

House Bill 2842

Sponsored by Representative DINGFELDER; Representatives AVAKIAN, BOONE, BUCKLEY, GALIZIO, ROSENBAUM, WIRTH

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**.

Prohibits race meets involving live racing of greyhounds.

A BILL FOR AN ACT

1
2 Relating to racing; creating new provisions; amending ORS 215.203, 215.213, 215.246, 215.249, 215.251,
3 215.263, 215.417, 215.452, 215.780, 308A.056, 461.217, 462.010, 462.020, 462.030, 462.040, 462.057,
4 462.062, 462.067, 462.070, 462.075, 462.110, 462.125, 462.140 and 462.510; and repealing ORS
5 462.135.

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

7 **SECTION 1.** ORS 462.010 is amended to read:

8 462.010. As used in this chapter, unless the context otherwise requires:

9 (1) "Breaks" means the odd cents remaining after the payoff prices have been computed in ac-
10 cordance with ORS 462.140 (3).

11 (2) "Calendar year" means a 12-month year, January 1 through December 31.

12 (3) "Commission" means the Oregon Racing Commission.

13 (4) "Continuous race meet" includes any exhibition of animal racing continuously at the same
14 race course by two or more licensees where the mutuel system is used in conjunction with any race.

15 (5) "Drug" means any narcotic, sedative, anesthetic, analgesic, drug or other medication of any
16 kind or description intended for use in any manner, directly or indirectly, internally or externally,
17 in the diagnosis, treatment, mitigation or cure of injury or disease or for use in the prevention of
18 disease that could affect, in any manner, the racing condition or performance of an animal as a
19 depressant, stimulant, local anesthetic, analgesic, sedative or otherwise. "Drug" includes:

20 (a) Substances, other than foods, intended to affect the structure or any function of the body of
21 the animal and all substances affecting the central nervous system, respiratory system or blood
22 pressure of any animal other than vitamins or supplemental feeds; and

23 (b) Any identified substance that can affect or interfere with the true and accurate testing and
24 analysis of blood, saliva, urine or other samples taken from racing animals.

25 (6) "Fiscal year" means a 12-month year, as described in ORS 293.605.

26 (7) "Licensee" means a person, partnership, corporation, political subdivision, municipal corpo-
27 ration or any other body holding a license under this chapter.

28 (8) "Mutuel" means a system whereby wagers with respect to the outcome of a race are placed
29 with a wagering pool in which the participants are wagering with each other and not against the
30 operator.

31 (9) "Public training track" means any race course or other facility that is available or open to

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 the public for use in the training or schooling of racing animals.

2 (10) "Race" means any race conducted in a race meet. "Race" includes races conducted without
3 wagering, provided one or more races in the meet are conducted with wagering.

4 (11) "Race course" means all the premises used in connection with the conduct of a race meet,
5 including but not limited to, the race track, grandstands, paddock, stables[, kennels] and all other
6 buildings and grounds adjacent to or appurtenant to the physical limits of the race track.

7 (12) "Race meet" means any exhibition of animal racing where the mutuel system is used in
8 conjunction with any race.

9 **SECTION 2.** ORS 462.020 is amended to read:

10 462.020. [(1) No person shall hold any race meet without having first obtained and having in full
11 force and effect a license therefor issued by the Oregon Racing Commission.]

12 [(2)] (1) [No] A trainer, driver, jockey, apprentice jockey, horse owner, [dog owner,] exercise
13 person, agent, authorized agent, jockey's agent, stable foreman, groom, valet, veterinarian,
14 horseshoer, steward, stable guard, starter, timer, judge or other person acting as a participant or
15 official at any race meet, including all employees of the pari-mutuel department, [shall] **may not**
16 participate in race meets without having first obtained and having in full force and effect a license
17 issued by the **Oregon Racing** Commission, [pursuant to such rules as the commission shall make] **as**
18 **provided by the commission by rule.** The commission by rule may require other employees of a
19 race meet licensee who are engaged in or performing duties at the race course to obtain a license
20 issued by the commission prior to engaging or performing [such] **those** duties. The commission by
21 rule may also require persons, including corporations, [who] **that** are not employees of a race meet
22 licensee, but [who] **that** are authorized to do business at the race course, to obtain a license issued
23 by the commission prior to conducting [such] **that** business.

24 [(3)] (2) [No person shall operate a public training track or public kennel for greyhounds partic-
25 ipating in a race meet] **A person may not operate a public kennel or public training track for**
26 **kenneling or training greyhounds for racing** without having first obtained and having in full
27 force and effect a license issued by the commission.

28 [(4)] (3) The commission may require each applicant for a license to be photographed and shall
29 require each applicant to be fingerprinted as part of the licensing procedure. If a nationwide crimi-
30 nal records check is necessary, the commission shall request the Department of State Police to
31 conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.
32 The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct
33 the criminal records check and may not keep any record of the fingerprints. If the policy of the
34 federal bureau authorizing return or destruction of the fingerprint cards is changed, the department
35 shall cease sending the cards to the federal bureau but shall continue to process the information
36 through other available resources. If the federal bureau returns the fingerprint cards to the de-
37 partment, the department shall return the fingerprint cards to the commission. Upon receiving the
38 fingerprint cards under this subsection, the commission shall destroy the fingerprint cards and may
39 not retain facsimiles or other material from which a fingerprint can be reproduced. The Department
40 of State Police shall report the results of the fingerprint-based criminal records check to the com-
41 mission. The commission shall designate staff specifically authorized to receive the information ob-
42 tained under this section. The Department of State Police shall also furnish the commission with any
43 information about the applicant that the Department of State Police may have in its possession from
44 [its] **the department's** central bureau of criminal identification including, but not limited to, manual
45 or computerized criminal offender information. The commission may establish an appropriate fee for

1 the criminal records check not to exceed the costs of conducting the criminal records check through
 2 the Department of State Police and the Federal Bureau of Investigation.

3 [(5)] (4) Each person holding a license under this chapter shall comply with all rules and orders
 4 of the commission.

5 [(6)] (5) Notwithstanding the requirements of subsection [(2)] (1) of this section, the commission,
 6 upon receipt of a written application for a license on forms provided by the commission, may in its
 7 sound discretion issue a temporary license valid for a period not to exceed 10 days pending final
 8 approval or disapproval of the written application for a license.

9 **SECTION 3.** ORS 462.030 is amended to read:

10 462.030. *[No person is eligible to]* **A person may not** operate a race meet with a license issued
 11 under this chapter unless the person is the owner or controls the possession of a properly con-
 12 structed race track suitable for the *[class of races which]* **races that** are proposed to be conducted
 13 at *[such]* **the** race track and improved with safe and suitable grandstands, equipped with reasonably
 14 sanitary accommodations, adequate stables for livestock together with adequate fire protection
 15 equipment, and such other proper improvements as in the judgment of the Oregon Racing Commis-
 16 sion may be required, taking into consideration the location of such race track and the probable
 17 capacity requirements to accommodate the crowd and the number of people that will reasonably be
 18 expected to occupy the grandstands and attend the race meets.

19 **SECTION 4.** ORS 462.040 is amended to read:

20 462.040. (1) **A person may not hold any race meet without having first obtained and having**
 21 **in full force and effect a race meet license issued by the Oregon Racing Commission.** Race
 22 meet licenses granted by the *[Oregon Racing]* commission shall be limited to[:]
 23 **licenses for horse and mule race meets.**

24 *[(a) Licenses for horse and mule race meets (Class A).]*

25 *[(b) Licenses for greyhound race meets (Class B).]*

26 *[(2)(a) Except as the commission otherwise may provide by rule, no licensee shall be granted li-*
 27 *censes of both classes nor shall licenses be issued for more than one class of racing on the same race*
 28 *course, track or location.]*

29 *[(b) In adopting rules to carry out the provisions of this subsection, the commission shall consider,*
 30 *among other matters, the impact on existing race meet licensees in the county in which application for*
 31 *a license referred to in paragraph (a) of this subsection is made.]*

32 *[(3) The commission shall not grant any license for greyhound racing at the Oregon State Fair.]*

33 [(4)] (2) The **race meet** license shall specify the number of days the race meet shall continue
 34 and the number of races per day.

35 **SECTION 5.** ORS 462.057 is amended to read:

36 462.057. (1) A race meet licensee designated in subsection [(2)] (3) of this section shall make
 37 payments as follows:

38 (a) License fee - \$25 per fiscal year payable to the Oregon Racing Commission.

39 *[(b) A percentage of gross mutuel wagering shall be paid to the commission as follows:]*

40 *[(A) If the race meet is for horses or mules - one percent.]*

41 *[(B) If the race meet is for greyhounds - 1.6 percent.]*

42 **(b) One percent of gross mutuel wagering, payable to the commission.**

43 (c) If *[the race meet is for horses or mules and]* the average daily gross mutuel wagering during
 44 the preceding fiscal year exceeded \$150,000, a percentage of the gross mutuel wagering *[shall be*
 45 *paid as follows]:*

1 (A) To purses - such amount, subject to prior approval by the commission, as the race meet
 2 licensee and the horse owners, or mule owners if the race is for mules, may agree upon, plus an
 3 additional 0.1 percent. The additional 0.1 percent shall not become part of the regular purse account
 4 but shall be used only to supplement purses of races consisting exclusively of Oregon bred horses
 5 or mules;

6 (B) To the Oregon Thoroughbred Breeders Association, Incorporated, purse supplements for
 7 owners of Oregon bred thoroughbred horses - one percent of gross mutuel wagering on thoroughbred
 8 horse races, to be apportioned among the owners in the same ratio that each owner's purses for
 9 Oregon bred thoroughbred horses for the race meet bears to the total purses for Oregon bred
 10 thoroughbred horses for the race meet;

11 (C) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, purse sup-
 12 plements for owners of Oregon bred quarterhorses - one percent of gross mutuel wagering on
 13 quarterhorse races, to be apportioned among the owners in the same ratio that each owner's purses
 14 for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon bred
 15 quarterhorses for the race meet;

16 (D) To each association of horse or mule owners, trainers or breeders recognized by the com-
 17 mission as representing the other breeds of horses or mules not designated in subparagraphs (B) and
 18 (C) of this paragraph, purse supplements for owners of other Oregon bred horses or mules, not des-
 19 ignated in subparagraphs (B) and (C) of this paragraph, one percent of gross mutuel wagering for
 20 races of other horses or mules, to be apportioned among the owners in the same ratio that each
 21 owner's purses for other Oregon bred horses or mules for the race meet bears to the total purses
 22 for other Oregon bred horses or mules for the race meet; **and**

23 *[(E) Subject to prior approval of the commission, each horse or mule owners, trainers or breeders*
 24 *association designated in subparagraphs (B), (C) and (D) of this paragraph may use a portion of the*
 25 *purse supplements as operating expenses only for receipt, handling and payment of these funds; and]*

26 *[(F)]* (E) To a special track fund to be used primarily for improving the race track facilities
 27 benefiting the horse and mule owners, trainers or breeders in the barn area - 0.2 percent. All such
 28 funds shall be retained by the licensee in a separate account from all other funds. *[and no]* Dis-
 29 bursements or transfers *[shall be made therefrom]* **may not be made from the account** without
 30 prior approval of the commission. All physical improvements paid from such funds shall satisfy rea-
 31 sonable fire, health, quality and construction standards established or approved by the commission.
 32 Unless the commission provides otherwise, such improvements shall be made on the race course
 33 where the race meet *[which]* **that** created the fund was held.

34 *[(d) If the race meet is for greyhounds, a percentage of the gross mutuel wagering shall be paid*
 35 *as follows:]*

36 *[(A) To a special fund to be used primarily for the development and operation of a training track*
 37 *and related facilities upon which to train greyhounds - 0.1 percent. All such funds shall be retained*
 38 *by the licensee in a separate account from all other funds and no disbursements or transfers shall be*
 39 *made therefrom without prior approval of the commission. All physical improvements paid from such*
 40 *funds shall satisfy reasonable fire, health, quality and construction standards established or approved*
 41 *by the commission. Unless the commission provides otherwise, such improvements shall be made on the*
 42 *race course of the race meet licensee; and]*

43 *[(B) To the Oregon Greyhound Breeders Association, Incorporated, purse supplements for owners*
 44 *of Oregon bred greyhounds - 0.5 percent of gross mutuel wagering, to be apportioned among the own-*
 45 *ers, in accordance with the rules of the commission and subject to approval by the commission, in the*

1 *same ratio that each owner's purses for Oregon bred greyhounds for the race meet bears to the total*
 2 *purses for Oregon bred greyhounds for the race meet.]*

3 **(2) Subject to prior approval of the commission, each horse or mule owners, trainers or**
 4 **breeders association designated in subsection (1)(c)(B), (C) and (D) of this section may use**
 5 **a portion of the purse supplements as operating expenses only for receipt, handling and**
 6 **payment of the funds described in subsection (1)(c)(B), (C) and (D).**

7 [(2)] **(3)** Licensees subject to the provisions of this section are:

8 (a) The Pendleton Roundup.

9 (b) The Eastern Oregon Livestock Fair.

10 (c) The Pacific International Livestock Exposition.

11 (d) Any county fair.

12 (e) All other nonprofit, fair-type associations which conducted a licensed race meet in calendar
 13 year 1968 or 1969.

14 (f) The Pine Valley Fair Association.

15 **SECTION 6.** ORS 462.062 is amended to read:

16 462.062. (1) All licensees of race meets for horses, except those subject to ORS 462.057, shall
 17 make payments as follows:

18 (a) License fee - \$100 per racing day, payable to the Oregon Racing Commission.

19 (b) Percentage of gross mutuel wagering payable to the commission - one percent.

20 (c) Percentage of gross mutuel wagering for purses, in such amounts as the race meet licensee
 21 and the horse owners may agree upon, subject to approval by the commission. In addition, a payment
 22 of 0.1 percent, which shall not become part of the regular purse account, but shall be used only to
 23 supplement purses of races consisting exclusively of Oregon bred horses. However, subject to prior
 24 approval of the commission, a portion of the percentage of gross mutuel wagering designated by this
 25 paragraph may be paid to one or more associations of horsemen for operating expenses and other
 26 benefits for horsemen.

27 (d) To the Oregon Thoroughbred Breeders Association, Incorporated, percentage of gross mutuel
 28 wagering on thoroughbred horse races for purse supplements for owners of Oregon bred
 29 thoroughbred horses - one percent, to be apportioned among the owners in the same ratio that each
 30 owner's purses for Oregon bred thoroughbred horses for the race meet bears to the total purses for
 31 Oregon bred thoroughbred horses for the race meet.

32 (e) To the Racing Division of the Oregon Quarterhorse Association, Incorporated, percentage
 33 of gross mutuel wagering on quarterhorse races for purse supplements for owners of Oregon bred
 34 quarterhorses - one percent, to be apportioned among the owners in the same ratio that each own-
 35 er's purses for Oregon bred quarterhorses for the race meet bears to the total purses for Oregon
 36 bred quarterhorses for the race meet.

37 (f) To each association of horsemen recognized by the commission as representing the other
 38 breeds of horses not designated in paragraph (d) or (e) of this subsection, percentage of gross mutuel
 39 wagering on races for any other breed of horses, not designated in paragraph (d) or (e) of this sub-
 40 section, for purse supplements of owners of other Oregon bred horses - one percent, to be appor-
 41 tioned among the owners in the same ratio that each owner's purses for other Oregon bred horses
 42 for the race meet bears to total purses for other Oregon bred horses for the race meet.

43 (g) Percentage of gross mutuel wagering to a special track fund of the type, and for the uses
 44 and purposes, and subject to the conditions set forth in ORS 462.057 [(1)(c)(F)] **(1)(c)(E)** - 0.2 per-
 45 cent.

1 (2) Subject to prior approval of the commission, each horsemen’s association designated in sub-
 2 section (1)(d), (e) and (f) of this section may use a portion of the purse supplements as operating
 3 expenses only for receipt, handling and payment of *[these]* **the funds described in subsection (1)(d),**
 4 **(e) and (f).**

5 **SECTION 7.** ORS 462.067 is amended to read:

6 462.067. All licensees of race meets *[except those subject to ORS 462.057 and 462.062]* **for mules**
 7 shall make payments as follows:

8 (1) License fee - \$100 per racing day, payable to the Oregon Racing Commission.

9 (2) Percentage of gross mutuel wagering payable to the commission - 1.6 percent.

10 *[(3) Percentage of gross mutuel wagering on greyhound races payable to the Oregon Greyhound*
 11 *Breeders Association, Incorporated - 0.5 percent for purse supplements for owners of Oregon bred*
 12 *greyhounds, to be apportioned among the owners, in accordance with the rules of the commission and*
 13 *subject to approval by the commission, in the same ratio that each owner’s purses for Oregon bred*
 14 *greyhounds for the race meet bears to the total purses for Oregon bred greyhounds for the race meet.*
 15 *Subject to the prior written approval of the commission, the Oregon Greyhound Breeders Association,*
 16 *Incorporated, may use a portion of the funds received pursuant to this section and ORS 462.057*
 17 *(1)(d)(B) to offset expenses for receipt, accounting, handling and payment of those funds.]*

18 *[(4) To a special fund to be used primarily for the development and operation of a training track*
 19 *and related facilities upon which to train greyhounds - 0.1 percent. All such funds shall be retained*
 20 *by the licensee in a separate account from all other funds and no disbursements or transfers shall be*
 21 *made therefrom without prior approval of the commission. All physical improvements paid from such*
 22 *funds shall satisfy reasonable fire, health, quality and construction standards established or approved*
 23 *by the commission. Unless the commission provides otherwise, such improvements shall be made on the*
 24 *race course of the race meet licensee.]*

25 **SECTION 8.** ORS 462.075 is amended to read:

26 462.075. (1) The Oregon Racing Commission may refuse to issue to or renew the license of any
 27 applicant if it has reasonable ground to believe that the applicant:

28 (a) Has been suspended or ruled off a recognized course in another jurisdiction by the racing
 29 board or commission thereof.

30 (b) Is not of good repute and moral character.

31 (c) Does not have, when previously licensed, a good record of compliance with the racing or
 32 gaming laws of this state or of any other state and with the rules of the commission or of any other
 33 racing or gaming commission.

34 (d) If the applicant is a corporation, firm or association, is not duly authorized to conduct
 35 business within the State of Oregon.

36 (e) If an individual, has been convicted of a crime involving moral turpitude or of any gambling
 37 or gambling-related offense, or, if a corporation, firm or association, is in whole or in part controlled
 38 or operated directly or indirectly by a person who has been convicted of a crime involving moral
 39 turpitude or of any gambling or gambling-related offense.

40 (f) If an individual, is engaged in wagering by other than the mutuel method or in pool selling
 41 or bookmaking in any state of the United States or foreign country or, if a corporation, firm or as-
 42 sociation, is in whole or in part controlled or operated directly or indirectly by a person who is
 43 engaged in wagering by other than the mutuel method or in pool selling or bookmaking in any state
 44 of the United States or foreign country.

45 (g) Has been found guilty by the commission of a violation of this chapter or any rules of the

1 commission.

2 (h) Should not, in the best interest of the safety, welfare, health, peace and morals of the people
3 of the state, be granted a license.

4 (2) The commission may refuse to issue or renew a license to conduct a race meet for any
5 ground set forth in subsection (1) of this section or if it has reasonable ground to believe any of the
6 following to be true:

7 (a) That the applicant is not possessed of or has not demonstrated financial responsibility suffi-
8 cient to meet adequately the requirements of the enterprise proposed to be licensed.

9 (b) That the applicant is not the true owner of the enterprise proposed to be licensed, that other
10 persons have ownership in the enterprise which has not been disclosed or, if the applicant is a
11 corporation, that any of the stock of such corporation is subject to a contract or option to purchase
12 at any time during the period for which the license is issued.

13 (c) That the granting of a license in the locality set out in the application is not demanded by
14 public interest or convenience.

15 (d) That the applicant, if a corporation, transferred any of its stock after an application for a
16 license to hold a race meet was filed with the commission without prior commission approval. The
17 provisions of this paragraph *[shall]* **do** not apply to day-to-day transfers of stock of a publicly held
18 corporation whose shares are publicly quoted and regularly traded in the marketplace unless the
19 transfer, or a combination of transfers, involves a controlling interest in or affects the operational
20 control of the corporation, or involves 10 percent or more of any class of stock of the corporation.

21 (e) That the applicant lacks, or if the applicant is a corporation, its officers, managerial em-
22 ployees, directors and principal stockholders lack, the requisite character, reputation, general busi-
23 ness and managerial competence and ability, and experience in the business of racing so as to justify
24 or command public confidence.

25 (f) That the granting of the application would adversely and unreasonably affect the economy
26 of the State of Oregon and its people and the revenues of this state and of other beneficiaries of
27 racing funds designated in this chapter.

28 (3) The commission may refuse to issue or renew a license to any person who has made a false
29 statement of a material fact to the commission.

30 (4) The commission may refuse to issue or renew a license to any applicant for a race meet li-
31 cense if the applicant has failed to meet any monetary obligation in connection with any race meet
32 held in this state.

33 *[(5) The commission may deny a license to any applicant for a race meet license under ORS 462.067
34 unless the applicant for the license and the greyhound kennel owners, or their representative associ-
35 ation, have previously agreed upon a purse schedule.]*

36 *[(6)]* (5) Before refusing to license any applicant for a race meet license, the commission shall
37 afford the applicant an opportunity for hearing after reasonable notice as provided in ORS chapter
38 183. When the commission refuses to license an applicant on the basis of grounds provided in sub-
39 section (1)(b), (c) or (h) of this section, the commission shall specify the particular activities that
40 constitute the grounds for refusal and shall give the applicant written notice thereof.

41 **SECTION 9.** ORS 462.110 is amended to read:

42 462.110. (1) For the protection of the public, and all members thereof, the exhibitors and visitors,
43 every race meet licensee shall carry public liability insurance written on an approved form by a
44 company licensed to do business in Oregon and in an amount approved by the Oregon Racing
45 Commission.

1 (2) Every person licensed to conduct a race meet shall provide and deliver to the commission
 2 a bond signed by a surety company authorized to do business in Oregon. *[in such form as is]* **The**
 3 **bond must be in the form** required by the commission and in an amount determined by the com-
 4 mission. The bond shall be conditioned that the licensee will pay:

5 (a) To the state all moneys due it under this chapter, including moneys *[which]* **that** escheat
 6 pursuant to ORS 462.073 and any fines imposed by any court or by any state agency;

7 (b) To horsemen *[or greyhound owners]*, all moneys owing and all moneys required to be paid
 8 for breakage, purses and Oregon-bred purse supplements;

9 (c) To persons presenting valid winning tickets, the amounts owing to them; and

10 (d) To the special track fund or training track fund, all moneys required to be paid to those
 11 funds by statute or rule.

12 (3) *[In lieu of a surety bond]* **Instead of the surety bond described in subsection (2) of this**
 13 **section**, the commission may accept a certificate of deposit, an irrevocable letter of credit, or
 14 equivalent *[which will assure]* **that will ensure** that the obligations described *[above]* **in subsection**
 15 **(2) of this section** are paid, up to the designated amount.

16 [(3)] (4) The Attorney General or the district attorney of the county wherein the race meet is
 17 held shall prosecute all actions on such bonds on behalf of the state.

18 [(4)] (5) Any person having a claim against the licensee for any obligation covered by the bond
 19 or bond substitute, except cause of action covered by public liability insurance, may prosecute the
 20 same in an action in behalf of the claimant brought in the name of the state for the use and benefit
 21 and at the expense of such claimant. The court may award reasonable attorney fees to the prevailing
 22 party in an action under this subsection. If the amount of the bond or bond substitute is insufficient
 23 to cover all obligations, amounts owing to and for the benefit of the state pursuant to ORS 462.073
 24 (3) shall have priority over any other claims. *[No]* **An** action may **not** be brought for recovery on
 25 the bond or bond substitute unless written notice of the claim is made to the commission and to the
 26 race meet licensee within 120 days after the last day of the race meet or continuous race meet in
 27 which the obligation arose. The notice must be by registered mail, certified mail with return receipt
 28 or personal service to the licensee or to the licensee's registered agent. Any action for recovery on
 29 the bond or bond substitute must be brought no earlier than 60 days and no later than 180 days after
 30 service of the written notice on the race meet licensee or on the licensee's registered agent. These
 31 limitations *[shall]* **do** not apply to claims for valid winning tickets if the claimant has made a timely
 32 claim pursuant to ORS 462.073 (2).

33 [(5)] (6) Every person licensed to conduct a race meet for horses shall carry insurance to protect
 34 jockeys and, if appropriate, drivers. The type, form and amount of insurance, and the carrier, must
 35 be approved by the commission.

36 **SECTION 10.** ORS 462.125 is amended to read:

37 462.125. (1) The Oregon Racing Commission shall determine the number *[and classes]* of race
 38 meets to be held in any fiscal year, and the total number of racing dates to be granted to a licensee
 39 subject to *[provisions of]* ORS 462.062 and 462.067. Not more than 350 days of racing, exclusive of
 40 racing days authorized to designated licensees pursuant to subsections (5) and (6) of this section,
 41 shall be held in any metropolitan area in any fiscal year. *[The commission may not grant a racing*
 42 *date that would cause greyhound racing conducted by licensees under ORS 462.067 to occur within the*
 43 *state in more than seven months of a calendar year.]* At least nine live races must occur on 40 percent
 44 of all days on which the commission authorizes pari-mutuel wagering for horse races, or on 80 days,
 45 whichever is greater.

1 (2) If a licensee fails, for good cause, to complete all of the allocated days in a licensed race
2 meet or if the commission does not receive and approve license applications for all of the days al-
3 located to [*either class of*] racing, the commission may add the unused or unallocated days no later
4 than June 30 of the following fiscal year, to the racing days allocated to and available to the
5 licensee or, in the discretion of the commission, to any other licensee [*of either class of*] racing in
6 the metropolitan area. Additional race days allocated under this subsection are exempt from the
7 limit of 350 days of racing in a fiscal year imposed by subsection (1) of this section[, *but are subject*
8 *to the limit imposed by that subsection on the number of months during a calendar year in which the*
9 *commission may grant dates for greyhound racing*]. The additional racing days granted by the com-
10 mission to any eligible licensee may not exceed the total of the unused or unallocated racing days
11 in any one fiscal year.

12 (3) If an emergency occurs on the day of racing, and a night racing program runs past the hour
13 of midnight, such time after midnight is not considered an additional racing day.

14 (4) As used in subsections (1) and (2) of this section, “metropolitan area” means:

15 (a) Multnomah, Clackamas and Washington Counties.

16 (b) Marion and Polk Counties.

17 (c) Linn and Benton Counties.

18 (d) A county other than those designated in paragraphs (a), (b) and (c) of this subsection.

19 (5) Each licensee designated in ORS 462.057 may be granted up to 12 days of horse[, *mule or*
20 *greyhound*] **or mule** racing to be held within the county in which the licensee holds its fair or show
21 or at a race course owned by a governmental agency or a nonprofit corporation in an adjoining
22 county. If a licensee does not use all of the licensee’s allocated race days during the fiscal year, the
23 commission, in the commission’s discretion, may allow that licensee to use the leftover days in the
24 next fiscal year. If a licensee referred to in this subsection wishes to make application to the com-
25 mission to schedule racing days that conflict with racing days previously scheduled by another such
26 licensee, at least 30 days prior to the date of a meeting of the commission, the governing bodies of
27 the applicant and the previous licensee shall meet at a time and place prescribed by the previous
28 licensee to discuss the applicant’s proposed racing day schedule. The conclusion of the parties re-
29 garding the proposals for conflicting racing days and the matters upon which the parties agree or
30 disagree shall be reduced to writing signed by the parties and submitted to the commission not later
31 than 14 days prior to a meeting of the commission. The commission may approve or disapprove
32 proposals for conflicting racing days upon such terms and conditions as the commission considers
33 appropriate.

34 (6) The Oregon State Fair may be granted up to 65 days of racing to be held at the state
35 fairgrounds. Such racing shall be sponsored by the Oregon State Fair and the net licensee income
36 of the meet shall be used only for Oregon State Fair programs or capital improvements. The com-
37 mission shall schedule days of racing for the Oregon State Fair in a manner that avoids conflict
38 with other race meets previously licensed under ORS 462.057. The Oregon State Fair shall make
39 payments as specified in ORS 462.057 (1).

40 (7) The commission may not grant a license for any race meet within a county for dates that
41 conflict with racing dates granted to the county fair of such county.

42 (8) The commission may not grant a licensee that is subject to ORS 462.062 a license for a race
43 meet for a date that conflicts with a race meet date granted to a licensee that is subject to ORS
44 462.057, unless the commission has the consent of the licensee that is subject to ORS 462.057. This
45 subsection applies only if the licensee that is subject to ORS 462.057 held a race meet during the

1 2002 calendar year on a date substantially similar to the date that is the subject of the conflict. A
2 licensee that is subject to ORS 462.057 may not unreasonably withhold consent under this sub-
3 section.

4 **SECTION 11.** ORS 462.140 is amended to read:

5 462.140. (1) *[No person shall]* **A person may not** conduct or commit, attempt or conspire to
6 conduct or commit pool selling, bookmaking, or circulate handbooks, or bet or wager on any li-
7 censed race meet, other than by the mutuel method. All moneys wagered in Oregon must be ac-
8 counted for through a computerized mutuel wagering system in use by an operating race meet in
9 this state and approved by the Oregon Racing Commission. Wagering into pools outside of Oregon
10 via telephone or other device is prohibited unless the wagering information is transmitted by a
11 licensee that conducts off-race course mutuel wagering pursuant to ORS 462.700 to 462.740.

12 (2) Except for the Oregon State Fair and Exposition Center, *[no]* a race meet licensee *[shall]*
13 **may not** take more than 22 percent of the gross receipts of any mutuel wagering system subject to
14 approval by the commission. The Oregon State Fair and Exposition Center may take up to a maxi-
15 mum of 19 percent from gross mutuel wagering requiring the selection of fewer than three separate
16 wagering interests and up to a maximum of 25 percent from gross mutuel wagering requiring the
17 selection of three or more separate wagering interests.

18 (3) A race meet licensee shall compute breaks in the mutuel system at 10 cents for each dollar
19 wagered in a specific mutuel pool except, when the breaks in the mutuel system compute to less
20 than 10 cents total for each dollar wagered, the race meet licensee shall compute the breaks on that
21 specific mutuel pool at five cents. When the breaks in the mutuel system compute at 10 cents or
22 more for each dollar wagered, the race meet licensee shall pay in increments of 10 cents for each
23 dollar wagered. When the breaks in the mutuel system compute to less than 10 cents for each dollar
24 wagered, the race meet licensee shall pay five cents for each dollar wagered. For horses, 45 percent
25 of the breaks shall be retained by the licensee. *[For greyhounds, 33-1/3 percent shall be retained by*
26 *the licensee.]* The other 55 percent *[for horses and 66-2/3 percent for greyhounds]* **of the breaks** shall
27 be paid as follows:

28 (a) For thoroughbred horse races, to the Oregon Thoroughbred Breeders Association, Incorpo-
29 rated, to be used by that association subject to prior approval of the commission, in such amounts
30 and for such of the following purposes as the association deems desirable:

31 (A) For breeders awards;

32 (B) For stallion awards;

33 (C) For education of the members of the association and other horsemen regarding the breeding
34 and racing of thoroughbred horses; or

35 (D) For the promotion and development of thoroughbred horse breeding and racing in Oregon.

36 (b) For quarterhorse races, to the Racing Division of the Oregon Quarterhorse Association, In-
37 corporated, to be used by that association subject to prior approval of the commission, in such
38 amounts and for such of the following purposes as the association deems desirable:

39 (A) For breeders awards;

40 (B) For stallion awards;

41 (C) For education of the members of the association and other horsemen regarding the breeding
42 and racing of quarterhorses; or

43 (D) For the promotion and development of quarterhorse breeding and racing in Oregon.

44 (c) For races for any other horses not designated in paragraphs (a) and (b) of this subsection,
45 to each association of horsemen recognized by the commission as representing the other breeds of

1 horses, to be used by that association subject to prior approval of the commission, in such amounts
 2 and for such of the following purposes as each recognized association deems desirable:

3 (A) For breeders awards;

4 (B) For stallion awards;

5 (C) For education of the members of the association and other horsemen regarding the breeding
 6 and racing of horses; or

7 (D) For the promotion and development of horse breeding and racing in Oregon.

8 *[(d) By a licensee of a race meet for greyhounds:]*

9 *[(A) One-half thereof to augment purses subject to reasonable regulations prescribed by the com-
 10 mission.]*

11 *[(B) The other one-half thereof for benefit and improvement of the breeding, ownership, training
 12 and racing of greyhounds in Oregon, subject to reasonable regulations prescribed by the commission.
 13 Included, but not by way of limitation, would be payment of purses for maiden graduation or special
 14 schooling races without wagering, and construction and operation of one or more appropriate public
 15 training facilities within the state. All such funds shall be retained by the licensee in an account sep-
 16 arate from all other funds, and no disbursements or transfers shall be made therefrom without prior
 17 approval of the commission.]*

18 **SECTION 12.** ORS 462.510 is amended to read:

19 462.510. (1) Any person who attempts to, or does persuade, procure or cause another person to
 20 wager on an animal participating in a race, and upon which money is wagered, and who asks or
 21 demands, or accepts compensation as a reward for information or purported information given in
 22 such case is a tout, and is guilty of touting.

23 (2) Predictions on the outcome of [*horse races and greyhound*] races may be sold on the
 24 licensee's premises in accordance with rules [*promulgated*] **adopted** by the Oregon Racing Commis-
 25 sion.

26 **SECTION 13.** ORS 215.203 is amended to read:

27 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
 28 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
 29 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
 30 only when such zoning is consistent with the comprehensive plan.

31 (2)(a) As used in this section, "farm use" means the current employment of land for the primary
 32 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
 33 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
 34 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
 35 use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage
 36 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
 37 man or animal use. "Farm use" also includes the current employment of land for the primary pur-
 38 pose of obtaining a profit in money by stabling or training equines including but not limited to
 39 providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propa-
 40 gation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to
 41 the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" in-
 42 cludes the on-site construction and maintenance of equipment and facilities used for the activities
 43 described in this subsection. "Farm use" does not include the use of land subject to the provisions
 44 of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined
 45 in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

- 1 (b) “Current employment” of land for farm use includes:
- 2 (A) Farmland, the operation or use of which is subject to any farm-related government program;
- 3 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural
- 4 husbandry;
- 5 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
- 6 of this paragraph, prior to maturity;
- 7 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special
- 8 farm use value in the year prior to planting the current crop and has been planted in orchards,
- 9 cultured Christmas trees or vineyards for at least three years;
- 10 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
- 11 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
- 12 which is not currently being used for any economic farm use;
- 13 (F) Except for land under a single family dwelling, land under buildings supporting accepted
- 14 farm practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(w) and 215.283
- 15 (1)(u);
- 16 (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- 17 (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
- 18 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
- 19 in conjunction with farm use;
- 20 (I) Land lying idle for no more than one year where the absence of farming activity is due to
- 21 the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph,
- 22 illness includes injury or infirmity whether or not such illness results in death;
- 23 (J) Any land described under ORS 321.267 (3) or 321.824 (3); and
- 24 (K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
- 25 kenneling or training of greyhounds for racing.
- 26 (c) As used in this subsection, “accepted farming practice” means a mode of operation that is
- 27 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
- 28 in money, and customarily utilized in conjunction with farm use.
- 29 (3) “Cultured Christmas trees” means trees:
- 30 (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive culti-
- 31 vation methods such as plowing or turning over the soil;
- 32 (b) Of a marketable species;
- 33 (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
- 34 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- 35 (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
- 36 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
- 37 disease control, stump culture, soil cultivation, irrigation.
- 38 **SECTION 14.** ORS 215.213 is amended to read:
- 39 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
- 40 Edition), the following uses may be established in any area zoned for exclusive farm use:
- 41 (a) Public or private schools, including all buildings essential to the operation of a school.
- 42 (b) Churches and cemeteries in conjunction with churches.
- 43 (c) The propagation or harvesting of a forest product.
- 44 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
- 45 not including commercial facilities for the purpose of generating electrical power for public use by

1 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
2 may be established as provided in ORS 215.275.

3 (e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
4 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-
5 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
6 the farm operator does or will require the assistance of the relative in the management of the farm
7 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

8 (B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
9 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
10 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
11 secured 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 (f) Nonresidential buildings customarily provided in conjunction with farm use.

14 (g) Primary or accessory dwellings customarily provided in conjunction with farm use if the
15 dwellings are on a lot or parcel that is managed as part of a farm operation not smaller than the
16 minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

17 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
18 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
19 compressors, separators and other customary production equipment for an individual well adjacent
20 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
21 an exception under ORS 197.732 (1)(a) or (b).

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

25 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
26 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
27 necessary for its operation.

28 (k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
29 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
30 hardship suffered by the existing resident or a relative of the resident. Within three months of the
31 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
32 ished or, in the case of an existing building, the building shall be removed, demolished or returned
33 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
34 view of the hardship claimed under this paragraph. A temporary residence approved under this
35 paragraph is not eligible for replacement under paragraph [(t)] (s) of this subsection.

36 [(L)] *The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in*
37 *population in which there is located a greyhound racing track or in a county of over 200,000 in popu-*
38 *lation contiguous to such a county.]*

39 [(m)] (L) Climbing and passing lanes within the right of way existing as of July 1, 1987.

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

44 [(o)] (n) Temporary public road and highway detours that will be abandoned and restored to
45 original condition or use at such time as no longer needed.

1 [(p)] (o) Minor betterment of existing public road and highway related facilities, such as main-
 2 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and
 3 contiguous public-owned property utilized to support the operation and maintenance of public roads
 4 and highways.

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

7 [(r)] (q) Creation of, restoration of or enhancement of wetlands.

8 [(s)] (r) A winery, as described in ORS 215.452.

9 [(t)] (s) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

13 (C) Has interior wiring for interior lights;

14 (D) Has a heating system; and

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

29 [(u)] (t) Farm stands if:

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

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

39 [(v)] (u) An armed forces reserve center, if the center is within one-half mile of a community
 40 college. For purposes of this paragraph, "armed forces reserve center" includes an armory or Na-
 41 tional Guard support facility.

42 [(w)] (v) A site for the takeoff and landing of model aircraft, including such buildings or facili-
 43 ties as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet
 44 in floor area or placed on a permanent foundation unless the building or facility preexisted the use
 45 approved under this paragraph. The site shall not include an aggregate surface or hard surface area

1 unless the surface preexisted the use approved under this paragraph. As used in this paragraph,
 2 “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon
 3 that is used or intended to be used for flight and is controlled by radio, lines or design by a person
 4 on the ground.

5 [(x)] (w) A facility for the processing of farm crops located on a farm operation that provides
 6 at least one-quarter of the farm crops processed at the facility. The building established for the
 7 processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area des-
 8 ignated for preparation, storage or other farm use or devote more than 10,000 square feet to the
 9 processing activities within another building supporting farm uses. A processing facility shall comply
 10 with all applicable siting standards but the standards shall not be applied in a manner that prohibits
 11 the siting of the processing facility.

12 [(y)] (x) Fire service facilities providing rural fire protection services.

13 [(z)] (y) Irrigation canals, delivery lines and those structures and accessory operational facilities
 14 associated with a district as defined in ORS 540.505.

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

18 (A) A public right of way;

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

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

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

28 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
 29 the following uses may be established in any area zoned for exclusive farm use subject to ORS
 30 215.296:

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

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

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

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

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

45 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-

1 nual income.

2 (c) Commercial activities that are in conjunction with farm use but not including the processing
3 of farm crops as described in subsection [(1)(x)] (1)(w) of this section.

4 (d) Operations conducted for:

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

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

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

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

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

24 (f) Golf courses.

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

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

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

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

1 Notwithstanding the soil type or value of the site or expansion area, if a site that is approved under
2 this paragraph before January 1, 2002, is lawfully used for the disposal of nonputrescible solid waste,
3 the county shall allow the site, together with equipment, facilities or buildings necessary for its
4 operation, to be maintained, expanded or enhanced as necessary for the disposal of the incoming
5 solid waste.

6 (k) Dog kennels [*not described in subsection (1)(L) of this section*].

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

8 (m) The propagation, cultivation, maintenance and harvesting of aquatic and insect species. In-
9 sect species shall not include any species under quarantine by the State Department of Agriculture
10 or the United States Department of Agriculture. The county shall provide notice of all applications
11 under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance
12 with the county's land use regulations but shall be mailed at least 20 calendar days prior to any
13 administrative decision or initial public hearing on the application.

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

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

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

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

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

23 (s) A destination resort which is approved consistent with the requirements of any statewide
24 planning goal relating to the siting of a destination resort.

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

27 (u)(A) A living history museum related to resource based activities owned and operated by a
28 governmental agency or a local historical society, together with limited commercial activities and
29 facilities that are directly related to the use and enjoyment of the museum and located within au-
30 thentic buildings of the depicted historic period or the museum administration building, if areas
31 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
32 the museum administration buildings and parking lot are located within one quarter mile of the
33 metropolitan urban growth boundary.

34 (B) As used in this paragraph:

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

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

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

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

44 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
45 a single-family residential dwelling not provided in conjunction with farm use may be established

1 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
2 the Agricultural Capability Classification System in use by the United States Department of Agri-
3 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
4 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
5 showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

41 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
42 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

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

18 **SECTION 15.** ORS 215.213, as amended by section 2, chapter 260, Oregon Laws 2001, and sec-
 19 tion 2, chapter 247, Oregon Laws 2003, is amended to read:

20 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
 21 Edition), the following uses may be established in any area zoned for exclusive farm use:

22 (a) Public or private schools, including all buildings essential to the operation of a school.

23 (b) Churches and cemeteries in conjunction with churches.

24 (c) The propagation or harvesting of a forest product.

25 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
 26 not including commercial facilities for the purpose of generating electrical power for public use by
 27 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
 28 may be established as provided in ORS 215.275.

29 (e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
 30 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-
 31 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
 32 the farm operator does or will require the assistance of the relative in the management of the farm
 33 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

34 (B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
 35 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
 36 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
 37 secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 38 shall operate as a partition of the homesite to create a new parcel.

39 (f) Nonresidential buildings customarily provided in conjunction with farm use.

40 (g) Primary or accessory dwellings customarily provided in conjunction with farm use if the
 41 dwellings are on a lot or parcel that is managed as part of a farm operation not smaller than the
 42 minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

43 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
 44 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 45 compressors, separators and other customary production equipment for an individual well adjacent

1 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
2 an exception under ORS 197.732 (1)(a) or (b).

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

6 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
7 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
8 necessary for its operation.

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

17 [(L) *The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in*
18 *population in which there is located a greyhound racing track or in a county of over 200,000 in popu-*
19 *lation contiguous to such a county.*]

20 [(m)] (L) Climbing and passing lanes within the right of way existing as of July 1, 1987.

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

25 [(o)] (n) Temporary public road and highway detours that will be abandoned and restored to
26 original condition or use at such time as no longer needed.

27 [(p)] (o) Minor betterment of existing public road and highway related facilities, such as main-
28 tenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and
29 contiguous public-owned property utilized to support the operation and maintenance of public roads
30 and highways.

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

33 [(r)] (q) Creation of, restoration of or enhancement of wetlands.

34 [(s)] (r) A winery, as described in ORS 215.452.

35 [(t)] (s) Alteration, restoration or replacement of a lawfully established dwelling that:

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

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

39 (C) Has interior wiring for interior lights;

40 (D) Has a heating system; and

41 (E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
42 dential use within three months of the completion of the replacement dwelling. A replacement
43 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-
44 agraph shall comply with all applicable siting standards. However, the standards shall not be applied
45 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a

1 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-
2 proval, shall execute and record in the deed records for the county where the property is located
3 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
4 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
5 the county. The release shall be signed by the county or its designee and state that the provisions
6 of this paragraph regarding replacement dwellings have changed to allow the siting of another
7 dwelling. The county planning director or the director's designee shall maintain a record of the lots
8 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
9 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

10 [(u)] (t) Farm stands if:

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

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

20 [(v)] (u) An armed forces reserve center, if the center is within one-half mile of a community
21 college. For purposes of this paragraph, "armed forces reserve center" includes an armory or Na-
22 tional Guard support facility.

23 [(w)] (v) A site for the takeoff and landing of model aircraft, including such buildings or facili-
24 ties as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet
25 in floor area or placed on a permanent foundation unless the building or facility preexisted the use
26 approved under this paragraph. The site shall not include an aggregate surface or hard surface area
27 unless the surface preexisted the use approved under this paragraph. As used in this paragraph,
28 "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon
29 that is used or intended to be used for flight and is controlled by radio, lines or design by a person
30 on the ground.

31 [(x)] (w) A facility for the processing of farm crops located on a farm operation that provides
32 at least one-quarter of the farm crops processed at the facility. The building established for the
33 processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area des-
34 ignated for preparation, storage or other farm use or devote more than 10,000 square feet to the
35 processing activities within another building supporting farm uses. A processing facility shall comply
36 with all applicable siting standards but the standards shall not be applied in a manner that prohibits
37 the siting of the processing facility.

38 [(y)] (x) Fire service facilities providing rural fire protection services.

39 [(z)] (y) Irrigation canals, delivery lines and those structures and accessory operational facilities
40 associated with a district as defined in ORS 540.505.

41 [(aa)] (z) Utility facility service lines. Utility facility service lines are utility lines and accessory
42 facilities or structures that end at the point where the utility service is received by the customer
43 and that are located on one or more of the following:

44 (A) A public right of way;

45 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-

1 jacent property owners has been obtained; or

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

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

9 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
 10 the following uses may be established in any area zoned for exclusive farm use subject to ORS
 11 215.296:

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

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

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

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

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

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

28 (c) Commercial activities that are in conjunction with farm use but not including the processing
 29 of farm crops as described in subsection [(1)(x)] (1)(w) of this section.

30 (d) Operations conducted for:

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

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

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

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

37 (e) Community centers owned by a governmental agency or a nonprofit community organization
 38 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
 39 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
 40 county governing body or its designee, a private campground may provide yurts for overnight
 41 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
 42 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
 43 Upon request of a county governing body, the Land Conservation and Development Commission may
 44 provide by rule for an increase in the number of yurts allowed on all or a portion of the
 45 campgrounds in a county if the commission determines that the increase will comply with the stan-

1 dards described in ORS 215.296 (1). A public park or campground may be established as provided
2 under ORS 195.120. As used in this paragraph, “yurt” means a round, domed shelter of cloth or
3 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
4 ance.

5 (f) Golf courses.

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

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

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

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

27 (k) Dog kennels *[not described in subsection (1)(L) of this section]*.

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

29 (m) The propagation, cultivation, maintenance and harvesting of aquatic and insect species. In-
30 sect species shall not include any species under quarantine by the State Department of Agriculture
31 or the United States Department of Agriculture. The county shall provide notice of all applications
32 under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance
33 with the county’s land use regulations but shall be mailed at least 20 calendar days prior to any
34 administrative decision or initial public hearing on the application.

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

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

37 (p) 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 (q) 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 (r) 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 (s) A destination resort which is approved consistent with the requirements of any statewide
45 planning goal relating to the siting of a destination resort.

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

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

10 (B) As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

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

45 (c) The dwelling complies with other conditions considered necessary by the governing body or

1 its designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **SECTION 16.** ORS 215.246 is amended to read:

40 215.246. (1) The uses allowed under ORS 215.213 [(1)(bb)] (1)(aa) and 215.283 (1)(y):

41 (a) Require a determination by the Department of Environmental Quality, in conjunction with
42 the department's review of a license, permit or approval, that the application rates and site man-
43 agement practices for the land application of reclaimed water, agricultural or industrial process
44 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
45 reduce the productivity of the tract.

1 (b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
2 215.275 or 215.296.

3 (2) The use of a tract of land on which the land application of reclaimed water, agricultural or
4 industrial process water or biosolids has occurred under this section may not be changed to allow
5 a different use unless:

6 (a) The tract is included within an acknowledged urban growth boundary;

7 (b) The tract is rezoned to a zone other than an exclusive farm use zone;

8 (c) The different use of the tract is a farm use as defined in ORS 215.203; or

9 (d) The different use of the tract is a use allowed under:

10 (A) ORS 215.213 (1)(c), (e) to (g), (k), [(m) to (q)] **(L) to (p)**, [(s) to (u)] **(r) to (t)**, [(x)] **(w)**, [(z)]
11 **(y)** or [(aa)] **(z)**;

12 (B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

13 (C) ORS 215.283 (1)(c), (e), (f), (k) to (o), (q) to (s), (u), (w) or (x); or

14 (D) ORS 215.283 (2)(a), (j), (L) or (p) to (s).

15 (3) When a state agency or a local government makes a land use decision relating to the land
16 application of reclaimed water, agricultural or industrial process water or biosolids under a license,
17 permit or approval by the Department of Environmental Quality, the applicant shall explain in
18 writing how alternatives identified in public comments on the land use decision were considered and,
19 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The
20 applicant must consider only those alternatives that are identified with sufficient specificity to af-
21 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating
22 to the land application of reclaimed water, agricultural or industrial process water or biosolids may
23 not be reversed or remanded under this subsection unless the applicant failed to consider identified
24 alternatives or to explain in writing the reasons for not using the alternatives.

25 (4) The uses allowed under this section include:

26 (a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that
27 occurs as a result of the land application;

28 (b) The establishment and use of facilities, including buildings, equipment, aerated and
29 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and
30 reasonably necessary for the land application to occur on the subject tract;

31 (c) The establishment and use of facilities, including buildings and equipment, that are not on
32 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
33 industrial process water or biosolids to the tract on which the land application occurs if the facili-
34 ties are located within:

35 (A) A public right of way; or

36 (B) Other land if the landowner provides written consent and the owner of the facility complies
37 with ORS 215.275 (4); and

38 (d) The transport by vehicle of reclaimed water or agricultural or industrial process water to
39 a tract on which the water will be applied to land.

40 (5) Uses not allowed under this section include:

41 (a) The establishment and use of facilities, including buildings or equipment, for the treatment
42 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment
43 facilities related to the treatment that occurs as a result of the land application; or

44 (b) The establishment and use of utility facility service lines allowed under ORS 215.213
45 [(1)(aa)] **(1)(z)** or 215.283 (1)(x).

SECTION 17. ORS 215.249 is amended to read:

215.249. Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land in an exclusive farm use zone for the land application of reclaimed water, agricultural or industrial process water or biosolids described in ORS 215.213 [(1)(bb)] **(1)(aa)** or 215.283 (1)(y).

SECTION 18. ORS 215.251 is amended to read:

215.251. Nothing in ORS 215.213 [(1)(bb)] **(1)(aa)**, 215.246 to 215.249 or 215.283 (1)(y) affects whether the land application of a substance not described in ORS 215.213 [(1)(bb)] **(1)(aa)**, 215.246 to 215.249 or 215.283 (1)(y) is a farm use as defined in ORS 215.203.

SECTION 19. ORS 215.263 is amended to read:

215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of the county in which the land is situated. The governing body of a county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

(2) The governing body of a county or its designee may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

(a) That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or

(b) The parcels created by the proposed division are not smaller than the minimum size established under ORS 215.780.

(3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.

(4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined in ORS 215.010, the governing body of a county or its designee:

(a) May approve a division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum size established under ORS 215.780, each to contain a dwelling not provided in conjunction with farm use if:

(A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

(B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size established under ORS 215.780;

(D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; and

(E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

(b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:

(A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

1 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 2 created prior to July 1, 2001;

3 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
 4 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

5 (D) The parcels for the nonfarm dwellings are:

6 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;
 7 and

8 (ii) Composed of at least 90 percent Class VI through VIII soils;

9 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
 10 and

11 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 12 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 13 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 14 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 15 forest use in conjunction with other land.

16 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

17 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
 18 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
 19 vided in conjunction with farm use if:

20 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

21 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 22 created prior to July 1, 2001;

23 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
 24 the minimum size established under ORS 215.780;

25 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
 26 complies with the minimum size established under ORS 215.780; and

27 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 28 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 29 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 30 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 31 forest use in conjunction with other land.

32 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
 33 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

34 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

35 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 36 created prior to July 1, 2001;

37 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
 38 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

39 (D) The parcels for the nonfarm dwellings are:

40 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;
 41 and

42 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
 43 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
 44 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
 45 State Department of Agriculture and other interested persons, may establish by rule objective cri-

1 teria for identifying units of land that are not capable of producing adequate herbaceous forage for
 2 grazing livestock. In developing the criteria, the commission shall use the latest information from
 3 the United States Natural Resources Conservation Service and consider costs required to utilize
 4 grazing lands that differ in acreage and productivity level;

5 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
 6 and

7 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 8 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 9 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 10 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 11 forest use in conjunction with other land.

12 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
 13 the boundaries designated for a farm use zone at the time the zone is established.

14 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
 15 of land resulting from foreclosure of recorded contracts for the sale of real property.

16 (8) The governing body of a county may not approve any proposed division of a lot or parcel
 17 described in ORS 215.213 (1)(e) or (k), 215.283 (1)(e) or (2)(L) or 215.284 (1), or a proposed division
 18 that separates a processing facility from the farm operation specified in ORS 215.213 [(1)(x)] (1)(w)
 19 or 215.283 (1)(u).

20 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
 21 use zone to create a parcel with an existing dwelling to be used:

22 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
 23 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

24 (b) For historic property that meets the requirements of ORS 215.213 [(1)(q)] (1)(p) and 215.283
 25 (1)(o).

26 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
 27 prove a proposed division of land provided:

28 (A) The land division is for the purpose of allowing a provider of public parks or open space,
 29 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
 30 and

31 (B) A parcel created by the land division that contains a dwelling is large enough to support
 32 continued residential use of the parcel.

33 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

34 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

35 (B) May not be considered in approving or denying an application for siting any other dwelling;

36 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
 37 redesignation or rezoning to allow a public park, open space or other natural resource use; and

38 (D) May not be smaller than 25 acres unless the purpose of the land division is:

39 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
 40 wildlife habitat protection plan; or

41 (ii) To allow a transaction in which at least one party is a public park or open space provider,
 42 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
 43 acres of open space or park property.

44 (11) The governing body of a county or its designee may approve a division of land smaller than
 45 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone

1 provided:

2 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
3 with the church;

4 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

5 (c) The newly created lot or parcel is not larger than five acres; and

6 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
7 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
8 parcel.

9 (12) The governing body of a county may not approve a division of land for nonfarm use under
10 subsection (3), (4), (5), (9), (10) or (11) of this section unless any additional tax imposed for the
11 change in use has been paid.

12 (13) Parcels used or to be used for training or stabling facilities may not be considered appro-
13 priate to maintain the existing commercial agricultural enterprise in an area where other types of
14 agriculture occur.

15 **SECTION 20.** ORS 215.417 is amended to read:

16 215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development
17 on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293
18 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four
19 years.

20 (2) An extension of a permit described in subsection (1) of this section shall be valid for two
21 years.

22 (3) For the purposes of this section, “residential development” only includes the dwellings pro-
23 vided for under ORS 215.213 [(1)(t)] (1)(s), (3) and (4), 215.283 (1)(s), 215.284, 215.317, 215.705 (1) to
24 (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

25 **SECTION 21.** ORS 215.452 is amended to read:

26 215.452. (1) A winery, authorized under ORS 215.213 [(1)(s)] (1)(r) and 215.283 (1)(q), is a facility
27 that produces wine with a maximum annual production of:

28 (a) Less than 50,000 gallons and that:

29 (A) Owns an on-site vineyard of at least 15 acres;

30 (B) Owns a contiguous vineyard of at least 15 acres;

31 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
32 vineyard contiguous to the winery; or

33 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

34 (b) At least 50,000 gallons and no more than 100,000 gallons and that:

35 (A) Owns an on-site vineyard of at least 40 acres;

36 (B) Owns a contiguous vineyard of at least 40 acres;

37 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
38 vineyard contiguous to the winery; or

39 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

40 (2) The winery described in subsection (1)(a) or (b) of this section shall allow only the sale of:

41 (a) Wines produced in conjunction with the winery; and

42 (b) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site.

43 Such items include those served by a limited service restaurant, as defined in ORS 624.010.

44 (3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
45 show that vineyards, described in subsection (1)(a) and (b) of this section, have been planted or that

1 the contract has been executed, as applicable.

2 (4) A local government shall adopt findings for each of the standards described in paragraphs
 3 (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely
 4 to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farm-
 5 ing or forest practices on adjacent lands:

6 (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and
 7 all public gathering places; and

8 (b) Provision of direct road access, internal circulation and parking.

9 (5) A local government shall also apply local criteria regarding floodplains, geologic hazards, the
 10 Willamette River Greenway, solar access, airport safety or other regulations for resource protection
 11 acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas
 12 and natural resources.

13 **SECTION 22.** ORS 215.780 is amended to read:

14 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
 15 parcel sizes apply to all counties:

16 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

17 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

18 (c) For land designated forestland, at least 80 acres.

19 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
 20 of this section in any of the following circumstances:

21 (a) By demonstrating to the Land Conservation and Development Commission that it can do so
 22 while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning
 23 goals adopted under ORS 197.230.

24 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed
 25 farm and forest use, subject to the following requirements:

26 (A) The parcel established shall not be larger than five acres, except as necessary to recognize
 27 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

28 (B) The dwelling existed prior to June 1, 1995;

29 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-
 30 dards of the zone; or

31 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and
 32 together the parcels meet the minimum land division standards of the zone; and

33 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-
 34 sequently authorized by law or goal.

35 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for
 36 mixed farm and forest use the following requirements apply:

37 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

38 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for
 39 special assessment under a program under ORS chapter 321.

40 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and
 41 215.283 that are not allowed on forestland.

42 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that
 43 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this
 44 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

45 (A) Shall not be eligible for siting of a new dwelling;

- 1 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;
 2 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of
 3 resource lands;
 4 (D) Shall not result in a parcel of less than 35 acres, except:
 5 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-
 6 ernmental agency; or
 7 (ii) Where the purpose of the land division is to allow transactions in which at least one par-
 8 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and
 9 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in
 10 a parcel less than the minimum lot or parcel size of the zone.
 11 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under
 12 a statewide planning goal protecting forestland if:
 13 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 14 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213
 15 [(1)(t)] (1)(s) or 215.283 (1)(s);
 16 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two
 17 and five acres in size;
 18 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and
 19 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-
 20 striction prohibiting the landowner and the landowner's successors in interest from further dividing
 21 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel
 22 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of
 23 release is signed by the county planning director of the county in which the lot or parcel is located
 24 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have
 25 been changed so that the lot or parcel is no longer subject to statewide planning goals protecting
 26 forestland or unless the land division is subsequently authorized by law or by a change in a state-
 27 wide planning goal for land zoned for forest use or mixed farm and forest use.
 28 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
 29 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record
 30 shall be readily available to the public.
 31 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
 32 dwelling on the lot or parcel was approved under:
 33 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
 34 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
 35 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
 36 use zone under a statewide planning goal protecting forestland.
 37 (5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to
 38 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under
 39 ORS 197.628, 197.633 and 197.636 that is smaller than those prescribed in subsection (1) of this sec-
 40 tion need not comply with subsection (2) of this section.
 41 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall
 42 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
 43 recorded with the county clerk of the county where the property is located. An applicant for the
 44 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-
 45 striction on the newly created parcel has been recorded with the county clerk of the county where

1 the property is located. The restriction shall allow no dwellings unless authorized by law or goal
2 on land zoned for forest use except as permitted under subsection (2) of this section.

3 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release
4 is signed by the county planning director of the county where the property is located indicating that
5 the comprehensive plan or land use regulations applicable to the property have been changed in
6 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-
7 cultural land or forestland.

8 (c) The county planning director shall maintain a record of parcels that do not qualify for the
9 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily
10 available to the public.

11 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
12 ment that shall be recorded with the county clerk of the county in which the property is located,
13 declaring that the landowner and the landowner's successors in interest will not in the future com-
14 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

15 **SECTION 23.** ORS 308A.056 is amended to read:

16 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment
17 of land for the primary purpose of obtaining a profit in money by:

18 (a) Raising, harvesting and selling crops;

19 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
20 or the produce thereof;

21 (c) Dairying and selling dairy products;

22 (d) Stabling or training equines, including but not limited to providing riding lessons, training
23 clinics and schooling shows;

24 (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
25 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

26 (f) On-site constructing and maintaining equipment and facilities used for the activities described
27 in this subsection;

28 (g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products
29 raised for human or animal use on land described in this section; or

30 (h) Using land described in this section for any other agricultural or horticultural use or animal
31 husbandry or any combination thereof.

32 (2) "Farm use" does not include the use of land subject to timber and forestland taxation under
33 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-
34 scribed in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber,
35 including hybrid cottonwood).

36 (3) For purposes of this section, land is currently employed for farm use if the land is:

37 (a) Farmland, the operation or use of which is subject to any farm-related government program;

38 (b) Land lying fallow for one year as a normal and regular requirement of good agricultural
39 husbandry;

40 (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of
41 this subsection, prior to maturity;

42 (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special
43 farm use value in the year prior to planting the current crop and has been planted in orchards,
44 cultured Christmas trees or vineyards for at least three years;

45 (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically

1 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that
 2 is not currently being used for any economic farm use;

3 (f) Except for land under a single family dwelling, land under buildings supporting accepted
 4 farming practices, including the processing facilities allowed by ORS 215.213 [(1)(x)] (1)(w) and
 5 215.283 (1)(u);

6 (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

7 (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
 8 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
 9 in conjunction with farm use;

10 (i) Land lying idle for no more than one year when the absence of farming activity is the result
 11 of the illness of the farmer or a member of the farmer's immediate family, including injury or
 12 infirmity, regardless of whether the illness results in death;

13 (j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain
 14 hardwood timber, including hybrid cottonwood); or

15 (k) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
 16 kenneling or training greyhounds for racing.

17 (4) As used in this section:

18 (a) "Accepted farming practice" means a mode of operation that is common to farms of a similar
 19 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
 20 arily utilized in conjunction with farm use.

21 (b) "Cultured Christmas trees" means trees:

22 (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
 23 tivation methods such as plowing or turning over the soil;

24 (B) Of a marketable species;

25 (C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
 26 specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

27 (D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
 28 and brush control and one or more of the following practices:

29 (i) Basal pruning;

30 (ii) Fertilizing;

31 (iii) Insect and disease control;

32 (iv) Stump culture;

33 (v) Soil cultivation; or

34 (vi) Irrigation.

35 **SECTION 24.** ORS 461.217 is amended to read:

36 461.217. (1) As used in this section, "video lottery game retailer" means a contractor under
 37 contract with the Oregon State Lottery to place video lottery game terminals on premises author-
 38 ized by the contract.

39 (2) A video lottery game terminal that offers a video lottery game authorized by the Director
 40 of the Oregon State Lottery shall be placed for operation only on the premises of an establishment
 41 that has a contract with the Oregon State Lottery as a video lottery game retailer. The terminal
 42 must be within the control of an employee of the video lottery game retailer. It shall not be placed
 43 in any other business or location.

44 (3) A video lottery game terminal shall be placed only on the premises of an establishment li-
 45 censed by the Oregon Liquor Control Commission with a full or limited on-premises sales license.

1 A video lottery game terminal shall be placed only in that part of the premises that is posted by the
 2 commission as being closed to minors. In addition to the requirements of this subsection, the direc-
 3 tor may by rule establish such other criteria and conditions as the director determines appropriate
 4 for the placement of video lottery game terminals in establishments.

5 (4) No more than six video lottery terminals shall be placed in or on premises described in
 6 subsection (3) of this section.

7 (5) No more than 10 video lottery game terminals may be placed on the premises of a race meet
 8 licensee licensed under ORS [462.020] **462.040** that qualifies as a video lottery game retailer.

9 **SECTION 25.** ORS 462.070 is amended to read:

10 **462.070.** (1) The license fees for any one fiscal year shall be \$10 for any person required to be
 11 licensed under ORS 462.020 [(2)] (1). For a person who qualifies for and desires a license in more
 12 than one category, the fee shall be \$2 for each additional category so licensed. Notwithstanding the
 13 foregoing, the total collective fee for all persons who act as employees of a race meet licensee at
 14 a race meet in which the average daily gross mutuel wagering during the preceding fiscal year did
 15 not exceed \$150,000 shall be \$100. The Oregon Racing Commission also may charge a reasonable fee
 16 for claiming certificates in an amount not to exceed \$10.

17 (2) The license fee per fiscal year for operators of public training tracks or kennels required to
 18 be licensed under ORS 462.020 [(3)] (2) shall be:

19 (a) For the Oregon State Fair or a county or district fair, \$10.

20 (b) For all other operators of public training tracks or kennels, \$25.

21 (3) Notwithstanding the provisions of this section, on and after July 1, 1983, the commission may
 22 by rule provide for the issuance of licenses as required under subsection (1) of this section valid for
 23 one, two or three years from date of issuance. The commission may fix the expiration date thereof
 24 and charge a fee at not less than the annual rate for each year, or part thereof, the license is de-
 25 termined valid.

26 **SECTION 26.** ORS 462.135 is repealed.

27 **SECTION 27.** The amendments to ORS 215.213 by sections 14 and 15 of this 2005 Act do
 28 not invalidate any use existing on the effective date of this 2005 Act.

29