

# House Bill 3239

Sponsored by Representative SCOTT, Senator SCHRADER (at the request of Elizabeth Graser-Lindsey for Hamlet of Beavercreek)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that notice of certain land use planning be provided to hamlets and villages. Adds hamlets and villages to list of local governmental entities for purposes of intergovernmental agreements, cooperation and arbitration.

## A BILL FOR AN ACT

1  
2 Relating to public entities established under charter authority, including hamlets and villages;  
3 amending ORS 190.003, 190.410, 190.710, 195.065, 197.195, 197.365, 197.763, 215.416 and 227.175.

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

5 **SECTION 1.** ORS 190.003 is amended to read:

6 190.003. As used in ORS 190.003 to 190.130[,]:

7 (1) **"Hamlet" means an unincorporated area:**

8 (a) **Authorized by a county to act, through an elected board of directors, to provide an**  
9 **organized forum for citizens to express issues of concern, prioritize activities and coordinate**  
10 **community-based activities; and**

11 (b) **Financed primarily through contributions, grants and fundraising activities.**

12 (2) "Unit of local government" includes a county, city, district or other public corporation,  
13 commission, authority or entity organized and existing under statute or city or county charter, **in-**  
14 **cluding a hamlet or a village.**

15 (3) **"Village" means an unincorporated area:**

16 (a) **Authorized by a county to act, through an elected board of directors, to provide an**  
17 **organized forum for citizens to express issues of concern, prioritize activities and coordinate**  
18 **community-based activities; and**

19 (b) **Financed through a variety of means.**

20 **SECTION 2.** ORS 190.410 is amended to read:

21 190.410. As used in ORS 190.410 to 190.440[,]:

22 (1) **"Hamlet" has the meaning given that term in ORS 190.003.**

23 (2) "Public agency" includes:

24 [(1)] (a) Any county, city, special district or other public corporation, commission, authority or  
25 entity organized and existing under laws of this state, or any other state, or under the city or county  
26 charter of any county or city of this or any other state, **including a hamlet or a village;**

27 [(2)] (b) Any agency of this state or any other state; and

28 [(3)] (c) Oregon Health and Science University.

29 (3) **"Village" has the meaning given that term in ORS 190.003.**

30 **SECTION 3.** ORS 190.710 is amended to read:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 190.710. As used in ORS 190.710 to 190.800:

2 (1) "Association" means the American Arbitration Association.

3 **(2) "Hamlet" has the meaning given that term in ORS 190.003.**

4 [(2)] **(3) "Local government" means a city, county, special district or other public corporation,**  
 5 **commission, authority or entity organized under state statute or organized under a city or county**  
 6 **charter, including a hamlet or a village.**

7 [(3)] **(4) "State agency" means any state board, commission, department or division.**

8 **(5) "Village" has the meaning given that term in ORS 190.003.**

9 **SECTION 4.** ORS 195.065 is amended to read:

10 195.065. (1) Under ORS 190.003 to 190.130, units of local government and special districts that  
 11 provide an urban service to an area within an urban growth boundary that has a population greater  
 12 than 2,500 persons, and that are identified as appropriate parties by a cooperative agreement under  
 13 ORS 195.020, shall enter into urban service agreements that:

14 (a) Specify whether the urban service will be provided in the future by a city, county, district,  
 15 authority or a combination of one or more cities, counties, districts or authorities.

16 (b) Set forth the functional role of each service provider in the future provision of the urban  
 17 service.

18 (c) Determine the future service area for each provider of the urban service.

19 (d) Assign responsibilities for:

20 (A) Planning and coordinating provision of the urban service with other urban services;

21 (B) Planning, constructing and maintaining service facilities; and

22 (C) Managing and administering provision of services to urban users.

23 (e) Define the terms of necessary transitions in provision of urban services, ownership of facili-  
 24 ties, annexation of service territory, transfer of moneys or project responsibility for projects pro-  
 25 posed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service  
 26 providers or other measures for enhancing the cost efficiency of providing urban services.

27 (f) Establish a process for review and modification of the urban service agreement.

28 (2)(a) Each county shall have responsibility for convening representatives of all cities and spe-  
 29 cial districts that provide or declare an interest in providing an urban service inside an urban  
 30 growth boundary within the county, for the purpose of negotiating an urban service agreement. A  
 31 county may establish two or more subareas inside an urban growth boundary for the purpose of such  
 32 agreements. If an urban service is to be provided within the boundaries of a Metropolitan Service  
 33 District, a county shall notify the Metropolitan Service District in advance of the time for cities and  
 34 special districts to meet for the purpose of negotiating an urban service agreement, and the Metro-  
 35 politan Service District shall exercise its review, advisory and coordination functions under ORS  
 36 195.025.

37 (b) When negotiating for an urban service agreement, a county shall consult with **hamlets and**  
 38 **villages, as those terms are defined in ORS 190.003, within the area affected by the urban**  
 39 **service agreement and with** recognized community planning organizations within the area affected  
 40 by the urban service agreement.

41 (3) Decisions on a local government structure to be used to deliver an urban service under ORS  
 42 195.070 are not land use decisions under ORS 197.015.

43 (4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section, "urban services"  
 44 means:

45 (a) Sanitary sewers;

- 1 (b) Water;
- 2 (c) Fire protection;
- 3 (d) Parks;
- 4 (e) Open space;
- 5 (f) Recreation; and
- 6 (g) Streets, roads and mass transit.

7 (5) Whether the requirement of subsection (1) of this section is met by a single urban service  
 8 agreement among multiple providers of a service, by a series of agreements with individual providers  
 9 or by a combination of multiprovider and single-provider agreements shall be a matter of local dis-  
 10 cretion.

11 **SECTION 5.** ORS 197.195 is amended to read:

12 197.195. (1) A “limited land use decision” shall be consistent with applicable provisions of city  
 13 or county comprehensive plans and land use regulations. Such a decision may include conditions  
 14 authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all  
 15 comprehensive plan standards applicable to limited land use decisions into their land use regu-  
 16 lations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards  
 17 into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS  
 18 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into  
 19 its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision  
 20 by the city or county or on appeal from that decision.

21 (2) A limited land use decision is not subject to the requirements of ORS 197.763.

22 (3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this  
 23 subsection.

24 (a) In making a limited land use decision, the local government shall follow the applicable pro-  
 25 cedures contained within its acknowledged comprehensive plan and land use regulations and other  
 26 applicable legal requirements.

27 (b) For limited land use decisions, the local government shall provide written notice to owners  
 28 of property within 100 feet of the entire contiguous site for which the application is made. The list  
 29 shall be compiled from the most recent property tax assessment roll. For purposes of review, this  
 30 requirement shall be deemed met when the local government can provide an affidavit or other cer-  
 31 tification that such notice was given. Notice shall also be provided to **a hamlet or a village, as**  
 32 **those terms are defined in ORS 190.003, whose boundaries include the site and to** any neigh-  
 33 borhood or community organization recognized by the governing body and whose boundaries include  
 34 the site.

35 (c) The notice and procedures used by local government shall:

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

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

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

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

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

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

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

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

5 (I) Briefly summarize the local decision making process for the limited land use decision being  
 6 made.

7 (4) Approval or denial of a limited land use decision shall be based upon and accompanied by  
 8 a brief statement that explains the criteria and standards considered relevant to the decision, states  
 9 the facts relied upon in rendering the decision and explains the justification for the decision based  
 10 on the criteria, standards and facts set forth.

11 (5) A local government may provide for a hearing before the local government on appeal of a  
 12 limited land use decision under this section. The hearing may be limited to the record developed  
 13 pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction  
 14 of additional testimony or evidence. A hearing on appeal that allows the introduction of additional  
 15 testimony or evidence shall comply with the requirements of ORS 197.763. Written notice of the  
 16 decision rendered on appeal shall be given to all parties who appeared, either orally or in writing,  
 17 before the hearing. The notice of decision shall include an explanation of the rights of each party  
 18 to appeal the decision.

19 **SECTION 6.** ORS 197.365 is amended to read:

20 197.365. When requested by an applicant for an expedited land division, in lieu of the procedure  
 21 set forth in its comprehensive plan and land use regulations, the local government shall use the  
 22 following procedures for an expedited land division under ORS 197.360:

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

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

32 (2) The local government shall provide written notice of the receipt of the completed application  
 33 for an expedited land division to any state agency, local government or special district responsible  
 34 for providing public facilities or services to the development and to owners of property within 100  
 35 feet of the entire contiguous site for which the application is made. The notification list shall be  
 36 compiled from the most recent property tax assessment roll. For purposes of appeal to the referee  
 37 under ORS 197.375, this requirement shall be deemed met when the local government can provide  
 38 an affidavit or other certification that such notice was given. Notice shall also be provided to a  
 39 **hamlet or a village, as those terms are defined in ORS 190.003, whose boundaries include the**  
 40 **site and to** any neighborhood or community planning organization recognized by the governing body  
 41 and whose boundaries include the site.

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

43 (a) State:

44 (A) The deadline for submitting written comments;

45 (B) That issues that may provide the basis for an appeal to the referee must be raised in writing

1 prior to the expiration of the comment period; and

2 (C) That issues must be raised with sufficient specificity to enable the local government to re-  
3 spond to the issue.

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

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

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

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

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

11 (g) Briefly summarize the local decision-making process for the expedited land division decision  
12 being made.

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

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

15 (b) Make a decision to approve or deny the application within 63 days of receiving a completed  
16 application, based on whether it satisfies the substantive requirements of the local government's  
17 land use regulations. An approval may include conditions to ensure that the application meets the  
18 applicable land use regulations. For applications subject to this section, the local government:

19 (A) Shall not hold a hearing on the application; and

20 (B) Shall issue a written determination of compliance or noncompliance with applicable land use  
21 regulations that includes a summary statement explaining the determination. The summary state-  
22 ment may be in any form reasonably intended to communicate the local government's basis for the  
23 determination.

24 (c) Provide notice of the decision to the applicant and to those who received notice under sub-  
25 section (2) of this section within 63 days of the date of a completed application. The notice of deci-  
26 sion shall include:

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

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

29 **SECTION 7.** ORS 197.763 is amended to read:

30 197.763. The following procedures shall govern the conduct of quasi-judicial land use hearings  
31 conducted before a local governing body, planning commission, hearings body or hearings officer on  
32 application for a land use decision and shall be incorporated into the comprehensive plan and land  
33 use regulations:

34 (1) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be  
35 raised not later than the close of the record at or following the final evidentiary hearing on the  
36 proposal before the local government. Such issues shall be raised and accompanied by statements  
37 or evidence sufficient to afford the governing body, planning commission, hearings body or hearings  
38 officer, and the parties an adequate opportunity to respond to each issue.

39 (2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to  
40 owners of record of property on the most recent property tax assessment roll where such property  
41 is located:

42 (A) Within 100 feet of the property which is the subject of the notice where the subject property  
43 is wholly or in part within an urban growth boundary;

44 (B) Within 250 feet of the property which is the subject of the notice where the subject property  
45 is outside an urban growth boundary and not within a farm or forest zone; or

1 (C) Within 500 feet of the property which is the subject of the notice where the subject property  
 2 is within a farm or forest zone.

3 (b) Notice shall also be provided to **a hamlet or a village, as those terms are defined in ORS**  
 4 **190.003, whose boundaries include the site and to** any neighborhood or community organization  
 5 recognized by the governing body and whose boundaries include the site.

6 (c) At the discretion of the applicant, the local government also shall provide notice to the De-  
 7 partment of Land Conservation and Development.

8 (3) The notice provided by the jurisdiction shall:

9 (a) Explain the nature of the application and the proposed use or uses which could be author-  
 10 ized;

11 (b) List the applicable criteria from the ordinance and the plan that apply to the application at  
 12 issue;

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

15 (d) State the date, time and location of the hearing;

16 (e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to  
 17 provide statements or evidence sufficient to afford the decision maker an opportunity to respond to  
 18 the issue precludes appeal to the board based on that issue;

19 (f) Be mailed at least:

20 (A) Twenty days before the evidentiary hearing; or

21 (B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

22 (g) Include the name of a local government representative to contact and the telephone number  
 23 where additional information may be obtained;

24 (h) State that a copy of the application, all documents and evidence submitted by or on behalf  
 25 of the applicant and applicable criteria are available for inspection at no cost and will be provided  
 26 at reasonable cost;

27 (i) State that a copy of the staff report will be available for inspection at no cost at least seven  
 28 days prior to the hearing and will be provided at reasonable cost; and

29 (j) Include a general explanation of the requirements for submission of testimony and the pro-  
 30 cedure for conduct of hearings.

31 (4)(a) All documents or evidence relied upon by the applicant shall be submitted to the local  
 32 government and be made available to the public.

33 (b) Any staff report used at the hearing shall be available at least seven days prior to the  
 34 hearing. If additional documents or evidence are provided by any party, the local government may  
 35 allow a continuance or leave the record open to allow the parties a reasonable opportunity to re-  
 36 spond. Any continuance or extension of the record requested by an applicant shall result in a cor-  
 37 responding extension of the time limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

38 (5) At the commencement of a hearing under a comprehensive plan or land use regulation, a  
 39 statement shall be made to those in attendance that:

40 (a) Lists the applicable substantive criteria;

41 (b) States that testimony, arguments and evidence must be directed toward the criteria described  
 42 in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the  
 43 person believes to apply to the decision; and

44 (c) States that failure to raise an issue accompanied by statements or evidence sufficient to af-  
 45 ford the decision maker and the parties an opportunity to respond to the issue precludes appeal to

1 the board based on that issue.

2 (6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an  
 3 opportunity to present additional evidence, arguments or testimony regarding the application. The  
 4 local hearings authority shall grant such request by continuing the public hearing pursuant to par-  
 5 agraph (b) of this subsection or leaving the record open for additional written evidence, arguments  
 6 or testimony pursuant to paragraph (c) of this subsection.

7 (b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time  
 8 and place certain at least seven days from the date of the initial evidentiary hearing. An opportu-  
 9 nity shall be provided at the continued hearing for persons to present and rebut new evidence, ar-  
 10 guments or testimony. If new written evidence is submitted at the continued hearing, any person  
 11 may request, prior to the conclusion of the continued hearing, that the record be left open for at  
 12 least seven days to submit additional written evidence, arguments or testimony for the purpose of  
 13 responding to the new written evidence.

14 (c) If the hearings authority leaves the record open for additional written evidence, arguments  
 15 or testimony, the record shall be left open for at least seven days. Any participant may file a written  
 16 request with the local government for an opportunity to respond to new evidence submitted during  
 17 the period the record was left open. If such a request is filed, the hearings authority shall reopen  
 18 the record pursuant to subsection (7) of this section.

19 (d) A continuance or extension granted pursuant to this section shall be subject to the limita-  
 20 tions of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is  
 21 requested or agreed to by the applicant.

22 (e) Unless waived by the applicant, the local government shall allow the applicant at least seven  
 23 days after the record is closed to all other parties to submit final written arguments in support of  
 24 the application. The applicant’s final submittal shall be considered part of the record, but shall not  
 25 include any new evidence. This seven-day period shall not be subject to the limitations of ORS  
 26 215.427 or 227.178 and ORS 215.429 or 227.179.

27 (7) When a local governing body, planning commission, hearings body or hearings officer reopens  
 28 a record to admit new evidence, arguments or testimony, any person may raise new issues which  
 29 relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the  
 30 matter at issue.

31 (8) The failure of the property owner to receive notice as provided in this section shall not in-  
 32 validate such proceedings if the local government can demonstrate by affidavit that such notice was  
 33 given. The notice provisions of this section shall not restrict the giving of notice by other means,  
 34 including posting, newspaper publication, radio and television.

35 (9) For purposes of this section:

36 (a) “Argument” means assertions and analysis regarding the satisfaction or violation of legal  
 37 standards or policy believed relevant by the proponent to a decision. “Argument” does not include  
 38 facts.

39 (b) “Evidence” means facts, documents, data or other information offered to demonstrate com-  
 40 pliance or noncompliance with the standards believed by the proponent to be relevant to the deci-  
 41 sion.

42 **SECTION 8.** ORS 215.416 is amended to read:

43 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,  
 44 an owner of land may apply in writing to such persons as the governing body designates, for a  
 45 permit, in the manner prescribed by the governing body. The governing body shall establish fees

1 charged for processing permits at an amount no more than the actual or average cost of providing  
2 that service.

3 (2) The governing body shall establish a consolidated procedure by which an applicant may ap-  
4 ply at one time for all permits or zone changes needed for a development project. The consolidated  
5 procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated proce-  
6 dure shall be available for use at the option of the applicant no later than the time of the first pe-  
7 riodic review of the comprehensive plan and land use regulations.

8 (3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least  
9 one public hearing on the application.

10 (4) The application shall not be approved if the proposed use of land is found to be in conflict  
11 with the comprehensive plan of the county and other applicable land use regulation or ordinance  
12 provisions. The approval may include such conditions as are authorized by statute or county legis-  
13 lation.

14 (5) Hearings under this section shall be held only after notice to the applicant and also notice  
15 to other persons as otherwise provided by law and shall otherwise be conducted in conformance  
16 with the provisions of ORS 197.763.

17 (6) Notice of a public hearing on an application submitted under this section shall be provided  
18 to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport"  
19 if:

20 (a) The name and address of the airport owner has been provided by the Oregon Department  
21 of Aviation to the county planning authority; and

22 (b) The property subject to the land use hearing is:

23 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon  
24 Department of Aviation to be a "visual airport"; or

25 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon  
26 Department of Aviation to be an "instrument airport."

27 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing  
28 need not be provided as set forth in subsection (6) of this section if the zoning permit would only  
29 allow a structure less than 35 feet in height and the property is located outside the runway "ap-  
30 proach surface" as defined by the Oregon Department of Aviation.

31 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which  
32 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county  
33 and which shall relate approval or denial of a permit application to the zoning ordinance and com-  
34 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-  
35 dinance and comprehensive plan for the county as a whole.

36 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide  
37 only clear and objective standards, the standards must be clear and objective on the face of the  
38 ordinance.

39 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-  
40 nied by a brief statement that explains the criteria and standards considered relevant to the deci-  
41 sion, states the facts relied upon in rendering the decision and explains the justification for the  
42 decision based on the criteria, standards and facts set forth.

43 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

44 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-  
45 prove or deny an application for a permit without a hearing if the hearings officer or other desig-

1 nated person gives notice of the decision and provides an opportunity for any person who is  
 2 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,  
 3 to file an appeal.

4 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
 5 of this subsection.

6 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall  
 7 describe the nature of the decision. In addition, the notice shall state that any person who is ad-  
 8 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-  
 9 section may appeal the decision by filing a written appeal in the manner and within the time period  
 10 provided in the county's land use regulations. A county may not establish an appeal period that is  
 11 less than 12 days from the date the written notice of decision required by this subsection was  
 12 mailed. The notice shall state that the decision will not become final until the period for filing a  
 13 local appeal has expired. The notice also shall state that a person who is mailed written notice of  
 14 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS  
 15 197.830.

16 (D) An appeal from a hearings officer's decision made without hearing under this subsection  
 17 shall be to the planning commission or governing body of the county. An appeal from such other  
 18 person as the governing body designates shall be to a hearings officer, the planning commission or  
 19 the governing body. In either case, the appeal shall be to a de novo hearing.

20 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
 21 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
 22 of Appeals. At the de novo hearing:

23 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
 24 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
 25 the decision;

26 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised  
 27 in a notice of appeal; and

28 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are  
 29 accepted at the hearing.

30 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
 31 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
 32 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
 33 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
 34 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
 35 by **a hamlet or a village, as those terms are defined in ORS 190.003, whose boundaries include**  
 36 **the site and by** neighborhood or community organizations recognized by the governing body and  
 37 whose boundaries include the site.

38 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-  
 39 plicant and to the owners of record of property on the most recent property tax assessment roll  
 40 where such property is located:

41 (i) Within 100 feet of the property that is the subject of the notice when the subject property  
 42 is wholly or in part within an urban growth boundary;

43 (ii) Within 250 feet of the property that is the subject of the notice when the subject property  
 44 is outside an urban growth boundary and not within a farm or forest zone; or

45 (iii) Within 750 feet of the property that is the subject of the notice when the subject property

1 is within a farm or forest zone.

2 (B) Notice shall also be provided to **a hamlet or a village, as those terms are defined in ORS**  
 3 **190.003, whose boundaries include the site and to** any neighborhood or community organization  
 4 recognized by the governing body and whose boundaries include the site.

5 (C) At the discretion of the applicant, the local government also shall provide notice to the  
 6 Department of Land Conservation and Development.

7 (12) A decision described in ORS 215.402 (4)(b) shall:

8 (a) Be entered in a registry available to the public setting forth:

9 (A) The street address or other easily understood geographic reference to the subject property;

10 (B) The date of the decision; and

11 (C) A description of the decision made.

12 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a  
 13 limited land use decision.

14 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

15 (13) At the option of the applicant, the local government shall provide notice of the decision  
 16 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal  
 17 to the board shall be filed within 21 days of the decision. The notice shall include an explanation  
 18 of appeal rights.

19 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-  
 20 ject to the requirements set forth in ORS 197.195 and 197.828.

21 **SECTION 9.** ORS 227.175 is amended to read:

22 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the  
 23 hearings officer, or such other person as the city council designates, for a permit or zone change,  
 24 upon such forms and in such a manner as the city council prescribes. The governing body shall es-  
 25 tablish fees charged for processing permits at an amount no more than the actual or average cost  
 26 of providing that service.

27 (2) The governing body of the city shall establish a consolidated procedure by which an appli-  
 28 cant may apply at one time for all permits or zone changes needed for a development project. The  
 29 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-  
 30 idated procedure shall be available for use at the option of the applicant no later than the time of  
 31 the first periodic review of the comprehensive plan and land use regulations.

32 (3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least  
 33 one public hearing on the application.

34 (4) The application shall not be approved unless the proposed development of land would be in  
 35 compliance with the comprehensive plan for the city and other applicable land use regulation or  
 36 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215  
 37 or any city legislation.

38 (5) Hearings under this section may be held only after notice to the applicant and other inter-  
 39 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

40 (6) Notice of a public hearing on a zone use application shall be provided to the owner of an  
 41 airport, defined by the Oregon Department of Aviation as a "public use airport" if:

42 (a) The name and address of the airport owner has been provided by the Oregon Department  
 43 of Aviation to the city planning authority; and

44 (b) The property subject to the zone use hearing is:

45 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon

1 Department of Aviation to be a “visual airport”; or

2 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon  
 3 Department of Aviation to be an “instrument airport.”

4 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing  
 5 need only be provided as set forth in subsection (6) of this section if the permit or zone change  
 6 would only allow a structure less than 35 feet in height and the property is located outside of the  
 7 runway “approach surface” as defined by the Oregon Department of Aviation.

8 (8) If an application would change the zone of property that includes all or part of a mobile  
 9 home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give  
 10 written notice by first class mail to each existing mailing address for tenants of the mobile home  
 11 or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first  
 12 hearing on the application. The governing body may require an applicant for such a zone change to  
 13 pay the costs of such notice.

14 (9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not  
 15 invalidate any zone change.

16 (10)(a)(A) The hearings officer or such other person as the governing body designates may ap-  
 17 prove or deny an application for a permit without a hearing if the hearings officer or other desig-  
 18 nated person gives notice of the decision and provides an opportunity for any person who is  
 19 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,  
 20 to file an appeal.

21 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
 22 of this subsection.

23 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall  
 24 describe the nature of the decision. In addition, the notice shall state that any person who is ad-  
 25 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-  
 26 section may appeal the decision by filing a written appeal in the manner and within the time period  
 27 provided in the city’s land use regulations. A city may not establish an appeal period that is less  
 28 than 12 days from the date the written notice of decision required by this subsection was mailed.  
 29 The notice shall state that the decision will not become final until the period for filing a local appeal  
 30 has expired. The notice also shall state that a person who is mailed written notice of the decision  
 31 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

32 (D) An appeal from a hearings officer’s decision made without hearing under this subsection  
 33 shall be to the planning commission or governing body of the city. An appeal from such other person  
 34 as the governing body designates shall be to a hearings officer, the planning commission or the  
 35 governing body. In either case, the appeal shall be to a de novo hearing.

36 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
 37 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
 38 of Appeals. At the de novo hearing:

39 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
 40 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
 41 the decision;

42 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised  
 43 in a notice of appeal; and

44 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are  
 45 accepted at the hearing.

1 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
 2 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
 3 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
 4 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
 5 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
 6 by a **hamlet or a village, as those terms are defined in ORS 190.003, whose boundaries include**  
 7 **the site and by** neighborhood or community organizations recognized by the governing body and  
 8 whose boundaries include the site.

9 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-  
 10 plicant and to the owners of record of property on the most recent property tax assessment roll  
 11 where such property is located:

12 (i) Within 100 feet of the property that is the subject of the notice when the subject property  
 13 is wholly or in part within an urban growth boundary;

14 (ii) Within 250 feet of the property that is the subject of the notice when the subject property  
 15 is outside an urban growth boundary and not within a farm or forest zone; or

16 (iii) Within 750 feet of the property that is the subject of the notice when the subject property  
 17 is within a farm or forest zone.

18 (B) Notice shall also be provided to a **hamlet or a village, as those terms are defined in ORS**  
 19 **190.003, whose boundaries include the site and to** any neighborhood or community organization  
 20 recognized by the governing body and whose boundaries include the site.

21 (C) At the discretion of the applicant, the local government also shall provide notice to the  
 22 Department of Land Conservation and Development.

23 (11) A decision described in ORS 227.160 (2)(b) shall:

24 (a) Be entered in a registry available to the public setting forth:

25 (A) The street address or other easily understood geographic reference to the subject property;

26 (B) The date of the decision; and

27 (C) A description of the decision made.

28 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a  
 29 limited land use decision.

30 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

31 (12) At the option of the applicant, the local government shall provide notice of the decision  
 32 described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal  
 33 to the board shall be filed within 21 days of the decision. The notice shall include an explanation  
 34 of appeal rights.

35 (13) Notwithstanding other requirements of this section, limited land use decisions shall be  
 36 subject to the requirements set forth in ORS 197.195 and 197.828.