



Planning Commission Meeting Agenda

ASHLAND PLANNING COMMISSION

SPECIAL MEETING AGENDA

Tuesday, February 24, 2026

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair.

I. CALL TO ORDER

7:00 p.m., Civic Center Council Chambers, 1175 E. Main Street

II. ANNOUNCEMENTS

1. Staff Announcements
2. Advisory Committee Liaison Reports

III. CONSENT AGENDA

Approval of Minutes

1. February 10, 2026 Regular Meeting Minutes

IV. PUBLIC FORUM

Note: To speak to an agenda item in person you must fill out a speaker request form at the meeting and will then be recognized by the Chair to provide your public testimony. Written testimony can be submitted in advance or in person at the meeting. If you wish to discuss an agenda item electronically, please contact PC-public-testimony@ashland.or.us by 10:00 a.m. on February 24, 2026 to register to participate via Zoom. If you are interested in watching the meeting via Zoom, please utilize the following link: <https://zoom.us/j/91610579597>

V. UNFINISHED BUSINESS

Approval of Findings for PA-T2-2025-00065, 431 North Main Street

VI. OTHER BUSINESS

Election of Planning Commission Officers

VII. DISCUSSION ITEMS

Oregon Legislative Updates Discussion

VIII. OPEN DISCUSSION

IX. ADJOURNMENT

Next Meeting Date: March 10, 2026

If you need special assistance to participate in this meeting, please contact Derek Severson at planning@ashlandoregon.gov or 541.488.5305 (TTY phone number 1.800.735.2900). Notification at least three business days before the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting in compliance with the Americans with Disabilities Act.





Planning Commission Minutes

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February 10, 2026

REGULAR MEETING

***DRAFT* Minutes**

I. CALL TO ORDER:

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street.

Commissioners Present:

Lisa Verner
Eric Herron
Susan MacCracken Jain
Russell Phillips
John Maher
Jay Lininger

Staff Present:

Brandon Goldman, Community Development Director
Derek Severson, Planning Supervisor
Michael Sullivan, Executive Assistant

Absent Members:

Council Liaison:

Jeff Dahle

II. ANNOUNCEMENTS

1. Staff Announcements:

Community Development Director Brandon Goldman made the following announcements:

- Associate Planner Veronica Allen left the City to take a position in Salem, and her position was being advertised on the City website through February 25th.
- He updated the Commission on several land use applications, including the demolition of housing units off Henry Street that were part of the Southern Oregon University master plan, with redevelopment to trigger a future planning action.
- He noted a demolition permit issued for 2262 Ashland Street for a commercial building reconstruction, renovations at 500 A Street with a rooftop deck addition, and the historically compatible renovation of the storefront at 27 North Main for Cafe Lumina.

2. Advisory Committee Liaison Reports – None

III. CONSENT AGENDA

Approval of Minutes

1. January 13, 2026, Regular Meeting Minutes
2. January 27, 2026, Study Session Minutes





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Commissioners Phillips/Maher m/s to approve the consent agenda as presented. Voice Vote: All AYES. Motion Passed 6-0.

IV. PUBLIC FORUM – None

IV. TYPE II PUBLIC HEARING – CONTINUED

PLANNING ACTION: PA-T2-2025-00065
SUBJECT PROPERTY: 431 N Main Street
APPLICANT: Rogue Planning and Development
OWNER: Rogue Holdings LLC
DESCRIPTION: A request for concurrent Outline and Final Plan approval for a Performance Standards Option (PSO) subdivision. The parent parcel at 431 N Main Street is proposed to be subdivided into four new lots, each with a single-family dwelling. The existing structure is proposed for demolition. The application also includes a request for four Conditional Use Permits to exceed the Maximum Permitted Floor Area (MPFA) in a Historic District on each new home, a request to remove a significant tree 33" DBH in size (*Ailanthus altissima*, Tree of Heaven) and a request for an exception to street standards to not install standard street improvements due to the existing sidewalk and site constraints.
COMPREHENSIVE PLAN DESIGNATION: Multi-Family Residential; **ZONING:** R-2; **MAP:** 39-1E-05-DA; **TAX LOT:** 7300

Chair Vernor noted that the Public Hearing had been continued to allow for the Historic Preservation Advisory Committee (HPAC) and Tree Management Advisory Committee (TMAC) to review the application and make recommendations.

Ex Parte Contact

No ex parte contact was disclosed.

Staff Presentation

Planner Supervisor Derek Severson presented the HPAC's recommendations, which focused on design modifications to make the buildings more compatible with the historic district (see attachment #1). He explained the code basis for requiring design modifications in historic districts and provided examples of the types of detailed recommendations HPAC typically makes. The HPAC had recommended design changes including varying the facades, combining stairs on the North Main Street facade, enlarging dormers, adding vent louvers, adjusting column placement, using shingles in the gable dormers, and enlarging the hip portion on the Hersey Street side. The TMAC had also reviewed the application and supported removal of the tree.





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Applicant Presentation

Amy Gunter of Rogue Planning & Development services represented the application, presented a revised drawing incorporating some of HPAC's recommendations, particularly changes to decrease the mass of the gable on the Hersey end of the building, standardizing gable end sizes, and improving the porch posts (see attachment #2). She addressed the building's proximity to transportation options and noted that the proposed units were within the size range of average homes in the historic district.

Property owner Dan Dougherty explained his motivation for the project was to provide affordable housing in Ashland. He described how other rentals in town were much more expensive than comparable units in Medford, and he believed there was a need for small units. He also explained that design constraints were making the project challenging, with kitchens being particularly tight in the single-family homes due to the MPFA limitations.

Questions of the Applicant

Several commissioners expressed concerns about the SRO (Single Room Occupancy) building on Lot 4, including:

- The lack of storage space for bicycles and tenants' belongings
- The visible HVAC units that seemed incompatible with historic character
- The building's mass and bulk were too large, especially when viewed from North Main Street

Public Comments

Cynthia Barnard/Ms. Barnard expressed concern regarding livability issues for the SRO on lot 4.

Applicant Rebuttal

Ms. Gunter stated that bike parking would be installed on lot 4, that trash and recycling would be shared by the tenants, and that grills would not be permitted on the property due to insurance issues.

Chair Verner closed the Public Hearing and Public Record at 7:58.

Deliberations and Decision

The Commissioner discussed the need for housing in Ashland, but pointed to potential design flaws in the application, particularly regarding the SRO building on Lot 4, and largely agreed that the application lacked overall completeness. Regarding approval criteria of CUPs, Commissioner Lininger pointed to AMC 18.5.4.050.a.3.g, which he stated permits the deciding body to deny an application due to "other factors found to be relevant by the approval authority for review of the proposed use." He cited the livability standards on lot 4, pointing to the relatively small room sizes,



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the need to access the shared kitchen through an external door, and the lack of storage space, stating that this criterion grants the Commission discretion when reviewing CUP applications.

Commissioners Phillips/Lininger m/s to approve planning action PA-T2-2025-00065 for 431 North Main Street, including concurrent outline and final plan approval for the performance standards option subdivision creating 4 lots, 4 conditional use permits to exceed the maximum permitted floor area in the historic district for each new home, approval to remove the significant tree identified in the record, and approval of the requested exception to street standards subject to the staff conditions of approval dated February 10, 2026 and as amended on the record to incorporate the HPAC's recommendations dated February 4, 2026 as conditions of approval, particularly for the Lot 4 SRO structure, and to include the applicant's provisions for bike parking, trash, and recycling. DISCUSSION: The Commission voiced overall support of the project with regards to needed housing, but stated that some deficiencies in the application remain.

Roll Call Vote: Commissioners Phillips and Lininger: AYE. Commissioners Maher, MacCracken Jain, Herron, and Verner: NAY. Motion failed 2-4.

Commissioners Maher/Phillips m/s to approve planning action PA-T2-2025-00065 for 431 North Main Street including staff recommendations, but excluding, without prejudice, the conditional use permit (CUP) for Lot 4, and excluding the HPAC recommendations specifically pertaining to Lot 4. DISCUSSION: Commissioner MacCracken Jain cautioned that it could be a slippery slope where exceeding the lot size is an economic issue subject to profit maximization, and could set a dangerous precedent. Commissioner Herron expressed concern with approving an application in a form that the applicant did not submit for approval.

Amendment to the Motion: Commissioners Lininger/Phillips m/s to amend the entire motion to be without prejudice. Roll Call Vote: Commissioners Phillips, Maher, Lininger, MacCracken Jain, Herron, and Verner: AYE. Amendment to the motion passed 6-0.

Amended Motion: Roll Call Vote: Commissioners Phillips, Maher, Lininger, and Verner: AYE. Commissioners MacCracken Jain and Herron: NAY. Motion passed 4-2.

V. **OTHER BUSINESS**

Election of Planning Commission Officers

The Commission decided to postpone this item until a later meeting when the full Commission could be present.



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VI. OPEN DISCUSSION

Commissioner Phillips inquired about the timing of lot line adjustments in relation to permits. Staff explained that while building permits that depend on setbacks must wait for boundary line adjustments to be finalized, site clearance permits and grading/excavation permits can often be issued earlier in the process.

VII. ADJOURNMENT

Meeting adjourned at 8:37 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*

ATTENTION

**For attachments to February 10,
2026 Meeting Minutes, please use
the link below:**

<https://ashlandor.portal.civicclerk.com/event/905/files/agenda/2065>

UNFINISHED BUSINESS

**Approval of Findings for PA-T2-2025-00065,
431 North Main Street**

THE CITY OF ASHLAND
BEFORE THE PLANNING COMMISSION

February 24, 2026

IN THE MATTER OF PLANNING ACTION #PA-T2-2026-00065 A)
REQUEST FOR CONCURRENT OUTLINE AND FINAL PLAN)
APPROVAL FOR A PERFORMANCE STANDARDS OPTION (PSO))
SUBDIVISION. THE PARENT PARCEL AT 431 NORTH MAIN STREET IS)
PROPOSED TO BE SUBDIVIDED INTO FOUR NEW LOTS. THE)
EXISTING STRUCTURE IS PROPOSED FOR DEMOLITION. THE)
APPLICATION ALSO INCLUDES REQUESTS FOR A CONDITIONAL)
USE PERMIT TO EXCEED THE MAXIMUM PERMITTED FLOOR AREA)
(MPFA) IN A HISTORIC DISTRICT FOR EACH PROPOSED LOT; A)
REQUEST FOR A TREE REMOVAL PERMIT TO REMOVE A)
SIGNIFICANT TREE (33-INCH DIAMETER *AILANTHUS ALTISSIMA*);)
AND A REQUEST FOR AN EXCEPTION TO THE STREET DESIGN)
STANDARDS TO NOT INSTALL STANDARD STREET IMPROVEMENTS)
DUE TO SITE CONSTRAINTS AND EXISTING SIDEWALKS ALREADY)
IN PLACE.)

**FINDINGS,
CONCLUSIONS,
AND ORDERS.**

OWNER: ROGUE HOLDINGS)
APPLICANT: ROGUE PLANNING & DEVELOPMENT)
_____)
)

RECITALS:

- 1) The subject property is Tax Lot #7300 of Assessor's Map 39 1E 05DA, addressed as 431 North Main Street. The property is 0.35 acres in area and is zoned R-2, a Low-Density Multi-Family Residential zoning. Tax Lot #7300 was created in the 1800's in its current size and rectangular shape with approximately 67 feet of frontage on North Main Street and 215.57 feet of frontage on Nursery Street. The property is located within the Skidmore Academy Historic District, and the existing eight-unit house, the "James-Dodson House", constructed in the late 1800's or early 1900's, is considered a "Historic/Contributing" resource within the historic district survey document.
- 2) The applicant is requesting concurrent Outline and Final Plan approvals for a four lot Performance Standards Option (PSO) subdivision. The existing structure on the property, the "James-Dodson House" is proposed to be demolition to enable the proposed redevelopment. The application also includes requests for: a Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) in a Historic District for each of the four proposed lots; a request for a Tree Removal Permit to remove a significant tree, a 33-inch diameter at breast height Tree of Heaven (*Ailanthus altissima*); and a request for an Exception to the Street Design Standards to not install standard street frontage

improvements due to site constraints and the presence of existing sidewalks. The proposal is outlined in plans on file at the Department of Community Development which by this reference are incorporated here as if set out in full.

3) The criteria for approval of Outline Plan are described in **AMC 18.3.9.040.A.3** as follows:

- a. *The development meets all applicable ordinance requirements of the City.*
- b. *Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*
- c. *The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the common open space, common areas, and unbuildable areas.*
- d. *The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*
- e. *There are adequate provisions for the maintenance of common open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.*
- f. *The proposed density meets the base and bonus density standards established under this chapter.*
- g. *The development complies with the street standards.*
- h. *The proposed development meets the common open space standards established under section 18.4.4.070. Common open space requirements may be satisfied by public open space in accordance with section 18.4.4.070 if approved by the City of Ashland.*

4) The criteria for approval of Final Plan are described in **AMC 18.3.9.040.B.5** as follows:

- a. *The number of dwelling units vary no more than ten percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.*
- b. *The yard depths and distances between main buildings vary no more than ten percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this ordinance.*
- c. *The common open spaces vary no more than ten percent of that provided on the outline plan.*

- d. *The building size does not exceed the building size shown on the outline plan by more than ten percent.*
 - e. *The building elevations and exterior materials are in conformance with the purpose and intent of this ordinance and the approved outline plan.*
 - f. *That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.*
 - g. *The development complies with the street standards.*
 - h. *Nothing in this section shall limit reduction in the number of dwelling units or increased open space; provided, that if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the common open space reduced below that permitted in the outline plan.*
- 5) The criteria for approval of a Conditional Use Permit are described in **AMC 18.5.4.050.A** as follows:
- 1. *That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.*
 - 2. *That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.*
 - 3. *That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone, pursuant with subsection 18.5.4.050.A.5, below. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone.*
 - a. *Similarity in scale, bulk, and coverage.*
 - b. *Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.*
 - c. *Architectural compatibility with the impact area.*
 - d. *Air quality, including the generation of dust, odors, or other environmental pollutants.*
 - e. *Generation of noise, light, and glare.*
 - f. *The development of adjacent properties as envisioned in the Comprehensive Plan.*
 - g. *Other factors found to be relevant by the approval authority for review of the proposed use.*

4. *A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance.*
5. *For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are as follows.*
 - c. **R-2 and R-3.** *Residential use complying with all ordinance requirements, developed at the density permitted by chapter 18.2.5 Standards for Residential Zones.*
- 6) The criteria of approval for the approval of a Tree Removal Permit are described in **AMC 18.5.7.040.B.** as follows:
 1. *Hazard Tree. A Hazard Tree Removal Permit shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
 - a. *The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard (i.e., likely to fall and injure persons or property) or a foreseeable danger of property damage to an existing structure or facility, and such hazard or danger cannot reasonably be alleviated by treatment, relocation, or pruning. See definition of hazard tree in part [18.6](#).*
 - b. *The City may require the applicant to mitigate for the removal of each hazard tree pursuant to section [18.5.7.050](#). Such mitigation requirements shall be a condition of approval of the permit.*
 2. *Tree That is Not a Hazard. A Tree Removal Permit for a tree that is not a hazard shall be granted if the approval authority finds that the application meets all of the following criteria, or can be made to conform through the imposition of conditions.*
 - a. *The tree is proposed for removal in order to permit the application to be consistent with other applicable Land Use Ordinance requirements and standards, including but not limited to applicable Site Development and Design Standards in part 18.4 and Physical and Environmental Constraints in part 18.3.10.*
 - b. *Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks.*
 - c. *Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property. The City shall grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone.*
 - d. *Nothing in this section shall require that the residential density to be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping*

- designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of this ordinance.*
- e. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to section 18.5.7.050. Such mitigation requirements shall be a condition of approval of the permit.*
- 7) The criteria for approval of an Exception to the Street Design Standards are described in **AMC 18.4.6.020.B.1** as follows:
- a. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site; and the exception is the minimum necessary to alleviate the difficulty; and the exception is consistent with the purpose, intent, and background of the street design standards in subsection 18.4.6.040.A; and the exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable:*
- i. For transit facilities and related improvements, access, wait time, and ride experience.*
- ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic.*
- iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safely and efficiently cross roadway; or*
- b. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purposes, intent, and background of the street design standards in subsection 18.4.6.040.A. (Ord. 3204 § 2, amended, 12/21/2021)*
- 8) The Planning Commission, following proper public notice, held a public hearing on January 13, 2026 at which time testimony was received and exhibits were presented. The public hearing was continued to a time and date certain (7:00 p.m. on Tuesday, February 10, 2026) to enable the Historic Preservation Advisory Committee to review and provide comment with regard to revised application materials which were submitted on January 12, 2026.
- 9) The Planning Commission reconvened the public hearing at 7:00 p.m. on Tuesday, February 10, 2026 at which time additional testimony was received and additional evidence was presented. Subsequent to the closing of the hearing, the Planning Commission approved the requests for Outline and Final Plan approval, a Tree Removal Permit, an Exception to the Street Design Standards, and Conditional Use Permits to exceed the Maximum Permitted Floor Area (MPFA) in the Historic District for the proposed Lots 1-3 subject to conditions of approval. The Planning Commission denied the applicant's request for a Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) in the Historic District for the proposed Lot 4 without prejudice.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes, and recommends as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, and Miscellaneous Exhibits lettered with an "M"

SECTION 2. CONCLUSORY FINDINGS OF FACT

2.1 The Planning Commission notes that chapter 18 of the Ashland Municipal Code (AMC) is the City's Land Use Ordinance (LUO). The LUO regulates the development pattern envisioned by the Comprehensive Plan and encourages efficient use of land resources among other goals. The Planning Commission notes that when considering the decision to approve or deny an application the Planning Commission considers the application materials against the relevant approval criteria in the LUO.

2.1.2 The Planning Commission finds that it has received all information necessary to render a decision based on the application itself, the January 13, 2026 Staff Report and February 10, 2026 supplementary memo, the recommendations of the Historic Preservation Advisory Committee, the applicant's testimony, the exhibits received, and public testimony received both written and at the public hearing.

2.2 The Planning Commission notes that the application that the notice for the public hearing was both posted at the frontage of the subject property and mailed to all property owners within 200 feet of the subject property on December 23, 2025 (*21 days prior to the January 13, 2026 hearing*).

2.3 The Planning Commission finds that the proposal for Outline Plan of a Performance Standard Option (PSO) subdivision meets all applicable criteria for described in AMC 18.3.9.040.A.3 and detailed below.

2.3.1 The first approval criterion for Outline Plan approval is that "*The development meets all applicable ordinance requirements of the City.*" The Planning Commission notes that this is an all-encompassing criterion and that it has considered which City Ordinances are applicable. The Planning Commission notes that for the purposes of resolving this criterion we rely on the entirety of the record including the applicant's submittal, and the Staff Report dated January 13th. The Planning Commission notes that with the findings that are set out below, the approval of the Exception to Street Standards discussed below, and the adopted

conditions of approval that the proposal will meet all applicable ordinance requirements and finds that this criterion of approval is satisfied.

2.3.2 The second approval criterion for Outline Plan approval is that “*Adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.*” The Planning Commission notes that the subject property fronts on North Main and Nursery Streets, which contain all city utilities including water, sewer, storm drainage and electricity. The Public Works/Engineering Division has reviewed the proposal and has identified no concerns regarding the capacity of any of these key city facilities for the four proposed lots. Both fronting streets are fully paved and have curbs, gutters and curb-tight sidewalks along the property’s frontages. The Planning Commission finds that the Utility Plan provided shows electric, sewer, storm drainage and water being installed to serve each of the proposed lots. The Planning Commission concludes that based on the foregoing, this criterion of approval is satisfied.

2.3.3 The third criterion for approval of an Outline Plan is that “*The existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.*” The Planning Commission notes that the application includes a tree inventory of all trees greater than six-inches in diameter at breast height (DBH); each tree on the inventory includes a circle depicting the tree’s arborist-identified critical root zone (CRZ) which equates to one-foot in radius for every inch of the tree’s diameter at 54-inches above the ground. The plan shows one significant tree (*i.e. conifers having a trunk 18 caliper inches or larger in DBH, or deciduous trees having a trunk 12 caliper inches in DBH*) and one dead tree, both of which are proposed for removal in conjunction with redevelopment of the property. The significant tree proposed for removal is a Tree of Heaven, which is often considered to be invasive, located just outside of the building envelopes of the proposed residences along Nursery Street. Due to its size, the upper canopy and lateral branches extend directly into and over the buildable area, which the applicant suggests “*restricts feasible siting of dwellings.*” The Planning Commission notes that the application includes a report from certified arborist Kyle Bartell of Rogue Valley Tree indicating that there is major inclusion in the tree’s main trunk and signs of severe rot and irreversible internal decay which make the tree a potential hazard. The arborist further expresses concern over utility lines in the upper canopy, and rates the tree as an extreme risk of failure in the provided ISA Basic Tree Risk Assessment form. The arborist recommends removal and replacement, and staff and the Tree Management Advisory Committee expressed support for the arborist’s findings. Based on the arborist’s report, the Planning Commission finds that removal of this tree is merited. The Planning Commission concludes that there are no other natural features to address on the subject property, and that this approval criteria is satisfied.

2.3.4 The fourth criterion for approval of an Outline Plan is that “*The development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.*” The Planning Commission notes that the surrounding property is fully

developed, and that there is no adjacent vacant land. The Planning Commission finds when the adjacent development is considered that the proposed subdivision will not prevent the adjacent lands from being developed as envisioned in the Comprehensive Plan and finds that this criterion of approval is satisfied.

2.3.5 The fifth criterion for approval of an Outline Plan is that is that *“There are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.”* The Planning Commission notes that the application is not proposing common open space or common areas, and finds that common open space is only a requirement when the base density for a PSO subdivision is ten units or more, which exceeds the density in this application. On that basis, the Planning Commission concludes that this criterion does not apply to the current application.

2.3.6 The sixth criterion for approval of an Outline Plan is that is that *“The proposed density meets the base and bonus density standards established under this chapter.”* The Planning Commission notes that the property is 0.35 acres, and that the base density for the R-2 zoning districts allows 13.5 dwelling units (du)/acre which calculates to a base density of 4.5 dwelling units [13.5 du/acre x 0.35 acres = 4.725 du]. The proposal includes four dwelling units, which is within the allowed base density. There is no minimum density requirement because the property is within a historic district. The applicant does not propose to utilize any density bonuses. The Planning Commission finds that proposed density of four total residential lots is within the allowed base density of the property and concludes that this criterion is satisfied.

2.3.7 The seventh Outline Plan approval criterion is that *“The development complies with the Street Standards.”* The Planning Commission notes the street standards require a 47-foot right-of-way (ROW) width for Nursery Street, a residential neighborhood street, with a 22-foot curb-to-curb paved width plus park row planting strips, irrigated street trees and sidewalks. Street standards require standards require a 73-99 foot right-of-way (ROW) width for North Main Street, a boulevard or arterial and state highway, with a 46-foot curb-to-curb paved width plus park row planting strips, irrigated street trees and sidewalks. Both of the property’s street frontages are fully paved and have curb-tight sidewalks in place. The applicant requests an Exception to the Street Design Standards to retain the existing curb-tight sidewalk in its current location, rather than reconstructing the frontage to add required park row planting strips with street trees and has proposed to dedicate an easement to accommodate the required improvements in the event the city ultimately undertakes a project to fully improve these corridors. In considering the request, the Planning Commission notes that the presence of existing frontage improvement, including a streetlight and recent engineered crosswalk improvements by the Oregon Department of Transportation (ODOT) would complicate frontage improvements. The Planning Commission concludes that with approval of the requested Exception to the Street Design Standards discussed further below in 2.8 and the conditions attached, this criterion is satisfied.

2.3.8 The final criterion for approval of an Outline Plan is that is that *“The proposed development meets the common open space standards established under section 18.4.4.070.*

Common open space requirements may be satisfied by public open space in accordance with section 18.4.4.070 if approved by the City of Ashland.” The Planning Commission notes that the Performance Standards Option Chapter (AMC 18.3.9) requires that at least eight percent of the total lot area be provided in common open space for developments with a base density of ten units or greater. The Planning Commission finds that in this instance, no open space dedication is required for a subdivision of less than ten lots and concludes that this criterion is not applicable to the current application.

2.3.9 The Planning Commission concludes based on the above and finds that all applicable approval criteria for Outline Plan subdivision approval have been satisfied.

2.4 The Planning Commission finds that the approval criteria for Final Plan are intended to ensure substantial conformance between Outline plan approval and Final Plan approval when the two are requested as separate procedural steps. Where the two are allowed to be filed concurrently, as is the case here, there is no procedural separation between the two and the concurrent Final Plan proposal is identical to the Outline Plan in terms of number of dwelling units, yard depths, common open spaces, standards resulting in density bonuses, and street standards. Based on the concurrent request for Outline and Final Plan approval, the Planning Commission concludes that all Final Plan approval criteria are satisfied.

2.5 The Planning Commission notes that the existing structure on the property, the “James-Dodson House” is a Historic/Contributing resource within the Skidmore Academy Historic District and is proposed for demolition to enable the proposed redevelopment of the site. The Planning Commission finds that the demolition and relocation of structures is regulated through AMC 15.04.210-.216 as part of the Buildings & Construction Ordinance which falls entirely outside the Planning Commission’s purview. The applicant will be required to obtain any necessary Demolition/Relocations Review Permit approvals through the Building Division prior to demolishing the structure.

2.6 The Planning Commission notes that the application includes requests for four Conditional Use Permits to exceed the Maximum Permitted Floor Area (MPFA) within a Historic District. The Planning Commission further notes that AMC 18.2.5.070.C provides for increases in the allowable MPFA in a historic district noting that, *“A conditional use permit under chapter 18.5.4 is required to exceed the MPFA standards of subsections 18.2.5.070.F and 18.2.5.070.G below. In addition to the approval criteria for a conditional use permit, the criteria for Historic District Design Standards approval must be met. In no case shall the permitted floor area exceed 25 percent of the MPFA.”*

The application requests Conditional Use Permits (CUPs) for each lot to exceed their allowed Maximum Permitted Floor Area (MPFA) based on lot size. Calculations for each lot have been provided. The applicant is requesting a Conditional Use Permit to allow the full 25 percent increase in Maximum Permitted Floor Area for each of the four lots, which, if approved by the Planning Commission would allow building sizes as follows:

- Lot 1 up to 1,851.93 square feet
- Lot 2 up to 1,687.5 square feet

- Lot 3 up to 1,687.5 square feet
- Lot 4 up to 2,401.89 square feet

The proposal is for Lots 1-3 to have residences approximately 1,683 square feet in area. The applicant describes the development on Lot 4 as a 2,352 square foot single-family residence built as a six-bedroom single-room occupancy (SRO) unit, which is treated as one dwelling unit for density purposes under State House Bill 2138 and under the Ashland Land Use Ordinance because it has only one set of kitchen cooking facilities.

The first approval criterion for a Conditional Use Permit is, *“That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.”* The Planning Commission finds that the residential uses proposed are in conformance with the standards of the R-2 zoning district with the exception of the proposed increases in Maximum Permitted Floor Area (MPFA) in a historic district.

The second approval criterion for a Conditional Use Permit is, *“That adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the development, and adequate transportation can and will be provided to the subject property.”* As discussed in further detail in section 2.3.2 above, the Planning Commission finds that there is adequate capacity of city facilities to serve the proposed development.

The third criterion for Conditional Use Permit approval is, *“That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone, pursuant with subsection 18.5.4.050.A.5, below. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone: a. Similarity in scale, bulk, and coverage; b. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities; c. Architectural compatibility with the impact area; d. Air quality, including the generation of dust, odors, or other environmental pollutants; e. Generation of noise, light, and glare; f. The development of adjacent properties as envisioned in the Comprehensive Plan; and g. Other factors found to be relevant by the approval authority for review of the proposed use.”* The Planning Commission notes that the primary issues of concern in requests to exceed the Maximum Permitted Floor Area (MPFA) include similarity in scale, bulk and coverage; architectural compatibility with the impact area; and compliance with the Historic District Development Standards as called for in AMC 18.2.5.070.C. The Planning Commission further notes that, as provided in AMC 18.4.2.050.A.2.b, *“If a development requires a... Conditional Use Permit... and involves new construction, or restoration and rehabilitation, or any use greater than a single-family use, the authority exists in the law for the Staff Advisor and the Planning Commission to require modifications in the design to match these standards. In this case the Historic Commission [Historic Preservation Advisory Committee] advises both the applicant and the Staff Advisor or other City decision maker.”*

The Planning Commission notes that in considering the proposed single family residences on Lots 1, 2 and 3 at its January meeting, the Historic Preservation Advisory Committee (HPAC) initially

recommended that the design of one of the three residences should be flipped so that it was a mirror image of the others (i.e. the garage and driveway should be in opposite relation to the rest of the house) rather than having all three homes being nearly identically configured to avoid a “cookie cutter” appearance. HPAC further recommended that this could be done most readily to Lot 3, adjacent to the proposed single room occupancy (SRO) building, in order to satisfy driveway separation requirements and provide a massing that stepped from the single-story SRO building to a single-story garage element to the two-story mass of the remainder of the SFR. This recommendation was fully incorporated into revised designs reviewed by HPAC at its February meet, and HPAC had no further recommendations with regard to the SFR designs. The Planning Commission concurs with the HPAC recommendations and finds that as revised in the applicant’s January 12th submittal, the homes proposed for Lots 1, 2 and 3 are generally in keeping with the bulk, scale and coverage of the impact area; are architecturally compatible; and, while designed of their own time, are generally in keeping with the Historic District Development Standards and merit approval of a Conditional Use Permit to increase the allowable MPFA as requested.

The Planning Commission further notes that HPAC’s original January recommendations with regard to the proposed SRO building on Lot 4 responded to concerns that the applicant’s original designs were not in keeping with the Historic District Development Standards in terms of [scale](#), [massing](#), [roof](#), [form](#) and [entrances](#). HPAC recommended segmenting the building’s design to bring a central element forward to provide articulation in the street-facing façade(s) along with adding a corresponding secondary gable element, with a more substantial pitch, to the roof and potentially hipping the roof to provide greater articulation to the roof form and better fit with the surrounding historic neighborhood; adjusting the exterior treatment in terms of the porch and railings, doors, access points and coverings. HPAC generally indicated that the original design needed more work to break the mass into separate forms with greater articulation in the roof and street-facing façades rather than presenting a monotonous, box-like form particular on this prominent corner at the gateway to the historic district. In considering the applicant’s January 12th and January 28th revisions, HPAC expressed disappointment that the revised designs failed to segment the building to bring forward a central element to provide some better articulation in the street-facing facades as had been previously recommended. HPAC expressed appreciation for the applicants’ efforts in making other revisions in response to the earlier recommendations, however HPAC ultimately indicated that even with the revisions there were still concerns with how the large gable facing Nursery Street presented to those approaching from the north via North Main Street. HPAC provided additional design recommendations largely focused, in terms of the Historic District Development Standards, on how to mitigate the impact of the large gable with regard to scale, massing, roof, and form through design modifications and to better address the stair entrances. The applicant provided additional revised drawings during the Planning Commission hearing on February 10th which in the Planning Commission’s assessment failed to fully incorporate the February recommendations of HPAC, particular with regard to the treatment of the dormers to minimize the impact of the large gable. In considering the proposal in its final form in light of the Historic Preservation Advisory Committee’s recommendations, the Historic District Development Standards, and architectural compatibility with the impact area, the Planning Commission finds that the design is inconsistent with the bulk, scale, massing, roof, and form Historic District Development standards and failed to adequately articulate the street facing facades to break up the massing of the building and to sufficiently mitigate the roof gable. On that basis, the Planning Commission concludes that the request for a Conditional Use Permit to exceed

the Maximum Permitted Floor Area in a historic district for the SRO building on Lot 4 is not merited.

The Planning Commission further notes that with regard to concerns raised over potential parking impacts associated with the proposal, the City of Ashland has eliminated off street parking requirements citywide to address requirements of the state's Climate Friendly and Equitable Communities rulemaking. The adequacy of parking provided may no longer be considered in land use decisions.

In terms of other factors found to be relevant by the approval authority, the Planning Commission finds that the materials provided fail to adequately detail the placement of bicycle parking, trash and recycling facilities and any associated screening, and illustrate the placement of mechanical equipment between the main building and fronting streets which violates AMC 18.2.4.020.B.

The fourth criterion for approval of a Conditional Use Permit is that, *"A conditional use permit shall not allow a use that is prohibited or one that is not permitted pursuant to this ordinance."* The Planning Commission here finds that the single family residential uses proposed are outright permitted uses in the R-2 zoning district.

The final approval criterion notes that *"For the purposes of reviewing conditional use permit applications for conformity with the approval criteria of this subsection, the target uses of each zone are as follows: c. **R-2 and R-3**. Residential use complying with all ordinance requirements, developed at the density permitted by chapter 18.2.5 Standards for Residential Zones."* The Planning Commission finds that for the purposes of this review, the subject property here is 0.35 acres in area, and at the 13.5 dwelling units (du)/acre base density of the R-2 zone, the property has a base density of 4.725 dwelling units which is the target use.

As detailed further above, the Planning Commission finds that as revised in the applicant's January 12th submittal, the homes proposed for Lots 1, 2 and 3 are generally in keeping with the bulk, scale and coverage of the impact area; are architecturally compatible; and, while designed of their own time, are generally in keeping with the Historic District Development Standards and therefore merit approval of a Conditional Use Permit to increase the allowable MPFA as requested. With regard to the proposed SRO building on Lot 4, the Planning Commission finds that the design is inconsistent with the Historic District Development standards in terms of bulk, scale, massing, roof and form, and fails to adequately articulate the street facing facades to break up the massing of the building and to sufficiently mitigate visual impact of the large roof gable on this prominent corner. The Commission concludes that the request for a Conditional Use Permit to exceed the Maximum Permitted Floor Area in a historic district for the SRO building on Lot 4 is not merited.

2.7 The Planning Commission notes that the application includes a tree inventory of all trees greater than six-inches in diameter at breast height (DBH); each tree on the inventory includes a circle depicting the tree's arborist-identified critical root zone (CRZ) which equates to one-foot in radius for every inch of the tree's diameter at 54-inches above the ground. The plan shows one significant tree (*i.e. conifers having a trunk 18 caliper inches or larger in DBH, or deciduous trees having a trunk 12 caliper inches in DBH*) and one dead tree, both of which are proposed for removal in conjunction with redevelopment of the property. The significant tree proposed for

removal is a 33-inch diameter at breast height Tree of Heaven (*Ailanthus altissima*), which is often considered to be invasive, located just outside of the building envelope of the proposed residence on Lot #3 along Nursery Street. Due to its size, the upper canopy and lateral branches extend directly into and over the buildable area, which the applicant suggests “*restricts feasible siting of dwellings.*” The Planning Commission notes that while the application initially requested the tree removal as a non-hazard tree, the applicant subsequently provides a report from certified arborist Kyle Bartell of Rogue Valley Tree indicating that there is major inclusion in the tree’s main trunk and signs of severe rot and irreversible internal decay which make the tree a potential hazard. The arborist’s report further expresses concern over utility lines in the upper canopy, and rates the tree as an extreme risk of failure in the provided ISA Basic Tree Risk Assessment form. The arborist recommends removal and replacement, and staff and the Tree Management Advisory Committee have both expressed support for the arborist’s findings. Based on the arborist’s report, the Planning Commission finds that removal of this tree is merited.

2.8 The Planning Commission notes the street standards require a 47-foot right-of-way (ROW) width for Nursery Street, a residential neighborhood street, with a 22-foot curb-to-curb paved width plus park row planting strips, irrigated street trees and six-foot sidewalks. Street standards require standards require a 73-99 foot right-of-way (ROW) width for North Main Street, a boulevard or arterial and state highway, with a 46-foot curb-to-curb paved width plus park row planting strips, irrigated street trees and six-foot sidewalks. Both of the property’s street frontages are fully paved and have five- to five-and-a-half-foot curb-tight sidewalks in place. The application here includes a request for an Exception to the Street Design Standards to retain the existing curb-tight sidewalk in its current location, rather than reconstructing the frontage to minimally widen the sidewalk and add required park row planting strips with street trees, and has proposed to dedicate a future easement to accommodate the required improvements in the event the city ultimately undertakes a project to fully improve these corridors.

The applicable criterion for an Exception is that “*There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site; and the exception is the minimum necessary to alleviate the difficulty; and the exception is consistent with the purpose, intent, and background of the street design standards in subsection 18.4.6.040.A; and the exception will result in equal or superior transportation facilities and connectivity considering the following factors where applicable: i. For transit facilities and related improvements, access, wait time, and ride experience; ii. For bicycle facilities, feeling of safety, quality of experience (i.e., comfort level of bicycling along the roadway), and frequency of conflicts with vehicle cross traffic; and iii. For pedestrian facilities, feeling of safety, quality of experience (i.e., comfort level of walking along roadway), and ability to safely and efficiently cross roadway*”.

The Planning Commission finds that the presence of a streetlight and of engineered crosswalk improvements recently completed by the Oregon Department of Transportation (ODOT) in the interest of accessibility present a demonstrable difficulty in meeting the standard. The Public Works/Engineering Division has indicated that even minor widening of the sidewalk would trigger a complete re-engineering of the recently completed crosswalk improvements. The Planning Commission finds that with the planting of city-standard street trees behind the existing sidewalks and providing an Irrevocable Consent to Dedicate a Public Pedestrian Access Easement necessary

to accommodate the standard frontage improvements, an Exception is merited and the applicable criterion satisfied.

SECTION 3. DECISION

3.1 Based on the record of the public hearing on this matter, the Planning Commission concludes that the request for concurrent Outline and Final Plan approval for a four-lot Performance Standards Option (PSO) subdivision, Conditional Use Permits to exceed the Maximum Permitted Floor Area (MPFA) in a Historic District for the proposed Lots 1-3, Tree Removal Permit to remove one significant tree, and an Exception to the Street Design Standards to not install city standard street frontage improvements is supported by evidence contained within the whole record and is **approved** including the conditions of approval below. The request for a Conditional Use Permit to exceed the Maximum Permitted Floor Area (MPFA) in a Historic District for the proposed Lot 4 is denied without prejudice.

The conditions of approval are below:

- 1) All proposals of the applicant shall be conditions of approval unless otherwise specifically modified herein, including but not limited to the design revisions for the single family residences on Lots 1, 2 and 3 received January 12, 2026.
- 2) That the recommendations of the Ashland Historic Preservation Advisory Committee with regard to the single family residences proposed for Lots 1, 2 and 3 shall be conditions of approval, where consistent with the applicable ordinances and standards and with final approval of the Staff Advisor, unless otherwise modified herein.
- 3) Any excavation within the critical root zone of protected trees shall be supervised by the project arborist. No construction shall occur within the tree protection zone including dumping or storage of materials such as building supplies, soil, waste, equipment, or parked vehicles. Replacement trees to mitigate the trees removed shall be planted and irrigated according to the approved plan.
- 4) Permits shall be obtained from the Ashland Public Works Department prior to any additional work in the public right of way or any modification or creation of curb cuts.
- 5) Requirements of the Ashland Fire Department shall be met, including that all addressing shall be approved prior to being installed, that fire apparatus access be provided, and that a fuel break is required.
- 6) Prior to any site work, tree removal, building demolition, bringing combustible materials onto the property, and/or storage of materials:
 - a. A Verification Permit shall be applied for and approved by the Ashland Planning Division. The Verification Permit is to inspect the identification of the tree(s) to be removed and the installation of tree protection fencing for the trees to be retained on and adjacent to the site. The tree protection shall be chain link fencing six feet tall and installed in accordance with 18.4.5.030. The tree protection fencing and any temporary erosion control measures (i.e. silt fence and straw bale barriers) shall

be installed according to the approved plan and be inspected and approved by the Ashland Planning Department.

- b. A final Fire Prevention and Control Plan addressing the General Fuel Modification Area requirements in AMC 18.3.10.100.A.2 of the Ashland Land Use Ordinance shall be provided, and any new landscaping proposed shall comply with these standards and shall not include plants listed on the Prohibited Flammable Plant List per Resolution 2018-028.
- 7) A final survey plat shall be submitted for the review and approval of the City of Ashland within 18 months of this Final Plan approval. Prior to submittal of the final subdivision survey plat for signature:
- a. All easements including but not limited to public and private utilities, public pedestrian and public bicycle access, drainage, irrigation, and fire apparatus access, and any future right-of-way improvement easements (*or an irrevocable consent to dedicate such easements*) shall be indicated on the final subdivision plat submittal for review by the Planning, Engineering, Building and Fire Departments.
 - b. Subdivision infrastructure improvements including but not limited to utilities and driveways shall be completed according to approved plans, inspected and approved.
 - c. Electric services shall be installed underground to serve all lots, inspected and approved. The final electric service plan shall be reviewed and approved by the Ashland Electric, Building, Planning and Engineering Divisions prior to installation.
 - d. The sanitary sewer laterals and water services including connection with meters at the street shall be installed to serve all lots within the applicable phase, inspected and approved.
- 8) Prior to building permit submittal:
- a. The storm drainage plan shall be submitted for review and approval to the Ashland Engineering, Building and Planning Divisions prior to application for a building permit. Once approved, the storm drainage plan shall be constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties in accordance with 18.3.10.090.C.1.f. If an alternate storm water system such as a dry well system, detention pond and leach field is used, the alternate system shall be designed by a registered engineer or geotechnical expert.”
 - b. The new driveway approaches shall be permitted through the Engineering Division and are required to be separated from existing driveways and each other by a minimum of 24-feet per City Street Standards. The driveway curb cuts shall be inspected and approved by the Engineering Division prior to signature of the final plat.
 - c. The requirements of the Ashland Fire Department, including the installation of any required fire hydrants and fire apparatus access and turnaround (hammerhead) requirements shall be complied with prior to issuance of the building permit or the use of combustible materials, whichever is applicable. Fire Department requirements shall be included on the engineered construction documents for public

facilities. If a fire protection vault is required, the vault shall not be located in the sidewalk.

- d. The applicant shall record an Irrevocable Consent to Dedicate agreement to facilitate dedication of the remaining required right-of-way or public pedestrian access easements along Nursery and North Main Streets at such time as that additional right of way becomes necessary for the completion of street improvements.
- 9) The building permit submittals shall include the following:
- a. Application for addresses for each new residential unit in the subdivision.
 - b. Identification of all easements, including but not limited to any public and private utility easements, mutual access easements, and fire apparatus access easements.
 - c. Solar setback calculations demonstrating that all units comply with Solar Setback Standard A in the formula $[(\text{Height} - 6) / (0.445 + \text{Slope}) = \text{Required Solar Setback}]$ and elevations or cross section drawings clearly identifying the highest shadow producing point(s) and the height(s) from natural grade.
 - d. Final lot coverage calculations demonstrating how lot coverage is to comply with the 65 percent maximum coverage allowance of the R-2 zoning district. Lot coverage includes all building footprints, driveways, parking areas and other circulation areas, and any other areas other than natural landscaping.
 - e. Storm water from all new impervious surfaces and runoff associated with peak rainfalls must be collected on site and channeled to the City storm water collection system through the curb or gutter at a public street, a public storm pipe, an approved public drainage way, or through an approved alternative in accordance with Ashland Building Division policy BD-PP-0029. On-site collection systems shall be detailed on the building permit submittals.
 - f. Verification that each new home in the subdivision complies with the Maximum Permitted Floor Area requirements as follows:
 - i. Lot 1 up to 1,851.93 square feet (with approved CUP)
 - ii. Lot 2 up to 1,687.5 square feet (with approved CUP)
 - iii. Lot 3 up to 1,687.5 square feet (with approved CUP)
 - iv. Lot 4 up to 1,921.52 square feet (CUP to exceed not approved)
 - g. All fencing shall be consistent with the provisions of the “Fences and Walls” requirements in AMC 18.4.4.060. The location and height of fencing shall be identified at the time of building permit submittals, and fence permits shall be obtained prior to installation.
- 10) Prior to the issuance of a Certificate of Occupancy:
- a. Street trees, one per 30 feet of street frontage, shall be installed on the Nursery Street and North Main Street frontages. All street trees shall be chosen from the Recommended Street Tree Guide and shall be installed in accordance with the specifications noted in AMC 18.4.4.030.E. The street trees shall be irrigated.

- b. In conjunction with the tree removal, appropriate mitigation measures shall be implemented to prevent the spread of the Tree of Heaven.

Planning Commission Approval

February 24, 2026
Date

DISCUSSION ITEMS

Oregon Legislative Updates

Memo

DATE: February 24, 2026
TO: Planning Commission and City Council
FROM: Brandon Goldman, Community Development Director
RE: Oregon Legislative Updates

This memorandum is intended to provide the Planning Commission with a general update on recent and ongoing state legislation related to land use and housing. The focus is on bills adopted during the 2025 regular legislative session and select land use and housing bills that are currently moving through the 2026 short legislative session.

This item is being provided as a study session update only. The Commission is not being asked to provide direction, make recommendations, or take action at this time. Several of the bills discussed below will require future local code amendments or procedural changes, but those updates will be brought forward through separate work sessions and formal public hearings once state implementation guidance is clearer and staff has had time to prepare specific ordinance proposals.

The intent of this update is to help Commissioners stay oriented to the broader policy environment and understand how state level decisions continue to shape local planning responsibilities.

Overview of the 2025 Legislative Session

The 2025 regular legislative session was unusually active in the land use and housing space and resulted in several significant bills becoming law. Many of these measures continue the Legislature's multi-year effort to increase housing production, reduce procedural barriers, and standardize local development review practices, particularly for residential development inside urban growth boundaries.

Several of the enacted bills directly affect local planning and development codes, while others influence housing production more indirectly through funding programs or changes to statewide planning expectations. Together, they reflect a statewide shift toward more predictable and efficient review of housing projects and expanded housing opportunities

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across a wider range of housing types and income levels. In particular, recent legislation, most notably Senate Bill 974, directs local governments to process certain housing applications administratively and within defined timelines, with hearings occurring only on appeal where allowed. This is a significant shift in the land use process impacting Ashland's Type I, Type II, and Type III application noticing and processing. The goal is to reduce delay and limit discretionary review while still requiring cities to update local codes to align procedures, notice, and appeal processes with state law.

Senate Bill 974

One of the most consequential land use bills from the 2025 session is Senate Bill 974. This bill focuses on the review process for certain residential land use applications and final engineering plans within urban growth boundaries.

At a high level, SB 974 establishes clearer timelines for local government review and limits the use of discretionary and aesthetic based design review for qualifying housing developments. The bill introduces the concept of an urban housing application and, for certain types of residential approvals, requires that the initial decision be made administratively without a hearing. A hearing may still occur on appeal, but the initial decision is intended to be staff level and subject to defined statutory deadlines.

The bill also establishes timelines for completeness checks and final decisions on final engineering plans for residential development and includes provisions that allow applicants to recover costs if deadlines are missed. These changes are intended to reduce delay and uncertainty in housing development and to shift some local review processes away from discretionary hearings and toward clearer administrative decisions.

Most of the procedural requirements in SB 974 must be implemented by local governments by July 1 2026, or jurisdictions and applicants may apply State ORS for implementation. Staff is currently tracking state guidance and evaluating how these requirements intersect with existing local procedures, including noticing requirements and appeal processes.

House Bill 2138

House Bill 2138 is a broad omnibus bill that builds on Oregon's existing middle housing framework and makes numerous amendments across several housing related statutes. Rather than focusing on a single issue, the bill touches on housing types, land division,

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density allowances, housing capacity planning, and restrictions on private covenants that limit housing development.

Among other things, the bill expands and clarifies middle housing definitions, allows additional units when projects include affordable or accessible housing, updates middle housing land division standards, and reinforces limits on private restrictions that conflict with state housing policy. It also continues to align local planning responsibilities with the Oregon Housing Needs Analysis and Housing Production Strategy framework.

House Bill 2138, expands and clarifies state requirements related to Single Room Occupancy housing, or SROs. The bill amends ORS 197A.430 to require local governments to allow SRO development within urban growth boundaries under defined standards, including increased allowable unit counts and limitations on parking requirements. As enacted, local governments are required to bring their land use regulations into compliance with these SRO provisions by January 1 2027, consistent with other housing related implementation deadlines established in the bill.

At the same time, state rulemaking related to SRO implementation is not expected to be completed until January 2028. This creates a practical two step implementation process for cities. The City will be required to adopt local code amendments by the statutory deadline based on the bill language and without State guidance, with the understanding that additional refinements may be needed once state rulemaking is finalized. Staff anticipates returning to the Planning Commission after state rules are adopted in 2028 to propose any necessary follow up amendments to ensure continued compliance and consistency with state guidance.

Most local code amendments related to middle housing and related provisions of HB2138 must be adopted by January 1 2027, with some cottage cluster related provisions extending to January 1, 2028. As with prior middle housing legislation, the state retains authority to apply model code provisions if a local government does not adopt conforming regulations by the applicable deadline.

House Bill 3560

House Bill 3560 addresses the siting of child care centers and integrates child care more directly into Oregon's land use planning framework. The bill expands where child care

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centers are allowed and limits the ability of local governments to impose additional approval conditions in certain zoning contexts.

Under the bill, child care centers must be allowed in specified multifamily residential zones (R-2 and R-3), when co located with institutional uses such as schools or places of worship in any zone, and in most commercial and industrial zones except heavy industrial. The bill also clarifies definitions related to child care facilities and moves relevant statutes into the land use planning chapters of state law. Review of these mandated allowances enables the City to further evaluate the inclusion of child care centers as a permitted, special permitted, or conditional use in single family residential zones.

Local governments are required to update land use regulations to comply with the bill within one year of its effective date (by January 1, 2027). While the bill does not eliminate all local discretion, it significantly narrows the range of zoning based limitations that can be applied to child care facilities in specific zones.

House Bill 3031

House Bill 3031 focuses on infrastructure as a key barrier to housing development. The bill establishes a state framework for providing financial assistance to cities for infrastructure investments needed to support residential development on land already planned and zoned for housing inside urban growth boundaries.

HB 3031 does not require specific zoning or procedural amendments and as such would not be in the purview of the Planning Commission. However, it reinforces the importance of having development ready land, clear standards, and coordinated planning and public works processes so has been included in this legislative update. Access to infrastructure funding under this program is closely tied to local readiness to accommodate housing development.

Relationship to Oregon Housing Needs Analysis

Several of the bills enacted in 2025 are closely aligned with the Oregon Housing Needs Analysis and the broader shift in statewide planning toward measurable housing production outcomes. This framework emphasizes not only planning for housing capacity, but also tracking production, removing regulatory barriers, and affirmatively furthering fair housing.

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Commissioners should expect future state legislation and administrative rulemaking to continue reinforcing this approach, particularly through Housing Production Strategies, reporting requirements, and coordination between state and local governments.

Bills in Progress During the 2026 Short Session

The 2026 short legislative session is underway and is more limited in scope and duration, but several land use and housing related bills are currently moving forward. None of the bills described below have been enacted as of the date of this memorandum.

- **House Bill 4035** proposes to expand eligibility for cities and Metro to amend urban growth boundaries under a temporary program focused on facilitating housing development. If adopted, the bill would provide additional tools for addressing housing supply but would not require cities to expand their boundaries.
- **House Bill 4082** would add to an existing temporary UGB addition program by allowing expansions specifically for manufactured dwelling parks or housing for older persons that meets defined affordability thresholds.
- **Senate Bill 1561** proposes an alternative approval pathway for the restoration or replacement of dwellings rendered uninhabitable, clarifying that certain approvals would not be treated as land use decisions.
- **House Bill 4108** would establish a Joint Permitting Council intended to improve coordination and efficiency across permitting systems, reflecting continued legislative interest in permitting reform and interagency collaboration.

These bills may change significantly through amendments or may not ultimately pass, and staff will continue to monitor their progress.

Next Steps

At this time, no action is requested from the Planning Commission. As state agencies complete rulemaking and implementation guidance becomes clearer, staff will return to the Commission with focused work sessions and proposed code amendments where required. Those future items will include detailed explanations of how specific state mandates translate into changes to the Ashland Municipal Code, along with opportunities for public input through formal hearings.

The enrolled versions of each of these bills are provided in the Commissioner packets. Commissioners who wish to review full bill text, enrolled measures, or legislative histories

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may do so through the Oregon Legislative Information System at <https://www.oregonlegislature.gov/>

Attachments:

- [Senate Bill 974 Enrolled](#)
 - Review timelines and procedural changes for certain residential land use and engineering applications within urban growth boundaries
- [House Bill 2138 Enrolled](#)
 - Middle housing and housing capacity omnibus legislation amending multiple land use and housing statutes
- [House Bill 3031 Enrolled](#)
 - Establishes a state funding program to help cities build or upgrade infrastructure needed to support housing development on land already planned and zoned for residential use inside urban growth boundaries.
- [House Bill 3560 Enrolled](#)
 - Expansion of allowable siting for child care centers and related land use provisions
- ALUO Chapter 18 Planning Application Processing Updates per SB 974 and HB 2138

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Enrolled Senate Bill 974

Sponsored by Senators ANDERSON, JAMA, BROADMAN, MEEK; Senators PATTERSON, PHAM K, SMITH DB, Representatives ANDERSEN, CHOTZEN, FAHEY, JAVADI, MARSH, TRAN

CHAPTER

AN ACT

Relating to the timeline for reviewing land use applications for housing; creating new provisions; amending ORS 197.830 and 197.835; and prescribing an effective date.

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

SECTION 1. (1) As used in this section, “final engineering plans” means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems and utilities.

(2) After receiving an application for final engineering plans for residential development within an urban growth boundary, a local government shall:

(a) Within 30 days, confirm that the application was complete when submitted or specify all additional materials that must be included for the application to be considered complete.

(b) Complete the final review of the final engineering plans and, following the receipt of applicable fees, forms and bonds, approve or deny site development permits for construction of all public and private infrastructure improvements, within 120 days after the date on which:

(A) The application is deemed complete under paragraph (a) of this subsection;

(B) The applicant has provided all materials specified under paragraph (a) of this subsection; or

(C) The applicant states that no additional materials are forthcoming.

(3) The review period for a local government to complete its review under subsection (2)(b) of this section:

(a) Is tolled during the time period beginning on the date on which a local government sends a direction to the applicant to correct or supplement the application and ending on the date on which the amended application is received by the local government.

(b) May be extended one or more times for a specified period at the written request of the applicant, provided that the total of all extensions does not exceed 245 days.

(4)(a) If the local government does not take final action on the application within the deadline provided under subsection (2)(b) of this section, including any extension under this section, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted.

(b) The local government shall retain jurisdiction to make a decision until a petition for a writ of mandamus is filed.

(c) Upon receiving a petition filed under ORS 34.130, the circuit court has jurisdiction for all decisions regarding the application, including settlement.

(d) The court shall issue a peremptory writ unless the local government or any intervenor shows that the approval of final engineering plans would violate a substantive provision of the local government's regulations.

SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 3. (1) This section applies only to a land use decision for residential development based on an application for:

(a) A zone change to allow for a denser residential use designation;

(b) A planned unit development; or

(c) A variance from a residential approval standard.

(2) This section applies only to an application for land that is, at the time of the application:

(a) Inside the urban growth boundary; and

(b) Zoned primarily for residential use or mixed residential use or planned for residential use.

(3) This section does not apply to an application:

(a) That would reduce the minimum residential density of land.

(b) For a final subdivision or partition plat.

(c) For a residential construction permit under the state building code.

(d) For final engineering plans under section 1 of this 2025 Act.

(e) Subject to a ministerial or other expedited approval procedure, including a residential use allowed outright.

(4) An application under this section:

(a) Is not subject to the requirements of ORS 197.797.

(b) Must be reviewed under the procedures described in a local government's land use regulations, except as provided in this section.

(5)(a) The local government shall provide written notice of an application under this section to owners of property within 100 feet of the site for which the application is made and to any neighborhood or community organization recognized by the governing body and whose boundaries include the site. The list of owners must be compiled from the most recent property tax assessment roll.

(b) A local government is not required to provide a hearing, as described in ORS 197.610 to 197.625, on an application made under this section if the local government provides a copy of the notice required under this subsection to the Department of Land Conservation and Development in the manner provided by ORS 197.610 and 197.615.

(c) The notice must:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local process for reaching a final decision on the application.

(d) The local government shall provide an affidavit or other certification describing the notice given under this subsection.

(6) Approval or denial of the application must be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(7) The initial decision on the application must be made without a hearing. A local government may provide for a hearing on appeal of the initial decision. The hearing may be limited to the record developed for the initial decision under subsection (5) of this section or may allow for the introduction of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence must comply with the requirements of ORS 197.797. Written notice of the local government's final decision must be given to all parties who participated in the decision and must include an explanation of a party's right to appeal the decision.

SECTION 4. ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620, a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the notice of the decision did not reasonably describe the nature of the decision.

(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the decision to the board under this section.

(5) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(6) The appeal periods described in subsections (3), (4) and (5) of this section:

(a) May not exceed three years after the date of the decision, except as provided in paragraph (b) of this subsection.

(b) May not exceed 10 years after the date of the decision if notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.797 **or section 3 of this 2025 Act** is required but has not been provided.

(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene in and be made a party to the review proceeding by filing a motion to intervene and by paying a filing fee of \$100.

(b) Persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a statement identifying when, how and to whom notice was provided under ORS 197.615 does not render the notice defective. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a petition for review is not filed with the board as required in subsections (10) and (11) of this section, the board shall award the filing fee to the local government, special district or state agency.

(10)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion. If the board denies a petitioner's objection to the record, the board may establish a new deadline for the petition for review to be filed that may not be less than 14 days from the later of the original deadline for the brief or the date of denial of the petitioner's record objection.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to

intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development.

(11) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (13) of this section.

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) The local government or state agency may withdraw its decision for purposes of reconsideration at any time:

(A) Subsequent to the filing of a notice of intent; and

(B) Prior to:

(i) The date set for filing the record; or

(ii) On appeal of a decision under ORS 197.610 to 197.625 or relating to the development of a residential structure, the filing of the respondent's brief.

(c) If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent is not required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(14) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(15) Upon entry of its final order, the board:

(a) May, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review.

(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position or filed any motion without probable cause to believe the position or motion was well-founded in law or on factually supported information.

(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(18) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

(19) The board shall track and report on its website:

(a) The number of reviews commenced, as described in subsection (1) of this section, the number of reviews commenced for which a petition is filed under subsection (2) of this section and, in relation to each of those numbers, the rate at which the reviews result in a decision of the board to uphold, reverse or remand the land use decision or limited land use decision. The board shall track and report reviews under this paragraph in categories established by the board.

(b) A list of petitioners, the number of reviews commenced and the rate at which the petitioner's reviews have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision.

(c) A list of respondents, the number of reviews involving each respondent and the rate at which reviews involving the respondent have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision. Additionally, when a respondent is the local government that made the land use decision or limited land use decision, the board shall track whether the local government appears before the board.

(d) A list of reviews, and a brief summary of the circumstances in each review, under which the board exercises its discretion to require a losing party to pay the attorney fees of the prevailing party.

SECTION 5. ORS 197.835 is amended to read:

197.835. (1)(a) The Land Use Board of Appeals shall review the land use decision or limited land use decision and prepare a final order affirming, reversing or remanding the land use decision or limited land use decision.

(b) If a local government demonstrates that a land use decision adopting a change to an acknowledged comprehensive plan or land use regulation contains a severability clause and specifically challenged portions of the changes may be reasonably severable from the remainder of the changes, the board may affirm in part. Reasonably severable means the remaining parts, standing alone, are complete and capable of being executed with the legislative intent. The affirmed parts are not affected by the reversal or remand, continue in effect and are considered acknowledged as described in ORS 197.625.

(c) The board shall adopt rules defining the circumstances in which it will reverse rather than remand a land use decision or limited land use decision or part of a decision that is not affirmed.

(2)(a) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record.

(b) In the case of disputed allegations of standing, unconstitutionality of the decision, ex parte contacts, actions described in subsection (10)(a)(B) of this section or other procedural irregularities not shown in the record that, if proved, would warrant reversal or remand, the board may take evidence and make findings of fact on those allegations. The board shall be bound by any finding of fact of the local government, special district or state agency for which there is substantial evidence in the whole record.

(3) The board may only review issues raised by any participant before the local hearings body as provided by ORS 197.195, 197.622 or 197.797 **or section 3 of this 2025 Act**, whichever is applicable.

(4) A petitioner may raise new issues to the board regarding a quasi-judicial decision made under ORS 197.195 or 197.797 **or section 3 of this 2025 Act** only if:

(a) The local government failed to list the applicable criteria for a decision under ORS 197.195 (3)(c) or 197.797 (3)(b) **or section 3 (5)(c) of this 2025 Act**, in which case a petitioner may raise new issues based upon applicable criteria that were omitted from the notice. However, the board may refuse to allow new issues to be raised if it finds that the issue could have been raised before the local government; or

(b) The local government made a land use decision or limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final action.

(5) The board shall reverse or remand a land use decision not subject to an acknowledged comprehensive plan and land use regulations if the decision does not comply with the goals. The board shall reverse or remand a land use decision or limited land use decision subject to an acknowledged comprehensive plan or land use regulation if the decision does not comply with the goals and the Land Conservation and Development Commission has issued an order under ORS 197.320 or adopted a new or amended goal under ORS 197.245 requiring the local government to apply the goals to the type of decision being challenged.

(6) The board shall reverse or remand an amendment to a comprehensive plan if the amendment is not in compliance with the goals.

(7) The board shall reverse or remand an amendment to a land use regulation or the adoption of a new land use regulation if:

(a) The regulation is not in compliance with the comprehensive plan; or

(b) The comprehensive plan does not contain specific policies or other provisions which provide the basis for the regulation, and the regulation is not in compliance with the statewide planning goals.

(8) The board shall reverse or remand a decision involving the application of a plan or land use regulation provision if the decision is not in compliance with applicable provisions of the comprehensive plan or land use regulations.

(9) In addition to the review under subsections (1) to (8) of this section, the board shall reverse or remand the land use decision under review if the board finds:

(a) The local government or special district:

(A) Exceeded its jurisdiction;

(B) Failed to follow the procedures applicable to the matter before it in a manner that prejudiced the substantial rights of the petitioner;

(C) Made a decision not supported by substantial evidence in the whole record;

(D) Improperly construed the applicable law; or

(E) Made an unconstitutional decision; or

(b) The state agency made a decision that violated the goals.

(10)(a) The board shall reverse a local government decision and order the local government to grant approval of an application for development denied by the local government if the board finds:

(A) Based on the evidence in the record, that the local government decision is outside the range of discretion allowed the local government under its comprehensive plan and implementing ordinances; or

(B) That the local government's action was for the purpose of avoiding the requirements of ORS 215.427 or 227.178.

(b) If the board does reverse the decision and orders the local government to grant approval of the application, the board shall award attorney fees to the applicant and against the local government.

(11)(a) Whenever the findings, order and record are sufficient to allow review, and to the extent possible consistent with the time requirements of ORS 197.830 (14), the board shall decide all issues presented to it when reversing or remanding a land use decision described in subsections (2) to (9) of this section or limited land use decision described in ORS 197.828 and 197.195.

(b) Whenever the findings are defective because of failure to recite adequate facts or legal conclusions or failure to adequately identify the standards or their relation to the facts, but the parties identify relevant evidence in the record which clearly supports the decision or a part of the decision, the board shall affirm the decision or the part of the decision supported by the record and remand the remainder to the local government, with direction indicating appropriate remedial action.

(12) The board may reverse or remand a land use decision under review due to ex parte contacts or bias resulting from ex parte contacts with a member of the decision-making body, only if the member of the decision-making body did not comply with ORS 215.422 (3) or 227.180 (3), whichever is applicable.

(13) Subsection (12) of this section does not apply to reverse or remand of a land use decision due to ex parte contact or bias resulting from ex parte contact with a hearings officer.

(14) The board shall reverse or remand a land use decision or limited land use decision which violates a commission order issued under ORS 197.328.

(15) In cases in which a local government provides a quasi-judicial land use hearing on a limited land use decision, the requirements of subsections (12) and (13) of this section apply.

(16) The board may decide cases before it by means of memorandum decisions and shall prepare full opinions only in such cases as it deems proper.

SECTION 6. Sections 1 and 3 of this 2025 Act and the amendments to ORS 197.830 and 197.835 by sections 4 and 5 of this 2025 Act become operative July 1, 2026.

SECTION 7. Section 8 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 8. (1) A local government may not apply residential design standards to an application for the development of housing within an urban growth boundary unless the application is for the development of a multifamily structure as defined in ORS 197A.465 or fewer than 20 residential units.

(2) This section does not apply to land use regulations or requirements that are related to setbacks, building height, accessibility, fire ingress or egress, public health or safety, state or federal water quality standards, hazardous or contaminated site cleanup or wildlife protection or that implement statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources.

(3) As used in this section:

(a) “Residential design standards” means standards intended to preserve the desired character, architectural expression, decoration or aesthetic quality of new homes, including standards regulating:

- (A) Facade materials, colors or patterns;
- (B) Roof decoration, form or materials;
- (C) Accessories, materials or finishes for entry doors or garages;
- (D) Window elements such as trim, shutters or grids;
- (E) Fence type, design or finishes;
- (F) Architectural details, such as ornaments, railings, cornices and columns;
- (G) Size and design of porches or balconies;
- (H) Variety of design or floorplan; or
- (I) Front or back yard area landscaping materials or vegetation.

(b) “Residential units” means any new single-unit dwellings, manufactured dwellings and units of middle housing, as defined in ORS 197A.420.

SECTION 9. Section 8 of this 2025 Act is repealed January 2, 2033.

SECTION 10. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by Senate April 28, 2025

Repassed by Senate June 5, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House June 3, 2025

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Tobias Read, Secretary of State

Enrolled House Bill 2138

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Office of the Governor)

CHAPTER

AN ACT

Relating to land use; creating new provisions; amending ORS 34.020, 34.102, 92.031, 92.044, 92.325, 93.277, 94.776, 184.453, 184.633, 197.015, 197.090, 197.200, 197.245, 197.360, 197.365, 197.724, 197.794, 197.796, 197.825, 197.830, 197A.015, 197A.400, 197A.420, 197A.430, 197A.465, 197A.470, 215.402, 215.416, 215.427, 215.429, 223.299, 227.160, 227.173, 227.175, 227.178, 227.179, 227.184, 421.649 and 476.394 and sections 3 and 4, chapter 639, Oregon Laws 2019, and section 1, chapter 110, Oregon Laws 2024; repealing ORS 92.377, 197.370, 197.375, 197.380, 197.726 and 197.727; and declaring an emergency.

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

MIDDLE HOUSING

SECTION 1. ORS 197A.420 is amended to read:

197A.420. (1) As used in this section **and section 3 of this 2025 Act:**

(a) “City” [or] **includes a local government with jurisdiction over unincorporated lands within an urban growth boundary.**

(b) “City with a population of 25,000 or greater” includes, regardless of size, any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco, Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods.

[b] “Cottage clusters” means groupings of no fewer than four detached housing units per acre with a footprint of less than 900 square feet each and that include a common courtyard.]

[c] “Middle housing” means:]

[(A) Duplexes;]

[(B) Triplexes;]

[(C) Quadplexes;]

[(D) Cottage clusters; and]

[(E) Townhouses.]

(c) “Cottage cluster” means a grouping of dwelling units:

(A) That are detached or attached in subgroupings of up to four units in any configuration;

(B) That have a common courtyard; and

(C) That each have a small footprint or floor area.

(d) “Duplex” means two attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.

(e)(A) **“Middle housing” means housing that consists of duplexes, triplexes, quadplexes, cottage clusters or townhouses.**

(B) **“Middle housing” includes dwelling units that are:**

(i) **Additional units allowed under section 3 of this 2025 Act; and**

(ii) **Existing dwelling units to which additional units are added under subsection (4) of this section.**

(f) **“Middle housing land division” has the meaning given that term in ORS 92.031.**

(g) **“Quadplex” means four attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.**

~~[(d)]~~ (h) ~~["Townhouses"]~~ **“Townhouse” means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.**

(i) **“Triplex” means three attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.**

(j) **“Zoned for residential use” means land that:**

(A) **Is within an urban growth boundary;**

(B) **Has base zoning for, or is designated to allow, residential uses;**

(C) **Allows the development of a detached single-unit dwelling;**

(D) **Is not zoned primarily for commercial, industrial, agricultural or public uses; and**

(E) **Is incorporated or urban unincorporated land.**

(2) Except as provided in subsection (4) of this section, **each county**, each city with a population of 25,000 or greater, and each ~~[county or]~~ city **with a population of 1,000 or greater** within ~~[a metropolitan service district]~~ **Metro**, shall allow the development of[:]

~~[(a)]~~ all middle housing types ~~[in areas]~~ **on each lot or parcel** zoned for residential use. ~~[that allow for the development of detached single-family dwellings; and]~~

~~[(b)]~~ A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.]

(3) ~~[Except as provided in subsection (4) of this section,]~~ Each city not within ~~[a metropolitan service district]~~ **Metro** with a population of 2,500 or greater and less than 25,000 shall allow the development of a duplex on each lot or parcel zoned for residential use. ~~[that allows for the development of detached single-family dwellings. Nothing in this subsection prohibits a local government from allowing middle housing types in addition to duplexes.]~~

~~[(4)(a) Except within Tillamook County, this section does not apply to:]~~

~~[(A) Cities with a population of 1,000 or fewer, except inside of Tillamook County;]~~

~~[(B) Lands not within an urban growth boundary;]~~

~~[(C) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS 195.065; or]~~

~~[(D) Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development.]~~

~~[(b) This section does not apply to lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses.]~~

(4)(a) **Each city required to allow middle housing under subsection (2) or (3) of this section, excluding urban unincorporated land not within Metro, shall allow the lot or parcel to include existing housing consisting of:**

(A) **One single-unit dwelling;**

(B) **One single-unit dwelling plus one accessory dwelling unit; or**

(C) **One duplex.**

(b) **The city may require only the new units, and not the existing units, to comply with siting and design standards adopted under subsection (5) of this section.**

(c) **Existing units on the lot or parcel may be separated from the new units by a middle housing land division and are considered a single unit for the purposes of such division.**

(5) **Local governments:**

(a) May regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not[,] individually or cumulatively[,] discourage, **through unreasonable costs or delay**, the development of all middle housing types permitted in the area *[through unreasonable costs or delay]*.

(b) *[Local governments]* May regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.

(6)(a) A local government may not, based on traffic impacts from any individual middle housing development allowed under this section or section 3 of this 2025 Act:

(A) Require a traffic impact analysis; or

(B) Attribute an exaction other than a generally applicable system development charge or fee-in-lieu variance charge or a development requirement specific to the lot or parcel or its frontage.

(b) This subsection does not apply to:

(A) Developments of townhouses or cottage clusters with more than twelve units.

(B) Lots or parcels created by a division of land, other than a middle housing land division, that occurred within the previous five years.

[(6)] **(7) This section does not prohibit local governments from permitting:**

(a) *[Single-family]* Single-unit dwellings in areas zoned to allow for *[single-family]* single-unit dwellings; or

(b) Middle housing in areas not required under this section.

[(7)] **(8) A local government that amends its comprehensive plan or land use regulations relating to allowing additional middle housing is not required to consider whether the amendments significantly affect an existing or planned transportation facility.**

SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 3. (1) As used in this section:

(a) “Accessible unit” means a unit of housing that complies with the “Type A” requirements applicable to units as set forth in the Standard for Accessible and Usable Buildings and Facilities published by the International Code Council and as referenced by the state building code.

(b) “Affordable unit” means a unit of housing that is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, that:

(A) Makes the unit available to purchase for a maximum sales price and requires that the unit be purchased by a household with an income below 120 percent of median income, with both the maximum price and income threshold as published per region on an annual basis by the division of the Oregon Department of Administrative Services that serves as office of economic analysis; and

(B) Is enforceable for a duration of not less than 10 years from the date of the certificate of occupancy.

(2) The definitions in ORS 197A.420 apply to this section.

(3) On any lot or parcel on which middle housing may be sited under ORS 197A.420 (2) or (3), except for urban unincorporated land not within Metro, if one or more of the units of middle housing is an accessible or affordable unit, a city shall allow, subject to ORS 197A.420 (5), the additional development of:

(a) For any allowable duplex or triplex, one additional attached or detached dwelling unit, resulting in a triplex or quadplex.

(b) For any allowable townhouse, quadplex or cottage cluster, up to two additional attached or detached dwelling units, resulting in additional townhouse or cottage cluster units or attached or detached five-unit or six-unit developments.

(4) The additional units under this section are subject to the regulations under ORS 197A.420 (5), except that a city must allow commensurate increases to the developable area, floor area, height or density requirements to allow for the development of the units.

(5) This section does not limit a local government from enacting density bonuses that provide a greater number of accessible or affordable units, or housing that is affordable to more families, than required by this section.

SECTION 3a. ORS 197A.015, as amended by section 1, chapter 102, Oregon Laws 2024, is amended to read:

197A.015. As used in this chapter:

(1) “Allocated housing need” means the housing need allocated to a city under ORS 184.453 (2) as segmented by income level under ORS 184.453 (4).

(2) “Buildable lands” means lands in urban and urbanizable areas that are suitable, available and necessary for the development of needed housing over a 20-year planning period, including both vacant land and developed land likely to be redeveloped.

(3) “City” and “city with a population of 10,000 or greater” includes, regardless of size:

(a) Any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco, Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods; and

(b) A county with respect to its jurisdiction over Metro urban unincorporated lands.

(4) “Development-ready lands” means buildable lands that are likely to support the production of housing during the period of their housing production target under ORS 184.455 (1) because the lands are:

(a) Currently annexed and zoned to allow housing through clear and objective standards and procedures;

(b) Readily served through adjacent public facilities or identified for the near-term provision of public facilities through an adopted capital improvement plan; and

(c) Not encumbered by any applicable local, state or federal protective regulations or have appropriate entitlements to prepare the land for development.

(5) “Government assisted housing” means housing that is financed in whole or part by either a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(6) “Housing capacity” means the number of needed housing units that can be developed on buildable lands within the 20-year planning period based on the land’s comprehensive plan designation and capacity for housing development and redevelopment.

(7) “Housing production strategy” means a strategy adopted by a local government to promote housing production under ORS 197A.100.

(8) “Manufactured dwelling,” “manufactured dwelling park,” “manufactured home” and “mobile home park” have the meanings given those terms in ORS 446.003.

(9) “Metro urban unincorporated lands” means **[lands] urban unincorporated lands** within the Metro urban growth boundary. *[that are identified by the county as:]*

[(a) Not within a city;]

[(b) Zoned for urban development;]

[(c) Within the boundaries of a sanitary district or sanitary authority formed under ORS chapter 450 or a district formed for the purposes of sewage works under ORS chapter 451;]

[(d) Within the service boundaries of a water provider with a water system subject to regulation as described in ORS 448.119; and]

[(e) Not zoned with a designation that maintains the land’s potential for future urbanization.]

(10) “Periodic review” means the process and procedures as set forth in ORS 197.628 to 197.651.

(11) “Prefabricated structure” means a prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a *[single-family]* **single-unit** dwelling.

(12) “Urban unincorporated lands” means lands within an urban growth boundary that are identified by the county as:

(a) Not within a city;

(b) Zoned for urban development;

(c) Within the boundaries of a sanitary district or sanitary authority formed under ORS chapter 450 or a district formed for the purposes of sewage works under ORS chapter 451;

(d) Within the service boundaries of a water provider with a water system subject to regulation as described in ORS 448.119; and

(e) Not zoned with a designation that maintains the land's potential for future urbanization.

SECTION 4. Section 3, chapter 639, Oregon Laws 2019, as amended by section 21, chapter 223, Oregon Laws 2023, and section 3, chapter 283, Oregon Laws 2023, is amended to read:

Sec. 3. (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations or amend its comprehensive plan to implement ORS [197.758] **197A.420 or section 3 of this 2025 Act** no later than:

(a) June 30, 2021, for each city subject to ORS 197.758 (3) (2021 Edition) **as in effect on January 1, 2023;**

(b) June 30, 2022, for each local government subject to ORS [197.758 (2)] **197A.420 (2)**, except as provided in [paragraph (d)] **paragraphs (d) to (f)** of this subsection;

(c) June 30, 2025, for each city subject to ORS [197.758 (3), as amended by section 20 of this 2023 Act] **197A.420 (3) but not included in paragraph (a) of this subsection; [or]**

(d) July 1, 2025, for each city, as defined in ORS [197.758] **197A.420**, in Tillamook County[.];

(e) **Except as provided in paragraph (f) of this subsection, January 1, 2027, for cities to conform with section 3 of this 2025 Act or the amendments to ORS 197A.420 by section 1 of this 2025 Act; or**

(f) **January 1, 2028, for cities to conform with amendments to ORS 197A.420 by section 1 of this 2025 Act pertaining to changes relating to cottage clusters.**

(2) The Land Conservation and Development Commission, with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall develop a model middle housing ordinance no later than December 31, 2020.

(3) A local government that has not acted within the time provided under subsection (1) of this section shall directly apply the model ordinance developed by the commission under subsection (2) of this section [under] **as provided by ORS 197.646 (3)** until the local government acts as described in subsection (1) of this section.

(4) In adopting regulations or amending a comprehensive plan under this section, a local government shall consider ways to increase the affordability of middle housing by considering ordinances and policies that include but are not limited to:

(a) Waiving or deferring system development charges;

(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

(c) Assessing a construction tax under ORS 320.192 and 320.195.

SECTION 5. Section 4, chapter 639, Oregon Laws 2019, as amended by section 22, chapter 223, Oregon Laws 2023, is amended to read:

Sec. 4. (1) The Department of Land Conservation and Development may grant to a local government that is subject to ORS [197.758] **197A.420** an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3, chapter 639, Oregon Laws 2019.

(2) An extension under this section may be applied only to specific areas where the local government has identified water, sewer, storm drainage or transportation services that are significantly deficient and for which the local government has established a plan of actions that will remedy the deficiency in those services that is approved by the department. The extension may not extend beyond the date that the local government intends to correct the deficiency under the plan.

(3) In areas where the extension under this section does not apply, the local government shall apply its own land use regulations consistent with section 3 (1), chapter 639, Oregon Laws 2019, or the model ordinance developed under section 3 (2), chapter 639, Oregon Laws 2019.

(4) A request for an extension by a local government must be filed with the department no later than:

(a) December 31, 2020, for a city subject to ORS 197.758 (3) (2021 Edition), **as in effect on January 1, 2023.**

(b) June 30, 2021, for a local government subject to ORS [197.758 (2)] **197A.420 (2).**

(c) June 30, 2024, for each city subject to ORS [197.758 (3), *as amended by section 20 of this 2023 Act*] **197A.420 (3).**

(d) June 30, 2026, only for unincorporated urban lands.

(5) The department shall grant or deny a request for an extension under this section:

(a) Within 90 days of receipt of a complete request from a city subject to ORS [197.758 (3)] **197A.420 (3).**

(b) Within 120 days of receipt of a complete request from a local government subject to ORS [197.758 (2)] **197A.420 (2).**

(6) The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:

(a) Defining the affected areas;

(b) Calculating deficiencies of water, sewer, storm drainage or transportation services;

(c) Service deficiency levels required to qualify for the extension;

(d) The components and timing of a remediation plan necessary to qualify for an extension;

(e) Standards for evaluating applications; and

(f) Establishing deadlines and components for the approval of a plan of action.

SECTION 5a. ORS 184.453, as amended by section 6, chapter 102, Oregon Laws 2024, is amended to read:

184.453. (1) On an annual basis the Oregon Department of Administrative Services shall conduct a statewide housing analysis. The analysis must be conducted statewide and segmented into regions as determined by the department. The analysis shall estimate factors including, but not limited to:

(a) Projected needed housing units over the next 20 years;

(b) Current housing underproduction;

(c) Housing units needed for people experiencing homelessness; and

(d) Housing units projected to be converted into vacation homes or second homes during the next 20 years.

(2) At the time the department performs the housing analysis under subsection (1) of this section, the department shall allocate a housing need for each city. For Metro urban unincorporated lands, as defined in ORS 197A.015, the department shall make one allocation for each county in Metro.

(3) In making an allocation under subsection (2) of this section, the department shall consider:

(a) The forecasted population growth under ORS 195.033 or 195.036;

(b) The forecasted regional job growth;

(c) An equitable statewide distribution of housing for income levels described in subsection (4) of this section;

(d) The estimates made under subsection (1) of this section;

(e) For cities within Metro, the needed housing projected under ORS 197A.348 (2); and

(f) The purpose of the Oregon Housing Needs Analysis under ORS 184.451 (1).

(4) In estimating and allocating housing need under this section, the department shall segment need by the following income levels:

(a) Housing affordable to households making less than 30 percent of median family income;

(b) Housing affordable to households making 30 percent or more and less than 60 percent of median family income;

(c) Housing affordable to households making 60 percent or more and less than 80 percent of median family income;

(d) Housing affordable to households making 80 percent or more and less than 120 percent of median family income; and

(e) Housing affordable to households making 120 percent or more of median family income.

(5) On an annual basis, the department shall publish maximum sales prices and income affordability requirements, by region, as described in section 3 (1) of this 2025 Act.

SINGLE ROOM OCCUPANCIES

SECTION 6. ORS 197A.430 is amended to read:

197A.430. (1) As used in this section, “single room occupancy” means a residential development with no fewer than four attached **or detached** units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

(2) Within an urban growth boundary, each local government shall allow the development of a single room occupancy:

(a) With up to six units on each lot or parcel zoned to allow for the development of a detached [single-family] **single-unit** dwelling; and

[*(b) With the number of units consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.*]

(b) With up to three times the number of units allowed by the maximum density standards of a lot or parcel on which is allowed multiunit housing with five or more dwelling units.

(3)(a) For a single room occupancy, a local government may not require more parking for every three single room occupancy units than the local government requires for:

(A) A single detached dwelling, if the single room occupancy development has six or fewer units; or

(B) A dwelling unit in a multiunit housing development, if the single room occupancy development has more than six units.

(b) This subsection does not apply to a single room occupancy used as a residential care facility as defined in ORS 443.400.

SECTION 6a. A local government shall comply as described in ORS 197.646 (1) with the new requirements imposed under the amendments to ORS 197A.430 by section 6 of this 2025 Act on or before January 1, 2027.

PROMOTING HOUSING DENSITY

SECTION 7. ORS 93.277 is amended to read:

93.277. A provision in a recorded instrument affecting real property is [not enforceable if:] **void and unenforceable, as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100, if, within an urban growth boundary as defined in ORS 197.015,**

[*(1)*] the provision would allow the development of a [single-family] **single-unit** dwelling on the real property but would prohibit the development of, or the partitioning or subdividing of lands under ORS 92.031 for:

[*(a)*] (1) Middle housing, as defined in ORS 197A.420; or

[*(b)*] (2) An accessory dwelling unit allowed under ORS 197A.425 [*(1)*; and].

[*(2)* The instrument was executed on or after January 1, 2021.]

SECTION 7a. If House Bill 3144 becomes law, section 7 of this 2025 Act (amending ORS 93.277) is repealed and ORS 93.277, as amended by section 1, chapter 274, Oregon Laws 2025 (Enrolled House Bill 3144), is amended to read:

93.277. (1) A provision in a recorded instrument affecting real property is void and unenforceable, as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100, if, within an urban growth boundary as defined in ORS 197.015, the provision would allow the development of a single-unit dwelling on the real property but would prohibit the development of, or the partitioning or subdividing of lands under ORS 92.031 for:

- (a) **Middle housing, as defined in ORS 197A.420; or**
- (b) **An accessory dwelling unit allowed under ORS 197A.425.**

[(1)] (2) A provision in a recorded instrument affecting real property is not enforceable if the provision would allow the development of a [single-family] **single-unit** dwelling on the real property but would prohibit the development of, *or the partitioning or subdividing of lands under ORS 92.031 for*:

[(a)] *Middle housing, as defined in ORS 197A.420;*

[(b)] *An accessory dwelling unit allowed under ORS 197A.425 (1);*

[(c)] (a) A manufactured dwelling, as defined in ORS 446.003; or

[(d)] (b) A prefabricated structure, as defined in ORS 197A.015.

[(2)] (3) **Subsection (2) of this section applies only [if the] to an instrument[:]**

[(a)] *Contains a provision described under subsection (1)(a) or (b) of this section and was executed on or after January 1, 2021.*

[(b)] *Contains a provision described under subsection (1)(c) or (d) of this section and was* executed on or after *[effective date of this 2025 Act]* **January 1, 2026.**

SECTION 8. ORS 93.277 applies to instruments executed before, on or after January 1, 2021.

SECTION 9. ORS 94.776 is amended to read:

94.776. (1) A provision in a governing document *[that is adopted or amended on or after January 1, 2020,]* is void and unenforceable, **as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100,** to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of, *or the dividing of lands under ORS 92.031 for,* housing, **including accessory dwelling units or middle housing,** that is otherwise allowable under the maximum density of the zoning for the land.

(2) Lots or parcels *[resulting], as those terms are defined in ORS 92.010, that result* from the division of land in a planned community are subject to the governing documents of the planned community *[and]. Any resulting dwelling units* are allocated assessments and voting rights on the same basis as existing units.

SECTION 10. ORS 94.776 applies to governing documents that were adopted before, on or after January 1, 2020.

SECTION 11. The amendments to ORS 93.277 and 94.776 by sections 7 and 9 of this 2025 Act become operative on January 1, 2027.

SECTION 12. The repeal of section 7 of this 2025 Act (amending ORS 93.277) by section 7a of this 2025 Act and the amendments to ORS 93.277 by section 7a of this 2025 Act become operative on January 1, 2027.

SECTION 13. ORS 197A.400, as amended by section 2, chapter 533, Oregon Laws 2023, and section 4, chapter 111, Oregon Laws 2024, is amended to read:

197A.400. (1)(a) Except as provided in subsection (3) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating:

(A) The development of housing~~], including needed housing, on land within an urban growth boundary, unincorporated communities designated in a county's acknowledged comprehensive plan after December 5, 1994, nonresource lands and areas zoned for rural residential use as defined in ORS 215.501.]; and~~

(B) **Tree removal codes related to the development of housing.**

(b) The standards, conditions and procedures:

[(a)] (A) May include, but are not limited to, one or more provisions regulating the density or height of a development.

[(b)] (B) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

[(c)] (C) May be contained in a comprehensive plan, land use regulation or an ordinance relating to housing adopted by a city that adopts, including by reference, a model ordinance adopted by the

Land Conservation and Development Commission that comports with any qualifications, conditions or applicability of the model ordinance.

(c) This subsection applies only within:

(A) An urban growth boundary;

(B) An unincorporated community designated in a county's acknowledged comprehensive plan after December 5, 1994;

(C) Nonresource land; or

(D) An area zoned for rural residential use as defined in ORS 215.501.

(2) The provisions of subsection (1) of this section do not apply to:

(a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or greater.

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(3) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (1) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (1) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (1) of this section.

(4) Subject to subsection (1) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

SECTION 14. ORS 92.031, as amended by section 10, chapter 102, Oregon Laws 2024, is amended to read:

92.031. (1) As used in this section, "middle housing land division" means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197A.420 (2) or (3) **or section 3 of this 2025 Act.**

(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:

[(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197A.420 (5);]

[(b)] **(a) Separate utilities, other than water or wastewater, for each dwelling unit;**

(b) A proposal for development of middle housing that is in compliance or must comply with the Oregon residential specialty code and land use regulations under ORS 197A.420 (5) that are applicable to the original lot or parcel and which may consist of:

(A) A single duplex, triplex, quadplex, cottage cluster or structure containing townhouses;

(B) Additional units as allowed by section 3 (3) of this 2025 Act; and

(C) Retained or rehabilitated existing units allowed under ORS 197A.420 (4), if any;

(c) Proposed easements necessary for each dwelling unit on the plan for:

- (A) Locating, accessing, replacing and servicing all utilities;
- (B) Pedestrian access from each dwelling unit to a private or public road;
- (C) Any common use areas or shared building elements;
- (D) Any dedicated driveways or parking; and
- (E) Any dedicated common area;
- (d) Exactly one dwelling unit on each resulting lot or parcel, except for:

(A) Lots, parcels or tracts used as common areas; **or**

(B) Lots or parcels with a detached single-unit dwelling and accessory dwelling unit or a duplex as allowed under ORS 197A.420 (4); and

(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.

(3) A city or county may add conditions to the approval of a tentative plan for a middle housing land division to:

(a) **Subject to subsection (6) of this section**, prohibit the further division of the resulting lots or parcels.

(b) Require that a notation appear on the final plat indicating that the approval was given under this section.

(4) In reviewing an application for a middle housing land division, a city or county:

(a) Shall apply the procedures *[under ORS 197.360 to 197.380]* **applicable to an expedited land division under ORS 197.365, if requested by the applicant and without regard to the criteria in ORS 197.360 (1).**

(b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197A.420.

(c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.

(d) May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or, **only if requested by the applicant, ORS 197.365** *[ORS 197.360 to 197.380]*.

(e) *[May]* **Shall** allow the submission of an application **for a tentative plan** for a middle housing land division **before, after or** at the same time as the submission of an application for building permits for the middle housing.

(f) May require the dedication of right of way if the original parcel did not previously provide a dedication.

(g) May require separate water and wastewater utilities for each dwelling unit.

(h) Shall allow any existing units allowed under ORS 197A.420 (4) to be considered a single middle housing unit and allow for the unit to be allocated its own lot or parcel by the division.

(5) The type of middle housing developed on the original parcel is not altered by a middle housing land division.

[(6) Notwithstanding ORS 197A.425 (1), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.]

(6) Notwithstanding ORS 197A.425 (1) and subsection (4)(d) and (e) of this section, a city or county may prohibit or add approval criteria to the allowance of a new accessory dwelling unit on, or a subsequent middle housing land division of, a lot or parcel resulting from a middle housing land division:

(a) To the extent allowed under this section and ORS 197A.420; and

(b) Provided that the middle housing land division lots or parcels may be used to create housing that is at or above the minimum density for the zoning of the land.

(7) Notwithstanding any other provision of ORS 92.010 to 92.192, within the same calendar year as an original partition **that was not a middle housing land division**, a city or county may allow one **or more** of the resulting vacant parcels to be further *[divided]* **partitioned** into not more than three parcels through a middle housing land division.*[, provided that:]*

[(a) The original partition was not a middle housing land division; and]

[(b) The original parcel or parcels not divided will not be part of the resulting partition plat for the middle housing land division.]

(8) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section *[or ORS 197.360 to 197.380]* prohibits a city or county from requiring a final plat before issuing building permits.

SECTION 15. ORS 92.044 is amended to read:

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

(b) The standards *[shall]* **must** include, taking into consideration the location and surrounding area of the proposed subdivisions or partitions, requirements for:

(A) Placement of utilities subject to subsection (7) of this section, for the width and location of streets or for minimum lot sizes and other requirements the governing body considers necessary for lessening congestion in the streets;

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

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

(D) Preventing overcrowding of land;

(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; and

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

(c) The *[ordinances or regulations shall establish]* **procedures must provide for:**

(A) The form and contents of tentative plans of partitions and subdivisions submitted for approval.

[(d)] (B) *[The procedures established by each ordinance or regulation shall provide for]* The coordination in the review of the tentative plan of any subdivision or partition with all affected city, county, state and federal agencies and all affected special districts.

(C) **A method by which the city or county may approve a plan or plat that includes further division of one or more of the resulting lots or parcels via concurrently submitted applications for middle housing land divisions under ORS 92.031, all to be approved within the timelines provided under ORS 215.427 or 227.178.**

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

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

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 197A, 215 or 227, except for an appeal under ORS 197.805 to 197.855.

(3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed subdivisions that are

submitted for approval pursuant to this section. As used in this subsection, “costs” does not include costs for which fees are prescribed under ORS 92.100 and 205.350.

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

(5) Ordinances and regulations adopted under this section [shall] **must** be adopted in accordance with ORS 92.048.

(6) Any ordinance or regulation adopted under this section [shall] **must** comply with the comprehensive plan for the city or county adopting the ordinance or regulation.

(7) Unless specifically requested by a public or private utility provider, the governing body of a city or county may not require a utility easement except for a utility easement abutting a street. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.

(8) For the purposes of this section:

(a) “Incident solar radiation” means solar energy falling upon a given surface area.

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

SECTION 16. ORS 215.427, as amended by section 7, chapter 102, Oregon Laws 2024, and section 8, chapter 110, Oregon Laws 2024, is amended to read:

215.427. *[(1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.]*

(1) Except as provided in subsections (3), (5) and (10) of this section, the governing body of a county or its designee shall take final action on an application, including resolution of all appeals under ORS 215.422, within the shortest applicable period of the following periods, all of which begin on the date that the application is deemed complete:

(a) 150 days;

(b) 120 days, for land within an urban growth boundary or for applications for mineral aggregate extraction;

(c) 100 days, for an application for the development of affordable housing as provided in ORS 197A.470; or

(d) 63 days, for an expedited land division under ORS 197.365.

(2) If an application [for a permit, limited land use decision or zone change] is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application [shall be] **is** deemed complete for the purpose of subsection (1) of this section [and ORS 197A.470] upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information within 180 days of the date the application was first submitted, approval or denial of the application must be based:

(A) Upon the standards and criteria that were applicable at the time the application was first submitted; or

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section, *[and ORS 197A.470]* the application is not deemed complete until:

(i) The county determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a county's request;

(C) A county may deny a request under paragraph (a)(B) of this subsection if:

(i) The county has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The county may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the county to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section *[or the 100-day period set in ORS 197A.470]* may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section *[and the 100-day period set in ORS 197A.470 do]* **does** not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) *[Except when an applicant requests an extension under subsection (5) of this section,]* If the governing body of the county or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete,]* **within the applicable periods allowed under subsections (1) and**

(5) of this section, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS [197A.470 or] 215.429 as a condition for taking any action on an application, [for a permit, limited land use decision or zone change] except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section [and ORS 197A.470] may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

(11) As used in this section, “application” means an application for:

(a) A permit;

(b) A limited land use decision;

(c) A zone change;

(d) A consolidated zone change and permit described under ORS 215.416;

(e) An expedited land division under ORS 197.365; or

(f) A plat consisting of a land division and middle housing land division as described in ORS 92.044 (1)(c)(C).

SECTION 17. ORS 227.178, as amended by section 8, chapter 102, Oregon Laws 2024, and section 9, chapter 110, Oregon Laws 2024, is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application [for a permit, limited land use decision or zone change], including resolution of all appeals under ORS 227.180, within [120 days after] **the shortest applicable period of the following periods, all of which begin on the date that the application is deemed complete[.]**:

(a) 120 days;

(b) 100 days, for an application for the development of affordable housing as provided in ORS 197A.470; or

(c) 63 days, for an expedited land division under ORS 197.365.

(2) If an application [for a permit, limited land use decision or zone change] is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application [shall be] **is** deemed complete for the purpose of subsection (1) of this section [or ORS 197A.470] upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application must be based:

(A) Upon the standards and criteria that were applicable at the time the application was first submitted; or

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section, *[and ORS 197A.470]* the application is not deemed complete until:

(i) The city determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a city's request;

(C) A city may deny a request under paragraph (a)(B) of this subsection if:

(i) The city has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The city may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The *[120-day]* period set in subsection (1) of this section *[or the 100-day period set in ORS 197A.470]* may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The *[120-day]* period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the *[120-day]* period set in subsection (1) of this section *[and the 100-day period set in ORS 197A.470 do]* **does** not apply to:

(a) A decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a city involving an application for the development of residential structures within an urban growth boundary, where the city has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) *[Except when an applicant requests an extension under subsection (5) of this section,]* If the governing body of the city or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days after the application is deemed complete]* **within the period set in subsection (1) of this section**, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee;
or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the [120-day] period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS [197A.470 or] 227.179 as a condition for taking any action on an **application**, [for a permit, limited land use decision or zone change] except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The periods set forth in subsections (1) and (5) of this section [and ORS 197A.470] may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

(12) As used in this section, “application” means an application for:

(a) A permit;

(b) A limited land use decision;

(c) A zone change;

(d) A consolidated zone change and permit described under ORS 227.175;

(e) An expedited land division under ORS 197.365; or

(f) A plat consisting of a land division and middle housing land division as described in ORS 92.044 (1)(c)(C).

SECTION 18. ORS 197.360 and 197.365 are added to and made a part of ORS chapter 197A.

SECTION 19. ORS 197.360 is amended to read:

197.360. (1) [As used in this section:]

[(a) “Expedited land division” means a division of land] **If requested by the applicant, a local government shall approve a partition or subdivision made under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 [by a local government that] as an expedited land division under ORS 197.365 if the division:**

[(A)] **(a)** Includes only land that is zoned for residential uses and is within an urban growth boundary.

[(B)] **(b)** Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

[(C)] **(c)** Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

[(i)] **(A)** Open spaces, scenic and historic areas and natural resources;

[(ii)] **(B)** The Willamette River Greenway;

[(iii)] **(C)** Estuarine resources;

[(iv)] **(D)** Coastal shorelands; and

[(v)] **(E)** Beaches and dunes.

[(D)] (d) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

[(E)] (e) Will result in development that either:

[(i)] (A) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

[(ii)] (B) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

[(b) "*Expedited land division*" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.]

[(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.]

[(3)] (2) [The provisions of ORS 197.360 to 197.380 apply] **ORS 197.365 applies** to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

[(4)] (3) An application [for an expedited land division submitted to a local government shall] **under this section must** describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.

SECTION 20. ORS 197.365 is amended to read:

197.365. [Unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations, a local government shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division under ORS 92.031:]

[(1)(a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.]

[(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.]

[(2) The local government shall provide written notice of the receipt of the completed application for a land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.]

[(3) The notice required under subsection (2) of this section shall:]

[(a) State:]

[(A) The deadline for submitting written comments:]

[(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and]

[(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.]

[(b) Set forth, by commonly used citation, the applicable criteria for the decision.]

[(c) Set forth the street address or other easily understood geographical reference to the subject property.]

[(d) State the place, date and time that comments are due.]

[(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.]

[(f) Include the name and telephone number of a local government contact person.]

[(g) Briefly summarize the local decision-making process for the land division decision being made.]

[(4) After notice under subsections (2) and (3) of this section, the local government shall:]

[(a) Provide a 14-day period for submission of written comments prior to the decision.]

Notwithstanding any other requirement applicable to a land use decision under ORS chapter 197 or 197A, for an application that is reviewed as an expedited land division based on the request of the applicant:

(1) A decision is not subject to the requirements of ORS 197.797.

(2) A local government:

[(b)] (a) Shall make a decision to approve or deny the application within 63 days of receiving a completed application as described in ORS 215.246 or 227.178, based on whether [it] the application satisfies the substantive requirements of the applicable land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. [For applications subject to this section, the local government:]

[(A)] (b) [Shall] May not hold a hearing on the application[; and] or allow any third party to intervene to oppose the application.

[(B)] (c) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination. The determination must include an explanation of the applicant's right to appeal the determination under ORS 197.830 to 197.855.

[(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:]

[(A) The summary statement described in paragraph (b)(B) of this subsection; and]

[(B) An explanation of appeal rights under ORS 197.375.]

(d) Shall provide notice of the decision to the applicant but may not require that notice be given to any other person.

(e) May assess an application fee calculated to recover the estimated full cost of processing an application based on the estimated average cost of such applications. Within one year of establishing a fee under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing expedited land decisions.

(3) Only the applicant may appeal an expedited land division made under this section.

SECTION 21. ORS 92.377, 197.370, 197.375, 197.380, 197.726 and 197.727 are repealed.

RULEMAKING

SECTION 22. (1) On or before January 1, 2028, the Land Conservation and Development Commission shall adopt rules that must include:

(a) Prohibiting or restricting siting and design standards that prevent or discourage, or have the effect of preventing or discouraging, the siting of middle housing that is manufactured, site-built or prefabricated;

(b) Establishing parameters on unreasonable cost or delay for siting and design standards for accessory dwelling units and single room occupancies under standards allowed under ORS 197A.425 and 197A.430;

(c) Regulating cottage clusters for the purposes of incentivizing the provision of smaller, less expensive housing, shared community amenities and other public benefits and including regulations that implement the term “small footprint or floor area” as used within the definition of cottage clusters in ORS 197A.420;

(d) Amending siting and design parameters for middle housing types;

(e) Amending permissible discretionary criteria applied by local government in evaluating housing under ORS 197A.400 (3);

(f) Developing model system development charges for residential development types for optional adoption or incorporation by local governments; and

(g) Establishing procedures to estimate the reasonable zoned housing capacity of an area as part of an inventory of buildable lands or housing capacity under ORS 197A.270, 197A.280 and 197A.350.

(2) In adopting rules under this section, the commission shall:

(a) Emphasize improving the efficiency of the development process with a focus on increasing housing production, availability and affordability, especially that of middle housing, accessory dwelling units and single room occupancies.

(b) To the extent practicable, implement recommendations in the reports produced under section 5 (1) to (3), chapter 110, Oregon Laws 2024.

(c) Implement the principles in ORS 197A.025.

(d) Adopt operative and applicable dates for the rules, subject to section 3, chapter 639, Oregon Laws 2019.

(e) Provide a report on or before July 1, 2028, to the interim committees of the Legislative Assembly relating to land use, in the manner provided in ORS 192.245, on the feasibility and advisability of providing safe harbor protections for cities that use the commission’s model system development charges under subsection (1)(f) of this section or otherwise incentivizing the use of the models.

CONFORMING AMENDMENTS

SECTION 23. ORS 34.020 is amended to read:

34.020. Except for a proceeding resulting in a land use decision or limited land use decision as defined in ORS 197.015, for which review is provided in ORS 197.830 to 197.845, [*or an expedited land division as described in ORS 197.360, for which review is provided in ORS 197.375 (8),*] any party to any process or proceeding before or by any inferior court, officer, or tribunal may have the decision or determination thereof reviewed for errors, as provided in ORS 34.010 to 34.100, and not otherwise. Upon a review, the court may review any intermediate order involving the merits and necessarily affecting the decision or determination sought to be reviewed.

SECTION 24. ORS 34.102 is amended to read:

34.102. (1) As used in this section, “municipal corporation” means a county, city, district or other municipal corporation or public corporation organized for a public purpose, including a cooperative body formed between municipal corporations.

(2) Except for a proceeding resulting in a land use decision or limited land use decision as defined in ORS 197.015, for which review is provided in ORS 197.830 to 197.845, [*or an expedited land division as described in ORS 197.360, for which review is provided in ORS 197.375 (8),*] the decisions of the governing body of a municipal corporation acting in a judicial or quasi-judicial capacity and made in the transaction of municipal corporation business shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

(3) A petition for writ of review filed in the circuit court and requesting review of a land use decision or limited land use decision as defined in ORS 197.015 of a municipal corporation shall be transferred to the Land Use Board of Appeals and treated as a notice of intent to appeal if the petition was filed within the time allowed for filing a notice of intent to appeal pursuant to ORS

197.830. If the petition was not filed within the time allowed by ORS 197.830, the court shall dismiss the petition.

(4) A notice of intent to appeal filed with the Land Use Board of Appeals pursuant to ORS 197.830 and requesting review of a decision of a municipal corporation made in the transaction of municipal corporation business that is not reviewable as a land use decision or limited land use decision as defined in ORS 197.015 shall be transferred to the circuit court and treated as a petition for writ of review. If the notice was not filed with the board within the time allowed for filing a petition for writ of review pursuant to ORS 34.010 to 34.100, the court shall dismiss the petition.

(5) In any case in which the Land Use Board of Appeals or circuit court to which a petition or notice is transferred under subsection (3) or (4) of this section disputes whether it has authority to review the decision with which the petition or notice is concerned, the board or court before which the matter is pending shall refer the question of whether the board or court has authority to review to the Court of Appeals, which shall decide the question in a summary manner.

SECTION 25. ORS 92.325, as amended by section 11, chapter 102, Oregon Laws 2024, is amended to read:

92.325. A person may not sell or lease any subdivided lands or series partitioned lands without having complied with all the applicable provisions of ORS 92.305 to 92.495 except that:

- (1) ORS 92.305 to 92.495 do not apply to the sale or leasing of:
 - (a) Apartments or similar space within an apartment building;
 - (b) Cemetery lots, parcels or units in Oregon;
 - (c) Subdivided lands and series partitioned lands in Oregon that are not in unit ownership or being developed as unit ownerships created under ORS chapter 100, to be used for residential purposes and that qualify under ORS 92.337;
 - (d) Property submitted to the provisions of ORS chapter 100;
 - (e) Subdivided lands and series partitioned lands in Oregon expressly zoned for and limited in use to nonresidential industrial or nonresidential commercial purposes;
 - (f) Lands in this state sold by lots or parcels of not less than 160 acres each;
 - (g) Timeshares regulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945;
 - (h) Mobile home or manufactured dwelling parks, as defined in ORS 446.003, located in Oregon;
 - (i) Planned community subdivision of manufactured dwellings or mobile homes created under ORS 92.830 to 92.845;
 - (j) Lots or parcels created *[from an expedited land division]* under ORS 197.360; or
 - (k) Lots or parcels created from a middle housing land division under ORS 92.031 **or 92.044**
- (1)(c)(C).

(2) The subdivider or series partitioner of subdivided and series partitioned lands in a city or county which, at the time tentative approval of a subdivision plat and each partition map for those lands is given under ORS 92.040 or an ordinance adopted under ORS 92.046, has a comprehensive plan and implementing ordinances that have been acknowledged under ORS 197.251 must only comply with ORS 92.425, 92.427, 92.430, 92.433, 92.460 and 92.485 in the sale or leasing of such lands.

SECTION 26. ORS 184.633 is amended to read:

184.633. (1) Subject to policy direction by the Oregon Transportation Commission, the Director of Transportation shall:

- (a) Be the administrative head of the Department of Transportation;
- (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Personnel Relations Law;
- (c) Administer the laws of the state concerning transportation;
- (d) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies which may substantially affect the interest of the consumers and providers of transportation within Oregon; and
- (e) Construct, coordinate and promote an integrated transportation system in cooperation with any city, county, district, port or private entity, as defined in ORS 367.802.

(2) In addition to duties otherwise required by law, the director shall prescribe regulations for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(3) The director may delegate to any of the employees of the department the exercise or discharge in the director's name of any power, duty or function of whatever character, vested in or imposed by law upon the director, including powers, duties or functions delegated to the director by the commission pursuant to ORS 184.635. The official act of any such person so acting in the director's name and by the authority of the director shall be considered to be an official act of the director.

(4) The director shall have authority to require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bond shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The department shall pay the premiums on the bonds.

(5)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845, the director may participate in and seek review of a land use decision or limited land use decision as defined in ORS 197.015[, *or an expedited land division as defined in ORS 197.360*]. The director shall report to the commission on each case in which the department participates and on the positions taken by the director in each case.

(b) If a meeting of the commission is scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, the director shall obtain formal approval from the commission prior to seeking review of the decision. However, if the land use decision[, *expedited land division*] or limited land use decision becomes final less than 15 days before a meeting of the commission, the director shall proceed as provided in paragraph (c) of this subsection. If the director requests approval from the commission, the applicant and the affected local government shall be notified in writing that the director is seeking commission approval. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to seek review. No other testimony shall be taken by the commission.

(c) If a meeting of the commission is not scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, at the next commission meeting the director shall report to the commission on each case for which the department has sought review. The director shall request formal approval to proceed with each appeal. The applicant and the affected local government shall be notified of the commission meeting in writing by the director. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to proceed with the appeal. No other testimony shall be taken by the commission. If the commission does not formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

(d) A decision by the commission under this subsection is not subject to appeal.

(e) For purposes of this subsection, "applicant" means a person seeking approval of [*a permit, as defined in ORS 215.402 or 227.160, expedited land division or limited land use decision*] **an application as defined in ORS 215.427 or 227.178.**

(6) The director may intervene in an appeal of a land use decision brought by another person in the manner provided for an appeal by the director under subsection (5) of this section.

SECTION 27. ORS 197.015, as amended by section 44, chapter 110, Oregon Laws 2024, is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan,

amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; [or]

(C) A decision of a county planning commission made under ORS 433.763; **or**

(D) An expedited land division under ORS 197.365;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

[*(E) That is an expedited land division as described in ORS 197.360;*]

[*(F)*] **(E)** That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

[(G)] (F) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

[(H)] (G) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)(a) "Limited land use decision" means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a non-conforming use.

(b) "Limited land use decision" does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 28. ORS 197.090 is amended to read:

197.090. (1) Subject to policies adopted by the Land Conservation and Development Commission, the Director of the Department of Land Conservation and Development shall:

(a) Be the administrative head of the Department of Land Conservation and Development.

(b) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, local governments and special districts.

(c) Appoint, reappoint, assign and reassign all subordinate officers and employees of the department, prescribe their duties and fix their compensation, subject to the State Personnel Relations Law.

(d) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

(2)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845, the director may participate in and seek review of:

(A) A land use decision[, *expedited land division*] or limited land use decision involving the goals or involving an acknowledged comprehensive plan and land use regulations implementing the plan; or

(B) Any other matter within the statutory authority of the department or commission under ORS chapters 195, 196, 197 and 197A.

(b) The director shall report to the commission on each case in which the department participates and on the positions taken by the director in each case.

(c) If a meeting of the commission is scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, the director shall obtain formal approval from the commission prior to seeking review of the decision. However, if the land use decision[, *expedited land division*] or limited land use decision becomes final less than 15 days before a meeting of the commission, the director shall proceed as provided in paragraph (d) of

this subsection. If the director requests approval from the commission, the applicant and the affected local government shall be notified in writing that the director is seeking commission approval. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to seek review. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission.

(d) If a meeting of the commission is not scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, at the next commission meeting the director shall report to the commission on each case for which the department has sought review. The director shall request formal approval to proceed with each appeal. The applicant and the affected local government shall be notified of the commission meeting in writing by the director. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to proceed with the appeal. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission. If the commission does not formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

(e) A decision by the commission under this subsection is not subject to appeal.

(f) For purposes of this subsection, "applicant" means a person seeking approval of a permit, as defined in ORS 215.402 or 227.160, [*expedited land division*] or limited land use decision.

(3) The commission by rule shall adopt a set of factors for the commission to consider when determining whether to appeal or intervene in the appeal of a land use decision[, *expedited land division*] or limited land use decision that involves the application of the goals, acknowledged comprehensive plan, land use regulation or other matter within the authority of the department or commission under ORS chapters 195, 196, 197 and 197A.

(4) The director may intervene in an appeal of a land use decision[, *expedited land division*] or limited land use decision brought by another person in the manner provided for an appeal by the director under subsection (2)(c) and (d) of this section.

SECTION 29. ORS 197.200 is amended to read:

197.200. (1) A local government may convene a land use proceeding to adopt a refinement plan for a neighborhood or community within its jurisdiction and inside the urban growth boundary as provided in this section.

(2) A refinement plan is more detailed than a comprehensive plan and applies to a specific geographic area. A refinement plan shall:

(a) Establish efficient density ranges, including a minimum and a maximum density for residential land uses;

(b) Establish minimum and maximum floor area ratios or site coverage requirements for non-residential uses;

(c) Be based on a planning process meeting statewide planning goals; and

(d) Include land use regulations to implement the plan.

(3) A refinement plan and associated land use regulations adopted prior to September 9, 1995, may qualify as a refinement plan if the local government holds a public hearing to gather public comment and decides to adopt the plan as a refinement plan under this section.

(4) A local government shall apply the procedures for expedited land divisions described in ORS [197.360 to 197.380] **197.365** to all applications for land division and site or design review located in any area subject to an acknowledged refinement plan. The review shall include:

(a) All elements of a local government comprehensive plan and land use regulations that must be applied in order to approve or deny any such application; and

(b) Any planned unit development standards and any procedures designed to regulate:

(A) The physical characteristics of permitted uses;

(B) The dimensions of the lots **or parcels** to be created; or

(C) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development.

[(5) Any decision made on a refinement plan described in subsection (3) of this section shall be appealed only as provided for appeals of expedited land division decisions in ORS 197.375.]

[(6)] (5) Refinement plans and implementing ordinances may be adopted through the post-acknowledgment or periodic review process.

SECTION 30. ORS 197.245 is amended to read:

197.245. The Land Conservation and Development Commission may periodically amend the initial goals and guidelines adopted under ORS 197.240 and adopt new goals and guidelines. The adoption of amendments to or of new goals shall be done in the manner provided in ORS 197.235 and 197.240 and shall specify with particularity those goal provisions that are applicable to land use decisions[, *expedited land divisions*] and limited land use decisions before plan revision. The commission shall establish the effective date for application of a new or amended goal. Absent a compelling reason, the commission shall not require a comprehensive plan, new or amended land use regulation, land use decision[, *expedited land division*] or limited land use decision to be consistent with a new or amended goal until one year after the date of adoption.

NOTE: Section 31 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 32. ORS 197.724 is amended to read:

197.724. (1) An applicant for a new industrial use or the expansion of an existing industrial use located within a regionally significant industrial area may request that an application for a land use permit be reviewed as an application for an expedited industrial land use permit under this section if the proposed use does not require:

- (a) An exception taken under ORS 197.732 to a statewide land use planning goal;
- (b) A change to the acknowledged comprehensive plan or land use regulations of the local government within whose land use jurisdiction the new or expanded industrial use would occur; or
- (c) A federal environmental impact statement under the National Environmental Policy Act.

(2) If the applicant makes a request that complies with subsection (1) of this section, the local government shall review the applications for land use permits for the proposed industrial use by applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for review of an expedited land division in ORS 197.365 *[and 197.370]*.

SECTION 33. ORS 197.794 is amended to read:

197.794. (1) As used in this section, "railroad company" has the meaning given that term in ORS 824.200.

(2) If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application for a land use decision[,] **or** a limited land use decision *[or an expedited land division]*, the applicant must indicate that fact in the application submitted to the decision maker.

(3) The decision maker shall provide notice to the Department of Transportation and the railroad company whenever the decision maker receives the information described under subsection (2) of this section.

SECTION 34. ORS 197.796 is amended to read:

197.796. (1) An applicant *[for a land use decision, limited land use decision or expedited land division or for a permit]* under ORS 215.427 or 227.178 may accept a condition of approval imposed under ORS 215.416 or 227.175 and file a challenge to the condition under this section. Acceptance by an applicant *[for a land use decision, limited land use decision, expedited land division or permit]* under ORS 215.427 or 227.178 of a condition of approval imposed under ORS 215.416 or 227.175 does not constitute a waiver of the right to challenge the condition of approval. Acceptance of a condition may include but is not limited to paying a fee, performing an act or providing satisfactory evidence of arrangements to pay the fee or to ensure compliance with the condition.

(2) Any action for damages under this section shall be filed in the circuit court of the county in which the application was submitted within 180 days of the date of the decision.

(3)(a) A challenge filed pursuant to this section may not be dismissed on the basis that the applicant did not request a variance to the condition of approval or any other available form of reconsideration of the challenged condition. However, an applicant shall comply with ORS 197.797 (1) prior to appealing to the Land Use Board of Appeals or bringing an action for damages in circuit court and must exhaust all local appeals provided in the local comprehensive plan and land use regulations before proceeding under this section.

(b) In addition to the requirements of ORS 197.797 (5), at the commencement of the initial public hearing, a statement shall be made to the applicant that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

(c) An applicant is not required to raise an issue under this subsection unless the condition of approval is stated with sufficient specificity to enable the applicant to respond to the condition prior to the close of the final local hearing.

(4) In any challenge to a condition of approval that is subject to the Takings Clause of the Fifth Amendment to the United States Constitution, the local government shall have the burden of demonstrating compliance with the constitutional requirements for imposing the condition.

(5) In a proceeding in circuit court under this section, the court shall award costs and reasonable attorney fees to a prevailing party. Notwithstanding ORS 197.830 (15), in a proceeding before the Land Use Board of Appeals under this section, the board shall award costs and reasonable attorney fees to a prevailing party.

(6) This section applies to appeals by the applicant of a condition of approval and claims filed in state court seeking damages for the unlawful imposition of conditions of approval [*in a land use decision, limited land use decision, expedited land division or permit*] **of an application made** under ORS 215.427 or 227.178.

SECTION 35. ORS 197.825 is amended to read:

197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government, special district or a state agency in the manner provided in ORS 197.830 to 197.845.

(2) The jurisdiction of the board:

(a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;

(b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;

(c) Does not include a local government decision that is:

(A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.651 or a matter arising out of a local government decision submitted to the department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director's sole discretion, transfers the matter to the board; or

(B) Subject to the review authority of the department under ORS 197.412, 197.445, 197.450 or 197.455 or a matter related to a local government decision subject to the review authority of the department under ORS 197.412, 197.445, 197.450 or 197.455;

(d) Does not include those land use decisions of a state agency over which the Court of Appeals has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

(e) Does not include any rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.770, 527.990 (1) and 527.992; **and**

(f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663; *and*].

[*(g) Does not include review of expedited land divisions under ORS 197.360.*]

(3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain jurisdiction:

(a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions described in ORS 197.015 (10)(b) or proceedings brought to enforce the provisions of an adopted comprehensive plan or land use regulations; and

(b) To enforce orders of the board in appropriate proceedings brought by the board or a party to the board proceeding resulting in the order.

SECTION 36. ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620, a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS **197.365 (2)**, 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the notice of the decision did not reasonably describe the nature of the decision.

(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a decision made without a hearing under ORS **197.365 (2)**, 215.416 (11) or 227.175 (10) may not appeal the decision to the board under this section.

(5) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(6) The appeal periods described in subsections (3), (4) and (5) of this section:

(a) May not exceed three years after the date of the decision, except as provided in paragraph (b) of this subsection.

(b) May not exceed 10 years after the date of the decision if notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.797 is required but has not been provided.

(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene in and be made a party to the review proceeding by filing a motion to intervene and by paying a filing fee of \$100.

(b) Persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a statement identifying when, how and to whom notice was provided under ORS 197.615 does not render the notice defective. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a petition for review is not filed with the board as required in subsections (10) and (11) of this section, the board shall award the filing fee to the local government, special district or state agency.

(10)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion. If the board denies a petitioner's objection to the record, the board may establish a new deadline for the petition for review to be filed that may not be less than 14 days from the later of the original deadline for the brief or the date of denial of the petitioner's record objection.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development.

(11) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (13) of this section.

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) The local government or state agency may withdraw its decision for purposes of reconsideration at any time:

(A) Subsequent to the filing of a notice of intent; and

(B) Prior to:

(i) The date set for filing the record; or

(ii) On appeal of a decision under ORS 197.610 to 197.625 or relating to the development of a residential structure, the filing of the respondent's brief.

(c) If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent is not required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(14) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(15) Upon entry of its final order, the board:

(a) May, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review.

(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position or filed any motion without probable cause to believe the position or motion was well-founded in law or on factually supported information.

(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(18) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

(19) The board shall track and report on its website:

(a) The number of reviews commenced, as described in subsection (1) of this section, the number of reviews commenced for which a petition is filed under subsection (2) of this section and, in relation to each of those numbers, the rate at which the reviews result in a decision of the board to uphold, reverse or remand the land use decision or limited land use decision. The board shall track and report reviews under this paragraph in categories established by the board.

(b) A list of petitioners, the number of reviews commenced and the rate at which the petitioner's reviews have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision.

(c) A list of respondents, the number of reviews involving each respondent and the rate at which reviews involving the respondent have resulted in decisions of the board to uphold, reverse or remand the land use decision or limited land use decision. Additionally, when a respondent is the local government that made the land use decision or limited land use decision, the board shall track whether the local government appears before the board.

(d) A list of reviews, and a brief summary of the circumstances in each review, under which the board exercises its discretion to require a losing party to pay the attorney fees of the prevailing party.

SECTION 37. ORS 197A.465 is amended to read:

197A.465. (1) As used in this section:

(a) “Affordable housing” means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) “Multifamily structure” means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

(2) Except as provided in subsection (3) of this section, a metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving [a permit] **an application** under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale or rent to a particular class or group of purchasers or renters.

(3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan service district to:

(a) Adopt or enforce a use regulation, provision or requirement creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or requirement designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving [a permit] **an application** under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing.

(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this section:

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing.

(b) May apply only to multifamily structures containing at least 20 housing units.

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates.

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of “low income” to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of “low income” to mean income at or below 80 percent of the area median income.

(e) Does not apply to a CCRC, as defined in ORS 101.020, that executes and records a covenant with the applicable city or county in which the CCRC agrees to operate all units within its structure as a CCRC. Units within a CCRC that are offered or converted into residential units that are for sale or rent and are not subject to ORS chapter 101 must comply with regulations, provisions or requirements adopted by the city or county that are consistent with those applicable to a new multifamily structure under subsection (3) or (4) of this section.

(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this section may offer developers one or more of the following incentives:

(a) Density adjustments.

- (b) Expedited service for local permitting processes.
- (c) Modification of height, floor area or other site-specific requirements.
- (d) Other incentives as determined by the city or county.
- (7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:
 - (a) Increase the number of affordable housing units in a development.
 - (b) Decrease the sale or rental price of affordable housing units in a development.
 - (c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.
- (8)(a) A city or county that adopts or imposes a regulation, provision or requirement described in subsection (4) of this section may not apply the regulation, provision or requirement to any multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city or county prior to the effective date of the regulation, provision or requirement.
- (b) If a multifamily structure described in paragraph (a) of this subsection has not been completed within the period required by the permit issued by the city or county, the developer of the multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application under the regulation, provision or requirement adopted by the city or county under subsection (4) of this section.
- (9)(a) A city or county that adopts or imposes a regulation, provision or requirement under subsection (4) of this section shall adopt and apply only clear and objective standards, conditions and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay.
- (b) Paragraph (a) of this subsection does not apply to:
 - (A) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.
 - (B) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.
 - (c) In addition to an approval process for affordable housing based on clear and objective standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:
 - (A) The developer retains the option of proceeding under the approval process that meets the requirements of paragraph (a) of this subsection;
 - (B) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and
 - (C) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in paragraph (a) of this subsection.
- (10) If a regulation, provision or requirement adopted or imposed by a city or county under subsection (4) of this section requires that a percentage of housing units in a new multifamily structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6) of this section shall be related in a manner determined by the city or county to the required percentage of affordable housing units.

SECTION 38. ORS 197A.470 is amended to read:
197A.470. (1) As used in this section:

(a) “Affordable housing” means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater, that is subject to an affordable housing covenant, as provided in ORS 456.270 to 456.295, that maintains the affordability for a period of not less than 60 years from the date of the certificate of occupancy.

(b) “Multifamily residential building” means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) [Notwithstanding ORS 215.427 (1) or 227.178 (1),] A city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section[, including resolution of all local appeals under ORS 215.422 or 227.180,] within 100 days after the application is deemed complete **as provided in ORS 215.427 or 227.178.**

(3) An application qualifies for final action within the timeline described in subsection (2) of this section if:

(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;

(b) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary; and

(c) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing.

(4) A city or a county shall take final action within the time allowed under ORS 215.427 or 227.178 on any application [for a permit, limited land use decision or zone change] that does not qualify for review and decision under subsection (3) of this section, including resolution of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.

(5) With respect to property within an urban growth boundary owned by a nonprofit corporation organized as a religious corporation, a local government:

(a) May apply only restrictions or conditions of approval to the development of affordable housing that are, notwithstanding ORS 197A.400 (2) or statewide land use planning goals relating to protections for historic areas:

(A) Clear and objective as described in ORS 197A.400 (1); or

(B) Discretionary standards related to health, safety, habitability or infrastructure.

(b) Shall approve the development of affordable housing on property not zoned for housing if:

(A) The property is not zoned for industrial uses; and

(B) The property is contiguous to property zoned to allow residential uses.

(6) Affordable housing allowed under subsection (5)(b) of this section may be subject only to the restrictions applicable to the contiguously zoned residential property as limited by subsection (5)(a) of this section and without requiring that the property be rezoned for residential uses. If there is more than one contiguous residential property, the zoning of the property with the greatest density applies.

SECTION 39. ORS 215.402 is amended to read:

215.402. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:

(1) “Contested case” means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) “Hearing” means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

- (b) To determine a contested case.
- (3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.
- (4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:
 - (a) A limited land use decision as defined in ORS 197.015;
 - (b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;
 - (c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or
 - (d) An expedited land division, as described in ORS [197.360] **197.365**.

SECTION 40. ORS 215.416 is amended to read:

215.416. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A county may not approve an application if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197A.400 (2); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197A.400 (3).

(c) A county may not condition an application for a housing development on a reduction in density if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not condition an application for a housing development on a reduction in height if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may condition an application for a housing development on a reduction in density or height only if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the county must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.797.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Oregon Department of Aviation.

(8)(a) Approval or denial of a permit application *[shall]* **must** be based on standards and criteria *[which shall be]* **that are** set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(b) When an ordinance establishing approval standards is required under ORS *[197A.200 and]* 197A.400 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(9) Approval or denial of a permit *[or expedited land division shall]* **must** be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial *[shall]* **must** be given to all parties to the proceeding.

(11)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.797 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is ad-

versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county's land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.797 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.797 (2), in which case an appeal

to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(14) Notwithstanding the requirements of this section, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 41. ORS 215.429 is amended to read:

215.429. (1) *[Except when an applicant requests an extension under ORS 215.427,]* If the governing body of the county or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days or 150 days, as appropriate, after the application is deemed complete,]* **within the period allowed under ORS 215.427,** the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within *[120 days or 150 days, as appropriate, of the date the application is deemed complete,]* **the period allowed under ORS 215.427,** the applicant may elect to proceed with the application according to the applicable provisions of the county comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the county comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the county comprehensive plan or land use regulations.

SECTION 42. ORS 223.299 is amended to read:

223.299. As used in ORS 223.297 to 223.316:

(1)(a) "Capital improvement" means facilities or assets used for the following:

- (A) Water supply, treatment and distribution;
- (B) Waste water collection, transmission, treatment and disposal;
- (C) Drainage and flood control;
- (D) Transportation; or
- (E) Parks and recreation.

(b) "Capital improvement" does not include costs of the operation or routine maintenance of capital improvements.

(2) "Improvement fee" means a fee for costs associated with capital improvements to be constructed.

(3) "Reimbursement fee" means a fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the local government determines that capacity exists.

(4)(a) "System development charge" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities.

(b) "System development charge" does not include any fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision[, *expedited land division*] or limited land use decision.

SECTION 43. ORS 227.160 is amended to read:

227.160. As used in ORS 227.160 to 227.186:

(1) "Hearings officer" means a planning and zoning hearings officer appointed or designated by a city council under ORS 227.165.

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS [197.360] **197.365**.

SECTION 44. ORS 227.173 is amended to read:

227.173. [(1) Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.]

(1) Approval or denial of a discretionary permit application must be based on standards and criteria that are set forth in the development ordinance and that relate approval or denial of a discretionary permit application to the development ordinance and the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.

(2) When an ordinance establishing approval standards is required under ORS [197A.200 and] 197A.400 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(3) Approval or denial of a permit application [or *expedited land division* shall be] **must be** based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(4) Written notice of the approval or denial [shall] **must** be given to all parties to the proceeding.

SECTION 44a. ORS 227.175, as amended by section 5, chapter 111, Oregon Laws 2024, is amended to read:

227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure is subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A city may not approve an application unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions, including an ordinance described in ORS 197A.400 [(1)(c)] **(1)(b)(C)**. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197A.400 (2); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197A.400 (3).

(c) A city may not condition an application for a housing development on a reduction in density if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not condition an application for a housing development on a reduction in height if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may condition an application for a housing development on a reduction in density or height only if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the city must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.797.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed does not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.797 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.797 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence may not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph does not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.797 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions are subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 44b. The amendments to ORS 227.175 by section 44a of this 2025 Act become operative on July 1, 2025.

SECTION 45. ORS 227.179 is amended to read:

227.179. (1) *[Except when an applicant requests an extension under ORS 227.178 (5),]* If the governing body of a city or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days after the application is deemed complete]* **within the period allowed under ORS 227.178**, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within *[120 days of the date the application is deemed complete]* **the period allowed under ORS 227.178**, the applicant may elect to proceed with the application according to the applicable provisions of the local comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the local comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the local comprehensive plan or land use regulations.

SECTION 46. ORS 227.184 is amended to read:

227.184. (1) A person whose application *[for a permit]* is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all

other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

(2) The governing body of a city or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the city's comprehensive plan and land use regulations.

(4) The governing body of a city or its designee shall adopt specific findings describing the reasons for approving or denying:

(a) A use for which approval is sought under this section; and

(b) A rezoning or variance requested in the application.

SECTION 47. ORS 421.649 is amended to read:

421.649. (1) The Department of Corrections shall obtain public services necessary for the construction and operation of a women's correctional facility and intake center complex in the manner provided under ORS 421.628 (4) to (15).

(2) Regardless of the territorial limits of the public body providing public services to the complex, and notwithstanding any other law, upon request or application from the department, the public body shall provide any public service necessary for the construction and operation of the complex. During the pendency of any mediation, arbitration or judicial review proceeding under this section, the public body shall provide any public service necessary for the continued construction and operation of the complex, as requested by the department.

(3) The existence of a public service provided to the complex *[shall]* **may** not be a consideration in support of or in opposition to an application for a land use decision[,] **or** limited land use decision *[or expedited land division]* under ORS chapter 197, 197A, 215 or 227.

SECTION 48. ORS 476.394 is amended to read:

476.394. (1) The minimum defensible space requirements established by the State Fire Marshal pursuant to ORS 476.392 may not be used as criteria to approve or deny:

(a) An amendment to a local government's acknowledged comprehensive plan or land use regulations.

(b) A permit, as defined in ORS 215.402 or 227.160.

(c) A limited land use decision, as defined in ORS 197.015.

(d) An expedited land division, as *[defined in ORS 197.360]* **described in ORS 197.365.**

(2) Notwithstanding subsection (1) of this section, a local government may:

(a) Amend the acknowledged comprehensive plan or land use regulations of the local government to include the requirements; and

(b) Use the requirements that are included in the amended acknowledged comprehensive plan or land use regulations as a criterion for a land use decision.

SECTION 48a. **Notwithstanding section 48 of this 2025 Act (amending ORS 476.394), if Senate Bill 83 becomes law, ORS 476.394 is repealed by section 1, chapter __, Oregon Laws 2025 (Enrolled Senate Bill 83).**

SECTION 49. Section 1, chapter 110, Oregon Laws 2024, is amended to read:

Sec. 1. (1) The Department of Land Conservation and Development and the Department of Consumer and Business Services shall enter into an interagency agreement to establish and administer the Housing Accountability and Production Office.

(2) The Housing Accountability and Production Office shall:

(a) Provide technical assistance, including assistance through grants, to local governments to:

(A) Comply with housing laws;

(B) Reduce permitting and land use barriers to housing production; and

(C) Support reliable and effective implementation of local procedures and standards relating to the approval of residential development projects.

(b) Serve as a resource, which includes providing responses to requests for technical assistance with complying with housing laws, to:

(A) Local governments, as defined in ORS 174.116; and

(B) Applicants for land use and building permits for residential development who are experiencing permitting and land use barriers related to housing production.

(c) Investigate and respond to complaints of violations of housing laws under section 2, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(d) Establish best practices related to model codes, typical drawings and specifications as described in ORS 455.062, procedures and practices by which local governments may comply with housing laws.

(e) Provide optional mediation of active disputes relating to housing laws between a local government and applicants for land use and building permits for residential development, including mediation under ORS 197.860.

(f) Coordinate agencies that are involved in the housing development process, including, but not limited to, the Department of Land Conservation and Development, Department of Consumer and Business Services, Housing and Community Services Department and Oregon Business Development Department, to enable the agencies to support local governments and applicants for land use and building permits for residential development by identifying state agency technical and financial resources that can address identified housing development and feasibility barriers.

(g) Establish policy and funding priorities for state agency resources and programs for the purpose of addressing barriers to housing production, including, but not limited to, making recommendations for moneys needed for the purposes of section 35, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(3) The Land Conservation and Development Commission and the Department of Consumer and Business Services shall coordinate in adopting, amending or repealing rules for:

(a) Carrying out the respective responsibilities of the departments and the office under sections 1 to 5, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(b) Model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(c) Establishing standards by which complaints are investigated and pursued.

(4) The office shall prioritize assisting local governments in voluntarily undertaking changes to come into compliance with housing laws.

(5) As used in sections 1 to 5, **chapter 110, Oregon Laws 2024** [of this 2024 Act]:

(a) "Housing law" means ORS chapter 197A and ORS 92.010 to 92.192, 92.830 to 92.845, 197.360, **197.365** [to 197.380], 197.475 to 197.493, 197.505 to 197.540, 197.660 to 197.670, 197.748, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467 and administrative rules implementing those laws, to the extent that the law or rule imposes a mandatory duty on a local government or its officers, employees or agents and the application of the law or rule applies to residential development or pertains to a permit for a residential use or a division of land for residential purposes.

(b) "Residential" includes mixed-use residential development.

APPROPRIATIONS

SECTION 50. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter __, Oregon Laws 2025 (Enrolled Senate Bill 5528), for the biennium beginning July 1, 2025, for the planning program, is increased by \$2,391,599 to support rulemaking and other work related to the development of middle housing.

SECTION 51. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (2), chapter ___, Oregon Laws 2025 (Enrolled Senate Bill 5528), for the biennium beginning July 1, 2025, for grant programs, is increased by \$1,500,000 for technical assistance grants related to middle housing.

UNIT CAPTIONS

SECTION 52. The unit captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.

EMERGENCY CLAUSE

SECTION 53. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect on its passage.

Passed by House June 18, 2025

Received by Governor:

Repassed by House June 26, 2025

.....M.,....., 2025

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2025

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Julie Fahey, Speaker of House

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Tina Kotek, Governor

Passed by Senate June 24, 2025

Filed in Office of Secretary of State:

.....M.,....., 2025

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Rob Wagner, President of Senate

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Tobias Read, Secretary of State

Enrolled House Bill 3560

Sponsored by Representatives MARSH, NERON, Senator REYNOLDS; Representatives ANDERSEN, BOWMAN, CHOTZEN, DOBSON, FRAGALA, GAMBA, HELM, HUDSON, KROPF, LEVY E, MCDONALD, MCLAIN, MUNOZ, NGUYEN H, PHAM H, WALTERS, Senator PATTERSON

CHAPTER

AN ACT

Relating to the siting of child care facilities; creating new provisions; and amending ORS 243.560 and 329A.440.

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

SECTION 1. ORS 329A.440 is added to and made a part of ORS chapter 197.

SECTION 2. ORS 329A.440 is amended to read:

329A.440. (1) As used in this section:

(a) "Child care center" means a:

(A) Child care facility, other than a family child care home, that is certified under ORS 329A.280 (3)[.];

(B) **Preschool recorded program or school-age recorded program recorded under ORS 329A.255; or**

(C) **Parent cooperative, as defined in ORS 329A.250.**

(b) "Family child care home" means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280 (2) or is registered under ORS 329A.330.

[(c) "Land use regulation" and "local government" have the meanings given those terms in ORS 197.015.]

(2)(a) A family child care home is considered a residential use of property for zoning purposes. A family child care home is a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings.

(b) A local government may not enact or enforce a land use regulation prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family child care home.

(c) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a family child care home more restrictive than those imposed on other residential dwellings in the same zone.

(3) Notwithstanding subsection (2)(c) of this section, a county may impose reasonable conditions on the establishment of a family child care home in an area zoned for *[farm use]* **exclusive farm use, forest use or mixed farm and forest use.**

(4)[(a)] A child care center is a permitted use *[in all areas zoned for]* **on land:**

(a) **Zoned primarily for multiunit residential uses and to allow for development at the following densities:**

(A) Seventeen dwelling units per net residential acre within the Metro urban growth boundary; or

(B) Twelve dwelling units per net residential acre within an urban growth boundary outside of Metro;

(b) In areas within an urban growth boundary that are primarily zoned to allow for residential use, provided that the center is colocated with a legally established institutional use, including a civic center, public recreational center, public park, place of worship, school, college or library; or

(c) Zoned primarily for commercial or industrial use, except in areas specifically designated by the local government for heavy industrial use.

(5) For an institutional use conditionally allowed under subsection (4)(b) of this section, a local government may not add additional conditions of approval before allowing a child care center to be colocated with the institutional use.

[(b)] (6) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a child care center in an area zoned for commercial or industrial use **under subsection (4)(c) of this section** that are more restrictive than those imposed for other uses in the same zone[.]

[(5) Notwithstanding subsection (4) of this section, a], **but the** local government may impose [reasonable conditions] upon the establishment or maintenance of a child care center in an area zoned for industrial uses[.]

[(6) As used in this section, "reasonable conditions" includes, but is not limited to,] **reasonable conditions, including** siting restrictions for properties designated on the Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.

SECTION 3. A local government shall comply as described in ORS 197.646 (1) with the new requirements imposed under the amendments to ORS 329A.440 by section 2 of this 2025 Act within one year after the effective date of this 2025 Act.

SECTION 4. ORS 243.560 is amended to read:

243.560. (1) The Public Employees' Benefit Board may provide, administer and maintain an expense reimbursement plan for the benefit of eligible employees of this state.

(2) In providing an expense reimbursement plan, the board shall adopt rules to:

(a) Determine the qualifications of eligible employees and the expenses eligible for reimbursement.

(b) Establish limits on the amount by which an eligible employee's compensation may be reduced.

(c) Establish procedures for enrollment of eligible employees in an expense reimbursement plan.

(d) Establish requirements for verification of reimbursable expenses.

(3) The board may assess a charge to participating employees to pay the cost of administering the plan or may pay some or all of the cost from funds authorized to pay general administration expenses incurred by the board or from earnings on moneys deposited with the account administrator as designated by the board.

(4) The state shall maintain accounts and records necessary and appropriate to the efficient administration of ORS 243.550 to 243.585 [and 329A.440] or that may be required under federal or state law.

Passed by House April 14, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate May 19, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State

Enrolled
House Bill 3031

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Oregon Business Development Department)

CHAPTER

AN ACT

Relating to housing; and declaring an emergency.

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

SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS 285B.410 to 285B.482.

SECTION 2. (1) The Oregon Infrastructure Finance Authority shall create a housing infrastructure financing program through which the authority may provide financial assistance, in the form of grants, loans or forgivable loans to a city, a county, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, an intergovernmental entity formed under ORS chapter 190 or a tribal council of a federally recognized Indian tribe in this state, for a project that will primarily support a specified proposed housing development. A project under this section may include:

(a) The development or improvement of transportation, water, wastewater or stormwater infrastructure, including improvements to system capacity linked to a specified proposed housing development; or

(b) Site development, including the development of privately owned sites, necessary for the improvement of transportation, water, wastewater or stormwater infrastructure.

(2)(a) To be eligible for grants, loans or forgivable loans under this section, a proposed housing development supported by the project must be:

(A) Located within an urban growth boundary, with priority given to projects with a minimum density of:

(i) Seventeen dwelling units per net residential acre if sited within the Metro urban growth boundary; or

(ii) For a proposed housing development within an urban growth boundary other than the Metro urban growth boundary:

(I) Ten units per net residential acre if sited in a city, including territory to be annexed by the city upon completion of the project, with a population of 25,000 or greater;

(II) Six units per net residential acre if sited in a city, including territory to be annexed by the city upon completion of the project, with a population of at least 2,500 but less than 25,000; or

(III) Five units per net residential acre if sited in a city, including territory to be annexed by the city upon completion of the project, with a population of less than 2,500; or

(B) Within an urban growth boundary and not within a city or must be on a reservation of a federally recognized Indian tribe or on tribal trust land. A proposed housing development

under this subparagraph must meet any density priority established by the Oregon Business Development Department by rule.

(b) As used in this subsection, “net residential acre” means an acre of buildable land, not including rights of way for streets, roads or utilities or areas not designated for development due to natural resource protections or environmental constraints, that is zoned for residential use.

(3) To be eligible for a grant or forgivable loan under this section, the housing to be developed within the proposed housing development supported by the project must be subject to an affordable housing covenant, as defined in ORS 456.270, under which:

(a) The recipient shall serve as, or designate, the covenant holder; and

(b) The housing will be made affordable to households with very low income, low income or moderate income, as those terms are defined in ORS 458.610:

(A) For a period of no less than 10 years from the date on which the housing is first available for occupancy as rental housing, with priority given to projects with a period of at least 30 years; or

(B) For a length of time to be established by the department by rule from the date on which the housing is first sold as owner-occupied housing.

(4) A housing authority as defined in ORS 456.005 or housing developer may partner with an applicant to apply for and receive funding and to carry out projects under this section. The housing authority or housing developer, as applicable, and the applicant may enter into an agreement that enumerates the partners’ responsibilities, including financial responsibilities, appropriate allocations of moneys and responsibility for loan repayment or grant performance.

(5) In administering the program, the Oregon Infrastructure Finance Authority shall use at least:

(a) Twenty-five percent of the funds to support cities or Indian tribes with populations of less than 30,000; and

(b) Twenty-five percent of the funds to support cities or Indian tribes with populations of 30,000 or greater and less than 100,000.

(6) The Housing Accountability and Production Office shall provide assistance in developing requirements and prioritizing funding under this section.

(7) In administering the program, the authority shall coordinate with:

(a) The office; and

(b) The Housing and Community Services Department with respect to its administering of the Housing Project Revolving Loan Fund under section 35, chapter 110, Oregon Laws 2024.

(8) The Oregon Business Development Department may adopt rules to implement this section.

SECTION 3. (1) The Housing Infrastructure Project Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Oregon Business Development Department may accept grants, donations, contributions or gifts from any source for deposit in the Housing Infrastructure Project Fund.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the department to administer the fund and to implement section 2 of this 2025 Act.

SECTION 4. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect July 1, 2025.

Passed by House June 26, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate June 27, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State

ALUO Chapter 18 updates per Senate Bill 974 and House Bill 2138

Shift Type II Applications to Type I

Affected applications: Zone changes for denser residential uses, Planned Unit Developments (PUDs), and variances from residential approval standards, when on land inside the UGB zoned/planned for residential or mixed use

- Action: Amend AMC 18.5.1.050 (Type I procedure), 18.5.1.060 (Type II Procedure) and 18.5.1.080 to re classify these projects as Type I (administrative with notice) decisions rather than Type II (hearing required).
- Amend Table 18.5.1.010 for consistency
- Rationale: SB 974 prohibits requiring an initial hearing for these applications directing they be administratively reviewed; hearings may only occur on appeal.

Shift Type III Applications to Type I

Affected applications: Zone changes for denser residential uses when on land inside the UGB zoned/planned for residential or mixed use.

- Action: Amend Table 18.5.1.010 Summary Approval by Type of Review to distinguish between types of Zone Changes
- Amend 18.5.9 Application and Review Procedure to create a Type I zone Change criteria for compliance with Comprehensive Plan as an administratively approved Zone Change.

Revise Notice & Comment Procedures

Requirement: Provide mailed notice to properties within 100 feet and recognized neighborhood/community organizations, with a 14-day comment period

- Action: Update AMC 18.5.1.050 (notice provisions) to:
- 14-day written comment period currently provided in 18.5.1.050.B.3.e
- Potentially change 200' notice to a reduced 100' (optional 18.5.1.050.B.c))
- Ensure notices list applicable criteria, decision deadlines, staff contact, and appeal rights per SB974

Codify Appeal Process

- Requirement: Initial decisions must be issued without a hearing, but a local appeal to the Planning Commission with a hearing may be allowed (record-only or with additional testimony, triggering ORS 197.797 rules)
- Action: Update AMC 18.5.1.050, and 18.5.1.060

Integrate New Findings Standards

- Requirement: Approvals/denials must be accompanied by a brief written statement explaining criteria, standards, facts relied upon, and justification.
- Action: Review Standard Findings document for Type I actions to reflect this standard if necessary.

Restrict Residential Design Standards

- Requirement: Local governments may not apply residential design standards (facade, roof, trim, porches, etc.) to housing inside the UGB unless:

- It is a multifamily structure (per ORS 197A.465), or
 - The development is fewer than 20 residential units.
- Action: Amend AMC 18.4 (Site Design Standards) to ensure design standards apply only where permitted by SB 974.

Adjust Timelines for Final Engineering Plans

- Requirement: SB 974 sets new 30-day completeness check and 120-day review/approval deadlines for final engineering plans for residential development.
- Action: Align AMC 18.5.1.090 (completeness/review timelines) with these state- mandated deadlines

INFORMATIONAL ONLY



Outlook

February 17, 2026 Meeting Written Testimony – Roca Canyon/Transit Triangle

From Jacob Kaminker <jacobkaminker@gmail.com>

Date Thu 2/12/2026 8:34 AM

To Planning Commission - Public Testimony <PC-public-testimony@ashland.or.us>; Ashland City Recorder <recorder@ashland.or.us>

[EXTERNAL SENDER]

To the Ashland City Council and Planning Commission,

My name is Jacob Kaminker, and I am a resident at **839 Roca Street**. I am writing regarding the proposed Climate Friendly Area (CFA) implementation and the potential sale of SOU surplus property in the "Roca Canyon" area.

While my property is located above the primary Transit Triangle rezoning, I am directly impacted by the potential loss of the pedestrian shortcut through the university-owned land connecting Roca Street to the Siskiyou/Ashland St. corridor.

I urge the Council and Commission to consider the following:

1. **Preservation of Connectivity:** This shortcut is a primary pedestrian link for uphill residents to reach the Transit Triangle area. Allowing this land to be sold to private developers without a **dedicated public pedestrian easement** directly contradicts the state's Climate Friendly and Equitable Communities (CFEC) mandate to improve walkability and reduce vehicle reliance.
2. **Infrastructure Balance:** As the city removes parking requirements in the Transit Triangle, pedestrian "shortcuts" become critical infrastructure, not optional luxuries. Forcing hilltop residents to take longer, less direct routes via Normal Avenue will increase local vehicle use.
3. **Public Acquisition:** I strongly support the Parks & Recreation Commission's interest in acquiring this land to ensure it remains a permanent natural area and public thoroughfare.

If the city moves forward with the Transit Triangle density, it must protect the existing pedestrian veins that allow residents to access it without a car. Please ensure that any sale or development of the Roca Canyon parcel includes a permanent, recorded public access easement.

Thank you for your time and for protecting our neighborhood's connectivity.

Sincerely,

Jacob Kaminker, 839 Roca Street, Ashland, OR