

ANNOTATED MINUTES

Monday, October 25, 1993 - 8:30 AM - 12:00 PM
Portland Metropolitan Chamber of Commerce
221 NW Second Avenue, Boardroom

WORK SESSION

WS-1 The Multnomah County Board of Commissioners and Other County Elected Officials and Department Managers Will Meet to Review the Portland-Multnomah Progress Board Work on Multnomah County Benchmarks.

FACILITATOR JOE HERTZBERG. PARTICIPANTS
MEGANNE STEELE, MICHAEL SCHRUNK, BETSY
WILLIAMS, DAN SALTZMAN, JIM McCONNELL, BEVERLY
STEIN, ROBERT SKIPPER, STEVE TILLINGHAST,
SHARRON KELLEY, DWAYNE PRATHER, TANYA COLLIER,
JUDITH DUNCAN, SUSAN CLARK, GARY HANSEN, BILL
FARVER, JOHN LEGRY, DANA BROWN, HOWARD KLINK
AND LOLENZO POE. GROUP DISCUSSED AND
IDENTIFIED ADDITIONAL BENCHMARKS FOR CONSIDER-
ATION. EACH PARTICIPANT TO SELECT 10 URGENT
BENCHMARKS FROM LIST OF 54, USING RED AND GREEN
DOT SYSTEM, AT NOVEMBER 30, 1993 WORK SESSION.

Tuesday, October 26, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602

BOARD BRIEFING

B-1 Review of the Planning and Development Division's Fiscal Year 1992-93 Long Range Planning Work Program. Presented by R. Scott Pemble.

MR. PEMBLE OUTLINED STAFF WORK PROGRAM REGARDING PERIODIC REVIEW, RURAL AREA PLAN AND FOREST/AGRICULTURE ACTIVITIES.

Tuesday, October 26, 1993 - 1:30 PM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

Chair Beverly Stein convened the meeting at 1:35 p.m., with Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.

P-1 CU 3-93a Review the October 13, 1993 Planning and Zoning Hearings Officer Decision Approving, Subject to Conditions and Subsequent Design Review, a Conditional Use Request to Raise Hogs on Property Located at 16631 SE FOSTER ROAD.

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-2 CS 8-93 Review the October 12, 1993 Planning and Zoning

Hearings Officer Decision Approving, Subject to Conditions, a Community Service Use Amendment to Modify the Boundary and Construct a Seminary Building, Together with Associated On and Off-Site Improvements, for Property Located at 30304 SE LUSTED ROAD.

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-3 DR 18-93 Review the October 12, 1993 Planning and Zoning Hearings Officer Decision Denying an Appeal of an Administrative Decision to Approve a Final Design Review Plan for a 7 Dwelling Unit Residential Development; and Approving, Subject to Conditions and Modifications, the Final Design Review Plan for DR 18-93, for Property Located at 2640 SE 141ST AVENUE.

DECISION READ, NO APPEAL FILED, DECISION STANDS.

Vice-Chair Gary Hansen arrived at 1:41 p.m.

P-4 Staff from the Department of Land Conservation and Development, Department of Geology and Mineral Industries and the Department of Environmental Quality will brief the Board on Responsibilities of Local Government and State Agencies in the Regulation of Mineral and Aggregate Uses.

PRESENTATION AND RESPONSE TO BOARD QUESTIONS FROM SCOTT PEMBLE, JIM SITZMAN AND JOHN BEAULEU. MR. PEMBLE AND MR. SITZMAN RESPONSE TO PUBLIC COMMENTARY FROM KLAUS HEYNE AND JOHN SHERMAN.

P-5 C 5-93 Continued First Reading of an ORDINANCE Which Amends the Multnomah County Comprehensive Framework Plan Policy 16 and Multnomah County Code Chapter 11.15 Regarding Significant Environmental Concern (SEC) Provisions and Adopting a Map of Significant Streams and Riparian Areas Which Are Designated "3-C" Resource Sites in the Multnomah County Goal 5 Inventory.

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. MR. PEMBLE PRESENTED STAFF REPORT, REFERRING TO OCTOBER 20, 1993 MEMO FROM PLANNER MARK HESS REQUESTING MODIFICATION OF C 5-93 REPORT AND PREPARATION OF AN AMENDED ORDINANCE FOR BOARD CONSIDERATION IN NOVEMBER OR DECEMBER, AND RESPONDED TO BOARD QUESTIONS. TESTIMONY AND RESPONSE TO BOARD QUESTIONS FROM KLAUS HEYNE, NANCY WILSON, CHRIS WRENCH, BILLY OSKAY, SUSAN FRY, ARNOLD ROCHLIN, MICHAEL CARLSON, LYN MATTEI, CHRIS FOSTER AND JOHN SHERMAN. AT THE DIRECTION OF THE BOARD, MR. PEMBLE RESPONDED TO CITIZEN QUESTIONS AND CONCERNS. BOARD COMMENTS AND DISCUSSION. COMMISSIONER SALTZMAN MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF FIRST READING OF P-5. MR. PEMBLE AND JOHN DuBAY EXPLANATION AND

RESPONSE TO BOARD QUESTIONS. MOTION FAILED, WITH COMMISSIONERS HANSEN AND SALTZMAN VOTING AYE AND COMMISSIONERS KELLEY, COLLIER AND STEIN VOTING NAY. MR. PEMBLE AND MR. DuBAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, THE FIRST READING OF P-5 WAS CONTINUED TO 1:30 PM, TUESDAY, DECEMBER 28, 1993, WITH COMMISSIONERS KELLEY, HANSEN, COLLIER AND STEIN VOTING AYE AND COMMISSIONER SALTZMAN ABSTAINING. COMMISSIONERS KELLEY AND COLLIER TO ASSIST PLANNING DIRECTOR TO PREPARE OPTION AND FUNDING PROPOSALS CONCERNING PROCESS FOR DESIGNATING EAST COUNTY STREAMS, FOR BOARD BRIEFING ON TUESDAY, NOVEMBER 9, 1993.

There being no further business, the meeting was adjourned at 4:45 p.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

By Deborah C. Coe

Thursday, October 28, 1993 - 9:00 AM
Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h), for the Purpose of Consultation with Counsel Concerning Legal Rights and Duties Regarding Current Litigation. Presented by Laurence Kressel.

SESSION HELD. SESSION CONTINUED.

Thursday, October 28, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:40 a.m., with Vice-Chair Gary Hansen, Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.

CONSENT CALENDAR

COMMISSIONER COLLIER REQUESTED THAT C-1 BE CONSIDERED WITH REGULAR AGENDA ITEM R-25.

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, CONSENT CALENDAR ITEMS C-2 THROUGH C-7 WERE UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

- C-2 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 200414 Between Multnomah County and Oregon State Health Division, State Public Health Laboratory, Adding Hepatitis Prevacine Screens, Childhood Blood Lead Tests and HIV-Ab Tests for Health Department Clients, for the Period Upon Execution through June 30, 1994
- C-3 Ratification of Intergovernmental Agreement Contract 200944 Between Multnomah County and Oregon Health Sciences University, Providing OHSU Obstetrical-Gynecological Consultation for Health Department Clients, for the Period November 1, 1993 through October 31, 1994

DEPARTMENT OF SOCIAL SERVICES

- C-4 RESOLUTION in the Matter of Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

RESOLUTION 93-354.

- C-5 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100274 Between Multnomah County and Oregon Health Sciences University, Adding State Funds to the Mental Health, Youth, and Family Services Division, Adult Mental Health Program for Non-Residential Adult Services, and Removing Assessment, Intervention, and Transition Program (AITP) Consultation Services Funds as of July 1, 1993
- C-6 Ratification of Intergovernmental Agreement Contract 103804 Between Multnomah County, Mental Health, Youth, and Family Services Division, Child and Adolescent Program, and Gresham Grade School District Number 4, Clear Creek Middle School, Wherein the School District Will Provide Funding for the County to Provide Mental Health Services for Students, Effective September 1, 1993 through June 30, 1994
- C-7 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 500453 Between the City of Portland, Multnomah County and Portland School District No. 1, Reducing the Amount of PILOT (Payment in Lieu of Taxes) Funds Available for Distribution to Support Direct Client Assistance for Homeless and Low Income People

REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 PUBLIC HEARING and Consideration of an ORDER in the Matter of the Execution of Deed D940935 for Certain Tax Acquired Property to the Housing Authority of Portland [Former 6102 SE 86th Avenue]

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-1. RICHARD PAYNE EXPLANATION OF ITEMS R-1 AND R-2 AND

**RESPONSE TO BOARD QUESTIONS. ORDER 93-355
UNANIMOUSLY APPROVED.**

R-2 PUBLIC HEARING and Consideration of an ORDER in the Matter of the Execution of Deed D940936 for Certain Tax Acquired Property to the Housing Authority of Portland [Former 3814-3816 SE 26th Avenue]

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, ORDER 93-356 WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

R-3 Ratification of Intergovernmental Agreement Contract 200744 Between Multnomah County and Oregon Health Sciences University, Wherein the OHSU/VAH Joint Flow Cytometry Lab Will Provide Laboratory Services for T-Cell Subset Testing for Multnomah County Health Department, for the Period November 1, 1993 through September 30, 1994

COMMISSIONER COLLIER MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-3. TOM FRONK EXPLANATION AND RESPONSE TO BOARD QUESTIONS. AGREEMENT UNANIMOUSLY APPROVED.

R-4 Budget Modification HD #3 Requesting Authorization to Add Increases in Grant Funds to Three Existing Grants; Reduce a Grant and Reduce Water Testing Revenue

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-4. TOM FRONK EXPLANATION AND RESPONSE TO BOARD QUESTIONS. MR. FRONK TO PREPARE MEMO PROVIDING INFORMATION REQUESTED BY COMMISSIONER COLLIER. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF SOCIAL SERVICES

R-5 Ratification of Intergovernmental Agreement Contract 103704 Between Multnomah County, the City of Gresham and the Housing Authority of Portland, for the Development of Affordable Rental Housing for Agricultural Workers in East Multnomah County, for the Period Upon Execution through September 30, 1996

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-5. CECILE PITTS EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

NON-DEPARTMENTAL

R-6 Budget Modification NOND #8 Requesting Authorization to Reclassify a Senior Office Assistant Position to a Risk Management Technician, within the Risk Management Division Budget

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-6. JEAN MILEY

**EXPLANATION AND RESPONSE TO BOARD QUESTIONS.
BUDGET MODIFICATION UNANIMOUSLY APPROVED.**

R-7 RESOLUTION in the Matter of Referring Certain Proposed Zoning Code Amendments to the Planning Commission for Recommendations

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-7. COMMISSIONER SALTZMAN EXPLANATION AND SUBMISSION OF LETTER OF SUPPORT FROM LAKE OSWEGO NEIGHBORHOOD ACTION COALITION. TESTIMONY IN SUPPORT FROM PAUL DUDEN, BILL NAITO AND DOUG HARDESTY. BOARD COMMENTS AND LAURENCE KRESSEL RESPONSE TO PROCESS QUESTION. RESOLUTION 93-357 UNANIMOUSLY APPROVED.

R-8 RESOLUTION in the Matter of the Adoption of Rules of Procedure for the Conduct of Board Meetings and Repealing Prior Rules

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-8. DEBORAH BOGSTAD AND LAURENCE KRESSEL EXPLANATION. RESOLUTION 93-358 UNANIMOUSLY APPROVED.

GENERAL FUND CONTINGENCY REQUESTS

DEPARTMENT OF HEALTH

R-9 Budget Modification HD #2 Requesting Authorization to Appropriate \$222,065 to the Primary Care Division Budget to Extend Funding for Two Primary Care Medical Teams from Half to Full Year

COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-9. COMMISSIONER COLLIER INITIATED BOARD DISCUSSION REGARDING NEED FOR REVISING CONTINGENCY CRITERIA GUIDELINES, ADDING UNFORESEEN NEEDS, AND NOT CONSIDERING REQUESTS WHICH DO NOT MEET CONTINGENCY CRITERIA. VICE CHAIR HANSEN ADVISED HE FEELS THESE CONTINGENCY REQUESTS REPRESENT A FINALIZATION OF THE BUDGET PROCESS FOR THIS FISCAL YEAR. COMMISSIONER KELLEY SUGGESTED THAT IN ADDITION TO CONTINGENCY CRITERIA GUIDELINES, THE BOARD REVIEW THE ENTIRE BUDGET PROCESS, AND CONSIDER CONDUCTING A BUDGET REVIEW TWO OR FOUR TIMES A YEAR. CHAIR STEIN SUGGESTED THAT A REVIEW BE CONDUCTED PRIOR TO THE NEXT QUARTERLY CONTINGENCY REQUEST PERIOD. DAVE WARREN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER REQUESTED THAT DEPARTMENTS SUBMIT FUTURE BUDGET REQUESTS BY PRIORITY LISTS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-10 Budget Modification NOND #1 Requesting Authorization to

Appropriate \$25,000 to the Health Department Budget to Fund the Outside In Needle Exchange Program

COMMISSIONER HANSEN MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-10. COMMISSIONER HANSEN EXPRESSED APPRECIATION TO THE CITY OF PORTLAND FOR ITS \$10,000 CONTRIBUTION TO THE PROGRAM. COMMISSIONER SALTZMAN COMMENDED OUTSIDE IN FOR ITS FUNDRAISING EFFORTS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF SOCIAL SERVICES

R-11 Budget Modification DSS #9 Requesting Authorization to Transfer \$155,441 to the Juvenile Justice Division Budget to Add 5.2 Juvenile Groupworkers to Staff a Detention Post and Detention Youth Physical Exercise and Recreation

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-11. HAROLD OGBURN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS. COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, AMENDMENT TO R-11, TO ELIMINATE FULLTIME EXERCISE SPECIALIST AND REDUCE BUDGET MODIFICATION REQUEST TO \$111,600. BOARD COMMENTS. DAVE WARREN, CHIP LAZENBY AND MR. OGBURN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. AMENDMENT UNANIMOUSLY APPROVED. COMMISSIONER COLLIER COMMENTS IN OPPOSITION TO R-11 ON BASIS IT DOES NOT MEET CONTINGENCY CRITERIA. CHAIR STEIN COMMENTS IN SUPPORT DUE TO EXPECTED STATE COURT SECURITY FUNDS. BUDGET MODIFICATION APPROVED, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE AND COMMISSIONER COLLIER VOTING NO.

R-12 Budget Modification DSS #10 Requesting Authorization to Transfer \$33,000 to the Juvenile Justice Division Budget to Allow Participation with the Private Industry Council, the City of Portland, and Oregon Outreach to Form a Joint Partnership to Provide Educational and Employment Services to Juvenile Justice Clients through the Private Industry Council

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-12. COMMISSIONER KELLEY, MR. OGBURN AND DENNIS COLE EXPLANATION AND RESPONSE TO BOARD QUESTIONS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

R-24 Budget Modification MCSO #8 Requesting Authorization to Transfer \$71,108 to the Sheriff's Budget to Pay for the Addition of Two JDH Court Services Deputies

COMMISSIONER HANSEN MOVED AND COMMISSIONER

KELLEY SECONDED, APPROVAL OF R-24. LARRY AAB, LT. JEANIE KING, MR. WARREN AND MR. OGBURN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER HANSEN SUGGESTED FUNDING TWO DEPUTIES FOR NOVEMBER AND DECEMBER AND DIRECTING STAFF TO ADDRESS OVERALL SECURITY NEEDS THE FIRST OF THE YEAR. COMMISSIONER COLLIER ADVOCATED LOOKING AT ALTERNATE WAYS TO SOLVE TRANSPORT ISSUES. COMMISSIONER KELLEY SUGGESTED APPROVING FUNDS UNTIL JANUARY, REVIEWING JOHN SCHWEITZER SECURITY PLAN FOR JDH, AND CONSIDER BORROWING FROM STATE COURTHOUSE SECURITY FUNDS. COMMISSIONER HANSEN SUGGESTED SCHEDULING A COURTHOUSE SECURITY BRIEFING PRIOR TO FIRST OF THE YEAR. CHAIR STEIN SUGGESTED LOOKING AT JUVENILE DETENTION HOME AND COURTHOUSE SECURITY PLAN TO SEE IF SOME OF STATE MONEY GOING TO COURTHOUSE, SHOULD GO TO JUVENILE DETENTION HOME INSTEAD. COMMISSIONER COLLIER COMMENTS IN OPPOSITION TO R-24. COMMISSIONER SALTZMAN REPORTED HE DOES NOT WANT THESE DISCUSSIONS TO DELAY PLANNED JANUARY 1 INSTALLATION OF METAL DETECTORS AND TRAINED GUARDS FOR THE COURTHOUSE. JUDGE LINDA BERGMAN PRESENTED COURT'S PERSPECTIVE ON JDH SECURITY AND RESPONDED TO BOARD QUESTIONS. MR. AAB AND LT. KING EXPLANATION IN RESPONSE TO BOARD QUESTIONS. BUDGET MODIFICATION APPROVED, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE AND COMMISSIONER COLLIER VOTING NAY. COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, THAT JOHN SCHWEITZER AND JUDGE LONDER BE ASKED TO COME BEFORE THE BOARD PRIOR TO JANUARY 1, 1994 WITH RECOMMENDED SECURITY PLANS FOR JDH AND COURTHOUSE FACILITIES, INCLUDING POSSIBILITIES OF STAGING IMPLEMENTATION AT THE COURTHOUSE IN ORDER TO HAVE FUNDS AVAILABLE TO START UP AND LOOKING AT JDH AS AN OPTION. COMMISSIONER COLLIER SUGGESTED THAT TWO NEW DEPUTIES NOT BE HIRED AND TRAINED UNTIL AFTER PLAN IS REVIEWED. MR. AAB CONCURRED. MOTION UNANIMOUSLY APPROVED.

R-13 Budget Modification DSS #11 Requesting Authorization to Increase Aging Services Division Budget by \$63,600 for One-Time Only Rental Charges Related to Capital Improvements for the New District Senior Activity Center in Southeast Portland, and the Related Indirect Costs of \$5,215

COMMISSIONER COLLIER MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-13. CHAIR STEIN COMMENDED DIVISION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-14 Budget Modification DSS #12 Requesting Authorization to Appropriate \$34,645 to the Mental Health, Youth and Family Services Division, Alcohol and Drug Program Budget, for Hooper COLA, Workers Comp, and Medical Supplies

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-14. ED BLACKBURN AVAILABLE FOR QUESTIONS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-15 Budget Modification DSS #13 Requesting Authorization to Appropriate \$30,190 to the Mental Health, Youth and Family Services Division, Child and Adolescent Mental Health Program Budget, to Centralize and Coordinate the Screening Process for Medicaid Eligible Children

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-15. SUSAN CLARK PRESENTATION AND RESPONSE TO BOARD QUESTIONS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DISTRICT ATTORNEY

R-16 Budget Modification DA #1 Requesting Authorization to Transfer \$61,841 to the Neighborhood Based Prosecution Budget to Provide Interim Funding for Gresham Neighborhood DA Program

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-16. MICHAEL SCHRUNK RECOMMENDED REDUCING REQUEST TO \$37,978 AND RESPONDED TO BOARD QUESTIONS. COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, TO AMEND TRANSFER AMOUNT TO \$37,978. COMMISSIONER COLLIER COMMENTS IN OPPOSITION TO R-16. BUDGET MODIFICATION APPROVED AS AMENDED, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE, AND COMMISSIONER COLLIER VOTING NAY.

R-17 Budget Modification DA #2 Requesting Authorization to Appropriate \$120,350 to the District Attorney's Budget to Cover the 3.25% COLA Wage Settlement for Multnomah County Prosecuting Attorneys Association 1993-1996 Bargaining Unit Contract

UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER KELLEY, R-17 WAS UNANIMOUSLY APPROVED.

R-18 Budget Modification DA #3 Requesting Authorization to Appropriate \$14,568 to the Multi-Disciplinary Team Budget for Consolidation of MDT Child Abuse Intervention Services Provided by Children's Services Division, Portland Police and Multnomah County District Attorney's Office

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-18. MR. SCHRUNK RESPONSE TO BOARD QUESTIONS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-19 Budget Modification DA #4 Requesting Authorization to Appropriate \$14,310 in Unanticipated Department of Justice Equitable Sharing Funds and Adding \$57,696 of Unanticipated

State Witness Fees to the General Fund Contingency

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, R-19 WAS UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

R-20 Budget Modification MCSO #4 Requesting Authorization to Transfer \$44,690 to the Sheriff's Budget to Pay for an Employee of the Police Activities League (PAL)

UPON MOTION OF COMMISSIONER SALTZMAN, SECONDED BY COMMISSIONER COLLIER, R-20 WAS UNANIMOUSLY APPROVED.

R-21 Budget Modification MCSO #5 Requesting Authorization to Appropriate \$1,262,498 to the Sheriff's Budget for the Multnomah County Corrections Officers' Association COLA

UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER KELLEY, R-21 WAS UNANIMOUSLY APPROVED.

R-22 Budget Modification MCSO #6 Requesting Authorization to Transfer \$45,072 to the Sheriff's Budget to Cover the Cost of a Community Service Officer at the David Douglas Safety Action Team, with \$18,000 of the Funds to be Repaid by David Douglas School District

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-22. MR. AAB EXPLANATION AND RESPONSE TO BOARD QUESTIONS. MR. WARREN RESPONSE TO BOARD QUESTIONS AND DISCUSSION CONCERNING ITEMS R-22 AND R-25. COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, TO REDUCE TRANSFER REQUEST TO \$33,000. BUDGET MODIFICATION UNANIMOUSLY APPROVED, AS AMENDED.

R-23 Budget Modification MCSO #7 Requesting Authorization to Transfer \$11,487 to the Sheriff's Budget to Pay for the Reclassification of Two Employees

UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER KELLEY, R-23 WAS UNANIMOUSLY TABLED.

C-1 Ratification of Intergovernmental Agreement Contract 800444 Between Multnomah County and the Regional Organized Crime and Narcotics (ROCN) Task Force, Wherein the Sheriff's Office Will Provide Word Processing Support for ROCN, for the Period July 1, 1993 through June 30, 1994

UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER HANSEN, C-1 WAS UNANIMOUSLY APPROVED.

R-25 Budget Modification MCSO #9 Requesting Authorization to

Transfer \$15,000 to the Services Branch Division Budget to
Appropriate ROCN Revenue for Word Processing Support
[Proposed IGA Contract 800444]

UPON MOTION OF COMMISSIONER COLLIER, SECONDED
BY COMMISSIONER KELLEY, R-25 WAS UNANIMOUSLY
TABLED.

NON-DEPARTMENTAL

R-26 Budget Modification NOND #4 Requesting Authorization to
Transfer \$15,600 to the Chair's Budget for Transitional
Supplies and Equipment Costs

UPON MOTION OF COMMISSIONER COLLIER, SECONDED
BY COMMISSIONER KELLEY, R-26 WAS UNANIMOUSLY
APPROVED.

R-27 Budget Modification NOND #5 Requesting Authorization to
Transfer \$7,798 to the Chair's Budget to Fund Underbudgeted
Dues and Land Use Assessments for the Association of Oregon
Counties

COMMISSIONER COLLIER MOVED AND COMMISSIONER
KELLEY SECONDED, APPROVAL OF R-27. BOARD
DISCUSSION CONCERNING REQUEST FOR AOC SUPPORT
IN PENDING LITIGATION CASE. CHAIR STEIN TO
PREPARE LETTER FOR BOARD MEMBERS' SIGNATURE.
BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-28 Budget Modification NOND #7 Requesting Authorization to
Transfer \$50,000 to the Purchasing Division Budget for
Funding a Women and/or Minority Owned Business Disparity
Study Jointly with the City of Portland

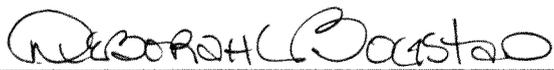
COMMISSIONER HANSEN MOVED AND COMMISSIONER
KELLEY SECONDED, APPROVAL OF R-28. CHAIR STEIN
AND COMMISSIONER SALTZMAN RESPONSE TO QUESTIONS
AND CONCERNS OF COMMISSIONER COLLIER. CHAIR
STEIN TO SEE THAT COMMISSIONER COLLIER'S
REQUESTED INFORMATION IS FURNISHED. BUDGET
MODIFICATION UNANIMOUSLY APPROVED.

PUBLIC COMMENT

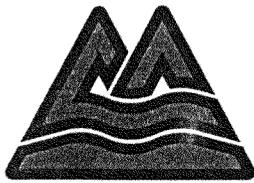
R-29 Opportunity for Public Comment on Non-Agenda Matters.
Testimony Limited to Three Minutes Per Person.

There being no further business, the meeting was adjourned
at 12:30 p.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

By 

0324C/1-11/db



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR	• 248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
GARY HANSEN •	DISTRICT 2	• 248-5219
TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

OCTOBER 25 - 29, 1993

- Monday, October 25, 1993 - 8:30 AM - Work SessionPage 2
- Tuesday, October 26, 1993 - 9:30 AM - Board Briefing.Page 2
- Tuesday, October 26, 1993 - 1:30 PM - Planning Items.Page 2
- Thursday, October 28, 1993 - 9:00 AM - Executive Session. . .Page 3
- Thursday, October 28, 1993 - 9:30 AM - Regular Meeting. . . .Page 3

FUTURE MEETING CHANGES AND CANCELLATIONS

- Tuesday, November 9 Briefing, Regular Meeting and Planning Items
- Thursday, November 11 Holiday/Meeting Cancelled
- Tuesday, November 16 AOC Conf/Meeting Cancelled
- Thursday, November 18 AOC Conf/Meeting Cancelled
- Tuesday, November 23 Regular Meeting and Planning Items
- Thursday, November 25 Holiday/Meeting Cancelled

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:

- Thursday, 10:00 PM, Channel 11 for East and West side subscribers
- Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers
- Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers
- Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222 OR MULTNOMAH COUNTY TDD PHONE 248-5040 FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Monday, October 25, 1993 - 8:30 AM - 12:00 PM

Portland Metropolitan Chamber of Commerce
221 NW Second Avenue, Boardroom

WORK SESSION

- WS-1 The Multnomah County Board of Commissioners and Other County Elected Officials and Department Managers Will Meet to Review the Portland-Multnomah Progress Board Work on Multnomah County Benchmarks.
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Tuesday, October 26, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFING

- B-1 Review of the Planning and Development Division's Fiscal Year 1992-93 Long Range Planning Work Program. Presented by R. Scott Pemble. 30 MINUTES REQUESTED.
-

Tuesday, October 26, 1993 - 1:30 PM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

- P-1 CU 3-93a Review the October 13, 1993 Planning and Zoning Hearings Officer Decision Approving, Subject to Conditions and Subsequent Design Review, a Conditional Use Request to Raise Hogs on Property Located at 16631 SE FOSTER ROAD.
- P-2 CS 8-93 Review the October 12, 1993 Planning and Zoning Hearings Officer Decision Approving, Subject to Conditions, a Community Service Use Amendment to Modify the Boundary and Construct a Seminary Building, Together with Associated On and Off-Site Improvements, for Property Located at 30304 SE LUSTED ROAD.
- P-3 DR 18-93 Review the October 12, 1993 Planning and Zoning Hearings Officer Decision Denying an Appeal of an Administrative Decision to Approve a Final Design Review Plan for a 7 Dwelling Unit Residential Development; and Approving, Subject to Conditions and Modifications, the Final Design Review Plan for DR 18-93, for Property Located at 2640 SE 141ST AVENUE.
- P-4 Staff from the Department of Land Conservation and Development, Department of Geology and Mineral Industries and the Department of Environmental Quality Will Brief the Board on Responsibilities of Local Government and State Agencies in the Regulation of Mineral and Aggregate Uses. 1:30 TIME CERTAIN, 1 HOUR REQUESTED.

P-5 C 5-93 Continued First Reading of an ORDINANCE Which Amends the Multnomah County Comprehensive Framework Plan Policy 16 and Multnomah County Code Chapter 11.15 Regarding Significant Environmental Concern (SEC) Provisions and Adopting a Map of Significant Streams and Riparian Areas Which Are Designated "3-C" Resource Sites in the Multnomah County Goal 5 Inventory. [PLEASE NOTE: PLANNING STAFF WILL SUGGEST MODIFICATION OF THE C 5-93 REPORT AND PREPARATION OF AN AMENDED ORDINANCE PROPOSAL FOR CONSIDERATION IN NOVEMBER OR EARLY DECEMBER.]

Thursday, October 28, 1993 - 9:00 AM

Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h), for the Purpose of Consultation with Counsel Concerning Legal Rights and Duties Regarding Current Litigation. Presented by Laurence Kressel. 9:00 AM TIME CERTAIN, 30 MINUTES REQUESTED.

Thursday, October 28, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

SHERIFF'S OFFICE

C-1 Ratification of Intergovernmental Agreement Contract 800444 Between Multnomah County and the Regional Organized Crime and Narcotics (ROCN) Task Force, Wherein the Sheriff's Office Will Provide Word Processing Support for ROCN, for the Period July 1, 1993 through June 30, 1994

DEPARTMENT OF HEALTH

C-2 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 200414 Between Multnomah County and Oregon State Health Division, State Public Health Laboratory, Adding Hepatitis Prevaccine Screens, Childhood Blood Lead Tests and HIV-Ab Tests for Health Department Clients, for the Period Upon Execution through June 30, 1994

C-3 Ratification of Intergovernmental Agreement Contract 200944 Between Multnomah County and Oregon Health Sciences University, Providing OHSU Obstetrical-Gynecological Consultation for Health Department Clients, for the Period November 1, 1993 through October 31, 1994

DEPARTMENT OF SOCIAL SERVICES

- C-4 RESOLUTION in the Matter of Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody
- C-5 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100274 Between Multnomah County and Oregon Health Sciences University, Adding State Funds to the Mental Health, Youth, and Family Services Division, Adult Mental Health Program for Non-Residential Adult Services, and Removing Assessment, Intervention, and Transition Program (AITP) Consultation Services Funds as of July 1, 1993
- C-6 Ratification of Intergovernmental Agreement Contract 103804 Between Multnomah County, Mental Health, Youth, and Family Services Division, Child and Adolescent Program, and Gresham Grade School District Number 4, Clear Creek Middle School, Wherein the School District Will Provide Funding for the County to Provide Mental Health Services for Students, Effective September 1, 1993 through June 30, 1994
- C-7 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 500453 Between the City of Portland, Multnomah County and Portland School District No. 1, Reducing the Amount of PILOT (Payment in Lieu of Taxes) Funds Available for Distribution to Support Direct Client Assistance for Homeless and Low Income People

REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 PUBLIC HEARING and Consideration of an ORDER in the Matter of the Execution of Deed D940935 for Certain Tax Acquired Property to the Housing Authority of Portland [Former 6102 SE 86th Avenue]
- R-2 PUBLIC HEARING and Consideration of an ORDER in the Matter of the Execution of Deed D940936 for Certain Tax Acquired Property to the Housing Authority of Portland [Former 3814-3816 SE 26th Avenue]

DEPARTMENT OF HEALTH

- R-3 Ratification of Intergovernmental Agreement Contract 200744 Between Multnomah County and Oregon Health Sciences University, Wherein the OHSU/VAH Joint Flow Cytometry Lab Will Provide Laboratory Services for T-Cell Subset Testing for Multnomah County Health Department, for the Period November 1, 1993 through September 30, 1994
- R-4 Budget Modification HD #3 Requesting Authorization to Add Increases in Grant Funds to Three Existing Grants; Reduce a Grant and Reduce Water Testing Revenue

DEPARTMENT OF SOCIAL SERVICES

- R-5 Ratification of Intergovernmental Agreement Contract 103704 Between Multnomah County, the City of Gresham and the Housing Authority of Portland, for the Development of Affordable Rental Housing for Agricultural Workers in East Multnomah County, for the Period Upon Execution through September 30, 1996

NON-DEPARTMENTAL

- R-6 Budget Modification NOND #8 Requesting Authorization to Reclassify a Senior Office Assistant Position to a Risk Management Technician, within the Risk Management Division Budget
- R-7 RESOLUTION in the Matter of Referring Certain Proposed Zoning Code Amendments to the Planning Commission for Recommendations
- R-8 RESOLUTION in the Matter of the Adoption of Rules of Procedure for the Conduct of Board Meetings and Repealing Prior Rules

GENERAL FUND CONTINGENCY REQUESTS

DEPARTMENT OF HEALTH

- R-9 Budget Modification HD #2 Requesting Authorization to Appropriate \$222,065 to the Primary Care Division Budget to Extend Funding for Two Primary Care Medical Teams from Half to Full Year
- R-10 Budget Modification NOND #1 Requesting Authorization to Appropriate \$25,000 to the Health Department Budget to Fund the Outside In Needle Exchange Program

DEPARTMENT OF SOCIAL SERVICES

- R-11 Budget Modification DSS #9 Requesting Authorization to Transfer \$155,441 to the Juvenile Justice Division Budget to Add 5.2 Juvenile Groupworkers to Staff a Detention Post and Detention Youth Physical Exercise and Recreation
- R-12 Budget Modification DSS #10 Requesting Authorization to Transfer \$33,000 to the Juvenile Justice Division Budget to Allow Participation with the Private Industry Council, the City of Portland, and Oregon Outreach to Form a Joint Partnership to Provide Educational and Employment Services to Juvenile Justice Clients through the Private Industry Council
- R-13 Budget Modification DSS #11 Requesting Authorization to Increase Aging Services Division Budget by \$63,600 for One-Time Only Rental Charges Related to Capital Improvements for the New District Senior Activity Center in Southeast Portland, and the Related Indirect Costs of \$5,215

- R-14 Budget Modification DSS #12 Requesting Authorization to Appropriate \$34,645 to the Mental Health, Youth and Family Services Division, Alcohol and Drug Program Budget, for Hooper COLA, Workers Comp, and Medical Supplies
- R-15 Budget Modification DSS #13 Requesting Authorization to Appropriate \$30,190 to the Mental Health, Youth and Family Services Division, Child and Adolescent Mental Health Program Budget, to Centralize and Coordinate the Screening Process for Medicaid Eligible Children

DISTRICT ATTORNEY

- R-16 Budget Modification DA #1 Requesting Authorization to Transfer \$61,841 to the Neighborhood Based Prosecution Budget to Provide Interim Funding for Gresham Neighborhood DA Program
- R-17 Budget Modification DA #2 Requesting Authorization to Appropriate \$120,350 to the District Attorney's Budget to Cover the 3.25% COLA Wage Settlement for Multnomah County Prosecuting Attorneys Association 1993-1996 Bargaining Unit Contract
- R-18 Budget Modification DA #3 Requesting Authorization to Appropriate \$14,568 to the Multi-Disciplinary Team Budget for Consolidation of MDT Child Abuse Intervention Services Provided by Children's Services Division, Portland Police and Multnomah County District Attorney's Office
- R-19 Budget Modification DA #4 Requesting Authorization to Appropriate \$14,310 in Unanticipated Department of Justice Equitable Sharing Funds and Adding \$57,696 of Unanticipated State Witness Fees to the General Fund Contingency

SHERIFF'S OFFICE

- R-20 Budget Modification MCSO #4 Requesting Authorization to Transfer \$44,690 to the Sheriff's Budget to Pay for an Employee of the Police Activities League (PAL)
- R-21 Budget Modification MCSO #5 Requesting Authorization to Appropriate \$1,262,498 to the Sheriff's Budget for the Multnomah County Corrections Officers' Association COLA
- R-22 Budget Modification MCSO #6 Requesting Authorization to Transfer \$45,072 to the Sheriff's Budget to Cover the Cost of a Community Service Officer at the David Douglas Safety Action Team, with \$18,000 of the Funds to be Repaid by David Douglas School District
- R-23 Budget Modification MCSO #7 Requesting Authorization to Transfer \$11,487 to the Sheriff's Budget to Pay for the Reclassification of Two Employees
- R-24 Budget Modification MCSO #8 Requesting Authorization to Transfer \$71,108 to the Sheriff's Budget to Pay for the Addition of Two JDH Court Services Deputies

R-25 Budget Modification MCSO #9 Requesting Authorization to Transfer \$15,000 to the Services Branch Division Budget to Appropriate ROCN Revenue for Word Processing Support [Proposed IGA Contract 800444]

NON-DEPARTMENTAL

R-26 Budget Modification NOND #4 Requesting Authorization to Transfer \$15,600 to the Chair's Budget for Transitional Supplies and Equipment Costs

R-27 Budget Modification NOND #5 Requesting Authorization to Transfer \$7,798 to the Chair's Budget to Fund Underbudgeted Dues and Land Use Assessments for the Association of Oregon Counties

R-28 Budget Modification NOND #7 Requesting Authorization to Transfer \$50,000 to the Purchasing Division Budget for Funding a Women and/or Minority Owned Business Disparity Study Jointly with the City of Portland

PUBLIC COMMENT

R-29 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

MEETING DATE: OCT 26 1993

AGENDA NO: B-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: LONG RANGE PLANNING WORK PROGRAM

BOARD BRIEFING Date Requested: OCTOBER 26, 1993

Amount of Time Needed: 30 minutes

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: _____

DEPARTMENT: DES DIVISION: PLANNING & DEVELOPMENT

CONTACT: R. SCOTT PEMBLE TELEPHONE #: 248-3182

BLDG/ROOM #: _____

PERSON(S) MAKING PRESENTATION: R. SCOTT PEMBLE

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Review of the Devision's FY 1992/93 Long Range Planning Work Program.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: *Dorothy Stein DF*

OR

DEPARTMENT MANAGER: _____

BOARD OF
COUNTY COMMISSIONERS
1993 OCT 21 AM 11 07
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

MEETING DATE: OCT 26 1993

AGENDA NO: _____

(Above Space for Board Clerk's Use ONLY)

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ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Review of the Devision's FY 1992/93 Long Range Planning Work Program.

1993 OCT 20 PM 3:46
MULTI-NOMAH COUNTY
OREGON
CLERK OF COUNTY COMMISSIONERS

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: BOARD OF COUNTY COMMISSIONERS

FROM: R. SCOTT PEMBLE, PLANNING DIRECTOR

TODAY'S DATE: OCTOBER 18, 1993

REQUESTED PLACEMENT DATE: OCTOBER 26, 1993 BRIEFING

RE: BRIEFING ON THE PLANNING AND DEVELOPMENT DIVISIONS FY 1993/94 LONG RANGE PLANNING WORK PROGRAM AND PERIODIC REVIEW REQUIREMENTS

I. RECOMMENDATION/ACTION REQUESTED:

No action is requested at this time. The purpose of this briefing is to provide a basis for future Board deliberation concerning the priority and addition of Long Range Planning projects.

II. BACKGROUND/ANALYSIS:

The Land Use Planning and Development Division provides three primary services which are supported in the adopted FY 1993/94 Multnomah County budget: Current Planning, Long Range Planning, and Code Enforcement. In the FY 1993/94 Budget, three Long Range Planning activities have been funded: the West Hills Rural Area Planning program, Periodic Review, and Forest and Agricultural policy and zoning code revisions. Two of the three activities, Periodic Review and the forest/agriculture amendments are mandated activities and must be completed within specified time frames.

Each of work programs for the three Long Range Planning Activities have been advancing this fiscal year. Phases I work of the West Hills Rural Area Plan has been completed with the Boards adoption of the "Scoping Report", and Phase II work has begun. Preliminary analysis of the forest and agriculture legislation has been completed and Planning Commission and Board hearings on comprehensive plan and zoning ordinance amendments are anticipated late this Spring, after the Land Conservation and Development Commission (LCDC) rule making process concludes.

Periodic Review work has been advancing, however, at a rate slower than anticipated by the LCDC. The Periodic Review work requirements were established by the Land Conservation and Development Commission remand order. The remand order requires the county complete work on four Statewide Land

Use Goal 5 resources: West Hills scenic views and wildlife habitat, mineral/aggregate sites (Angell Brothers and Howard Canyon) and mapping of protected Class I streams. Work has been progressing on all Periodic Review issues, however, not as quickly as needed to meet the amended remand order deadline of December 31, 1993.

Moreover, the county's remand order has more work implications than that contemplated by the County and LCDC. Recently completed Periodic Review work has surfaced the need for additional long range planning work (e.g., significant streams) which has not been funded as part of the FY 1993/94 adopted Planning and Development Division budget. If the Board's desire is to complete some or all of the recently identified work this fiscal year, the Board will need to reprioritize the West Hills Rural Area Plan (the only non-mandated long range planning activity), program more county funds, seek outside funding, or a combination of these strategies.

III. FINANCIAL IMPACTS:

The cost of additional long range planning work will depend on the type, amount, and the availability of outside funding and/or resources. As an example, the cost of completing Goal 5 work on significant streams will depend on the number of "Significant Streams (1C)" for which the Board would like ESEE work completed and amount of outside funding/resources available.

IV. LEGAL ISSUES:

All long range planning activities must comply with the appropriate Statewide Land Use Planning Goal(s) and administrative rules. Most of the recent additional long range planning work that has been discussed by the public and the Board pertains to the Goal 5 rule. This rule requires that a specific planning process must be followed and completed prior to concluding the level of protection that will be accorded a particular resource site. Failure to properly perform the process will result, in most cases, in costly litigation.

V. CONTROVERSIAL ISSUES:

Most recent issues that have been discussed as possible additions to the long range planning activities stem from Periodic Review work and deals with the protection of Goal 5 resources, streams in particular. Other issues continue to surface as Periodic Review and Rural Area Plan work advances. Also, forest and agriculture work will likely require consideration of a "Lot of Record" option, which will involve more work than initially anticipated when HB 3661 B Engrossed was first introduced.

V. LINK TO CURRENT COUNTY POLICIES:

All Long Range Planning activities are linked to the county's comprehensive plan as mandated by the state's land use planning program.

VI. CITIZEN PARTICIPATION:

Citizens have been involved with the review of the Planning Division's budget through the county-wide CBAC process. Also, at the County Board budget hearings, a number of citizens testified in support of the Rural Area Planning program.

VI. OTHER GOVERNMENT PARTICIPATION:

Depends on the type of change(s) made to the division's long range planning work program.

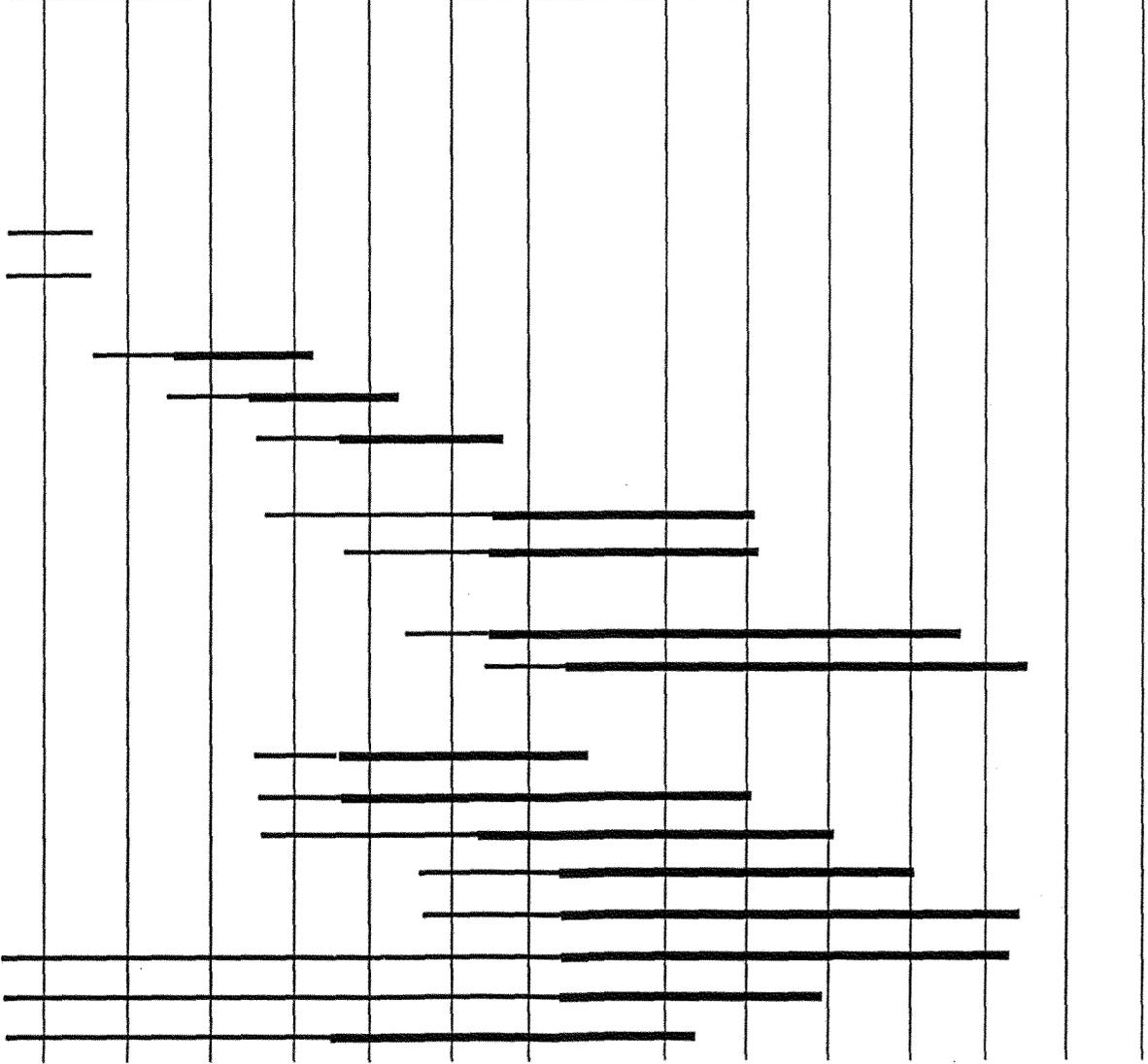
LONG RANGE PLANNING PROGRAM

June July Aug Sept Oct Nov Dec Jan Feb Mar Apr May June July

I. Periodic Review

A. Reevaluate Angell Bros/Goal 5 West Hills Resources

- 1. Resource Identification
 - a. Wildlife Habitat
 - b. Scenic Resources
- 2. Goal 5 Resource Significance Determination (Scenic View & Wildlife)
 - a. Planning Commission
 - b. Board of Commissioners
- 3. Goal 5 Impact Area & Conflicts
- 4. ESEE Analysis (Only if found significant)
 - a. Wildlife/Angell Brothers
 - b. Scenic Views/Angell Brothers
- 5. Designation of level of protection for Goal 5 Resources
 - a. Planning Commission
 - b. Board of Commissioners



B. Reevaluate Howard Canyon Site

- 1. Map Impact Area
- 2. Identify Conflicting Uses
- 3. ESEE Analysis
- 4. Designate Level of Protection
- 5. Develop Protection Program

C. Sites 2 and 5 Goal 5 Process

D. Amend Plan Policy 16 & Land Use Regulations (SEC Zoning Ord)

E. Map Significant Streams

B-Engrossed House Bill 3661

Ordered by the Senate July 31
Including House Amendments dated June 3 and Senate Amendments
dated July 31

Introduced and printed pursuant to House Rule 13.01

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.

[Establishes three-tier system for identifying large-scale primary, small-scale primary and secondary farm or forest lands. Establishes rural lands policy. Establishes procedures for county adoption, approval by Land Conservation and Development Commission and judicial appeal.]

[Precludes persons from making certain claims for relief against certain resource users. Makes related changes. Limits state agency appeals of land use decision. Establishes standard of review for Land Conservation and Development Commission and Land Use Board of Appeals.]

[In lieu of other provisions of bill, allows adoption of Land Conservation and Development system for identifying and using most rural land.]

[Declares emergency, effective on passage.]

Authorizes governing body of county to allow single-family dwelling on lot or parcel in farm or forest zone, under certain circumstances. Limits dwelling site on high-value farmland or certain forestland. Describes requirements for lots and minimum lot sizes. Defines terms. Allows restoration or replacement of certain existing dwelling on exclusive farm use land. Modifies provisions allowing establishment of dwelling on land unsuited for farm or forest use.

Prohibits Land Conservation and Development Commission from identifying or designating small scale farmland or secondary land. Circumscribes LCDC rulemaking authority. Allows county to continue to apply marginal lands provisions adopted before January 1, 1993, with certain exception. Modifies use of land allowed under marginal lands provisions.

Protects farming and forest practices from certain nuisance and trespassing actions. Defines terms. Makes related changes.

Directs Land Use Board of Appeals to affirm local government's interpretation of its comprehensive plan and land use regulations under certain circumstances.

Modifies other provisions of appeal. Provides for alternative dispute resolution for conflicts between state and local government interests.

Modifies duties and composition of LCDC.

A BILL FOR AN ACT

1
2 Relating to land use; creating new provisions; amending ORS 30.930, 30.935, 30.940, 92.044, 92.046,
3 93.040, 197.010, 197.030, 197.040, 197.045, 197.065, 197.175, 197.625, 215.010, 215.130, 215.213,
4 215.236, 215.263, 215.283, 215.296, 215.317, 215.327, 308.372 and 451.555 and section 3,
5 chapter _____, Oregon Laws 1993 (Enrolled Senate Bill 1057); and repealing ORS 197.247,
6 215.214, 215.288, 215.303, 215.337, 527.800, 527.805 and 527.810 and sections 1 and 2, chapter
7 _____, Oregon Laws 1993 (Enrolled Senate Bill 1057), section 42a, chapter _____, Oregon
8 Laws 1993 (Enrolled House Bill 2438), and sections 1 and 2, chapter _____, Oregon Laws 1993
9 (Enrolled House Bill 2734).

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

11 **SECTION 1. Sections 2 to 7, 10 and 29 of this Act are added to and made a part of ORS**
12 **chapter 215.**

13 **SECTION 2. (1) A governing body of a county or its designate may allow the establish-**
14 **ment of a single-family dwelling on a lot or parcel located within a farm or forest zone as**

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 set forth in this section and sections 3 and 4 of this 1993 Act after notifying the county
2 assessor that the governing body intends to allow the dwelling. A dwelling under this section
3 may be allowed if:

4 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was
5 acquired by the present owner:

6 (A) Prior to January 1, 1985; or

7 (B) By devise or by intestate succession from a person who acquired the lot or parcel
8 prior to January 1, 1985.

9 (b) The tract on which the dwelling will be sited does not include a dwelling.

10 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements
11 of the acknowledged comprehensive plan and land use regulations and other provisions of
12 law.

13 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on
14 that high-value farmland described in section 3 of this 1993 Act except as provided in sub-
15 sections (2) and (3) of this section.

16 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is de-
17 scribed in section 4 of this 1993 Act.

18 (f) When the lot or parcel on which the dwelling will be sited lies within an area desig-
19 nated in an acknowledged comprehensive plan as habitat of big game, the siting of the
20 dwelling is consistent with the limitations on density upon which the acknowledged compre-
21 hensive plan and land use regulations intended to protect the habitat are based.

22 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the re-
23 maining portions of the tract are consolidated into a single lot or parcel when the dwelling
24 is allowed.

25 (2) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
26 dwelling not in conjunction with farm use may be sited on high-value farmland if:

27 (a) It meets the other requirements of sections 2 to 5 of this 1993 Act;

28 (b) The lot or parcel is protected as high-value farmland as described under section 3 (1)
29 of this 1993 Act; and

30 (c) A hearings officer of the State Department of Agriculture, under the provisions of
31 ORS 183.413 to 183.497, determines that:

32 (A) The lot or parcel cannot practicably be managed for farm use, by itself or in con-
33 junction with other land, due to extraordinary circumstances inherent in the land or its
34 physical setting that do not apply generally to other land in the vicinity.

35 (B) The dwelling will comply with the provisions of ORS 215.296 (1).

36 (C) The dwelling will not materially alter the stability of the overall land use pattern in
37 the area.

38 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
39 dwelling not in conjunction with farm use may be sited on high-value farmland if:

40 (a) It meets the other requirements of sections 2 to 5 of this 1993 Act.

41 (b) The tract on which the dwelling will be sited is:

42 (A) Identified in section 3 (3) or (4) of this 1993 Act;

43 (B) Not protected under section 3 (1) of this 1993 Act; and

44 (C) Twenty-one acres or less in size.

45 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are

1 smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;
2 or

3 (B) The tract is bordered on at least 25 percent of its perimeter by tracts that are
4 smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-
5 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within
6 the urban growth boundary, but only if the subject tract abuts an urban growth boundary.

7 (4) If land is in a zone that allows both farm and forest uses and is acknowledged to be
8 in compliance with goals relating to both agriculture and forestry, the county may apply the
9 standards for siting a dwelling under either section 3 or 4 of this 1993 Act as appropriate for
10 the predominant use of the tract on January 1, 1993.

11 (5) A county may, by application of criteria adopted by ordinance, deny approval of a
12 dwelling allowed under this section in any area where the county determines that approval
13 of the dwelling would:

14 (a) Exceed the facilities and service capabilities of the area;

15 (b) Materially alter the stability of the overall land use pattern in the area; or

16 (c) Create conditions or circumstances that the county determines would be contrary to
17 the purposes or intent of its acknowledged comprehensive plan or land use regulations.

18 (6) For purposes of subsection (1)(a) of this section, "owner" includes the wife, husband,
19 son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law,
20 daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent,
21 stepchild, grandparent or grandchild of the owner or a business entity owned by any one or
22 combination of these family members.

23 SECTION 3. (1) For purposes of section 2 of this Act, high-value farmland is land in a
24 tract composed predominantly of soils that, at the time the siting of a dwelling is approved
25 for the tract, are:

26 (a) Irrigated and classified prime, unique, Class I or Class II; or

27 (b) Not irrigated and classified prime, unique, Class I or Class II.

28 (2) In addition to that land described in subsection (1) of this section, for purposes of
29 section 2 of this 1993 Act, high-value farmland, if outside the Willamette Valley, includes
30 tracts growing specified perennials as demonstrated by the most recent aerial photography
31 of the Agricultural Stabilization and Conservation Service of the United States Department
32 of Agriculture taken prior to the effective date of this 1993 Act. For purposes of this sub-
33 section, "specified perennials" means perennials grown for market or research purposes in-
34 cluding, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards
35 but not including seed crops, hay, pasture or alfalfa.

36 (3) In addition to that land described in subsection (1) of this section, for purposes of
37 section 2 of this 1993 Act, high-value farmland, if in the Willamette Valley, includes tracts
38 composed predominantly of the following soils in Class III or IV or composed predominantly
39 of a combination of soils described in subsection (1) of this section and the following soils:

40 (a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton,
41 Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro,
42 Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price,
43 Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and
44 Yamhill;

45 (b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick

1 surface) and Sifton (occasionally flooded);

2 (c) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory,
3 Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

4 (d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti
5 and Whiteson.

6 (4) In addition to that land described in subsection (1) of this section, for purposes of
7 section 2 of this 1993 Act, high-value farmland, if west of the summit of the Coast Range and
8 used in conjunction with a dairy operation on January 1, 1993, includes tracts composed
9 predominantly of the following soils in Class III or IV or composed predominately of a com-
10 bination of soils described in subsection (1) of this section and the following soils:

11 (a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and
12 Winema;

13 (b) Subclassification IIIw, specifically, Brenner and Chitwood;

14 (c) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and
15 Winema; and

16 (d) Subclassification IVw, specifically, Coquille.

17 (5) The soil class, soil rating or other soil designation of a specific lot or parcel may be
18 changed if the property owner submits a statement of agreement from the Soil Conservation
19 Service of the United States Department of Agriculture that the soil class, soil rating or
20 other soil designation should be adjusted based on new information.

21 (6) Soil classes, soil ratings or other soil designations used in or made pursuant to this
22 section are those of the Soil Conservation Service in its most recent publication for that
23 class, rating or designation before the effective date of this 1993 Act.

24 SECTION 4. (1) A dwelling authorized under section 2 of this 1993 Act may be allowed
25 on land zoned for forest use under a goal protecting forestland only if:

26 (a) The tract on which the dwelling will be sited is in western Oregon, as defined in ORS
27 321.257, and is composed of soils not capable of producing 5,000 cubic feet per year of com-
28 mercial tree species and is located within 1,500 feet of a public road as defined under ORS
29 368.001. The road shall not be a United States Forest Service road or Bureau of Land Man-
30 agement road and shall be maintained and either paved or surfaced with rock.

31 (b) The tract on which the dwelling will be sited is in eastern Oregon, as defined in ORS
32 321.405, and is composed of soils not capable of producing 4,000 cubic feet per year of com-
33 mercial tree species and is located within 1,500 feet of a public road as defined under ORS
34 368.001. The road shall not be a United States Forest Service road or Bureau of Land Man-
35 agement road and shall be maintained and either paved or surfaced with rock.

36 (2) If a dwelling is not allowed under subsection (1) of this section, a dwelling may be
37 allowed on land zoned for forest use under a goal protecting forestland if it complies with
38 other provisions of law and is sited on a tract:

39 (a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection
40 (5) of this section; or

41 (b) In western Oregon of at least 160 contiguous acres except as provided in subsection
42 (5) of this section.

43 (3) For purposes of subsection (2) of this section, a tract shall not be considered to con-
44 sist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

45 (4) For purposes of this section, "commercial tree species" means trees recognized under

1 rules adopted under ORS 527.715 for commercial production.

2 (5)(a) An owner of tracts that are not contiguous but are in the same county or adjacent
3 counties and zoned for forest use may add together the acreage of two or more tracts to
4 total 320 acres or more in eastern Oregon or 200 acres or more in western Oregon to qualify
5 for a dwelling under subsection (2) of this section.

6 (b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this sub-
7 section, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed
8 records for the tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall
9 preclude all future rights to construct a dwelling on the tracts or to use the tracts to total
10 acreage for future siting of dwellings for present and any future owners unless the tract is
11 no longer subject to protection under goals for agricultural lands or forestlands.

12 (c) The Land Conservation and Development Commission shall adopt rules that prescribe
13 the language of the deed restriction, the procedures for recording, the procedures under
14 which counties shall keep records of lots or parcels used to create the total, the mechanisms
15 for providing notice to subsequent purchasers of the limitations under paragraph (b) of this
16 subsection and other rules to implement this section.

17 (6)(a) In western Oregon, a governing body of a county or its designate may allow the
18 establishment of a single-family dwelling on a lot or parcel located within a forest zone if the
19 lot or parcel is predominantly composed of soils that are:

20 (A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

21 (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are
22 within a 160-acre square centered on the center of the subject tract; and

23 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

24 (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

25 (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are
26 within a 160-acre square centered on the center of the subject tract; and

27 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

28 (C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

29 (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are
30 within a 160-acre square centered on the center of the subject tract; and

31 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

32 (b) In eastern Oregon, a governing body of a county or its designate may allow the es-
33 tablishment of a single-family dwelling on a lot or parcel located within a forest zone if the
34 lot or parcel is predominantly composed of soils that are:

35 (A) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:

36 (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are
37 within a 160-acre square centered on the center of the subject tract; and

38 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

39 (B) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

40 (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are
41 within a 160-acre square centered on the center of the subject tract; and

42 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

43 (C) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

44 (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are
45 within a 160-acre square centered on the center of the subject tract; and

1 (ii) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

2 (c) Lots or parcels within urban growth boundaries shall not be used to satisfy the el-
3 igibility requirements under this subsection.

4 (d) A proposed dwelling under this subsection is not allowed:

5 (A) If it is prohibited by or will not comply with the requirements of an acknowledged
6 comprehensive plan or acknowledged land use regulations or other provisions of law.

7 (B) Unless it complies with the requirements of section 5 of this 1993 Act.

8 (C) Unless no dwellings are allowed on other lots or parcels that make up the tract and
9 deed restrictions established under subsection (5) of this section for the other lots or parcels
10 that make up the tract are met.

11 (D) If the tract on which the dwelling will be sited includes a dwelling.

12 (7) Except as described in subsection (8) of this section, if the tract under subsection (6)
13 of this section abuts a road that existed on January 1, 1993, the measurement may be made
14 by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on
15 the center of the subject tract and that is to the maximum extent possible, aligned with the
16 road.

17 (8)(a) If a tract 60 acres or larger described under subsection (6) of this section abuts a
18 road or perennial stream, the measurement shall be made in accordance with subsection (7)
19 of this section. However, one of the three required dwellings shall be on the same side of the
20 road or stream as the tract and:

21 (A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide
22 centered on the center of the subject tract and that is, to the maximum extent possible,
23 aligned with the road or stream; or

24 (B) Be within one-quarter mile from the edge of the subject tract but not outside the
25 length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

26 (b) If a road crosses the tract on which the dwelling will be located, at least one of the
27 three required dwellings shall be on the same side of the road as the proposed dwelling.

28 (9) No dwelling other than those described in this section may be sited on land zoned for
29 forest use under a land use planning goal protecting forestland.

30 **SECTION 5.** (1) A local government shall require as a condition of approval of a single-
31 family dwelling allowed under section 2 of this 1993 Act on lands zoned forestland that:

32 (a) The property owner submits a stocking survey report to the assessor and the
33 assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to
34 527.770 have been met.

35 (b) The dwelling meets the following requirements:

36 (A) The dwelling has a fire retardant roof.

37 (B) The dwelling will not be sited on a slope of greater than 40 percent.

38 (C) Evidence is provided that the domestic water supply is from a source authorized by
39 the Water Resources Department and not from a Class II stream as designated by the State
40 Board of Forestry.

41 (D) The dwelling is located upon a parcel within a fire protection district or is provided
42 with residential fire protection by contract.

43 (E) If the dwelling is not within a fire protection district, the applicant provides evidence
44 that the applicant has asked to be included in the nearest such district.

45 (F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

1 (G) The owner provides and maintains primary fuel-free break and secondary break
2 areas.

3 (2)(a) If a governing body determines that meeting the requirement of subsection
4 (1)(b)(D) of this section would be impracticable, the governing body may provide an alterna-
5 tive means for protecting the dwelling from fire hazards. The means selected may include a
6 fire sprinkling system, onsite equipment and water storage or other methods that are rea-
7 sonable, given the site conditions.

8 (b) If a water supply is required under this subsection, it shall be a swimming pool, pond,
9 lake or similar body of water that at all times contains at least 4,000 gallons or a stream that
10 has a minimum flow of at least one cubic foot per second. Road access shall be provided to
11 within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall
12 accommodate a turnaround for fire-fighting equipment.

13 NOTE: Section 6 was deleted by amendment. Subsequent sections were not renumbered.

14 SECTION 7. (1) Except as provided in subsection (2) of this section, the following mini-
15 mum lot or 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;
18 and

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

20 (2) A county may adopt a lower minimum lot or parcel size than that described in sub-
21 section (1) of this section by demonstrating to the commission that it can do so while con-
22 tinuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals
23 adopted under ORS 197.230.

24 (3) A county with a minimum lot or parcel size acknowledged by the commission pursu-
25 ant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review re-
26 quirements under ORS 197.628 to 197.636 that is smaller than those prescribed in subsection
27 (1) of this section need not comply with subsection (2) of this section.

28 SECTION 8. ORS 215.010 is amended to read:

29 215.010. As used in ORS chapter 215: []

30 (1) The terms defined in ORS 92.010 shall have the meanings given therein, except that
31 "parcel":

32 [(1)] (a) Includes a unit of land created:

33 [(a)] (A) By partitioning land as defined in ORS 92.010;

34 [(b)] (B) In compliance with all applicable planning, zoning and partitioning ordinances and
35 regulations; or

36 [(c)] (C) By deed or land sales contract, if there were no applicable planning, zoning or parti-
37 tioning ordinances or regulations.

38 [(2)] (b) Does not include a unit of land created solely to establish a separate tax account.

39 (2) "Tract" means one or more contiguous lots or parcels under the same ownership.

40 (3) The terms defined in ORS chapter 197 shall have the meanings given therein.

41 (4) "Farm use" has the meaning given that term in ORS 215.203.

42 (5) "The Willamette Valley" is Benton, Clackamas, Linn, Marion, Multnomah, Polk,
43 Washington and Yamhill Counties and the portion of Lane County lying east of the summit
44 of the Coast Range.

45 SECTION 9. ORS 197.065 is amended to read:

1 197.065. (1) Prior to each legislative session, the Land Conservation and Development Commis-
2 sion shall submit to the Joint Legislative Committee on Land Use a written report analyzing appli-
3 cations approved and denied for:

4 (a) New and replacement dwellings under:

5 (A) ORS 215.213 (1)(e) and (g), (2)(a) and (b), (3) and (4), 215.283 (1)(e) and (f), [and] (3) to (6)
6 and section 2 of the 1993 Act; and

7 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

8 (b) Divisions of land under:

9 (A) ORS 215.263 (2) and (4); and

10 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

11 (c) Dwellings and land divisions approved for marginal lands under:

12 (A) ORS 215.317 or 215.327; and

13 (B) Any land zoned for forest use under any statewide planning goal that relates to forestland;
14 and

15 (d) Such other matters pertaining to protection of agricultural or forest land as the commission
16 deems appropriate.

17 [(2) The report required by subsection (1) of this section shall also describe how much land has
18 been designated as marginal land under ORS 197.247.]

19 [(3)] (2) The governing body of each county shall provide the Department of Land Conservation
20 and Development with a report of its actions involving those dwellings, land divisions and land
21 designations upon which the commission must report to the Joint Legislative Committee on Land
22 Use under subsection (1) of this section. The department shall establish, after consultation with
23 county governing bodies, an annual reporting period and may establish a schedule for receiving
24 county reports at intervals within the reporting period. The report shall be on a standard form with
25 a standardized explanation adopted by the commission and shall be eligible for grants by the com-
26 mission. The report shall include the findings for each action except actions involving:

27 (a) Dwellings authorized by ORS 215.213 (1)(e) or 215.283 (1)(e); or

28 (b) Land divisions authorized by ORS 215.263 (2) creating parcels as large as or larger than a
29 minimum lot size acknowledged by the commission under ORS 197.251.

30 [(4)] (3) The governing body of each county shall, upon request by the department, provide the
31 department with other information necessary to carry out [subsections] subsection (1) [and (2)] of
32 this section.

33 **SECTION 10.** The Legislative Assembly declares that land use regulations limit residen-
34 tial development on some less productive resource land acquired before the owners could
35 reasonably be expected to know of the regulations. In order to assist these owners while
36 protecting the state's more productive resource land from the detrimental effects of uses
37 not related to agriculture and forestry, it is necessary to:

38 (1) Provide certain owners of less productive land an opportunity to build a dwelling on
39 their land; and

40 (2) Limit the future division of and the siting of dwellings upon the state's more pro-
41 ductive resource land.

42 **SECTION 11.** ORS 197.045 is amended to read:

43 197.045. The commission may:

44 (1) Apply for and receive moneys from the Federal Government and from this state or any of its
45 agencies or departments.

1 (2) Contract with any public agency for the performance of services or the exchange of em-
2 ployees or services by one to the other necessary in carrying out ORS chapters 196 and 197.

3 (3) Contract for the services of and consultation with professional persons or organizations, not
4 otherwise available through federal, state and local governmental agencies, in carrying out its duties
5 under ORS chapters 196 and 197.

6 (4) Perform other functions required to carry out ORS chapters 196 and 197.

7 (5) Assist in development and preparation of model land use regulations to guide state agencies,
8 cities, counties and special districts in implementing goals.

9 (6) **Notwithstanding any other provision of law, review comprehensive plan and land use**
10 **regulations related to the identification and designation of high-value farmland pursuant to**
11 **this 1993 Act under procedures set forth in ORS 197.251.**

12 **SECTION 12.** ORS 215.263 is amended to read:

13 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
14 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
15 governing body or its designate of the county in which the land is situated. The governing body of
16 a county by ordinance shall require such prior review and approval for such divisions of land within
17 exclusive farm use zones established within the county.

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

20 (a) That the proposed division of land is appropriate for the continuation of the existing com-
21 mercial agricultural enterprise within the area; or

22 (b) The parcels created by the proposed division are not smaller than the minimum lot size ac-
23 knowledged under ORS 197.251.

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

29 (4) The governing body of a county may approve a division of land in an exclusive farm use zone
30 for a dwelling not provided in conjunction with farm use only if the dwelling has been approved
31 under ORS 215.213 (3) or 215.283 (5) or (6) [(3), *whichever is applicable*].

32 (5) This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within
33 the boundaries designated for a farm use zone at the time the zone is established.

34 (6) This section shall not apply to divisions of land resulting from lien foreclosures or divisions
35 of land resulting from foreclosure of recorded contracts for the sale of real property.

36 (7) The governing body of a county shall not approve any proposed division of a lot or parcel
37 described in ORS 215.213 (1)(e) or 215.283 (1)(e), (3) or (4) [*whichever is applicable*].

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

40 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
41 under ORS 215.213 (3) or 215.283 (3), (4), (5) or (6) [*whichever is applicable*]; and

42 (b) For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).

43 (9) The governing body of a county shall not approve a division of land for nonfarm use under
44 subsection (3), (4) or (8) of this section unless any additional tax imposed for the change in use has
45 been paid.

1 **NOTE:** Section 13 was deleted by amendment. Subsequent sections were not renumbered.

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

3 215.283. (1) [*Subject to ORS 215.288,*] The following uses may be established in any area zoned
4 for exclusive farm use:

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

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

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

8 (d) Utility facilities necessary for public service, except commercial facilities for the purpose of
9 generating power for public use by sale and transmission towers over 200 feet in height.

10 (e) A dwelling on real property used for farm use if the dwelling is:

11 (A) Located on the same lot or parcel as the dwelling of the farm operator; and

12 (B) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister
13 of the farm operator or the farm operator's spouse, whose assistance in the management of the farm
14 use is or will be required by the farm operator.

15 (f) The dwellings and other buildings customarily provided in conjunction with farm use.

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

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

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

27 (j) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in
28 population in which there is located a greyhound racing track or in a county of over 200,000 in
29 population contiguous to such a county.

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

31 (L) Reconstruction or modification of public roads and highways, not including the addition of
32 travel lanes, where no removal or displacement of buildings would occur, or no new land parcels
33 result.

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

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

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

42 (p) The breeding, boarding and training of horses for profit.

43 (q) Seasonal farm-worker housing as defined in ORS 197.675.

44 (r) Creation of, restoration of or enhancement of wetlands.

45 (s) A winery, as described in ORS 215.452.

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

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

3 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities con-
4 nected to a sanitary waste disposal system;

5 (C) Has interior wiring for interior lights;

6 (D) Has a heating system; and

7 (E) In the case of replacement, is removed, demolished or converted to an allowable
8 nonresidential use within three months of the completion of the replacement dwelling.

9 (2) [Subject to ORS 215.288,] The following nonfarm uses may be established, subject to the ap-
10 proval of the governing body or its designate in any area zoned for exclusive farm use subject to
11 ORS 215.296:

12 (a) Commercial activities that are in conjunction with farm use.

13 (b) Operations conducted for:

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

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

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

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

20 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.

21 (d) Parks, playgrounds or community centers owned and operated by a governmental agency or
22 a nonprofit community organization.

23 (e) Golf courses.

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

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

34 (h) Home occupations as provided in ORS 215.448.

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 (k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for
2 the term of a hardship suffered by the existing resident or a relative of the resident.

3 (L) Transmission towers over 200 feet in height.

4 (m) Dog kennels not described in subsection (1)(j) of this section.

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

6 (o) The propagation, cultivation, maintenance and harvesting of aquatic species.

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

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

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

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

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

18 (3) [Subject to ORS 215.288,] In the Willamette Valley, a single-family residential [dwellings,]
19 dwelling not provided in conjunction with farm use[,] may be established, subject to approval of the
20 governing body or its designate, in any area zoned for exclusive farm use upon a finding that [each
21 such proposed dwelling]:

22 [(a) Is compatible with farm uses described in ORS 215.203 (2) and is consistent with the intent
23 and purposes set forth in ORS 215.243;]

24 [(b) Does not interfere seriously with accepted farming practices, as defined in ORS 215.203 (2)(c),
25 on adjacent lands devoted to farm use;]

26 [(c) Does not materially alter the stability of the overall land use pattern of the area;]

27 [(d) Is situated upon generally unsuitable land for the production of farm crops and livestock,
28 considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and
29 size of the tract; and]

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

33 (b) The dwelling will be sited on a lot or parcel that is predominantly composed of Class
34 IV through Class VIII soils that would not, when irrigated, be classified as prime, unique,
35 Class I or Class II soils;

36 (c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

37 (d) The dwelling will not materially alter the stability of the overall land use pattern of
38 the area; and

39 (e) The dwelling complies with such other conditions as the governing body or its designate
40 considers necessary.

41 (4) In counties not described in subsection (3) of this section, a single-family residential
42 dwelling not provided in conjunction with farm use may be established, subject to approval
43 of the governing body or its designate, in any area zoned for exclusive farm use upon a
44 finding that:

45 (a) The dwelling or activities associated with the dwelling will not force a significant

1 change in or significantly increase the cost of accepted farming or forest practices on nearby
2 lands devoted to farm or forest use;

3 (b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is
4 generally unsuitable land for the production of farm crops and livestock or merchantable
5 tree species, considering the terrain, adverse soil or land conditions, drainage and flooding,
6 vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall
7 not be considered unsuitable solely because of size or location if it can reasonably be put to
8 farm or forest use in conjunction with other land;

9 (c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

10 (d) The dwelling will not materially alter the stability of the overall land use pattern of
11 the area; and

12 (e) The dwelling complies with such other conditions as the governing body or its desig-
13 nate considers necessary.

14 (5) In counties not described in subsection (6) of this section, a single-family residential
15 dwelling not provided in conjunction with farm use may be established, subject to approval
16 of the governing body or its designate, in any area zoned for exclusive farm use upon a
17 finding that:

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

21 (b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is
22 generally unsuitable land for the production of farm crops and livestock or merchantable
23 tree species, considering the terrain, adverse soil or land conditions, drainage and flooding,
24 vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall
25 not be considered unsuitable solely because of size or location if it can reasonably be put to
26 farm or forest use in conjunction with other land;

27 (c) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed
28 under ORS 215.263 (4);

29 (d) The dwelling will not materially alter the stability of the overall land use pattern of
30 the area; and

31 (e) The dwelling complies with such other conditions as the governing body or its desig-
32 nate considers necessary.

33 (6)(a) In the Willamette Valley, a lot or parcel allowed under paragraph (b) of this sub-
34 section for a single-family residential dwelling not provided in conjunction with farm use may
35 be established, subject to approval of the governing body or its designate, in any area zoned
36 for exclusive farm use upon a finding that the originating lot or parcel is equal to or larger
37 than the applicable minimum lot or parcel size and:

38 (A) Is not stocked to the requirements under ORS 527.610 to 527.770;

39 (B) Is composed of at least 95 percent Class VI through Class VIII soils; and

40 (C) Is composed of at least 95 percent soils not capable or producing 50 cubic feet per
41 acre per year of wood fiber.

42 (b) Any parcel to be created for a dwelling from the originating lot or parcel described
43 in paragraph (a) of this subsection will not be smaller than 20 acres.

44 (c) The dwelling or activities associated with the dwelling allowed under this subsection
45 will not force a significant change in or significantly increase the cost of accepted farming

1 or forest practices on nearby lands devoted to farm or forest use.

2 (d) The dwelling allowed under this subsection will not materially alter the stability of
3 the overall land use pattern of the area.

4 (e) The dwelling allowed under of this subsection complies with such other conditions as
5 the governing body or its designate considers necessary.

6 [(4)] (7) No final approval of a nonfarm use under this section shall be given unless any addi-
7 tional taxes imposed upon the change in use have been paid.

8 (8) If a single-family dwelling is established on a lot or parcel as set forth in sections 2
9 to 5 of this 1993 Act, no additional dwelling may later be sited under subsections (3), (4), (5)
10 or (6) of this section.

11 (9) Roads, highways and other transportation facilities and improvements not allowed
12 under subsections (1) and (2) of this section may be established, subject to the approval of
13 the governing body or its designate, 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
15 applicable 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 Develop-
17 ment Commission as provided in section 3, chapter _____, Oregon Laws 1993 (Enrolled
18 Senate Bill 1057).

19 **SECTION 14a.** If Senate Bill 1057 becomes law, section 3, chapter _____, Oregon Laws 1993
20 (Enrolled Senate Bill 1057), is amended to read:

21 **Sec. 3.** The Department of Transportation shall, by March 30, 1994, submit to the Land Con-
22 servation and Development Commission proposed rules identifying the other roads, highways and
23 transportation facilities that may be allowed pursuant to ORS 215.213 (10)(b) and 215.283 [(5)(b)]
24 (9)(b). The Land Conservation and Development Commission shall adopt rules implementing ORS
25 215.213 (10)(b) and 215.283 [(5)(b)] (9)(b) by June 30, 1994.

26 **SECTION 14b.** If Senate Bill 1057 becomes law, sections 1 and 2, chapter _____, Oregon
27 Laws 1993 (Enrolled Senate Bill 1057), are repealed.

28 **SECTION 15.** ORS 215.296 is amended to read:

29 215.296. (1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the
30 local governing body or its designee finds that the use will not:

31 (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted
32 to farm or forest use; or

33 (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands
34 devoted to farm or forest use.

35 (2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that
36 the standards for approval set forth in subsection (1) of this section will be satisfied through the
37 imposition of conditions. Any conditions so imposed shall be clear and objective.

38 (3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file
39 a complaint with the local governing body alleging:

40 (a) That a condition imposed pursuant to subsection (2) of this section has been violated;

41 (b) That the violation has:

42 (A) Forced a significant change in accepted farm or forest practices on surrounding lands de-
43 voted to farm or forest use; or

44 (B) Significantly increased the cost of accepted farm or forest practices on surrounding lands
45 devoted to farm or forest use; and

- 1 (c) That the complainant is adversely affected by the violation.
- 2 (4) Upon receipt of a complaint, the local governing body or its designee shall:
- 3 (a) Forward the complaint to the operator of the use;
- 4 (b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and
- 5 (c) Determine whether the allegations made pursuant to subsection (3) of this section are true.
- 6 (5) Upon a determination that the allegations of the complaint are true, the local governing body
- 7 or its designee at a minimum shall notify the violator that a violation has occurred, direct the vi-
- 8 olator to correct the conditions that led to the violation within a specified time period and warn the
- 9 violator against the commission of further violations.
- 10 (6) If the conditions that led to a violation are not corrected within the time period specified
- 11 pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4)
- 12 of this section following the receipt of a second complaint that a further violation has occurred, the
- 13 local governing body or its designee at a minimum shall assess a fine against the violator.
- 14 (7) If the conditions that led to a violation are not corrected within 30 days after the imposition
- 15 of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to sub-
- 16 section (4) of this section following the receipt of a third or subsequent complaint that a further
- 17 violation has occurred, the local governing body or its designee shall at a minimum order the sus-
- 18 pension of the use until the violator corrects the conditions that led to the violation.
- 19 (8) If a use allowed under ORS 215.213 (2) or 215.283 (2) is initiated without prior approval
- 20 pursuant to subsection (1) of this section, the local governing body or its designee at a minimum
- 21 shall notify the user that prior approval is required, direct the user to apply for approval within 21
- 22 days and warn the user against the commission of further violations. If the user does not apply for
- 23 approval within 21 days, the local governing body or its designee shall order the suspension of the
- 24 use until the user applies for and receives approval. If there is a determination pursuant to sub-
- 25 section (4) of this section following the receipt of a complaint that a further violation occurred after
- 26 approval was granted, the violation shall be deemed a second violation and the local governing body
- 27 or its designee at a minimum shall assess a fine against the violator.
- 28 (9)(a) The standards set forth in subsection (1) of this section shall not apply to farm or forest
- 29 uses conducted within:
- 30 (A) **Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3) or**
- 31 **215.283 (3), (4), (5) or (6) or section 2 of this 1993 Act;**
- 32 (B) An exception area approved under ORS 197.732; or
- 33 (C) An acknowledged urban growth boundary.
- 34 (b) A person residing in a single-family residential dwelling which was approved under ORS
- 35 215.213 (3) or 215.283 (3), (4), (5) or (6) or **section 2 of this 1993 Act**, which is within an exception
- 36 area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may
- 37 not file a complaint under subsection (3) of this section.
- 38 (10) Nothing in this section shall prevent a local governing body approving a use allowed under
- 39 ORS 215.213 (2) or 215.283 (2) from establishing standards in addition to those set forth in subsection
- 40 (1) of this section or from imposing conditions to insure conformance with such additional standards.
- 41 **NOTE:** Sections 16 through 22 were deleted by amendment. Subsequent sections were not re-
- 42 numbered.
- 43 **SECTION 23.** ORS 308.372 is amended to read:
- 44 308.372. (1) For purposes of ORS 215.203, 215.213, 215.283, 308.345 to 308.373, 308.375, 308.380
- 45 and 308.387 to 308.403, farmland or a farm parcel that is not within an area zoned for **exclusive farm**

1 use under ORS [215.010 to 215.190 and 215.402 to 215.438] **chapter 215** is not used exclusively for
2 farm use unless all of the following prerequisites are met:

3 (a) In three out of the five full calendar years immediately preceding the calendar year in which
4 the tax year begins, the farmland or farm parcel was operated as a part of a farm unit that has
5 produced a gross income from farm uses in the amount provided in ORS 308.407 (3) and (4), and if
6 applicable, the farm parcel was operated in a manner that meets the income requirements of ORS
7 308.407 (5).

8 (b) Excise or income tax returns are filed with the Department of Revenue for purposes of ORS
9 chapter 316, 317 or 318 by the farmland owner or the operator of the farm unit that include a
10 Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules
11 showing rental income received by the owner of the farm parcel, during the years to which the in-
12 come requirements of paragraph (a) of this subsection apply.

13 (c) Upon request, a copy of the returns or the schedules of the returns showing the gross income
14 received from farm use is furnished by the taxpayer to the county assessor.

15 (2)(a) As used in this section, "gross income" includes the value of any crop or livestock that
16 is used by the owner personally or in the farming operation of the owner, but shall not include the
17 value of any crop or livestock so used unless records accurately reflecting both value and use of the
18 crop or livestock are kept by the owner in a manner consistent with generally accepted accounting
19 principles.

20 (b) The burden of proving the gross income of the farm unit for the years described in subsection
21 (1) of this section is upon the person claiming special assessment for the land.

22 (c) In determining gross income, the purchase cost of livestock shall be deducted from gross
23 income.

24 (3)(a)(A) Land under dwellings customarily provided in conjunction with the farm use of
25 farmland described in subsection (1) of this section shall be assessed at the value determined under
26 ORS 308.377 if the farmland was operated as a part of a farm unit that produced over one-half of
27 the adjusted gross income of the owner or owners in the year prior to the year an application is
28 filed under this subsection.

29 (B) Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in
30 or adjacent to and in common ownership with farmland described in subsection (1) of this section,
31 and which is not currently being used for any economic farm use shall be assessed at farm use value
32 if the farmland was operated as part of a farm unit that produced over one-half of the adjusted gross
33 income of the owner or owners in the year prior to the year an application is filed under this sub-
34 section. For purposes of determining adjusted gross income of an owner or owners under this para-
35 graph, "owner" means any person described in ORS 308.375 (2)(b)(A), (B) or (E) and the owner's
36 spouse.

37 (b) To qualify for such assessment, the owner or owners shall file an application with the county
38 assessor on or before April 15 of each year such assessment is desired. The application shall be
39 made on forms prepared by the Department of Revenue and supplied by the assessor and shall in-
40 clude such information as may be reasonably required to determine the entitlement of the applicant,
41 including copies of applicable state income tax returns. Such information shall be confidential in-
42 formation of the assessor's office and shall be used for purposes of this subsection only, including
43 determinations made under administrative and court proceedings where entitlement is in issue.

44 (c) There shall be annexed to each application the affidavit or affirmation of the applicant that
45 the statements contained therein are true.

1 (d) For purposes of this subsection, "owner" or "owners" means the person or persons entitled
2 to file for special assessment under ORS 308.375 (2)(b).

3 **SECTION 24.** ORS 215.317 is amended to read:

4 215.317. (1) A county may allow the following uses to be established on land designated as
5 marginal land under ORS 197.247 (1991 Edition):

6 (a) Intensive farm or forest operations, including but not limited to "farm use" as defined in ORS
7 215.203.

8 (b) Part-time farms.

9 (c) Woodlots.

10 (d) One single-family dwelling on a lot or parcel created under ORS 215.327 (1) or (2).

11 (e) One single-family dwelling on a lot or parcel of any size if the lot or parcel was created be-
12 fore July 1, 1983, subject to subsection (2) of this section.

13 (f) The nonresidential uses authorized in exclusive farm use zones under ORS 215.213 (1) and (2).

14 (g) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for
15 the term of a hardship suffered by the existing resident or a relative of the resident.

16 (2) If a lot or parcel described in subsection (1)(e) of this section is located within the Willamette
17 Greenway, a floodplain or a geological hazard area, approval of a single-family dwelling shall be
18 subject to local ordinances relating to the Willamette Greenway, floodplains or geological hazard
19 areas, whichever is applicable.

20 **SECTION 25.** ORS 215.327 is amended to read:

21 215.327. A county may allow the following divisions of marginal land:

22 (1) Divisions of land to create a parcel or lot containing 10 or more acres if the lot or parcel
23 is not adjacent to land zoned for exclusive farm use or forest use or, if it is adjacent to such land,
24 the land qualifies for designation as marginal land under ORS 197.247 (1991 Edition).

25 (2) Divisions of land to create a lot or parcel containing 20 or more acres if the lot or parcel
26 is adjacent to land zoned for exclusive farm use and that land does not qualify for designation as
27 marginal land under ORS 197.247 (1991 Edition).

28 (3) Divisions of land to create a parcel or lot necessary for those uses authorized by ORS 215.317
29 (1)(f).

30 **SECTION 26.** ORS 451.555 is amended to read:

31 451.555. (1) County service districts for the purpose of providing comprehensive planning for
32 land use and public facilities for a district in the county may be formed in the manner provided by
33 ORS 451.410 to 451.610 for establishing county service districts for other purposes.

34 (2) A district formed to provide comprehensive planning may, in accordance with ORS [215.050
35 to 215.213, 215.215 to 215.233, 215.283 to 215.293 and 215.317 to 215.337] **chapter 215**, adopt compre-
36 hensive plans for land use and public facilities within the district. The district shall be subject to
37 ORS 451.120 to 451.140, 451.485 and 451.550 to 451.560. The activities of the district may be financed
38 by any method authorized by ORS 451.490 and 451.520 to 451.547. Plans adopted by the district may
39 be enforced as provided by ORS 451.130.

40 (3) The district governing body shall appoint an advisory committee of not less than 11 members
41 who are electors resident in the district or owners of land in the district. The committee shall advise
42 the governing body in carrying out the provisions of this section. It shall meet with the governing
43 body at the times and places determined by the committee and governing body jointly.

44 **SECTION 27.** ORS 215.236 is amended to read:

45 215.236. (1) As used in this section, "dwelling" means a single-family residential dwelling not

1 provided in conjunction with farm use.

2 (2) The governing body or its designate shall not grant final approval of an application made
3 under ORS 215.213 (3) or 215.283 (3), (4), (5) or (6) for the establishment of a dwelling on a lot or
4 parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evi-
5 dence that the lot or parcel upon which the dwelling is proposed has been disqualified for special
6 assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765,
7 321.352, 321.730 or 321.815 and any additional tax imposed as the result of disqualification has been
8 paid.

9 (3) The governing body or its designate may grant tentative approval of an application made
10 under ORS 215.213 (3) or 215.283 (3), (4), (5) or (6) for the establishment of a dwelling on a lot or
11 parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS
12 308.370 upon making the findings required by ORS 215.213 (3) or 215.283 (3), (4), (5) or (6). An ap-
13 plication for the establishment of a dwelling that has been tentatively approved shall be given final
14 approval by the governing body or its designate upon receipt of evidence that the lot or parcel upon
15 which establishment of the dwelling is proposed has been disqualified for special assessment at value
16 for farm use under ORS 308.370 and any additional tax imposed as the result of disqualification has
17 been paid.

18 (4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively
19 approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

20 (a) Notify the county assessor that the lot or parcel is no longer being used as farmland;

21 (b) Request that the county assessor disqualify the lot or parcel for special assessment under
22 ORS 308.370, 308.765, 321.352, 321.730 or 321.815; and

23 (c) Pay any additional tax imposed upon disqualification from special assessment.

24 (5) A lot or parcel that has been disqualified pursuant to subsection (4) of this section shall not
25 requalify for special assessment unless, when combined with another contiguous lot or parcel, it
26 constitutes a qualifying parcel.

27 (6) When the owner of a lot or parcel upon which the establishment of a dwelling has been
28 tentatively approved notifies the county assessor that the lot or parcel is no longer being used as
29 farmland and requests disqualification of the lot or parcel for special assessment at value for farm
30 use, the county assessor shall:

31 (a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308.370
32 or other special assessment by removing the special assessment;

33 (b) Provide the owner of the lot or parcel with written notice of the disqualification; and

34 (c) Impose the additional tax, if any, provided by statute upon disqualification.

35 (7) The Building Codes Agency, a building official, as defined in ORS 456.715 (1), or any other
36 agency or official responsible for the administration and enforcement of the state building code, as
37 defined in ORS 455.010, shall not issue a building permit for the construction of a dwelling on a lot
38 or parcel in an exclusive farm use zone without evidence that the owner of the lot or parcel upon
39 which the dwelling is proposed to be constructed has paid the additional tax, if any, imposed by the
40 county assessor under subsection (6)(c) of this section.

41 **SECTION 28. (1) The Land Conservation and Development Commission shall not adopt**
42 **or implement any rule to identify or designate small-scale farmland or secondary land.**

43 (2) **Amendments required to conform rules to the provisions of subsection (1) of this**
44 **section and sections 2 to 7 of this Act shall be adopted by March 1, 1994.**

45 (3) **Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition),**

1 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition)
2 or sections 2 to 7 of this Act on March 1, 1994:

3 (a) Shall not be implemented or enforced; and

4 (b) Has no legal effect.

5 **SECTION 29.** (1) Unless a county applies the provisions of sections 2 to 5 of this Act to
6 land zoned for exclusive farm use, a county that adopted marginal lands provisions under
7 ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317,
8 215.327 and 215.337 (1991 Edition) may continue to apply those provisions. After January 1,
9 1993, no county may adopt marginal lands provisions.

10 (2) If a county that had adopted marginal lands provisions before January 1, 1993, sub-
11 sequently sites a dwelling under sections 2 to 5 of this Act on land zoned for exclusive farm
12 use, the county shall not later apply marginal lands provisions, including those set forth in
13 ORS 215.213, to lots or parcels other than those to which the county applied the marginal
14 lands provisions before the county sited a dwelling under sections 2 to 5 of this 1993 Act.

15 **SECTION 29a.** ORS 215.213 is amended to read:

16 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247
17 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

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

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

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

21 (d) Utility facilities necessary for public service, except commercial facilities for the purpose of
22 generating power for public use by sale and transmission towers over 200 feet in height.

23 (e) A dwelling on real property used for farm use if the dwelling is:

24 (A) Located on the same lot or parcel as the dwelling of the farm operator; and

25 (B) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister
26 of the farm operator or the farm operator's spouse, whose assistance in the management of the farm
27 use is or will be required by the farm operator.

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

29 (g) A dwelling customarily provided in conjunction with farm use if the dwelling is on a lot or
30 parcel that is managed as part of a farm operation not smaller than the minimum lot size in a farm
31 zone with a minimum lot size acknowledged under ORS 197.251.

32 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
33 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
34 compressors, separators and other customary production equipment for an individual well adjacent
35 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
36 an exception under ORS 197.732 (1)(a) or (b).

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

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

43 (k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for
44 the term of a hardship suffered by the existing resident or a relative of the resident.

45 (L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000

1 in population in which there is located a greyhound racing track or in a county of over 200,000 in
2 population contiguous to such a county.

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

4 (n) Reconstruction or modification of public roads and highways, not including the addition of
5 travel lanes, where no removal or displacement of buildings would occur, or no new land parcels
6 result.

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

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

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

15 (r) Seasonal farm-worker housing as defined in ORS 197.675.

16 (s) Creation of, restoration of or enhancement of wetlands.

17 (t) A winery, as described in ORS 215.452.

18 (u) **Alteration, restoration or replacement of a lawfully established dwelling that:**

19 (A) **Has intact exterior walls and roof structure;**

20 (B) **Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities con-**
21 **ected to a sanitary waste disposal system;**

22 (C) **Has interior wiring for interior lights;**

23 (D) **Has a heating system; and**

24 (E) **In the case of replacement, is removed, demolished or converted to an allowable**
25 **nonresidential use within three months of the completion of the replacement dwelling.**

26 (2) **In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edi-**
27 **tion), the following uses may be established in any area zoned for exclusive farm use subject to ORS**
28 **215.296:**

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

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

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

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

39 (A) Has produced at least [*\$10,000*] **\$20,000** in annual gross farm income in two consecutive
40 calendar years out of the three calendar years before the year in which the application for the
41 dwelling was made or is planted in perennials capable of producing upon harvest an average of at
42 least [*\$10,000*] **\$20,000** in annual gross farm income; or

43 (B) Is a woodlot capable of producing an average over the growth cycle of [*\$10,000*] **\$20,000** in
44 gross annual income.

45 (c) Commercial activities that are in conjunction with farm use.

1 (d) Operations conducted for:

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

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

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

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

8 (e) Community centers owned and operated by a governmental agency or a nonprofit community
9 organization, hunting and fishing preserves, parks, playgrounds and campgrounds.

10 (f) Golf courses.

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

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

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

29 (j) The boarding of horses for profit.

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

33 (L) Dog kennels not described in subsection (1)(L) of this section.

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

35 (n) The propagation, cultivation, maintenance and harvesting of aquatic species.

36 (o) Home occupations as provided in ORS 215.448.

37 (p) Transmission towers over 200 feet in height.

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

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

42 (s) Improvement of public [*roads*] **road** and highway related facilities such as maintenance yards,
43 weigh stations and rest areas, where additional property or right of way is required but not result-
44 ing in the creation of new land parcels.

45 (t) A destination resort which is approved consistent with the requirements of any statewide

1 planning goal relating to the siting of a destination resort.

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

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

11 (B) As used in this paragraph:

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

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

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

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

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

30 (c) Complies with such other conditions as the governing body or its designate considers nec-
31 essary.

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

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

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

41 (c) The dwelling complies with other conditions considered necessary by the governing body or
42 its designate.

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

45 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-

1 tablished; and

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

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

13 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
14 1948, and July 1, 1983. For the purposes of this section:

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

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

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

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

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

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

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

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

33 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Develop-
34 ment Commission as provided in section 3, chapter _____, Oregon Laws 1993 (Enrolled
35 Senate Bill 1057).

36 **SECTION 30.** Sections 31, 32a, 33 to 36, 38 and 41 of this Act are added to and made a part
37 of ORS 30.930 to 30.947.

38 **SECTION 31.** (1) The Legislative Assembly finds that:

39 (a) Farming and forest practices are critical to the economic welfare of this state.

40 (b) The expansion of residential and urban uses on and near lands zoned or used for ag-
41 riculture or production of forest products may give rise to conflicts between resource and
42 nonresource activities.

43 (c) In the interest of the continued welfare of the state, farming and forest practices
44 must be protected from legal actions that may be intended to limit, or have the effect of
45 limiting, farming and forest practices.

1 (2) The Legislative Assembly declares that it is the policy of this state that:

2 (a) Farming practices on lands zoned for farm use must be protected.

3 (b) Forest practices on lands zoned for the production of forest products must be pro-
4 tected.

5 (c) Persons who locate on or near an area zoned for farm or forest use must accept the
6 conditions commonly associated with living in that particular setting.

7 (d) Certain private rights of action and the authority of local governments and special
8 districts to declare farming and forest practices to be nuisances or trespass must be limited
9 because such claims for relief and local government ordinances are inconsistent with land
10 use policies, including policies set forth in ORS 215.243, and have adverse effects on the
11 continuation of farming and forest practices and the full use of the resource base of this
12 state.

13 SECTION 32. ORS 30.930 is amended to read:

14 30.930. As used in ORS 30.930 to 30.947:

15 (1) "Farm" means any facility, including the land, buildings, watercourses and appurtenances
16 thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock
17 products, poultry products or the propagation and raising of nursery stock.

18 (2) "Farming practice" means a mode of operation on a farm that:

19 (a) Is or may be used on a farm of a similar nature;

20 (b) Is [necessary] a generally accepted, reasonable and prudent method for the operation of
21 the farm to obtain a profit in money; [and]

22 (c) Is or may become [customarily utilized] a generally accepted, reasonable and prudent
23 method in conjunction with farm use; [.]

24 (d) Complies with applicable laws; and

25 (e) Is done in a reasonable and prudent manner.

26 (3) "Forestland" means land that is used for the growing and harvesting of forest tree
27 species.

28 (4) "Forest practice" means a mode of operation on forestland that:

29 (a) Is or may be used on forestland of similar nature;

30 (b) Is a generally accepted, reasonable and prudent method of complying with ORS 527.610
31 to 527.770 and the rules adopted pursuant thereto;

32 (c) Is or may become a generally accepted, reasonable and prudent method in conjunction
33 with forestland;

34 (d) Complies with applicable laws;

35 (e) Is done in a reasonable and prudent manner; and

36 (f) May include, but is not limited to, site preparation, timber harvest, slash disposal,
37 road construction and maintenance, tree planting, precommercial thinning, release,
38 fertilization, animal damage control and insect and disease control.

39 SECTION 32a. (1) Notwithstanding ORS 30.930 (2), the use of a pesticide shall be consid-
40 ered to be a farming practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

41 (a) Is or may be used on a farm of a similar nature;

42 (b) Is necessary for the operation of the farm to obtain a profit in money;

43 (c) Is or may become customarily utilized in conjunction with farm use;

44 (d) Complies with applicable laws; and

45 (e) Is done in a reasonable and prudent manner.

1 (2) Notwithstanding ORS 30.930 (4), the use of a pesticide shall be considered to be a
2 forest practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

3 (a) Is or may be used on forestland of a similar nature;

4 (b) Is a customary manner of complying with ORS 527.610 to 527.770;

5 (c) Is or may become customarily utilized in conjunction with forestland;

6 (d) Complies with applicable laws;

7 (e) Is done in a reasonable and prudent manner; and

8 (f) Includes, but is not limited to, site preparation, timber harvest, slash disposal, road
9 construction and maintenance, tree planting, precommercial thinning, release, fertilization,
10 animal damage control and insect and disease control.

11 SECTION 33. As used in ORS 30.930 to 30.947, "nuisance" or "trespass" includes but is
12 not limited to actions or claims based on noise, vibration, odors, smoke, dust and mist from
13 irrigation.

14 SECTION 34. (1) No farming or forest practice on lands zoned for farm or forest use
15 occurring outside an urban growth boundary shall give rise to any private right of action or
16 claim for relief based on nuisance or trespass.

17 (2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

18 (a) Damage to commercial agricultural products; or

19 (b) Death or serious physical injury as defined in ORS 161.015.

20 (3) Subsection (1) of this section applies regardless of whether the farming or forest
21 practice has undergone any change or interruption.

22 (4) If the urban growth boundary is changed in such a way as to place a farming or forest
23 practice outside its limits, subsection (1) of this section applies to that farming or forest
24 practice after the date the urban growth boundary is changed.

25 (5) Subsection (1) of this section shall not apply to a right of action or claim for relief
26 based on trespass for use of pesticides as defined in ORS 634.006.

27 SECTION 35. (1) No farming or forest practice allowed as a preexisting nonconforming
28 use shall give rise to any private right of action or claim for relief based on nuisance or
29 trespass.

30 (2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

31 (a) Damage to commercial agricultural products; or

32 (b) Death or serious physical injury as defined in ORS 161.015.

33 (3) Subsection (1) of this section applies only where a farming or forest practice existed
34 before the conflicting nonfarm or nonforest use of real property that gave rise to the right
35 of action or claim for relief.

36 (4) Subsection (1) of this section applies only where a farming or forest practice has not
37 significantly increased in size or intensity from the effective date of this 1993 Act or the date
38 on which the applicable urban growth boundary is changed to include the subject farming
39 or forest practice within its limits, whichever is later.

40 (5) Subsection (1) of this section shall not apply to a right of action or claim for relief
41 based on trespass for use of pesticides as defined in ORS 634.006.

42 SECTION 36. In any action or claim for relief alleging nuisance or trespass and arising
43 from a practice that is alleged by either party to be a farming or forest practice, the pre-
44 vailing party shall be entitled to judgment for reasonable attorney fees and costs incurred
45 at trial and on appeal.

1 **SECTION 37.** ORS 30.935 is amended to read:

2 30.935. Any local government or special district ordinance or regulation now in effect or
3 subsequently adopted that makes a farm practice a nuisance or trespass or provides for its
4 abatement as a nuisance or trespass is invalid with respect to that farm practice for which
5 no action or claim is allowed under sections 34 or 35 of this 1993 Act. [(1) A farming practice
6 shall not be declared or held to be a private or public nuisance.]

7 [(2) Any local government ordinance now in effect or subsequently adopted that makes a farming
8 practice a nuisance or provides for its abatement as a nuisance shall not apply to that farming
9 practice.]

10 [(3) The provisions of ORS 30.930 to 30.947 shall not apply:]

11 [(a) When a nuisance results from the negligent operation of a farming practice;]

12 [(b) To the growing or raising of infested, infected or diseased crops, poultry or livestock that are
13 declared a nuisance by statute, ordinance or administrative rule of a governmental body that has ju-
14 risdiction over the farming practice; or]

15 [(c) To sounds produced by devices designed for agricultural purposes in order to frighten
16 predacious birds or animals away from agricultural crops.]

17 **SECTION 38.** (1) Any local government or special district ordinance or regulation now in
18 effect or subsequently adopted that makes a forest practice a nuisance or trespass or pro-
19 vides for its abatement as a nuisance or trespass is invalid with respect to forest practices
20 for which no claim or action is allowed under sections 34 or 35 of this 1993 Act.

21 (2) Subsection (1) of this section does not apply to:

22 (a) City rules, regulations or ordinances adopted in accordance with ORS 527.722; or

23 (b) Any forest practice conducted in violation of a solar energy easement that complies
24 with ORS 105.880 to 105.890.

25 **SECTION 39.** ORS 30.940 is amended to read:

26 30.940. The provisions of ORS 30.930 to 30.947 shall not impair the right of any person or gov-
27 ernmental body to pursue any remedy authorized by [a statute, ordinance or administrative rule
28 that:] law that concerns matters other than a nuisance or trespass.

29 [(1) Concerns matters other than a nuisance;]

30 [(2) Does not expressly purport to prohibit or regulate a farming practice as a nuisance; or]

31 [(3) Prohibits or regulates the use or physical condition of facilities that adversely affect public
32 health or safety, regardless of whether it purports to prohibit or regulate a situation as a nuisance.]

33 **SECTION 40.** ORS 93.040 is amended to read:

34 93.040. (1) The following statement shall be included in the body of an instrument transferring
35 or contracting to transfer fee title to real property except for owner's sale agreements or earnest
36 money receipts, or both, as provided in subsection (2) of this section: "THIS INSTRUMENT WILL
37 NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF
38 APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS
39 INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK
40 WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY AP-
41 PROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING
42 OR FOREST PRACTICES AS DEFINED IN ORS 30.930."

43 (2) In all owner's sale agreements and earnest money receipts, there shall be included in the
44 body of the instrument the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRU-
45 MENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.

1 THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM
2 OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE
3 AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DE-
4 FINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRU-
5 MENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH
6 THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED
7 USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.”

8 (3) No action may be maintained against the county recording officer for recording an instru-
9 ment that does not contain the statement required in subsection (1) or (2) of this section.

10 (4) No action may be maintained against any person for failure to include in the instrument, or
11 for recording an instrument that does not contain the statement required in subsection (1) or (2) of
12 this section, unless the person acquiring or agreeing to acquire fee title to the real property would
13 not have executed or accepted the instrument but for the absence in the instrument of the statement
14 required by subsection (1) or (2) of this section. No action may be maintained by the person ac-
15 quiring or agreeing to acquire title to the real property against any person other than the person
16 transferring or contracting to transfer fee title to the real property.

17 **SECTION 41.** (1) The State Department of Agriculture may adopt rules to implement the
18 provisions of ORS 30.930 to 30.947.

19 (2) The State Forestry Department may adopt rules to implement the provisions of ORS
20 30.930 to 30.947.

21 **SECTION 42.** Section 43 of this Act is added to and made a part of ORS chapter 197.

22 **SECTION 43.** The Land Use Board of Appeals shall affirm a local government’s inter-
23 pretation of its comprehensive plan and land use regulations, unless the board determines
24 that the local government’s interpretation:

25 (1) Is inconsistent with the express language of the comprehensive plan or land use reg-
26 ulation;

27 (2) Is inconsistent with the purpose for the comprehensive plan or land use regulation;

28 (3) Is inconsistent with the underlying policy that provides the basis for the comprehen-
29 sive plan or land use regulation; or

30 (4) Is contrary to a state statute, land use goal or rule that the comprehensive plan
31 provision or land use regulation implements.

32 **SECTION 44.** ORS 197.625 is amended to read:

33 197.625. (1) If no notice of intent to appeal is filed within the 21-day period set out in ORS
34 197.830 (8), the amendment to the acknowledged comprehensive plan or land use regulation or the
35 new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.
36 An amendment to an acknowledged comprehensive plan or land use regulation is not acknowledged
37 unless the adopted amendment has been submitted to the director as required by ORS 197.610 to
38 197.625 and the 21-day appeal period has expired, the board affirms the decision or the appellate
39 courts affirm the decision.

40 (2) If the decision adopting an amendment to an acknowledged comprehensive plan or land use
41 regulation or a new land use regulation is affirmed on appeal under ORS 197.830 to 197.855, the
42 amendment or new regulation shall be considered acknowledged upon the date the appellate decision
43 becomes final.

44 (3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision
45 or land use regulation or an amendment to a comprehensive plan or land use regulation is

1 effective at the time specified by local government charter or ordinance and is applicable to
2 land use decisions and limited land use decisions if the amendment was adopted in accord-
3 ance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

4 (b) Any approval of a land use decision or limited land use decision subject to an unac-
5 knowledged amendment to a comprehensive plan or land use regulation shall include findings
6 of compliance with those land use goals applicable to the amendment.

7 (c) The issuance of a permit under an effective but unacknowledged comprehensive plan
8 or land use regulation shall not be relied upon to justify retention of improvements so per-
9 mitted if the comprehensive plan provision or land use regulation does not gain acknowl-
10 edgment.

11 (d) The provisions of this subsection apply to applications for land use decisions and
12 limited land use decisions submitted after February 17, 1993, and to comprehensive plan and
13 land use regulation amendments adopted:

14 (A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628 to
15 197.636;

16 (B) After June 1, 1991, to meet the requirements of ORS 197.646; and

17 (C) After the effective date of this 1993 Act.

18 [(3)] (4) The director shall issue certification of the acknowledgment upon receipt of an affidavit
19 from the board stating either:

20 (a) That no appeal was filed within the 21 days allowed under ORS 197.830 (8); or

21 (b) The date the appellate decision affirming the adoption of the amendment or new regulation
22 became final.

23 [(4)] (5) The board shall issue an affidavit for the purposes of subsection [(3)] (4) of this section
24 within five days of receiving a valid request from the local government.

25 [(5)] (6) After issuance of the notice provided in ORS 197.633, nothing in this section shall pre-
26 vent the commission from entering an order pursuant to ORS 197.633, 197.636 or 197.644 to require
27 a local government to respond to the standards of ORS 197.628.

28 **SECTION 45.** ORS 197.175 is amended to read:

29 197.175. (1) Cities and counties shall exercise their planning and zoning responsibilities, includ-
30 ing, but not limited to, a city or special district boundary change which shall mean the annexation
31 of unincorporated territory by a city, the incorporation of a new city and the formation or change
32 of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410
33 to 199.519 or 451.010 to 451.600, in accordance with ORS chapters 196 and 197 and the goals ap-
34 proved under ORS chapters 196 and 197. The commission shall adopt rules clarifying how the goals
35 apply to the incorporation of a new city. Notwithstanding the provisions of section 15, chapter 827,
36 Oregon Laws 1983, the rules shall take effect upon adoption by the commission. The applicability
37 of rules promulgated under this section to the incorporation of cities prior to August 9, 1983, shall
38 be determined under the laws of this state.

39 (2) Pursuant to ORS chapters 196 and 197, each city and county in this state shall:

40 (a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved
41 by the commission;

42 (b) Enact land use regulations to implement their comprehensive plans;

43 (c) If its comprehensive plan and land use regulations have not been acknowledged by the
44 commission, make land use decisions and limited land use decisions in compliance with the goals;

45 [and]

1 (d) If its comprehensive plan and land use regulations have been acknowledged by the commis-
2 sion, make land use decisions and limited land use decisions in compliance with the acknowledged
3 plan and land use regulations; and [.]

4 (e) **Make land use decisions and limited land use decisions subject to an unacknowledged**
5 **amendment to a comprehensive plan or land use regulation in compliance with those land**
6 **use goals applicable to the amendment.**

7 (3) Notwithstanding subsection (1) of this section, the commission shall not initiate by its own
8 action any annexation of unincorporated territory pursuant to ORS 222.111 to 222.750 or formation
9 of and annexation of territory to any district authorized by ORS 198.010 to 198.430 and 198.510 to
10 198.915 or 451.010 to 451.600.

11 **SECTION 46.** ORS 92.044 is amended to read:

12 92.044. (1) The governing body of a county or a city shall, by regulation or ordinance, adopt
13 standards and procedures, in addition to those otherwise provided by law, governing, in the area
14 over which the county or the city has jurisdiction under ORS 92.042, the submission and approval
15 of tentative plans and plats of subdivisions, tentative plans and plats of partitions in exclusive farm
16 use zones established under ORS 215.203 to 215.263.

17 (a) Such standards may include, taking into consideration the location and surrounding area of
18 the proposed subdivisions or the partitions, requirements for:

19 (A) Placement of utilities, for the width and location of streets or for minimum lot sizes and such
20 other requirements as the governing body considers necessary for lessening congestion in the
21 streets;

22 (B) Securing safety from fire, flood, slides, pollution or other dangers;

23 (C) Providing adequate light and air including protection and assurance of access to incident
24 solar radiation for potential future use;

25 (D) Preventing overcrowding of land;

26 (E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, educa-
27 tion, recreation or other needs; or

28 (F) Protection and assurance of access to wind for potential electrical generation or mechanical
29 application.

30 (b) Such ordinances or regulations shall establish the form and contents of tentative plans of
31 partitions and subdivisions submitted for approval.

32 (c) The procedures established by each such ordinance or regulation shall provide for the coor-
33 dination in the review of the tentative plan of any subdivision or partition with all affected city,
34 county, state and federal agencies and all affected special districts.

35 (d) The procedures established by each such ordinance or regulation shall include a provision
36 for notifying a person proposing a subdivision or partition of the requirement to file a statement of
37 water right.

38 (2)(a) The governing body of a city or county may provide for the delegation of any of its lawful
39 functions with respect to subdivisions and partitions to the planning commission of the city or
40 county or to an official of the city or county appointed by the governing body for such purpose.

41 (b) If an ordinance or regulation adopted under this section includes the delegation to a plan-
42 ning commission or appointed official of the power to take final action approving or disapproving
43 a tentative plan for a subdivision or partition, such ordinance or regulation [shall] may also provide
44 for appeal to the governing body from such approval or disapproval.

45 (c) The governing body may establish, by ordinance or regulation, a fee to be charged for an

1 appeal under **ORS chapter 197, 215 or 227, except for an appeal under 197.805 to 197.860.** [*this*
2 *subsection. The fee shall be reasonable and shall be no more than the average cost of such appeals or*
3 *the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing*
4 *body may establish a fee for the preparation of a written transcript. That fee shall be reasonable and*
5 *shall be no more than the actual cost of the transcript up to \$500 plus one-half the actual costs over*
6 *\$500.*]

7 (3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the
8 costs incurred in the review and investigation of and action upon proposed subdivisions that are
9 submitted for approval pursuant to this section. As used in this subsection, "costs" does not include
10 costs for which fees are prescribed under ORS 92.100 and 205.350.

11 (4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the
12 costs incurred in the review and investigation of and action upon proposed partitions that are sub-
13 mitted for approval pursuant to this section.

14 (5) Ordinances and regulations adopted under this section shall be adopted in accordance with
15 ORS 92.048.

16 (6) Any ordinance or regulation adopted under this section shall comply with the comprehensive
17 plan for the city or county adopting the ordinance or regulation.

18 (7) For the purposes of this section:

19 (a) "Incident solar radiation" means solar energy falling upon a given surface area.

20 (b) "Wind" means the natural movement of air at an annual average speed measured at a height
21 of 10 meters or at least eight miles per hour.

22 **SECTION 47.** ORS 92.046 is amended to read:

23 92.046. (1) The governing body of a county or a city may, as provided in ORS 92.048, when rea-
24 sonably necessary to accomplish the orderly development of the land within the jurisdiction of such
25 county or city under ORS 92.042 and to promote the public health, safety and general welfare of the
26 county or city, adopt regulations or ordinances governing approval, by the county or city of pro-
27 posed partitions. Such regulations or ordinances shall be applicable throughout the area over which
28 the county or city has jurisdiction under ORS 92.042, or over any portion thereof. Such ordinances
29 or regulations may specify the classifications of such partitions which require approval under this
30 section and may establish standards and procedures governing the approval of tentative plans for
31 such partitions. The standards may include all, or less than all, of the same requirements as are
32 provided or authorized for subdivisions under ORS 92.010 to 92.190 and may provide for different
33 standards and procedures for different classifications of such partitions so long as the standards are
34 no more stringent than are imposed by the city or county in connection with subdivisions.

35 (2) Such ordinances or regulations may establish the form and contents of the tentative plans
36 of partitions submitted for approval.

37 (3)(a) The governing body of a city or county may provide for the delegation of any of its lawful
38 functions with respect to partitions to the planning commission of the city or county or to an official
39 of the city or county appointed by the governing body for such purpose.

40 (b) If an ordinance or regulation adopted under this section includes the delegation to a plan-
41 ning commission or appointed official of the power to take final action approving or disapproving
42 a tentative plan for a partition, such ordinance or regulation [*shall*] **may** also provide for appeal to
43 the governing body from such approval or disapproval and require initiation of any such appeal
44 within 10 days after the date of the approval or disapproval from which the appeal is taken.

45 (c) The governing body may establish, by ordinance or regulation, a fee to be charged for an

1 appeal under **ORS chapter 197, 215 or 227, except for an appeal under ORS 197.805 to 197.860.**
2 *[this subsection. The fee shall be reasonable and shall be no more than the average cost of such appeals*
3 *or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing*
4 *body may establish a fee for the preparation of a written transcript. That fee shall be reasonable and*
5 *shall be no more than the actual cost of the transcript up to \$500 plus one-half the actual costs over*
6 *\$500.]*

7 (4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the
8 costs incurred in the review and investigation of and action upon applications for approval of pro-
9 posed partitions.

10 (5) No tentative plan of a proposed partition may be approved unless the tentative plan complies
11 with the applicable zoning ordinances and regulations and the ordinances or regulations adopted
12 under this section that are then in effect for the city or county within which the land described in
13 the tentative plan is situated.

14 (6) Any ordinance or regulation adopted under this section shall comply with the comprehensive
15 plan for the city or county adopting the ordinance or regulation.

16 **SECTION 48.** ORS 197.010 is amended to read:

17 197.010. The Legislative Assembly declares that: [,]

18 (1) In order to assure the highest possible level of liveability in Oregon, it is necessary to pro-
19 vide for properly prepared and coordinated comprehensive plans for cities and counties, regional
20 areas and the state as a whole. These comprehensive plans:

21 [(1)] (a) Must be adopted by the appropriate governing body at the local and state levels;

22 [(2)] (b) Are expressions of public policy in the form of policy statements, generalized maps and
23 standards and guidelines;

24 [(3)] (c) Shall be the basis for more specific rules and land use regulations which implement the
25 policies expressed through the comprehensive plans;

26 [(4)] (d) Shall be prepared to assure that all public actions are consistent and coordinated with
27 the policies expressed through the comprehensive plans; and

28 [(5)] (e) Shall be regularly reviewed and, if necessary, amended to keep them consistent with the
29 changing needs and desires of the public they are designed to serve.

30 (2) **The equitable balance between state and local government interests can best be**
31 **achieved by resolution of conflicts using alternative dispute resolution techniques such as**
32 **mediation, collaborative planning and arbitration. Such dispute resolution techniques are**
33 **particularly suitable for conflicts arising over periodic review, comprehensive plan and land**
34 **use regulations, amendments, enforcement issues and local interpretation of state land use**
35 **policy.**

36 **SECTION 49.** ORS 197.030 is amended to read:

37 197.030. (1) There is established a Land Conservation and Development Commission consisting
38 of seven members appointed by the Governor, subject to confirmation by the Senate pursuant to
39 section 4, Article III, Oregon Constitution.

40 (2) In making appointments under subsection (1) of this section, the Governor shall select from
41 residents of this state one member from each congressional district and the remaining members from
42 the state at large reflecting the geographic and occupational makeup of the state. At least one and
43 no more than two members shall be from Multnomah County unless required to comply with re-
44 quirement that a member come from each congressional district. At least one member shall be **or**
45 **have been** an elected city [or county] official [at the time of appointment] in Oregon and at least

1 **one member shall be an elected county official at the time of appointment.**

2 (3) The term of office of each member of the commission is four years, but a member may be
3 removed by the Governor for cause. Before the expiration of the term of a member, the Governor
4 shall appoint a successor. No person shall serve more than two full terms as a member of the com-
5 mission.

6 (4) If there is a vacancy for any cause, the Governor shall make an appointment to become im-
7 mediately effective for the unexpired term.

8 **SECTION 50. The commission shall reflect the membership composition described in ORS**
9 **197.030, as amended by section 49 of this Act, by December 31, 1996.**

10 **SECTION 51.** ORS 197.040 is amended to read:

11 197.040. (1) The commission shall:

12 (a) Direct the performance by the director and the director's staff of their functions under ORS
13 chapters 196 and 197.

14 (b) In accordance with the provisions of ORS 183.310 to 183.550, adopt rules that it considers
15 necessary to carry out ORS chapters 196 and 197. In designing its administrative requirements, the
16 commission shall allow for the diverse administrative and planning capabilities of local governments.

17 (c)(A) Adopt by rule in accordance with ORS 183.310 to 183.550 or by goal under ORS chapters
18 196 and 197 any statewide land use policies that it considers necessary to carry out ORS chapters
19 196 and 197. [*Any statewide land use policies adopted by the commission before August 21, 1981, shall*
20 *be adopted by goal or rule within one year after August 21, 1981.*]

21 (B) Adopt by rule in accordance with ORS 183.310 to 183.550 any procedures necessary to carry
22 out ORS 215.402 (4)(b) and 227.160 (2)(b).

23 **(C) Review decisions of the Land Use Board of Appeals and land use decisions of the**
24 **Court of Appeals and the Supreme Court within 120 days of the date the decisions are issued**
25 **to determine if goal or rule amendments are necessary.**

26 (d) Cooperate with the appropriate agencies of the United States, this state and its political
27 subdivisions, any other state, any interstate agency, any person or groups of persons with respect
28 to land conservation and development.

29 (e) Appoint advisory committees to aid it in carrying out ORS chapters 196 and 197 and provide
30 technical and other assistance, as it considers necessary, to each such committee.

31 (2) Pursuant to ORS chapters 196 and 197, the commission shall:

32 (a) Adopt, amend and revise goals consistent with regional, county and city concerns;

33 (b) Prepare, collect, provide or cause to be prepared, collected or provided land use inventories;

34 (c) Prepare statewide planning guidelines;

35 (d) Review comprehensive plans for compliance with goals;

36 (e) Coordinate planning efforts of state agencies to assure compliance with goals and compat-
37 ibility with city and county comprehensive plans;

38 (f) Insure widespread citizen involvement and input in all phases of the process;

39 (g) Review and recommend to the Legislative Assembly the designation of areas of critical state
40 concern;

41 (h) Report periodically to the Legislative Assembly and to the committee; and

42 (i) Perform other duties required by law.

43 **SECTION 52.** ORS 215.130 is amended to read:

44 215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law
45 within the meaning of, and subject to, ORS 250.155 to 250.235.

1 (2) An ordinance designed to carry out a county comprehensive plan and a county comprehen-
2 sive plan shall apply to:

3 (a) The area within the county also within the boundaries of a city as a result of extending the
4 boundaries of the city or creating a new city unless, or until the city has by ordinance or other
5 provision provided otherwise; and

6 (b) The area within the county also within the boundaries of a city if the governing body of such
7 city adopts an ordinance declaring the area within its boundaries subject to the county's land use
8 planning and regulatory ordinances, officers and procedures and the county governing body consents
9 to the conferral of jurisdiction.

10 (3) An area within the jurisdiction of city land use planning and regulatory provisions that is
11 withdrawn from the city or an area within a city that disincorporates shall remain subject to such
12 plans and regulations which shall be administered by the county until the county provides otherwise.

13 (4) County ordinances designed to implement a county comprehensive plan shall apply to pub-
14 licly owned property.

15 (5) The lawful use of any building, structure or land at the time of the enactment or amendment
16 of any zoning ordinance or regulation may be continued. Alteration of any such use may be per-
17 mitted to reasonably continue the use. Alteration of any such use shall be permitted when necessary
18 to comply with any lawful requirement for alteration in the use. A change of ownership or occu-
19 pancy shall be permitted.

20 (6) Restoration or replacement of any use described in subsection (5) of this section may be
21 permitted when the restoration is made necessary by fire, other casualty or natural disaster. Res-
22 toration or replacement shall be commenced within one year from the occurrence of the fire, casu-
23 alty or natural disaster.

24 (7) Any use described in subsection (5) of this section may not be resumed after a period of in-
25 terruption or abandonment unless the resumed use conforms with the requirements of zoning ordi-
26 nances or regulations applicable at the time of the proposed resumption.

27 (8) Any proposal for the alteration of a use under subsection (5) of this section, except an al-
28 teration necessary to comply with a lawful requirement, for the restoration or replacement of a use
29 under subsection (6) of this section or for the resumption of a use under subsection (7) of this section
30 shall be [*considered a contested case under ORS 215.402 (1) subject to such procedures as the govern-*
31 *ing body may prescribe under ORS 215.412]* **subject to the provisions of ORS 215.416.**

32 (9) As used in this section, "alteration" of a nonconforming use includes:

33 (a) A change in the use of no greater adverse impact to the neighborhood; and

34 (b) A change in the structure or physical improvements of no greater adverse impact to the
35 neighborhood.

36 **SECTION 53.** If House Bill 2438 becomes law, section 42a, chapter _____, Oregon Laws
37 1993 (Enrolled House Bill 2438) (amending ORS 527.800), is repealed.

38 **SECTION 54.** If House Bill 2734 becomes law, sections 1 and 2, chapter _____, Oregon
39 Laws 1993 (Enrolled House Bill 2734) (amending ORS 527.805 and 527.810), are repealed.

40 **SECTION 55.** ORS 197.247, 215.214, 215.288, 215.303, 215.337, 527.800, 527.805 and 527.810 are
41 repealed.
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