Planning Commission Meeting Agenda

ASHLAND PLANNING COMMISSION

STUDY SESSION MEETING AGENDA

Tuesday, May 26, 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. 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 May 26, 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/96831175943

IV. OTHER BUSINESS

PA-T1-2026-00297, 40 North Main Street - Finalization of Planning Commission Recommendation to City Council

V. DISCUSSION ITEM

Legislative Amendments in Senate Bill 974

VI. OPEN DISCUSSION

VII. ADJOURNMENT

If you need special assistance to participate in this meeting, please contact Brandon Goldman 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.

OTHER BUSINESS

PA-T1-2026-00297, 40 North Main Street - Finalization of Planning Commission Motion to City Council

Memo

DATE: June 16, 2026
TO: City Council
FROM: Planning Commission
RE: Legislative Interpretation/Recommendation relative to Private Parking Lots

Background

The Planning Commission conducted a public hearing on May 12, 2026 regarding Planning Action PA-T1-2026-00297, a request for a "similar use" interpretation under AMC 18.1.5 concerning whether a privately owned, fee based commercial parking facility may be considered a similar use to "Public Parking" under the Ashland Land Use Ordinance.

The request arose from a proposal to convert the existing privately owned parking lot located at 40 North Main Street into a publicly accessible, fee based parking operation managed by a third party operator. The applicant asserted that because the parking facility would be available for use by the general public, it should qualify as "Public Parking" as listed in AMC 18.2.2.030.

The Community Development Department determined that the proposal constituted a privately owned commercial parking facility rather than "Public Parking" as contemplated by the ordinance because ownership, operational control, and enforcement authority would remain private in nature.

Procedural History

Pursuant to AMC 18.1.5.060, the Community Development Director referred the interpretation request directly to the Planning Commission and City Council for legislative review due to the significant citywide policy implications associated with the request, including whether privately owned, fee based commercial parking facilities could effectively become permitted uses in all zoning districts absent legislative action.

The Planning Commission reviewed the staff report, public testimony, applicant materials, and the opinion of the City Attorney provided pursuant to AMC 18.1.5.030.C. The City Attorney concurred with the interpretation of the Community Development Director that the

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distinction between "public parking" and "private parking" is based primarily upon ownership, operational control, and enforcement authority, rather than simply whether members of the public may access the parking facility.

Planning Commission Findings and Recommendation

Following the public hearing and deliberation, the Planning Commission concurred with the interpretation of the Community Development Department and made the following findings:

- "Public Parking," as contemplated by the Ashland Land Use Ordinance, refers to parking facilities owned, operated, or controlled by a governmental entity or otherwise functioning as a public facility.
- A privately owned parking lot does not become "public parking" merely because members of the public may use the facility upon payment of a fee.
- The proposed use would constitute a privately owned, standalone commercial parking facility operated for revenue generation under private control.
- The Ashland Land Use Ordinance currently permits "Public Parking" in zoning districts citywide, but does not expressly permit standalone privately owned commercial parking facilities as a primary use.
- Interpreting privately owned, fee-based parking facilities as "Public Parking" would effectively create and authorize a new land use category without corresponding legislative standards, review procedures, or locational limitations.
- Such an interpretation could have broader unintended land use implications, including encouraging conversion of commercially zoned land to surface parking uses in conflict with adopted Comprehensive Plan policies supporting pedestrian oriented development, mixed use redevelopment, and active commercial streetscapes.

Recommendation to City Council

Following deliberation, the Planning Commission unanimously recommended that the City Council:

1. Deny the requested similar use interpretation.
2. Affirm that privately owned, fee based commercial parking facilities are not "Public Parking" as contemplated by the Ashland Land Use Ordinance, do not qualify as a

similar use, and are not currently permitted as a primary use under the Ashland Land Use Ordinance.

3. The Planning Commission further recommended that, should the City Council wish to consider allowing privately owned fee-based parking facilities in some zoning districts in the future, such consideration occur through a separate legislative land use ordinance amendment process establishing clear definitions, locational criteria, review procedures, and development standards.

Motions as approved by the Planning Commission on May 12, 2026:

- *The Planning Commission recommends that the City Council deny the requested similar use interpretation and affirm that privately-owned, fee-based commercial parking facilities are not 'Public Parking' as contemplated in the Ashland Land Use Ordinance, do not qualify as a similar use, and thus are not presently permitted as a primary use under the Ashland Land Use Ordinance.*

- *The Planning Commission further recommends that the Council investigate whether to create a new land use category which would allow privately-owned fee-based commercial parking facilities in some zones. Planning Commissioners clarified that this would involve a broader look at the underlying issues to include paid parking facilities as a component of multi-story/mixed-used developments where the parking component could be provided underground, at ground level or on upper floors subject to specific procedures (Conditional Use), criteria and design standards to insure that allowing parking in this manner would not compromise the character of the built environment or the strong pedestrian-friendly focus of Ashland's streetscapes.*

As noted previously, should the City Council wish to investigate whether to establish a new land use category for privately owned, commercial fee based parking facilities within the Ashland Land Use Ordinance as a separate action a legislative amendment to Chapter 18 would be required. The Planning Commission recommends that any such consideration occur as part of broader legislative land use and long range planning discussions, including evaluation of where such uses may be appropriate and consistency with the Comprehensive Plan and downtown redevelopment objectives. Given the ongoing state mandated land use updates, Housing Production Strategy (HPS) implementation

measures, and other active legislative planning projects underway, the Planning Commission recognizes that the City Council may wish to consider such an ordinance amendment project during future Council goal setting and annual Planning Commission work plan prioritization efforts.

Attachments:

1. Planning Staff Report: *NMain_40_PA-T1-2026-00297_Staff ReportFinal*
2. Pacific Properties Applicant Submittal: *NMain_40_PA-T1-2026-00297_applicant Submittal*
3. May 12, 2026 Planning Commission Meeting Video
4. May 12, 2026 Planning Commission Packet Materials

DISCUSSION ITEMS

Legislative Amendments in Senate Bill 974

Memo

DATE: May 26, 2026
TO: Planning Commission
FROM: Derek Severson, Planning Supervisor
RE: Legislative Amendments in Senate Bill 974

As has been previously discussed, the 2025 regular legislative session was unusually active in the land use and housing arena and resulted in several significant bills becoming law. 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 across a wider range of housing types and income levels.

Of the recent legislation, 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 II 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. Staff are bringing forth the following code amendments to implement the SB974 amendments.

Senate Bill (SB) 974 Amendments

SB 974 introduces the concept of an urban housing application and, for certain specific types of residential approvals, requires that the initial decision be made administratively without a hearing. SB 974 includes three primary areas of focus:

- **The following new definition of an Urban Housing Application (UHA) is proposed to be added to AMC Chapter 18.6.1 :**

  Urban Housing Application (UHA) – A land use application including certain zone changes (residential up-zones), Performance Standards Options subdivisions, and variances involving property within the urban growth boundary (UGB) zoned primarily

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for residential or mixed-use development or proposed for residential use. The initial decision of the city on an Urban Housing Application is an administrative (Type I) action and is not subject to quasi-judicial review unless appealed.

- **SB 974 creates a "120-day shot-clock" for Engineering review of residential development applications, similar to the shot-clock for land use applications.**

  Since this relates to the Engineering Division's review of civil drawings following land use approval, it is not governed by the Ashland Land Use Ordinance, and no land use ordinance changes are proposed. The Engineering Division is aware of the new requirements.

- **SB 974 requires certain residential development applications to be processed administratively without an initial quasi-judicial hearing. For zone changes to allow denser residential uses, Performance Standards Options subdivisions, and Variances related to urban housing applications on land inside the UGB and zoned for residential and mixed uses, SB974 calls for an initial decision to be made administratively, without a public hearing unless an appeal is requested. This will entail a number of changes primarily to AMC Chapter 18.5 with regard to application review procedures.**

  With regard to **zone changes to increase residential density**, staff have not proposed any changes to implement this requirement out of concern that the requirements of SB 974 to administratively approve up-zoning requests directly conflict with Oregon Revised Statutes (ORS) 227.186(2) and (5) which require zone changes be made by ordinance with proper public notice through a (Type III) public hearing. In staff's assessment, retaining existing codes which comply with the ORS until state rulemaking occurs avoids the potential for drawn-out procedural appeals which could adversely impact both applicants and the city.

  With regard to **Performance Standards Options subdivisions**, proposed amendments are detailed below to make all PSO subdivisions subject to administrative review and approval with the possibility for appeal to the Planning Commission. As proposed, the two-tiered Outline and Final Plan subdivision process is retained, and the threshold to allow concurrent Outline and Final Plan reviews is increased from ten lots to "20 or more".

AMC 18.3.9.040 Review Procedures and Criteria

A. Outline Plan. A proposed outline plan shall accompany applications for subdivision approval under this chapter. For developments of fewer than ten lots, the outline plan may be filed concurrently with the final plan, as that term is defined in subsection 18.3.9.040.B.4. For developments of ~~ten~~ **20** or more lots, prior outline plan approval is mandatory.

1. Review Procedure. The **Type II** ~~-~~procedure in section **18.5.1.050** ~~18.5.1.060~~ shall be used for the approval of the outline plan.

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B. Final Plan.

1. Review Procedure. The Type I procedure in section 18.5.1.050 shall be used for approval of final plans, unless an outline plan has been filed concurrently, in which case ~~**Type II procedure shall be used, and**~~ the criteria for approval of an outline plan shall also be applied.

Table 18.5.1.010. Summary of Approvals by Type of Review Procedure

Planning Actions	Review Procedures	Applicable Regulations
Outline Plan	**Type I**~~I~~	Chapter 18.3.9

For **Variances,** those involving urban housing applications have been made a Type I procedures subject to administrative approval with the possibility for an appeal to the Planning Commission, as detailed below.

18.5.5.030 Review Procedure

Applications for Variances are reviewed as follows.

A. **Type I.** The following Variances are subject to the Type I review procedure in section 18.5.1.050.

1. Sign placement, per chapter 18.4.7.
2. Non-conforming signs, when bringing them into conformance as described in chapter 18.4.7.
3. Up to a 50 percent reduction of standard yard requirements.
4. Parking in setback areas.
5. Up to ten percent reduction in the required minimum lot area.
6. Up to ten percent increase in the maximum lot coverage percentage.
7. Up to 20 percent reduction in lot width or lot depth requirements.
8. Up to ten percent variance on height, width, depth, length, or other dimension not otherwise listed in this section.
9. **Variances involving Urban Housing Applications (UHAs).**

- **SB 974 also prohibits certain design standards for one- and two-family residential developments of 20 or more residential units. Standards regulating aesthetics, landscaping, building orientation, parking or building design cannot be applied. This prohibition does not apply to setbacks, accessibility, size limitations or any review under applicable building or fire codes, or public health or safety regulations.**

Generally, Ashland's site development and design standards are not applicable to one- and two-family residential development proposals.

Proposed amendments to the **general design standards for Single-Family Dwellings and Duplexes** in AMC 18.2.5.090 are detailed below:

18.2.5.090 Standards for Single-Family Dwellings and Duplexes

A. The following standards apply to new single-family dwellings and duplexes constructed in the R-1, R-1-3.5, R-2, and R-3 zones; the standards do not apply to dwellings in the WR or RR zones **or to new one- and two-family developments of 20 or more residential units in any zone**.

B. Single-family dwellings and duplexes subject to this section shall utilize at least two of the following design features to provide visual relief along the front of the residence:

1. Dormers;
2. Gables;
3. Recessed entries;
4. Covered porch entries;
5. Cupolas;
6. Pillars or posts;
7. Bay window (min. 12" projection);
8. Eaves (min. 6" projection);
9. Off-sets in building face or roof (min. 16"). (Ord. 3263 § 5, amended, 06/03/2025; Ord. 3199 § 11, amended, 06/15/2021)

Proposed amendments to the **North Mountain Neighborhood Plan's residential design standards** found in AMC 18.3.5.100 are detailed below:

18.3.5.100 Site Development and Design Standards

A. **Housing.** The following design standards apply to residential developments. **AMC 18.3.5.100.A.1-A.3, AMC 18.3.5.100.A.6 and AMC 18.3.5.100.B.1-B.2 shall not be applied to one- and two-family developments of 20 or more residential units.** While the standards are specific, the intent is not to limit innovative design, but rather provide a framework for clear direction and minimum standards.

Driveway Grades for Existing Lots (*Unrelated to SB 974*)

With a recent Land Use Board of Appeals (LUBA) ruling, it is clear that the existing language in **AMC 18.5.3.060 *"Additional Preliminary Flag Lot Partition Plat Criteria"*** relative to driveway grade prevents the city from approving a Variance for *any flag driveway* with a grade in excess of 18 percent. This would have the potential to render any pre-existing legal lots of record inaccessible if a driveway to reach it could not be constructed with a finished grade that was less than 18 percent. The flag drive grade standards generally apply to new lots (i.e. must be met before signature of plat), and city decisions have previously approved variances for pre-existing lots where no alternative access meeting the codified flag drive grade was available. Given that code amendments are under consideration, staff believe it would be prudent to address this known code issue now, and we have included code amendment language to AMC 18.5.3.060 below for the Planning Commission's consideration.

F. Flag drive grades shall not exceed a maximum grade of 15 percent. Variances may be granted for flag drives **serving newly created lots** for grades in excess of 15 percent but no greater than 18 percent; provided, that the cumulative length of such variances across multiple sections of the flag drive does not exceed 200 feet. **Variances may also be approved for grades in excess of 18 percent for driveways serving pre-existing legal lots of record which would otherwise be inaccessible.** Such variances shall be required to meet all of the criteria for approval in chapter 18.5.5, Variances.

Next Steps

Code changes to comply with SB 974 are intended to be implemented by cities by July 1, 2026. As previously noted, state guidance on implementation of Senate Bill 974 remains limited at this time, with the statute establishing overall procedural requirements but providing little direction on how local governments should restructure existing review classifications such as Type I and Type II processes. In particular, the law clearly requires that qualifying urban housing applications be processed without an initial hearing but does not

provide detailed direction on how to treat specific permit types, including variances, within existing local frameworks. As a result, jurisdictions are left to interpret and align their procedures in a manner that meets the intent of the legislation while maintaining internal consistency within their land use codes.

Staff will incorporate recommendations from tonight's study session into the proposed amendments and schedule public hearings before the Planning Commission and City Council as soon as possible.

Attachments:

1. Senate Bill 974 Code Changes Roadmap
2. Senate Bill 974 Enrolled

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SB 974 – URBAN HOUSING APPLICATIONS (UHA)

Prohibits certain zone changes (upzones), planned unit developments, and variances from being subject to quasi-judicial review. Creates appeal pathway for these decisions.

WHAT APPLIES

Only applies to land that is:

- Inside the urban growth boundary (UGB), and
- "Zoned primarily for residential use or mixed residential use or planned for residential use"

WHAT DOESN'T APPLY

Does not apply to applications:

- That reduce minimum residential density of land
- For final subdivision or partition plat
- For a residential construction permit under the building code
- For final engineering review
- Subject to ministerial or other expedited approval procedure, including outright permitted uses

Define UHAs

- Create definition of Urban Housing Application (UHA), which would include certain zone changes*, PSO Subdivisions, Variances and Exceptions
- Amend procedures for UHAs involving zone changes, PSO subdivisions and variances - make **Type I** Procedure

ZONE CHANGES

CURRENT CODE →

- Minor Zone Change - **Type II**
  - PC is Approving Authority
  - Appeal is made to City Council
- Major Zone Change - **Type III**
  - PC makes a recommendation to Council
  - City Council is Approving Authority
  - Appeal is made to LUBA

Amendment Option 1

- Zone changes (upzones) that qualify as a UHA would be processed as Type I.
- All other Zone Changes would follow existing procedure (**Type III**)

Amendment Option 2

Retain Zone Changes codes as is until conflicts with ORS 227.186 are resolved or at least addressed through *rulemaking*.

Considerations

- SB 974 as written conflicts with ORS 227.186(2) & (5) which requires notice, a hearing and adoption by ordinance.
- Non-UHA Zone Changes, including residential downzones would follow existing procedure (**Type III**).

PSO Subdivisons

- Outline Plan Subdivisions under the Performance Standards - **Type II**
  - PC is Approving Authority
  - Appeal is made to City Council
- Final Plan Subdivision - **Type I**
  - Staff Advisor is Approving Authority
  - Appeal is made to PC

Amendment Option 1

- Separate PSO Subdivisions into Non-residential (**Type II**) and Residential (**Type I**)
- Residential would fall under definition of UHA

Amendment Option 2

- Make all subdivisions (standard and PSO) a **Type I** procedure subject to appeal to the Planning Commission.

Considerations

- Do we retain the two-tiered Outline/Final PSO process?
- Should number of lots for concurrent review increase? Currently 10, should be at least 12.
- With amendments, we need to look at more *clear & objective* standards.

VARIANCES

CURRENT CODE ←

- Variances - **Type I or II**
  - Dependent on details of request
- All Exceptions (SDUS, Street Standards, Hillside Development Standards) - **Type I**
  - Staff Advisor is Approving Authority
  - Appeal is made to PC

Amendment Option 1

- Variances that meet UHA criteria would be a **Type I** procedure
- Retain **Type II** procedure for other Variances

Amendment Option 2

- Make all Variances a **Type I** procedure subject to appeal to the Planning Commission

Considerations

- How do we apply more *clear & objective* standards for Variances.

Other Items

- SB 974 also requires some design standard flexibility for development of 20 or more lots.
- In all amendments, need to consider clear & objective standards for residential projects.
- Do we want to look at other areas of procedural distinction between Type I & Type II?

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

.....
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