



Council Study Session Meeting Agenda

ASHLAND CITY COUNCIL STUDY SESSION AGENDA

Monday, June 1, 2026

Council Chambers, 1175 E Main Street

Live stream via RVTV Prime at rvtv.sou.edu or broadcast on Spectrum 180.

Public comment is welcome on agenda items.

To **speak electronically** during the meeting or to submit **written comments** in advance, please complete the online [Public Comment Form](#) by 10 a.m. the day of the meeting.

5:30 p.m. Study Session

I. CALL TO ORDER

II. REPORTS AND PRESENTATIONS

- a. Update regarding State-mandated Land Use Ordinance Amendments Update – Senate Bill 974 and House Bill 2138
- b. Community Wildfire Resilience Bond

III. ADJOURNMENT

IV. EXECUTIVE SESSION

To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing pursuant to ORS 192.660 (2)(i).

If you need special assistance to participate in this meeting, please contact Alissa Kolodzinski at recorder@ashlandoregon.gov or 541.488.5307 (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.

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Council Study Session

Date: June 1, 2026

Agenda Item	Update regarding State-mandated Land Use Ordinance Amendments Update – Senate Bill 974 and House Bill 2138
Department	Community Development
From	Brandon Goldman, Director of Community Development

TIME ESTIMATE

30 min

CATEGORY

Informational - this is to inform the body on a particular topic. No motion or direction needed.

SUMMARY

This item is provided as an informational update only regarding upcoming state-mandated amendments to Chapter 18 of the Ashland Land Use Ordinance (ALUO) associated with Senate Bill 974 and House Bill 2138. No Council action is requested at this time.

POLICIES, PLANS & GOALS SUPPORTED

- Oregon Senate Bill 974 (2025) establishing administrative review procedures and timelines for qualifying urban housing applications within urban growth boundaries.
- Oregon House Bill 2138 (2025) expanding middle housing, Single Room Occupancy housing requirements, affordable and accessible housing incentives, and related housing implementation requirements.
- ORS Chapter 197A relating to housing production, middle housing, housing capacity, and Housing Production Strategies.
- City of Ashland Housing Production Strategy (HPS) goals related to reducing procedural barriers to housing development and increasing housing production opportunities.

BACKGROUND AND ADDITIONAL INFORMATION

The 2025 Oregon Legislative Session resulted in several significant housing and land use bills requiring local code amendments and procedural updates by cities throughout the state. Many of these bills are intended to streamline housing approvals, reduce procedural barriers to housing production, and align local development review processes with statewide housing goals and the City's adopted Housing Production Strategy (HPS).

Staff has begun the process of evaluating and implementing required amendments to Chapter 18 of the Ashland Land Use Ordinance. The first set of proposed amendments relates to Senate Bill 974 (SB 974), which was introduced to the Planning Commission at a study session on May 26, 2026. Additional amendments associated with House Bill 2138 (HB 2138) are anticipated to follow later in 2026.

Senate Bill 974 establishes new procedural requirements for the review of certain "qualified housing projects," referred to in the legislation as Urban Housing Applications. These provisions apply to certain residential zone changes, Performance Standards Option subdivisions, and variances involving land inside the Urban Growth Boundary that is zoned or planned for residential or mixed use development.





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A primary change under SB 974 is the requirement that qualifying housing applications be processed administratively as Type I Planning Actions without an initial quasi judicial public hearing, unless appealed. Under the proposed amendments, the initial decision would be made administratively by staff. If a staff decision is appealed, the appeal would be heard by the Planning Commission, which would then serve as the City's final local decision making body for the application. This represents a substantial procedural shift from the City's current Type II process, where the Planning Commission serves as the initial hearing body and appeals are heard by the City Council. Under the proposed framework, subsequent appeals by applicants or neighboring property owners would proceed directly to the Oregon Land Use Board of Appeals (LUBA), rather than to the City Council.

The legislation also establishes defined timelines for review and creates new procedural requirements related to notice, appeals, and engineering review timelines for residential development applications. The intent of the legislation is to streamline housing approvals, reduce delay and uncertainty in the development review process, and increase predictability for housing development within urban growth boundaries. These changes are closely aligned with statewide housing policy objectives and implementation measures identified in the City's adopted Housing Production Strategy.

As part of the initial implementation effort, staff has prepared draft amendments to Chapter 18 addressing procedural changes required under SB 974. These proposed amendments were reviewed during the Planning Commission study session on May 26, 2026, and focus primarily on revisions to application review procedures within AMC Chapter 18.5.

House Bill 2138 represents a broader omnibus housing bill affecting middle housing, affordable and accessible housing incentives, middle housing land divisions, Single Room Occupancy (SRO) housing requirements, and additional housing related statutory amendments. Among other provisions, HB 2138 expands middle housing allowances, modifies state SRO requirements, and continues to align local planning obligations with Oregon Housing Needs Analysis and Housing Production Strategy requirements.

Staff anticipates bringing forward formal ordinance amendments to Chapter 18 of the Ashland Land Use Ordinance for public hearings before the Planning Commission and City Council in August and September of 2026. In the interim, because the procedural requirements established under Senate Bill 974 become effective prior to local adoption of implementing code amendments, applicants may reference and rely upon applicable state law provisions for qualifying housing applications requesting administrative processing consistent with State statute.

Staff had initially anticipated that the State would provide additional implementation guidance through the Department of Land Conservation and Development (DLCD) rulemaking process prior to local adoption of ordinance amendments. However, the State's formal rulemaking process for Senate Bill 974 has not yet been initiated and is currently anticipated to begin in 2027. As a result, the City is proceeding with local code amendments based directly on the adopted statutory language, with the understanding that additional amendments or procedural refinements may be necessary in the future once State administrative rules and implementation guidance are completed.

FISCAL IMPACTS

While no direct fiscal expenditure is associated with these ordinance amendments, the reclassification of many qualifying housing applications from Type II Planning Actions to Type I administrative approvals will reduce application fees associated with those planning actions and may result in reduced Planning Division revenue over time. The extent of any revenue reduction is not yet known and will depend on the volume and type of qualifying applications processed under the new state mandated procedures.

SUGGESTED ACTIONS, AND/OR OPTIONS



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REFERENCES & ATTACHMENTS

1. Atch1_PC_Memo_05262026
2. Atch2_SB 974 Code Change Road Map
3. Atch3_SB974 Enrolled
4. Atch4_HB2138_Enrolled



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 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. 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”.

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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 II	Chapter <u>18.3.9</u>

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.

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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:

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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

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- 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

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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

ZONE CHANGES

- 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

PSO Subdivisions

- 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

VARIANCES

- 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

CURRENT CODE →

← **CURRENT CODE**

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

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**).

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.

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

.....
Obadiah Rutledge, Secretary of Senate

.....
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

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:

.....
Timothy G. Sekerak, Chief Clerk of House

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

.....
Julie Fahey, Speaker of House

.....
Tina Kotek, Governor

Passed by Senate June 24, 2025

Filed in Office of Secretary of State:

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

.....
Rob Wagner, President of Senate

.....
Tobias Read, Secretary of State



Council Business Meeting

Date: June 1, 2026

Agenda Item	Community Wildfire Resilience Bond
Department	Mayor and Council
From	Sabrina Cotta

TIME ESTIMATE

20

CATEGORY

Staff Direction - provide direction to staff on the body's desired next steps.

SUMMARY

Per the request of Mayor Graham this item is coming forward for a discussion with Council about exploring the use of a municipal bond instrument to fund and accelerate the implementation of the Community Wildfire Protection Plan.

POLICIES, PLANS & GOALS SUPPORTED

- Public safety, including emergency preparedness for climate change risk
- Risk Reduction, including Wildfire risk reduction and CEAP (Climate Energy Action Plan) execution;

BACKGROUND AND ADDITIONAL INFORMATION

The Community Wildfire Protection Plan's lofty ambitions of community resilience lack the upfront funding source to make a meaningful impact in the short-term. A Community Wildfire Resilience Bond instrument is a prospective solution to address the real and present threat of catastrophic wildfire facing our community that can potentially resolve the spiraling insurance crisis as it relates to wildfire risk to property. A community member, Woolsey McKernon from Viridian Ecosystems, an Oregon-based natural infrastructure services company, along with his colleagues, will outline the concept and its applicability to move our CWPP into action. He will outline the constraints and opportunities, where the primary funding can come from, and how we might think about true resilience and the value to our community and our way of life here in Ashland against the ever present threat of catastrophic wildfire.

FISCAL IMPACTS

TBD, impacted by funding instrument utilized.

Currently, a \$7 fee instituted July 1, 2025 funds the Wildfire Mitigation Division and generates ~\$950,000 per year.

SUGGESTED ACTIONS, MOTIONS, AND/OR OPTIONS

Provide staff direction on next steps

REFERENCES & ATTACHMENTS

None

