this state. The members chosen shall, to the greatest extent possible, represent all ge-*
5 *ographic regions of the state.*]

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

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

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

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

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

16 **SECTION 3.** ORS 517.753 is amended to read:

17 517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (15), a person **engaged**
18 **in commercial sand, gravel or crushed stone mining** must obtain an exclusion certificate from
19 the State Department of Geology and Mineral Industries to engage in surface mining that results in
20 the extraction of 5,000 cubic yards or less of minerals or affects less than one acre of land within
21 a period of 12 consecutive calendar months. Except as provided in ORS 517.755, a mining operation
22 subject to a valid exclusion certificate is not subject to the operating permit or reclamation re-
23 quirements set forth in ORS 517.702 to 517.989.

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

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

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

31 (b) The total acreage of surface disturbance by the mining operation as of the date that the re-
32 newal is submitted; and

33 (c) Any additional information required by the department to determine that the mining opera-
34 tion continues to qualify for an exclusion certificate.

35 **SECTION 4.** ORS 517.800 is amended to read:

36 517.800. (1)(a) Except for an application for a mining operation submitted under ORS 517.910 to
37 517.989, each applicant for an operating permit under ORS 517.702 to 517.989 shall pay to the State
38 Department of Geology and Mineral Industries a fee established by the State Geologist in an amount
39 not to exceed \$1,750.

40 (b) If an application for a new permit or an amendment to an existing permit requires extraor-
41 dinary department resources because of concerns about slope stability or proximity to waters of the
42 state or other environmentally sensitive areas, the applicant shall pay to the department an addi-
43 tional fee in an amount determined by the State Geologist [*to be adequate to cover the additional*
44 *costs for staff and other related expenses.*] **that is limited to covering the necessary additional**
45 **costs incurred by the department in addressing the concerns in a manner sufficient to meet**

1 **the requirements of federal, state and local law.** The State Geologist shall consult with the ap-
2 plicant when determining the amount of the fee.

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

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

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

14 (5) The State Geologist may require the operator of a site to pay to the department a special
15 inspection fee in an amount not to exceed \$500 for an inspection conducted under the following
16 circumstances:

17 (a) Investigation of surface mining operations conducted without the operating permit required
18 under ORS 517.790; or

19 (b) Investigation of surface mining operations conducted outside the area authorized in an op-
20 erating permit.

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

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

27 (8) All fees collected by the department under this section shall be deposited in the Mined Land
28 Regulation and Reclamation Program Subaccount within the Geology and Mineral Industries Ac-
29 count. The department shall prepare and submit to the governing board of the State Department of
30 Geology and Mineral Industries an annual report on the financial status of the Mined Land Regu-
31 lation and Reclamation Program Subaccount.

32 (9) The governing board of the department:

33 (a) Shall adopt by rule a procedure for the administrative review of the determinations of fees
34 under this section.

35 (b) Shall adopt rules establishing the payment date for annual fees required under this section.

36 (c) May adopt rules establishing a late fee of up to five percent of the unpaid amount of an
37 annual fee owed under this section if the annual fee is more than 60 days past due.

38 **SECTION 5. The amendments to ORS 517.800 by section 4 of this 2017 Act apply to fees**
39 **assessed on or after the effective date of this 2017 Act related to applications submitted un-**
40 **der ORS 517.702 to 517.989 before, on or after the effective date of this 2017 Act.**

41 **SECTION 6.** ORS 517.810 is amended to read:

42 517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or
43 issuing or reissuing an exploration permit for any exploration activity, the State Department of
44 Geology and Mineral Industries shall require that the applicant for the permit file with it a bond
45 or security acceptable to the department in a sum to be determined by the department but in an

1 amount not to exceed the total cost for reclamation if the department were to perform the reclama-
 2 mation. The decision of the department may be appealed to the governing board of the State De-
 3 partment of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security
 4 shall be conditioned upon the faithful performance of the reclamation plan and of the other re-
 5 quirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

6 (2) Nothing in this section shall apply to:

7 (a) Any public body, as defined in ORS 174.109[.]; or

8 **(b) A surface mining operation or exploration activity located on federally managed lands**
 9 **that is subject to and in compliance with all financial guarantee requirements imposed by**
 10 **federal law.**

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

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

20 (5) The governing board shall identify by rule the procedures for the determination of the
 21 amount of the bond or other security required of an applicant for an operating permit or exploration
 22 permit. The rules:

23 (a) Shall provide an opportunity for participation by the applicant as part of the procedures; and

24 (b) May allow for the amount of the bond to be calculated and adjusted based upon the total
 25 area expected to be in a disturbed condition in the following year as a result of the surface mining
 26 or exploration operation.

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

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

32 **(2) An operator of a surface mining operation or exploration activity located on federally**
 33 **managed lands that is subject to and in compliance with all financial guarantee requirements**
 34 **imposed by federal law, and that was required to file a bond or security with the department**
 35 **before the effective date of this 2017 Act, may, on or after the effective date of this 2017 Act,**
 36 **request that the bond or security filed with the department be adjusted in accordance with**
 37 **the amendments to ORS 517.810 by section 6 of this 2015 Act.**

38 **SECTION 8.** ORS 517.920 is amended to read:

39 517.920. Each application for an operating permit under ORS 517.910 to 517.989 shall be ac-
 40 companied by a fee. *[sufficient to cover the costs of the State Department of Geology and Mineral In-*
 41 *dustries in processing the application as determined by the department.]* **The fee required by this**
 42 **section must be limited to an amount that covers only the costs incurred by the State De-**
 43 **partment of Geology and Mineral Industries that are directly associated with and necessary**
 44 **to processing the application in a manner that elicits the information required by federal,**
 45 **state and local law.**

1 **SECTION 9. The amendments to ORS 517.920 by section 8 of this 2017 Act apply to fees**
 2 **assessed on or after the effective date of this 2017 Act related to applications submitted un-**
 3 **der ORS 517.910 to 517.989 before, on or after the effective date of this 2017 Act.**

4 **SECTION 10.** ORS 517.971 is amended to read:

5 517.971. Each applicant for a permit to operate a mining operation shall submit a consolidated
 6 application to the State Department of Geology and Mineral Industries. The department and the
 7 permitting and cooperating agencies shall not begin deliberating on whether to issue a permit until
 8 the department receives an application fee and a complete consolidated application that includes
 9 *[but is not limited to]:*

10 (1) Name and location of the proposed facility.

11 (2) Name, mailing address and phone number of the applicant and a registered agent for the
 12 applicant.

13 (3) The legal structure of the applicant as filed in the business registry with the Secretary of
 14 State and the legal residence of the applicant.

15 (4) Mineral and surface ownership status of the proposed facility.

16 (5) Baseline data, including but not limited to environmental, socioeconomic, historical,
 17 archaeological conditions, land use designations and special use designations in the area of the state
 18 in which the proposed mining operation is located.

19 (6) Appropriate maps, aerial photos, cross sections, plans and documentation.

20 (7) A proposed:

21 (a) Mine plan;

22 (b) Processing plan;

23 (c) Water budget;

24 (d) Fish and wildlife protection and mitigation plan;

25 (e) Operational monitoring and reporting plan;

26 (f) Reclamation and closure plan;

27 (g) Plan for controlling water runoff and run on;

28 (h) Operating plan;

29 (i) Solid and hazardous waste management plan;

30 (j) Plan for transporting and storing toxic chemicals;

31 (k) Employee training plan as required by agency rule;

32 (l) Seasonal or short term closure plan;

33 (m) Spill prevention and credible accident contingency plan;

34 (n) Post-closure monitoring and reporting plan; and

35 (o) Identification of special natural areas, including but not limited to areas designated as areas
 36 of critical environmental concern, research natural areas, outstanding natural areas and areas des-
 37 ignated by the Oregon Natural Areas Plan, as defined in state rules and federal regulations.

38 (8) All information required by the permitting agencies to determine whether to issue or deny
 39 the following permits as applicable to the proposed operation:

40 (a) Surface mining operating permits required under ORS 517.790 and 517.915;

41 (b) Fill and removal permits required under ORS 196.600 to 196.905;

42 (c) Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to
 43 store water under ORS 537.400 and impoundment structure approval under ORS 540.350 to 540.390;

44 (d) National Pollutant Discharge Elimination System permit under ORS 468B.050;

45 (e) Water pollution control facility permit under ORS 468B.050;

- 1 (f) Air contaminant discharge permit under ORS 468A.040 to 468A.060;
- 2 (g) Solid waste disposal permit under ORS 459.205;
- 3 (h) Permit for use of power driven machinery on forestland under ORS 477.625;
- 4 (i) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140;
- 5 (j) Hazardous waste storage permit under ORS 466.005 to 466.385;
- 6 (k) Local land use permits; and
- 7 (L) Any other state permit required for the mining operation.
- 8 (9) All other information required by the department, a permitting agency, a cooperating agency
- 9 or the technical review team.

10 **SECTION 11.** ORS 517.973 is amended to read:

11 517.973. (1) In addition to any permit fee required by any other permitting agency, each notice
 12 of intent to submit a consolidated application under ORS 517.961 shall be accompanied by an initial
 13 fee established by the State Geologist in an amount not to exceed \$1,260.

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

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

19 (A) Where surface mining was conducted without the permit required by ORS 517.790;

20 (B) Where surface mining has been abandoned; or

21 (C) Where surface mining was conducted in an area not described in the surface mining permit.

22 (3) Subject to the provisions of subsection (5) of this section, the prospective applicant or ap-
 23 plicant shall pay all expenses incurred by the department and the permitting and cooperating
 24 agencies related to the consolidated application process under ORS 517.952 to 517.989. These ex-
 25 penses may include legal expenses, expenses incurred in processing and evaluating the consolidated
 26 application[,] **and expenses incurred in** issuing a permit or final order [*and expenses of hiring a*
 27 *third party contractor under ORS 517.979 and 517.980*].

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

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

39 **SECTION 12.** ORS 517.979 is amended to read:

40 517.979. (1) The State Department of Geology and Mineral Industries shall direct staff, or shall
 41 **direct the applicant to** hire a third party contractor, to:

42 (a) Prepare an environmental evaluation;

43 (b) Review baseline data submitted by the applicant; and

44 (c) Review application material if a permitting agency or a cooperating agency lacks the ex-
 45 pertise.

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

5 (3) The contents of the environmental evaluation under subsection (1) of this section shall in-
 6 clude:

7 (a) An analysis of the reasonably foreseeable impacts of an activity including catastrophic con-
 8 sequences, even if the probability of occurrence is low, if the analysis is supported by credible sci-
 9 entific evidence and is not based on pure conjecture.

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

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

19 (A) Rigorously explores and objectively evaluates all reasonable alternatives and briefly dis-
 20 cusses alternatives that were eliminated and the reasons the alternatives were eliminated;

21 (B) Treats each alternative, including the proposed action, in detail so that the permitting
 22 agencies, cooperating agencies and the public may evaluate the comparative merits of the alterna-
 23 tives; and

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

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

29 **SECTION 13.** ORS 517.980 is amended to read:

30 517.980. Concurrent with the development of the environmental evaluation, the State Depart-
 31 ment of Geology and Mineral Industries shall direct staff, or **shall direct the applicant to** hire a
 32 third party contractor, to prepare a socioeconomic impact analysis for the use of the applicant, local
 33 government and affected agencies.

34
 35 **LAND USE PROVISIONS**

36
 37 **SECTION 14.** ORS 215.283 is amended to read:

38 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

45 (A) ORS 215.275; or

1 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
2 469.300.

3 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
4 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
5 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
6 operator does or will require the assistance of the relative in the management of the farm use and
7 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
8 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
9 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
10 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
11 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
12 shall operate as a partition of the homesite to create a new parcel.

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

15 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
16 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
17 compressors, separators and other customary production equipment for an individual well adjacent
18 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
19 an exception under ORS 197.732 (2)(a) or (b).

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

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

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

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

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

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

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

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

38 (o) Farm stands if:

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

45 (B) The farm stand does not include structures designed for occupancy as a residence or for

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

3 (p) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
 4 of a lawfully established dwelling.

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

16 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
 17 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
 18 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
 19 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
 20 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
 21 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
 22 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
 23 cable siting standards but the standards may not be applied in a manner that prohibits the siting
 24 of the processing facility or establishment.

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

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

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

32 (A) A public right of way;

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

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

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

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

45 (x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting

1 farm buildings, when:

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

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

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

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

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

12 (b) Operations conducted for:

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

15 **(B) Except as provided in subsection (1)(y) of this section,** mining, crushing or stockpiling
16 of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

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

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

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

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

31 (e) Community centers owned by a governmental agency or a nonprofit community organization
32 and operated primarily by and for residents of the local rural community. A community center au-
33 thorized under this paragraph may provide services to veterans, including but not limited to emer-
34 gency and transitional shelter, preparation and service of meals, vocational and educational
35 counseling and referral to local, state or federal agencies providing medical, mental health, disability
36 income replacement and substance abuse services, only in a facility that is in existence on January
37 1, 2006. The services may not include direct delivery of medical, mental health, disability income
38 replacement or substance abuse services.

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

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

41 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
42 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
43 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
44 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
45 erations. No aircraft may be based on a personal-use airport other than those owned or controlled

1 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
2 granted through waiver action by the Oregon Department of Aviation in specific instances. A
3 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
4 ject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (D) The maximum number of motor vehicles parked at the site of the agri-tourism or other

1 commercial event or activity does not exceed 250 vehicles;

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

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

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

8 (i) Planned hours of operation;

9 (ii) Access, egress and parking;

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

12 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

39 (D) Must comply with ORS 215.296;

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

42 (F) Must comply with conditions established for:

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

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

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

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

7 (v) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

- 1 (a) Churches and cemeteries in conjunction with churches.
- 2 (b) The propagation or harvesting of a forest product.
- 3 (c) Utility facilities necessary for public service, including wetland waste treatment systems but
 4 not including commercial facilities for the purpose of generating electrical power for public use by
 5 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
 6 may be established as provided in:
- 7 (A) ORS 215.275; or
- 8 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
 9 469.300.
- 10 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 11 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
 12 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 13 operator does or will require the assistance of the relative in the management of the farm use and
 14 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 15 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
 16 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
 17 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
 18 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 19 shall operate as a partition of the homesite to create a new parcel.
- 20 (e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily
 21 provided in conjunction with farm use.
- 22 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
 23 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 24 compressors, separators and other customary production equipment for an individual well adjacent
 25 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 26 an exception under ORS 197.732 (2)(a) or (b).
- 27 (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
 28 construction relating to such operations shall not be a basis for an exception under ORS 197.732
 29 (2)(a) or (b).
- 30 (h) Climbing and passing lanes within the right of way existing as of July 1, 1987.
- 31 (i) Reconstruction or modification of public roads and highways, including the placement of
 32 utility facilities overhead and in the subsurface of public roads and highways along the public right
 33 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
 34 would occur, or no new land parcels result.
- 35 (j) Temporary public road and highway detours that will be abandoned and restored to original
 36 condition or use at such time as no longer needed.
- 37 (k) Minor betterment of existing public road and highway related facilities such as maintenance
 38 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
 39 public-owned property utilized to support the operation and maintenance of public roads and high-
 40 ways.
- 41 (L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
 42 been listed in a county inventory as historic property as defined in ORS 358.480.
- 43 (m) Creation, restoration or enhancement of wetlands.
- 44 (n) A winery, as described in ORS 215.452 or 215.453.
- 45 (o) Farm stands if:

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

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

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

11 (A) Has intact exterior walls and roof structure;

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

14 (C) Has interior wiring for interior lights;

15 (D) Has a heating system; and

16 (E) In the case of replacement:

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

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

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

1 operator’s cost to maintain the property, buildings and facilities. As used in this paragraph, “model
2 aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
3 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
4 ground.

5 (r) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
6 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
7 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
8 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
9 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
10 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
11 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
12 cable siting standards but the standards may not be applied in a manner that prohibits the siting
13 of the processing facility or establishment.

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

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

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

21 (A) A public right of way;

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

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

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

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

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

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

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

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

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

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

1 (b) Operations conducted for:

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

4 (B) **Except as provided in subsection (1)(y) of this section**, mining, crushing or stockpiling
5 of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

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

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

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

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

20 (e) Community centers owned by a governmental agency or a nonprofit community organization
21 and operated primarily by and for residents of the local rural community. A community center au-
22 thorized under this paragraph may provide services to veterans, including but not limited to emer-
23 gency and transitional shelter, preparation and service of meals, vocational and educational
24 counseling and referral to local, state or federal agencies providing medical, mental health, disability
25 income replacement and substance abuse services, only in a facility that is in existence on January
26 1, 2006. The services may not include direct delivery of medical, mental health, disability income
27 replacement or substance abuse services.

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

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

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

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

40 (j) A facility for the primary processing of forest products, provided that such facility is found
41 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
42 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
43 renewable. These facilities are intended to be only portable or temporary in nature. The primary
44 processing of a forest product, as used in this section, means the use of a portable chipper or stud
45 mill or other similar methods of initial treatment of a forest product in order to enable its shipment

1 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
2 contiguous land where the primary processing facility is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (x) A living history museum related to resource based activities owned and operated by a gov-
41 ernmental agency or a local historical society, together with limited commercial activities and fa-
42 cilities that are directly related to the use and enjoyment of the museum and located within
43 authentic buildings of the depicted historic period or the museum administration building, if areas
44 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
45 the museum administration buildings and parking lot are located within one quarter mile of an ur-

1 ban growth boundary. As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (i) Planned hours of operation;

43 (ii) Access, egress and parking;

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

1 (iv) Sanitation and solid waste.

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

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

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

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

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

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

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

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

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

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

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

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

28 (D) Must comply with ORS 215.296;

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

31 (F) Must comply with conditions established for:

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

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

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

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

41 (v) Sanitation and solid waste.

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

1 other commercial events or activities:

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

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

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

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

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

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

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

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

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

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

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

32 **SECTION 16.** ORS 215.298 is amended to read:

33 215.298. (1) For purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for
 34 mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface
 35 area of more than one acre. A county may set standards for a lower volume or smaller surface area
 36 than that set forth in this subsection.

37 (2) A permit for mining of aggregate shall be issued only for a site included on an inventory in
 38 an acknowledged comprehensive plan.

39 (3) For purposes of ORS 215.213 (2) and 215.283 [(2)] and this section, “mining” includes all or
 40 any part of the process of mining by the removal of overburden and the extraction of natural min-
 41 eral deposits thereby exposed by any method including open-pit mining operations, auger mining
 42 operations, processing, surface impacts of underground mining, production of surface mining refuse
 43 and the construction of adjacent or off-site borrow pits except those constructed for use as access
 44 roads. “Mining” does not include excavations of sand, gravel, clay, rock or other similar materials
 45 conducted by a landowner or tenant on the landowner or tenant’s property for the primary purpose

1 of reconstruction or maintenance of access roads and excavation or grading operations conducted
2 in the process of farming or cemetery operations, on-site road construction or other on-site con-
3 struction or nonsurface impacts of underground mines.

4
5 **MOTORIZED IN-STREAM PLACER MINING**

6
7 **SECTION 17. Sections 2 and 4, chapter 783, Oregon Laws 2013, are repealed.**

8 **SECTION 18. (1) As used in this section:**

9 (a) **“Essential indigenous anadromous salmonid habitat” has the meaning given that term**
10 **in ORS 196.810.**

11 (b) **“Motorized in-stream placer mining” means mining using any form of motorized**
12 **equipment, including but not limited to the use of a motorized suction dredge, for the pur-**
13 **pose of extracting precious metals from placer deposits of the beds or banks of the waters**
14 **of the state.**

15 (c) **“Waters of the state” has the meaning given that term in ORS 468B.005.**

16 (2) **Except as provided in subsection (3) of this section, no motorized in-stream placer**
17 **mining may be permitted to occur in the beds or banks of the waters of the state that:**

18 (a) **Are indigenous anadromous salmonid habitat; or**

19 (b) **Essential to the recovery and conservation of Pacific Lamprey.**

20 (3) **This section does not apply to motorized in-stream placer mining within patented**
21 **claims granted or unpatented mining claims located prior to the effective date of this 2017**
22 **Act.**

23
24 **CAPTIONS**

25
26 **SECTION 19. The unit captions used in this 2017 Act are provided only for the conven-**
27 **ience of the reader and do not become part of the statutory law of this state or express any**
28 **legislative intent in the enactment of this 2017 Act.**

29 _____