

# House Bill 2997

Sponsored by Representative GARRARD; Representative RICHARDSON (Pre-session filed.)

## 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**.

Establishes five regional land use planning commissions. Prescribes duties and powers of regional commissions. Provides that chairs of regional commissions constitute Land Conservation and Development Commission. Modifies duties and powers of Land Conservation and Development Commission.

Becomes operative on January 2, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to regional land use planning commissions; creating new provisions; amending ORS 183.457,  
3 183.530, 183.635, 195.020, 195.025, 195.034, 195.040, 195.085, 195.120, 195.145, 195.225, 195.260,  
4 195.300, 196.107, 196.115, 196.485, 196.681, 197.015, 197.030, 197.040, 197.045, 197.047, 197.060,  
5 197.070, 197.075, 197.090, 197.095, 197.175, 197.180, 197.225, 197.230, 197.251, 197.253, 197.254,  
6 197.265, 197.274, 197.277, 197.283, 197.296, 197.299, 197.319, 197.320, 197.324, 197.328, 197.335,  
7 197.340, 197.350, 197.395, 197.445, 197.505, 197.610, 197.620, 197.625, 197.626, 197.628, 197.629,  
8 197.633, 197.636, 197.637, 197.638, 197.639, 197.644, 197.646, 197.650, 197.651, 197.652, 197.654,  
9 197.656, 197.658, 197.712, 197.717, 197.768, 197.825, 197.830, 197.835, 197.840, 215.213, 215.263,  
10 215.275, 215.278, 215.282, 215.283, 215.304, 215.306, 215.311, 215.457, 215.459, 215.503, 215.740,  
11 215.780, 223.317, 227.186, 244.050, 284.577, 285C.500, 308A.065, 308A.350, 308A.700, 383.017,  
12 390.322, 468A.363, 469.320 and 469.504; and declaring an emergency.

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

14 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 197.**

15 **SECTION 2. (1) There are established five regional land use planning commissions, each**  
16 **consisting of seven members selected by majority vote of the governing bodies of each county**  
17 **in the region, voting as a unit. If, by this method, a majority of the governing bodies cannot**  
18 **reach agreement on the selection of a member, the Governor shall appoint the member,**  
19 **subject to confirmation by the Senate in the manner provided by ORS 171.562 and 171.565.**

20 **(2) One regional commission shall operate in each of the following areas:**

21 **(a) Region 1, which consists of Clatsop, Columbia, Coos, Curry, Lincoln and Tillamook**  
22 **Counties and those portions of Douglas and Lane Counties lying west of the summit of the**  
23 **Coast Range;**

24 **(b) Region 2, which consists of Clackamas, Multnomah and Washington Counties;**

25 **(c) Region 3, which consists of Benton, Linn, Marion, Polk and Yamhill Counties and that**  
26 **portion of Lane County lying east of the summit of the Coast Range;**

27 **(d) Region 4, which consists of Jackson and Josephine Counties and that portion of**  
28 **Douglas County lying east of the summit of the Coast Range; and**

29 **(e) Region 5, which consists of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood**

**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 River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa,  
2 Wasco and Wheeler Counties.

3 (3) The term of office of each member of a regional commission is four years, but a  
4 member may be removed for cause by majority vote of the governing bodies of each county  
5 in the region, voting as a unit. Before the expiration of the term of a member, a successor  
6 shall be selected by majority vote of the governing bodies of each county in the region, voting  
7 as a unit. A person may not serve more than two full terms as a member of a regional  
8 commission.

9 (4) If there is a vacancy for any cause, the majority vote of the governing bodies of each  
10 county in the region, voting as a unit, shall make a selection to become effective immediately  
11 for the unexpired term.

12 (5) The members of a regional commission shall elect a chair from among the members.

13 (6) Pursuant to ORS chapters 195, 196 and 197, a regional commission shall:

14 (a) Adopt, amend and revise rules necessary for the implementation of statewide land  
15 use planning goals in the region.

16 (b) Review comprehensive plans and regional framework plans for compliance with the  
17 statewide land use planning goals.

18 (c) Prepare, collect, provide or cause to be prepared, collected or provided land use in-  
19 ventories for the region.

20 (d) Coordinate planning efforts of state agencies within the region to ensure compliance  
21 with goals and compatibility with city and county comprehensive plans.

22 (e) Ensure widespread citizen involvement and input in all phases of the process.

23 (f) Review and recommend to the Land Conservation and Development Commission the  
24 designation within the region of areas of critical state concern.

25 (g) In accordance with ORS chapter 183, adopt rules that the regional commission con-  
26 siders necessary to carry out its duties under ORS chapters 195, 196 and 197. Subject to  
27 subsection (7) of this section, in establishing its administrative requirements and procedures,  
28 a regional commission shall:

29 (A) Allow for the diverse administrative and planning capabilities of local governments;

30 (B) Assess what economic and property interests will be, or are likely to be, affected by  
31 a proposed rule;

32 (C) Assess the likely degree of economic impact on identified property and economic in-  
33 terests; and

34 (D) Assess whether alternative actions are available that would achieve the underlying  
35 lawful governmental objective and would have a lesser economic impact.

36 (h) Cooperate with the appropriate agencies of the United States, this state and its poli-  
37 tical subdivisions, any other state, any interstate agency and any person or groups of per-  
38 sons with respect to land conservation and development.

39 (i) Appoint advisory committees to aid the regional commission in carrying out its duties  
40 under ORS chapters 195, 196 and 197 and to provide technical and other assistance, as the  
41 regional commission considers necessary, to each advisory committee.

42 (j) Perform other duties required by law.

43 (7) Subsection (6)(g) of this section does not require an assessment for each lot or parcel  
44 that could be affected by a proposed rule.

45 **SECTION 3.** ORS 197.015 is amended to read:

1 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

2 (1) "Acknowledgment" means [a *commission*] **an** order that certifies that a comprehensive plan  
3 and land use regulations, land use regulation or plan or regulation amendment complies with the  
4 goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan,  
5 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-  
6 work plan comply with the goals.

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

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

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

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

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

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

24 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-  
25 mission pursuant to ORS chapters 195, 196 and 197.

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

31 (10) "Land use decision":

32 (a) Includes:

33 (A) A final decision or determination made by a local government or special district that con-  
34 cerns the adoption, amendment or application of:

35 (i) The goals;

36 (ii) A comprehensive plan provision;

37 (iii) A land use regulation; or

38 (iv) A new land use regulation;

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

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

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

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

45 (B) That approves or denies a building permit issued under clear and objective land use stan-

- 1 dards;
- 2 (C) That is a limited land use decision;
- 3 (D) That determines final engineering design, construction, operation, maintenance, repair or  
4 preservation of a transportation facility that is otherwise authorized by and consistent with the  
5 comprehensive plan and land use regulations;
- 6 (E) That is an expedited land division as described in ORS 197.360;
- 7 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal  
8 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal  
9 under ORS 480.410 to 480.460;
- 10 (G) That approves or denies approval of a final subdivision or partition plat or that determines  
11 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or  
12 partition plan; or
- 13 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-  
14 knowledged comprehensive plan and land use regulations implementing the plan, if:
- 15 (i) The local government has already made a land use decision authorizing a use or activity that  
16 encompasses the proposed state agency action;
- 17 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state  
18 agency action is allowed without review under the acknowledged comprehensive plan and land use  
19 regulations implementing the plan; or
- 20 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state  
21 agency action requires a future land use review under the acknowledged comprehensive plan and  
22 land use regulations implementing the plan;
- 23 (c) Does not include a decision by a school district to close a school;
- 24 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or  
25 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120  
26 hours in any three-month period; and
- 27 (e) Does not include:
- 28 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
- 29 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after  
30 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or
- 31 (C) A state agency action subject to ORS 197.180 (1), if:
- 32 (i) The local government with land use jurisdiction over a use or activity that would be au-  
33 thorized, funded or undertaken by the state agency as a result of the state agency action has already  
34 made a land use decision approving the use or activity; or
- 35 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a  
36 result of the state agency action is allowed without review under the acknowledged comprehensive  
37 plan and land use regulations implementing the plan.
- 38 (11) "Land use regulation" means any local government zoning ordinance, land division ordi-  
39 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for  
40 implementing a comprehensive plan.
- 41 (12) "Limited land use decision":
- 42 (a) Means a final decision or determination made by a local government pertaining to a site  
43 within an urban growth boundary that concerns:
- 44 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS  
45 92.040 (1).

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

4 (b) Does not mean a final decision made by a local government pertaining to a site within an  
 5 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or  
 6 that determines whether a final subdivision or partition plat substantially conforms to the tentative  
 7 subdivision or partition plan.

8 (13) "Local government" means any city, county or metropolitan service district formed under  
 9 ORS chapter 268 or an association of local governments performing land use planning functions  
 10 under ORS 195.025.

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

12 (15) "Metro planning goals and objectives" means the land use goals and objectives that a met-  
 13 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-  
 14 stitute a comprehensive plan.

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

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

21 (18) "Person" means any individual, partnership, corporation, association, governmental subdi-  
 22 vision or agency or public or private organization of any kind. The Land Conservation and Devel-  
 23 opment Commission, or its designee [*is considered a person*], **and a regional commission are**  
 24 **persons** for purposes of appeal under ORS chapters 195 and 197.

25 **(19) "Regional commission" means a regional land use planning commission established**  
 26 **under section 2 of this 2011 Act.**

27 [(19)] (20) "Special district" means any unit of local government, other than a city, county,  
 28 metropolitan service district formed under ORS chapter 268 or an association of local governments  
 29 performing land use planning functions under ORS 195.025, authorized and regulated by statute and  
 30 includes but is not limited to water control districts, domestic water associations and water coop-  
 31 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,  
 32 school districts, hospital districts, mass transit districts and sanitary districts.

33 [(20)] (21) "Urban unincorporated community" means an area designated in a county's ac-  
 34 knowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

35 [(21)] (22) "Voluntary association of local governments" means a regional planning agency in  
 36 this state officially designated by the Governor pursuant to the federal Office of Management and  
 37 Budget Circular A-95 as a regional clearinghouse.

38 [(22)] (23) "Wetlands" means those areas that are inundated or saturated by surface or ground  
 39 water at a frequency and duration that are sufficient to support, and that under normal circum-  
 40 stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

41 **SECTION 4.** ORS 197.030 is amended to read:

42 197.030. [(1)] There is established a Land Conservation and Development Commission [*consisting*  
 43 *of seven members appointed by the Governor, subject to confirmation by the Senate pursuant to section*  
 44 *4, Article III, Oregon Constitution*]. **The members of the commission are the chairs of the five**  
 45 **regional land use planning commissions established under section 2 of this 2011 Act.**

1        [(2) *The Governor shall appoint to the commission:*]

2        [(a) *One member representing Clatsop, Columbia, Coos, Curry, Lincoln and Tillamook Counties and*  
3 *those portions of Douglas and Lane Counties lying west of the summit of the Coast Range;*]

4        [(b) *Two members representing Clackamas, Multnomah and Washington Counties;*]

5        [(c) *One member representing Benton, Linn, Marion, Polk and Yamhill Counties and that portion*  
6 *of Lane County lying east of the summit of the Coast Range;*]

7        [(d) *One member representing Jackson and Josephine Counties and that portion of Douglas County*  
8 *lying east of the summit of the Coast Range;*]

9        [(e) *One member representing Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River,*  
10 *Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler*  
11 *Counties; and]*

12       [(f) *One member representing Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and*  
13 *Yamhill Counties and that portion of Lane County lying east of the summit of the Coast Range.*]

14       [(3) *At least one member shall be or have been an elected city official in Oregon and at least one*  
15 *member shall be an elected county official at the time of appointment.*]

16       [(4) *The term of office of each member of the commission is four years, but a member may be re-*  
17 *moved by the Governor for cause. Before the expiration of the term of a member, the Governor shall*  
18 *appoint a successor. No person shall serve more than two full terms as a member of the commission.*]

19       [(5) *If there is a vacancy for any cause, the Governor shall make an appointment to become im-*  
20 *mediately effective for the unexpired term.*]

21        **SECTION 5.** ORS 197.040 is amended to read:

22        197.040. (1) The Land Conservation and Development Commission shall:

23        (a) Direct the performance by **the five regional land use planning commissions established**  
24 **under section 2 of this 2011 Act**, the Director of the Department of Land Conservation and De-  
25 velopment and the director's staff of their functions under ORS chapters 195, 196 and 197.

26        (b) In accordance with [*the provisions of*] ORS chapter 183, adopt rules that [*it*] **the commission**  
27 considers necessary to [*carry out ORS chapters 195, 196 and 197. Except as provided in subsection*  
28 (*3*) *of this section, in designing its administrative requirements, the commission shall*]:

29        **(A) Establish administrative requirements and procedures to guide the regional commis-**  
30 **sions in the oversight of the implementation of the statewide land use planning goals in their**  
31 **respective regions;**

32        **(B) Guide the director and the Department of Land Conservation and Development in**  
33 **performing their duties; and**

34        [(A) *Allow for the diverse administrative and planning capabilities of local governments;*]

35        [(B)] (C) Consider the variation in conditions and needs in different regions of the state and  
36 encourage regional approaches to resolving land use problems[;].

37        [(C) *Assess what economic and property interests will be, or are likely to be, affected by the pro-*  
38 *posed rule;*]

39        [(D) *Assess the likely degree of economic impact on identified property and economic interests;*  
40 *and]*

41        [(E) *Assess whether alternative actions are available that would achieve the underlying lawful*  
42 *governmental objective and would have a lesser economic impact.*]

43        (c)(A) Adopt by rule in accordance with ORS chapter 183 or by goal under ORS chapters 195,  
44 196 and 197 any statewide land use policies that it considers necessary to carry out ORS chapters  
45 195, 196 and 197.

1 (B) Adopt by rule in accordance with ORS chapter 183 any procedures necessary to carry out  
 2 ORS 215.402 (4)(b) and 227.160 (2)(b).

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

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

9 (e) Appoint advisory committees to aid *[it]* **the commission** in carrying out ORS chapters 195,  
 10 196 and 197 and **to** provide technical and other assistance, as *[it]* **the commission** considers nec-  
 11 essary, to each *[such]* **advisory** committee.

12 (2) Pursuant to ORS chapters 195, 196 and 197, the commission shall:

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

14 *[(b) Prepare, collect, provide or cause to be prepared, collected or provided land use inventories;]*

15 *[(c) (b) Prepare statewide land use planning guidelines;*

16 **(c) Review the activities of regional commissions to ensure that rules and decisions of**  
 17 **each regional commission are consistent with statewide land use planning goals;**

18 *[(d) Review comprehensive plans for compliance with goals;]*

19 *[(e) Coordinate planning efforts of state agencies to assure compliance with goals and compatibility*  
 20 *with city and county comprehensive plans;]*

21 *[(f) (d) [Insure] Ensure* widespread citizen involvement and input in all phases of the process;

22 *[(g) (e) Review and recommend to the Legislative Assembly the designation of areas of critical*  
 23 *state concern;*

24 *[(h) (f) Report periodically to the Legislative Assembly and to the appropriate legislative*  
 25 *committee;*

26 *[(i) (g) Review the land use planning responsibilities and authorities given to the state, regions,*  
 27 *counties and cities, review the resources available to each level of government and make recom-*  
 28 *mendations to the Legislative Assembly to improve the administration of the statewide land use*  
 29 *program; and*

30 *[(j) (h) Perform other duties required by law.*

31 *[(3) The requirements of subsection (1)(b) of this section shall not be interpreted as requiring an*  
 32 *assessment for each lot or parcel that could be affected by the proposed rule.]*

33 **SECTION 6.** ORS 197.045 is amended to read:

34 197.045. The Land Conservation and Development Commission **or a regional commission** may:

35 (1) Apply for and receive moneys from the federal government and from this state or any of its  
 36 agencies or departments.

37 (2) Contract with any public agency for the performance of services or the exchange of em-  
 38 ployees or services by one to the other necessary in carrying out **its duties under** ORS chapters  
 39 195, 196 and 197.

40 (3) Contract for the services of and consultation with professional persons or organizations, not  
 41 otherwise available through federal, state and local governmental agencies, in carrying out its duties  
 42 under ORS chapters 195, 196 and 197.

43 (4) Perform other functions required to carry out **its duties under** ORS chapters 195, 196 and  
 44 197.

45 (5) Assist in development and preparation of model land use regulations to guide state agencies,

1 cities, counties and special districts in implementing **statewide land use planning** goals.

2 (6) Notwithstanding any other provision of law, review comprehensive plan and land use regu-  
3 lations related to the identification and designation of high-value farmland pursuant to chapter 792,  
4 Oregon Laws 1993, under procedures set forth in ORS 197.251.

5 **SECTION 7.** ORS 197.047 is amended to read:

6 197.047. (1) As used in this section, "owner" means the owner of the title to real property or the  
7 contract purchaser of real property, of record as shown on the last available complete tax assess-  
8 ment roll.

9 (2) At least 90 days prior to the final public hearing on a proposed new or amended adminis-  
10 trative rule of the Land Conservation and Development Commission **or the regional commission**  
11 **for the region** described in subsection (10) of this section, the Department of Land Conservation  
12 and Development shall cause the notice set forth in subsection (3) of this section to be mailed to  
13 every affected local government that exercises land use planning authority under ORS 197.175.

14 (3) The notice required in subsection (2) of this section must:

15 (a) Contain substantially the following language in boldfaced type across the top of the face  
16 page extending from the left margin to the right margin:

17 \_\_\_\_\_  
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19 This is to notify you that the Land Conservation and Development Commission **or the regional**  
20 **commission for the region** has proposed a new or amended administrative rule that, if adopted,  
21 may affect the permissible uses of properties in your jurisdiction.

22 \_\_\_\_\_  
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24 (b) Contain substantially the following language in the body of the notice:

25 \_\_\_\_\_  
26

27 On (date of public hearing), the Land Conservation and Development Commission **or the re-**  
28 **gional commission for the region** will hold a public hearing regarding adoption of proposed (new  
29 or amended) rule (number). Adoption of the rule may change the zoning classification of properties  
30 in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your ju-  
31 risdiction.

32 Rule (number) is available for inspection at the Department of Land Conservation and Devel-  
33 opment located at (address). A copy of the proposed rule (number) also is available for purchase at  
34 a cost of \$\_\_\_\_\_.

35 For additional information, contact the Department of Land Conservation and Development at  
36 (telephone number).

37 \_\_\_\_\_  
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39 (4) A local government that receives notice under subsection (2) of this section shall cause the  
40 notice set forth in subsection (5) of this section to be mailed to every owner of real property that  
41 will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be  
42 mailed at least 45 days prior to the final public hearing on the proposed rule.

43 (5) The notice required in subsection (4) of this section must:

44 (a) Contain substantially the following language in boldfaced type across the top of the face  
45 page extending from the left margin to the right margin:



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This is to notify you that the Land Conservation and Development Commission **or the regional commission for the region** has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties.

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(b) Contain substantially the following language in the body of the notice:

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On (date of public hearing), the Land Conservation and Development Commission **or the regional commission for the region** will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of the rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

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(6) At least 90 days prior to the effective date of a new or amended statute or administrative rule described in subsection (10) of this section, the department shall cause the notice set forth in subsection (7) of this section to be mailed to every affected local government that exercises land use planning authority under ORS 197.175 unless the statute or rule is effective within 90 days of enactment or adoption, in which case the department shall cause the notice to be mailed not later than 30 days after the statute or rule is effective.

(7) The notice required in subsection (6) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

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(Check on the appropriate line:)

\_\_\_\_\_ This is to notify you that the Land Conservation and Development Commission **or the regional commission for the region** has adopted an administrative rule that may affect the permissible uses of properties in your jurisdiction; or

\_\_\_\_\_ This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of properties in your jurisdiction.

---

(b) Contain substantially the following language in the body of the notice:

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(Check on the appropriate line:)

\_\_\_\_\_ On (date of rule adoption), the Land Conservation and Development Commission **or the**

1 **regional commission for the region** adopted administrative rule (number). The **Land Conserva-**  
2 **tion and Development Commission or the regional commission for the region** has determined  
3 that this rule may change the zoning classification of properties in your jurisdiction or may limit  
4 or prohibit land uses previously allowed on properties in your jurisdiction.

5 Rule (number) is available for inspection at the Department of Land Conservation and Devel-  
6 opment located at (address). A copy of the rule (number) also is available for purchase at a cost of  
7 \$\_\_\_\_\_.

8 For additional information, contact the Department of Land Conservation and Development at  
9 (telephone number); or

10 \_\_\_\_\_ On (date of enactment) the Legislative Assembly enacted (House/Senate bill number).  
11 The Department of Land Conservation and Development has determined that enactment of  
12 (House/Senate bill number) may change the zoning classification of properties in your jurisdiction  
13 or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

14 A copy of (House/Senate bill number) is available for inspection at the Department of Land  
15 Conservation and Development located at (address). A copy of (House/Senate bill number) also is  
16 available for purchase at a cost of \$\_\_\_\_\_.

17 For additional information, contact the Department of Land Conservation and Development at  
18 (telephone number).

19 \_\_\_\_\_

20  
21 (8) A local government that receives notice under subsection (6) of this section shall cause a  
22 copy of the notice set forth in subsection (9) of this section to be mailed to every owner of real  
23 property that will be rezoned as a result of adoption of the rule or enactment of the statute, unless  
24 notification was provided pursuant to subsection (4) of this section. The local government shall mail  
25 the notice to an owner under this subsection at least 45 days prior to the effective date of the rule  
26 or statute unless the [*statute or*] rule **or statute** is effective within 90 days of [*enactment or*]  
27 adoption **or enactment**, in which case the local government shall mail the notice to an owner under  
28 this subsection not later than 30 days after the local government receives notice under subsection  
29 (6) of this section.

30 (9) The notice required in subsection (8) of this section must:

31 (a) Contain substantially the following language in boldfaced type across the top of the face  
32 page extending from the left margin to the right margin:

33 \_\_\_\_\_

34  
35 (Check on the appropriate line:)

36 \_\_\_\_\_ This is to notify you that the Land Conservation and Development Commission **or the**  
37 **regional commission for the region** has adopted an administrative rule that may affect the per-  
38 missible uses of your property and other properties; or

39 \_\_\_\_\_ This is to notify you that the Legislative Assembly has enacted a land use planning  
40 statute that may affect the permissible uses of your property and other properties.

41 \_\_\_\_\_

42  
43 (b) Contain substantially the following language in the body of the notice:

44 \_\_\_\_\_

45

(Check on the appropriate line:)

\_\_\_\_\_ On (date of rule adoption), the Land Conservation and Development Commission **or the regional commission for the region** adopted administrative rule (number). The rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

\_\_\_\_\_ On (date of enactment) the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(10) The provisions of this section apply to all statutes and **to all** administrative rules of the Land Conservation and Development Commission **or the regional commission for the region** that limit or prohibit otherwise permissible land uses or cause a local government to rezone property. For purposes of this section, property is rezoned when the statute or administrative rule causes a local government to:

- (a) Change the base zoning classification of the property; or
- (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(11) The Department of Land Conservation and Development shall reimburse the local government for:

- (a) The actual costs incurred responding to questions from the public related to a proposed new or amended administrative rule of the Land Conservation and Development Commission **or the regional commission for the region** and to notice of the proposed rule; and
- (b) All usual and reasonable costs of providing the notices required under subsection (4) or (8) of this section.

**SECTION 8.** ORS 197.060 is amended to read:

197.060. (1) Prior to the end of each even-numbered year, the Department of Land Conservation and Development shall prepare a written report for submission to the Legislative Assembly [*of the State of Oregon*] describing activities and accomplishments of the department, Land Conservation and Development Commission, **regional commissions**, state agencies, local governments and special districts in carrying out ORS chapters 195, 196 and 197.

(2) A draft of the report required by subsection (1) of this section shall be submitted to the appropriate legislative committee at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

1 (3) Goals and guidelines adopted by the **Land Conservation and Development** Commission  
 2 **under ORS 197.225** shall be included in the report to the Legislative Assembly submitted under  
 3 subsection (1) of this section.

4 (4) The department shall include in its biennial report:

5 (a) A description of its activities implementing ORS 197.631; and

6 (b) An accounting of new statutory, land use planning goal and rule requirements and local  
 7 government compliance with the new requirements pursuant to ORS 197.646.

8 **SECTION 9.** ORS 197.070 is amended to read:

9 197.070. (1) The Land Conservation and Development Commission shall keep on file and avail-  
 10 able for public inspection the assessments prepared pursuant to ORS [197.040 and] 197.230.

11 **(2) A regional commission shall keep on file and available for public inspection the as-**  
 12 **essments prepared pursuant to section 2 (6)(g) of this 2011 Act.**

13 **SECTION 10.** ORS 197.075 is amended to read:

14 197.075. The Department of Land Conservation and Development is established. The department  
 15 [shall consist] **consists** of the Land Conservation and Development Commission, **the five regional**  
 16 **land use planning commissions established under section 2 of this 2011 Act**, the Director of the  
 17 Department of Land Conservation and Development and their subordinate officers and employees.

18 **SECTION 11.** ORS 197.090, as amended by section 8, chapter 8, Oregon Laws 2010, and section  
 19 10, chapter 107, Oregon Laws 2010, is amended to read:

20 197.090. (1) Subject to policies adopted by the Land Conservation and Development Commission,  
 21 the Director of the Department of Land Conservation and Development [shall]:

22 (a) [Be] **Is** the administrative head of the Department of Land Conservation and Development.

23 (b) **Shall** coordinate the activities of the department in its land conservation and development  
 24 functions with such functions of federal agencies, other state agencies, local governments and spe-  
 25 cial districts.

26 (c) **Shall** appoint, reappoint, assign and reassign all subordinate officers and employees of the  
 27 department, prescribe their duties and fix their compensation, subject to the State Personnel Re-  
 28 lations Law.

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

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

33 (A) A land use decision, expedited land division or limited land use decision involving the goals  
 34 or involving an acknowledged comprehensive plan and land use regulations implementing the plan;  
 35 or

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

38 (b) The director shall report to [the commission] **a regional commission** on each case in which  
 39 the department participates and on the positions taken by the director in each case.

40 (c) If a [meeting of the] **regional** commission is scheduled **to meet** prior to the close of the pe-  
 41 riod for seeking review of a land use decision, expedited land division or limited land use decision  
 42 **in the region**, the director shall obtain formal approval from the **regional** commission prior to  
 43 seeking review of the decision. However, if the land use decision, expedited land division or limited  
 44 land use decision becomes final less than 15 days before a meeting of the **regional** commission, the  
 45 director shall proceed as provided in paragraph (d) of this subsection. If the director requests ap-

1 proval from the **regional** commission, the applicant and the affected local government [*shall*] **must**  
 2 be notified in writing that the director is seeking commission approval. The director, the applicant  
 3 and the affected local government [*shall*] **must** be given reasonable time to address the **regional**  
 4 commission regarding the director’s request for approval to seek review. The parties shall limit their  
 5 testimony to the factors established under subsection (3) of this section. [*No other testimony shall*  
 6 *be taken by the commission.*] **The regional commission may not take other testimony.**

7 (d) If a [*meeting of the*] **regional** commission is not scheduled **to meet** prior to the close of the  
 8 period for seeking review of a land use decision, expedited land division or limited land use decision  
 9 **in the region**, at the next [*commission*] meeting **of the regional commission** the director shall re-  
 10 port to the **regional** commission on each case for which the department has sought review **in the**  
 11 **region**. The director shall request formal approval to proceed with each appeal. The applicant and  
 12 the affected local government [*shall*] **must** be notified of the **regional** commission meeting in writing  
 13 by the director. The director, the applicant and the affected local government shall be given rea-  
 14 sonable time to address the **regional** commission regarding the director’s request for approval to  
 15 proceed with the appeal. The parties shall limit their testimony to the factors established under  
 16 subsection (3) of this section. [*No other testimony shall be taken by the commission.*] **The regional**  
 17 **commission may not take other testimony.** If the **regional** commission does not formally approve  
 18 an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

19 (e) A decision by [*the*] **a regional** commission under this subsection is not subject to appeal.

20 (f) For purposes of this subsection, “applicant” means a person seeking approval of a permit, as  
 21 defined in ORS 215.402 or 227.160, expedited land division or limited land use decision.

22 (3) The commission by rule shall adopt a set of factors for [*the*] **a regional** commission to con-  
 23 sider when determining whether to appeal or intervene in the appeal of a land use decision, expe-  
 24 dited land division or limited land use decision **in the region** that involves the application of the  
 25 goals, acknowledged comprehensive plan, land use regulation or other matter within the authority  
 26 of the department [*or commission*] under ORS chapters 195, 196 and 197.

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

30 **SECTION 12.** ORS 197.095 is amended to read:

31 197.095. (1) There is established in the General Fund in the State Treasury the Land Conserva-  
 32 tion and Development Account. Moneys in the account are continuously appropriated **to the De-**  
 33 **partment of Land Conservation and Development** for the purpose of carrying out ORS chapters  
 34 195, 196 and 197.

35 (2) All fees, moneys and other revenue received by the Department of Land Conservation and  
 36 Development shall be deposited in the Land Conservation and Development Account.

37 **SECTION 13.** ORS 197.175 is amended to read:

38 197.175. (1) Cities and counties shall exercise their planning and zoning responsibilities, includ-  
 39 ing, but not limited to, a city or special district boundary change which shall mean the annexation  
 40 of unincorporated territory by a city, the incorporation of a new city and the formation or change  
 41 of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410  
 42 to 199.534 or 451.010 to 451.620, in accordance with ORS chapters 195, 196 and 197 and the goals  
 43 approved under ORS chapters 195, 196 and 197. The [*Land Conservation and Development Commis-*  
 44 *sion*] **regional commissions** shall adopt rules clarifying how the goals apply to the incorporation  
 45 of a new city. [*Notwithstanding the provisions of section 15, chapter 827, Oregon Laws 1983, the rules*

1 shall take effect upon adoption by the commission. The applicability of rules promulgated under this  
 2 section to the incorporation of cities prior to August 9, 1983, shall be determined under the laws of this  
 3 state.]

4 (2) Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

5 (a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved  
 6 by the **Land Conservation and Development** Commission;

7 (b) Enact land use regulations to implement *[their]* **its** comprehensive plans;

8 (c) If its comprehensive plan and land use regulations have not been acknowledged *[by the*  
 9 *commission]* **under ORS 197.251**, make land use decisions and limited land use decisions in compli-  
 10 ance with the goals;

11 (d) If its comprehensive plan and land use regulations have been acknowledged *[by the commis-*  
 12 *sion]* **under ORS 197.251**, make land use decisions and limited land use decisions in compliance with  
 13 the acknowledged plan and land use regulations; and

14 (e) Make land use decisions and limited land use decisions subject to an unacknowledged  
 15 amendment to a comprehensive plan or land use regulation in compliance with those land use goals  
 16 applicable to the amendment.

17 (3) Notwithstanding subsection (1) of this section, **neither** the commission *[shall not]* **nor a re-**  
 18 **gional commission may** initiate by its own action any annexation of unincorporated territory  
 19 pursuant to ORS 222.111 to 222.750 or formation of and annexation of territory to any district au-  
 20 thorized by ORS 198.510 to 198.915 or 451.010 to 451.620.

21 **SECTION 14.** ORS 197.180 is amended to read:

22 197.180. (1) Except as provided in ORS 197.277 or subsection (2) of this section or unless ex-  
 23 pressly exempted by another statute from any of the requirements of this section, state agencies  
 24 shall carry out their planning duties, powers and responsibilities and take actions that are author-  
 25 ized by law with respect to programs affecting land use:

26 (a) In compliance with the goals, rules implementing the goals and rules implementing this sec-  
 27 tion; and

28 (b) In a manner compatible with acknowledged comprehensive plans and land use regulations.

29 (2) State agencies need not comply with subsection (1)(b) of this section if a state agency rule,  
 30 plan or program relating to land use was not in effect when the comprehensive plan provision or  
 31 land use regulation with which the action would be incompatible was acknowledged and the agency  
 32 has demonstrated that:

33 (a) The state agency rule, plan or program is mandated by state statute or federal law;

34 (b) The state agency rule, plan or program is consistent with the goals;

35 (c) The state agency rule, plan or program has objectives that cannot be achieved in a manner  
 36 compatible with the acknowledged comprehensive plan and land use regulations; and

37 (d) The agency has complied with its certified state agency coordination program.

38 (3) Unless federal or state law requires otherwise, the **Land Conservation and Development**  
 39 Commission, by rule, may specify the sequence of a local government land use decision and a state  
 40 agency action concerning the same, similar or related uses or activities.

41 (4) Upon request by *[the Land Conservation and Development]* **a regional** commission, each state  
 42 agency shall submit to the Department of Land Conservation and Development **by a specified date**  
 43 the following information **relating to the particular region**:

44 (a) Agency rules and summaries of state agency plans and programs affecting land use;

45 (b) A program for coordination pursuant to *[ORS 197.040 (2)(e)]* **section 2 (6)(d) of this 2011**

1 **Act;**

2 (c) A program for coordination pursuant to ORS 197.090 (1)(b); and

3 (d) A program for cooperation with and technical assistance to local governments.

4 (5) Within 90 days of receipt, the Director of the Department of Land Conservation and Devel-  
5 opment shall review the information submitted pursuant to subsection (4) of this section and shall  
6 notify each state agency if the director believes the state agency rules, plans or programs submitted  
7 are insufficient to ensure compliance with goals and compatibility with acknowledged comprehensive  
8 plans and land use regulations.

9 (6) Within 90 days of receipt of notification specified in subsection (5) of this section, the state  
10 agency may revise the state agency rules, plans or programs and resubmit them to the director.

11 (7) The director shall make findings under subsections (5) and (6) of this section as to whether  
12 the state agency rules, plans or programs are sufficient to ensure compliance with the goals and  
13 compatibility with acknowledged city and county comprehensive plans and land use regulations and  
14 shall forward the rules and summaries of state agency plans or programs to the **regional** commission  
15 **for the region** for its action. The **regional** commission shall either certify the state agency rules,  
16 plans or programs as compliant with the goals and compatible with the acknowledged comprehensive  
17 plans and land use regulations of affected local governments or shall determine the same to be in-  
18 sufficient.

19 (8) The department shall report, to the appropriate committee of the House and the Senate and  
20 to the subcommittee of the Joint **Committee on Ways and Means** [*Committee*] that considers the  
21 state agency budget, any agency that has failed to meet the requirements of subsection (7) of this  
22 section.

23 (9) Any state agency that has failed to meet the requirements of subsection (7) of this section  
24 shall report the reasons therefor to the appropriate committee of the House and the Senate and to  
25 the subcommittee of the Joint **Committee on Ways and Means** [*Committee*] that considers the  
26 agency budget.

27 (10) Until rules and state agency plans and programs are certified as compliant with the goals  
28 and compatible with the acknowledged comprehensive plans and land use regulations of affected  
29 local governments, the state agency shall make findings when adopting or amending its rules and  
30 state agency plans and programs as to the applicability and application of the goals or acknowl-  
31 edged comprehensive plans, as appropriate.

32 (11) [*The*] **A regional** commission shall adopt rules establishing procedures to ensure that state  
33 agency permits affecting land use are issued in compliance with the goals and compatible with ac-  
34 knowledged comprehensive plans and land use regulations, as required by subsection (1) of this  
35 section. The rules must prescribe the circumstances in which state agencies may rely upon a de-  
36 termination of compliance with the goals or compatibility with the acknowledged comprehensive  
37 plan.

38 (12) A state agency required to have a land use coordination program shall participate in a local  
39 government land use hearing, except a hearing under ORS 197.610 to 197.625, only in a manner that  
40 is consistent with the coordination program, unless the agency participated in the local  
41 government's periodic review pursuant to ORS 197.633 and raised the issue that is the basis for  
42 participation in the land use hearing.

43 (13) State agency rules, plans or programs affecting land use are not compatible with an ac-  
44 knowledged comprehensive plan if the state agency takes or approves an action that is not allowed  
45 under the acknowledged comprehensive plan. However, a state agency may apply statutes and rules

1 to deny, condition or further restrict an action of the state agency or of any applicant before the  
 2 state agency if the state agency applies those statutes and rules to the uses planned for in the ac-  
 3 knowledged comprehensive plan.

4 (14) In cooperation with local governments and state agencies whose rules, plans or programs  
 5 affect land use, the department periodically shall:

6 (a) Identify aspects of coordination related to uses that require the issuance of multiple permits  
 7 from state agencies and local governments.

8 (b) Update and improve rules regulating the effectiveness and efficiency of state agency coordi-  
 9 nation programs.

10 (15) This section does not apply to rules, plans, programs, decisions, determinations or activities  
 11 carried out under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

12 **SECTION 15.** ORS 197.225 is amended to read:

13 197.225. The Department of Land Conservation and Development shall prepare and the Land  
 14 Conservation and Development Commission shall adopt goals and guidelines for use by [*state agen-*  
 15 *cies,*] **regional commissions to ensure that** local governments and special districts [*in preparing,*  
 16 *adopting, amending and implementing existing and future comprehensive plans*] **prepare, adopt,**  
 17 **amend and implement comprehensive plans in a manner that complies with the goals.**

18 **SECTION 16.** ORS 197.230 is amended to read:

19 197.230. (1) In preparing, adopting and amending goals and guidelines **under ORS 197.225**, the  
 20 Department of Land Conservation and Development and the Land Conservation and Development  
 21 Commission shall:

22 (a) Assess:

23 (A) What economic and property interests will be, or are likely to be, affected by the proposed  
 24 goal or guideline;

25 (B) The likely degree of economic impact on identified property and economic interests; and

26 (C) Whether alternative actions are available that would achieve the underlying lawful govern-  
 27 mental objective and would have a lesser economic impact.

28 (b) Consider the existing comprehensive plans of local governments and the plans and programs  
 29 affecting land use of state agencies and special districts in order to preserve functional and local  
 30 aspects of land conservation and development.

31 (c) Give consideration to the following areas and activities:

32 (A) Lands adjacent to freeway interchanges;

33 (B) Estuarine areas;

34 (C) Tide, marsh and wetland areas;

35 (D) Lakes and lakeshore areas;

36 (E) Wilderness, recreational and outstanding scenic areas;

37 (F) Beaches, dunes, coastal headlands and related areas;

38 (G) Wild and scenic rivers and related lands;

39 (H) Floodplains and areas of geologic hazard;

40 (I) Unique wildlife habitats; and

41 (J) Agricultural land.

42 (d) Make a finding of statewide need for the adoption of any new goal or the amendment of any  
 43 existing goal.

44 (e) Design goals to allow a reasonable degree of flexibility in the application of goals by state  
 45 agencies, cities, counties and special districts.



1 (2) Goals shall not be land management regulations for specified geographic areas established  
2 through designation of an area of critical state concern under ORS 197.405.

3 (3) The requirements of subsection (1)(a) of this section shall not be interpreted as requiring an  
4 assessment for each lot or parcel that could be affected by the proposed rule.

5 (4) The commission may exempt cities with a population less than 10,000, or those areas of a  
6 county inside an urban growth boundary that contain a population less than 10,000, from all or any  
7 part of land use planning goals, guidelines and administrative rules that relate to transportation  
8 planning.

9 **SECTION 17.** ORS 197.251 is amended to read:

10 197.251. (1) Upon the request of a local government, the [*Land Conservation and Development*  
11 *Commission*] **regional commission for the region** shall by order grant, deny or continue acknowl-  
12 edgment of compliance of comprehensive plan and land use regulations with the goals. [*A commis-*  
13 *sion*] **An** order granting, denying or continuing acknowledgment shall be entered within 90 days of  
14 the date of the request by the local government unless the **regional** commission finds that due to  
15 extenuating circumstances a period of time greater than 90 days is required.

16 (2) In accordance with rules of the **regional** commission, the Director of the Department of Land  
17 Conservation and Development shall prepare a report for the **regional** commission stating whether  
18 the comprehensive plan and land use regulations for which acknowledgment is sought are in com-  
19 pliance with the goals. The rules of [*the*] **a regional** commission shall:

20 (a) Provide a reasonable opportunity for persons to prepare and to submit to the director written  
21 comments and objections to the acknowledgment request; and

22 (b) Authorize the director to investigate and in the report to resolve issues raised in the com-  
23 ments and objections or by the director's own review of the comprehensive plan and land use reg-  
24 ulations.

25 (3) Upon completion of the report and before the **regional** commission meeting at which the  
26 director's report is to be considered, the director shall afford the local government and persons who  
27 submitted written comments or objections a reasonable opportunity to file written exceptions to the  
28 report.

29 (4) [*The*] **A regional** commission's review of the acknowledgment request shall be confined to  
30 the record of proceedings before the local government, any comments, objections and exceptions  
31 filed under subsections (2) and (3) of this section and the **director's** report [*of the director*]. Upon  
32 its consideration of an acknowledgment request, the **regional** commission may entertain oral argu-  
33 ment from the director and from persons who filed written comments, objections or exceptions.  
34 However, the **regional** commission [*shall*] **may** not allow additional evidence or testimony that could  
35 have been presented to the local government or to the director but was not.

36 (5) A **regional** commission order granting, denying or continuing acknowledgment shall include  
37 a clear statement of findings [*which*] **that** sets forth the basis for the approval, denial or continuance  
38 of acknowledgment. The findings shall:

39 (a) Identify the goals applicable to the comprehensive plan and land use regulations; and

40 (b) Include a clear statement of findings in support of the determinations of compliance and  
41 noncompliance.

42 (6) A **regional** commission order granting acknowledgment shall be limited to an identifiable  
43 geographic area described in the order if:

44 (a) Only the identified geographic area is the subject of the acknowledgment request; or

45 (b) Specific geographic areas do not comply with the applicable goals, and the goal requirements

1 are not technical or minor in nature.

2 (7) [The] **A regional** commission may issue a limited acknowledgment order when a previously  
3 issued acknowledgment order is reversed or remanded by the Court of Appeals or the Oregon Su-  
4 preme Court. [Such] A limited acknowledgment order may deny or continue acknowledgment of that  
5 part of the comprehensive plan or land use regulations that the court found not in compliance [or  
6 not consistent] with the goals and grant acknowledgment of all other parts of the comprehensive plan  
7 and land use regulations.

8 (8) A limited acknowledgment order shall be considered an acknowledgment for all purposes and  
9 shall be a final order for purposes of judicial review with respect to the acknowledged geographic  
10 area. A limited order may be adopted in conjunction with a continuance or denial order.

11 (9) The director shall notify the Real Estate Agency, the local government and all persons who  
12 filed comments or objections with the director of any grant, denial or continuance of acknowledg-  
13 ment.

14 (10) [The] **A regional** commission may grant a planning extension, which shall be a grant of  
15 additional time for a local government to comply with the goals in accordance with a compliance  
16 schedule. A compliance schedule shall be a listing of the tasks [which] **that** the local government  
17 must complete in order to bring its comprehensive plan, land use regulations, land use decisions and  
18 limited land use decisions into initial compliance with the goals, including a generalized time  
19 schedule showing when the tasks are estimated to be completed and when a comprehensive plan or  
20 land use regulations [which] **that** comply with the goals are estimated to be adopted. In developing  
21 a compliance schedule, the **regional** commission shall consider the population, geographic area, re-  
22 sources and capabilities of the city or county.

23 (11) As used in this section:

24 (a) "Continuance" means a **regional** commission order that:

25 (A) Certifies that all or part of a comprehensive plan, land use regulations or both a compre-  
26 hensive plan and land use regulations do not comply with one or more goals;

27 (B) Specifies amendments or other action that must be completed within a specified time period  
28 for acknowledgment to occur; and

29 (C) Is a final order for purposes of judicial review of the comprehensive plan, land use regu-  
30 lations or both the comprehensive plan and land use regulations as to the parts found consistent or  
31 in compliance with the goals.

32 (b) "Denial" means a **regional** commission order that:

33 (A) Certifies that a comprehensive plan, land use regulations or both a comprehensive plan and  
34 land use regulations do not comply with one or more goals;

35 (B) Specifies amendments or other action that must be completed for acknowledgment to occur;  
36 and

37 (C) Is used when the amendments or other changes required in the comprehensive plan, land use  
38 regulations or both the comprehensive plan and land use regulations affect many goals and are  
39 likely to take a substantial period of time to complete.

40 **SECTION 18.** ORS 197.253 is amended to read:

41 197.253. Notwithstanding [the provisions of] ORS 197.251 (2)(a), a person may not submit written  
42 comments and objections to the acknowledgment request of any city or county that submits its plan  
43 or regulations to the [Land Conservation and Development Commission] **regional commission for**  
44 **the region** for acknowledgment [for the first time after August 9, 1983,] unless the person partic-  
45 ipated either orally or in writing in the local government proceedings leading to the adoption of the

1 plan and regulations.

2 **SECTION 19.** ORS 197.254 is amended to read:

3 197.254. (1) A state agency shall be barred after the date set for submission of programs by *[the*  
4 *Land Conservation and Development Commission]* a **regional commission** as provided in ORS  
5 197.180 (4), from contesting a request for acknowledgment submitted by a local government under  
6 ORS 197.251 or from filing an appeal under ORS 197.620 (1) or (2), if the **regional** commission finds  
7 that:

8 (a) The state agency has not complied with ORS 197.180; or

9 (b) The state agency has not coordinated its plans, programs or rules affecting land use with the  
10 comprehensive plan or land use regulations of the city or county pursuant to a coordination program  
11 approved by the **regional** commission **for the region** under ORS 197.180.

12 (2) A state agency shall be barred from seeking a **regional** commission order under ORS 197.644  
13 requiring amendment of a local government comprehensive plan or land use regulation in order to  
14 comply with the agency's plan or program unless the agency has first requested the amendment from  
15 the local government and has had its request denied.

16 (3) A special district shall be barred from contesting a request for initial compliance acknowl-  
17 edgment submitted by a local government under ORS 197.251 or from filing an appeal under ORS  
18 197.620 (1) or (2), if the county or Metropolitan Service District assigned coordinative functions  
19 under ORS 195.025 (1) finds that:

20 (a) The special district has not entered into a cooperative agreement under ORS 195.020; or

21 (b) The special district has not coordinated its plans, programs or regulations affecting land use  
22 with the comprehensive plan or land use regulations of the local government pursuant to its coop-  
23 erative agreement made under ORS 195.020.

24 (4) A special district shall be barred from seeking a **regional** commission order under ORS  
25 197.644 requiring amendment of a local government comprehensive plan or land use regulation in  
26 order to comply with the special district's plan or program unless the special district has first re-  
27 quested the amendment from the local government and has had its request denied.

28 **SECTION 20.** ORS 197.265 is amended to read:

29 197.265. (1) As used in this section, "action" includes but is not limited to a proceeding under  
30 ORS 197.830 to 197.845.

31 (2) If any action is brought against a local government challenging any comprehensive plan, land  
32 use regulation or other action of the local government *[which]* **that** was adopted or taken for the  
33 primary purpose of complying with the goals approved under ORS 197.240 and *[which]* **that** does in  
34 fact comply with the goals, then the **Department of** Land Conservation and Development *[Com-*  
35 *mission]* shall pay reasonable attorney fees and court costs incurred by *[such]* **the** local government  
36 in the action or suit including any appeal, to the extent *[funds have been specifically appropriated*  
37 *to the commission therefor]* **the Legislative Assembly has appropriated moneys to the depart-**  
38 **ment specifically for that purpose.**

39 **SECTION 21.** ORS 197.274 is amended to read:

40 197.274. (1) The Metro regional framework plan, its separate components and amendments to the  
41 regional framework plan or to its separate components are subject to review:

42 (a) For compliance with land use planning statutes, statewide land use planning goals and ad-  
43 ministrative rules corresponding to the statutes and goals, in the same manner as a comprehensive  
44 plan for purposes of:

45 (A) Acknowledgment of compliance with the goals under ORS 197.251; and

1 (B) Post-acknowledgment procedures under ORS 197.610 to 197.650; and

2 (b) As a land use decision under ORS 197.805 to 197.855 and 197.860.

3 (2) With the prior consent of the [*Land Conservation and Development Commission*] **regional**  
4 **commission for the region**, Metro may submit to the Department of Land Conservation and De-  
5 velopment an amendment to the Metro regional framework plan or to a component of the regional  
6 framework plan in the manner provided for periodic review under ORS 197.628 to 197.650, if the  
7 amendment implements a program to meet the requirements of a land use planning statute, a state-  
8 wide land use planning goal or an administrative rule corresponding to a statute or goal.

9 **SECTION 22.** ORS 197.277 is amended to read:

10 197.277. (1) The goals and rules established in ORS chapters 195, 196 and 197 do not apply to  
11 programs, rules, procedures, decisions, determinations or activities carried out under the Oregon  
12 Forest Practices Act administered under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

13 (2) No goal or rule shall be adopted, construed or administered in a manner to require or allow  
14 local governments to take any action prohibited by ORS 527.722.

15 (3) The Land Conservation and Development Commission shall amend goals and rules, **and a**  
16 **regional commission shall amend rules**, as necessary to implement **this section and** ORS 197.180,  
17 [*197.277,*] 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620,  
18 527.630, 527.660, 527.670, 527.683 to 527.687, 527.715, 527.990 and 527.992.

19 **SECTION 23.** ORS 197.283 is amended to read:

20 197.283. (1) The [*Land Conservation and Development Commission*] **regional commission for the**  
21 **region** shall take actions [*it*] **the regional commission** considers necessary to [*assure*] **ensure** that  
22 city and county comprehensive plans and land use regulations and state agency coordination pro-  
23 grams **within the region** are consistent with the goal set forth in ORS 468B.155.

24 (2) The **regional** commission shall direct the Department of Land Conservation and Development  
25 to take actions the department considers appropriate to [*assure*] **ensure** that any information con-  
26 tained in a city or county comprehensive plan that pertains to the ground water resource of Oregon  
27 [*shall be*] **is** forwarded to the centralized repository established under ORS 468B.167.

28 **SECTION 24.** ORS 197.296 is amended to read:

29 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional  
30 framework plans and local government comprehensive plans for lands within the urban growth  
31 boundary of a city that is located outside of a metropolitan service district and has a population of  
32 25,000 or more.

33 (b) The [*Land Conservation and Development Commission*] **regional commission for the region**  
34 may establish a set of factors under which additional cities are subject to the provisions of this  
35 section. In establishing the set of factors required under this paragraph, the **regional** commission  
36 shall consider the size of the city, the rate of population growth of the city or the proximity of the  
37 city to another city with a population of 25,000 or more or to a metropolitan service district.

38 (2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of  
39 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the  
40 application of a statewide **land use** planning goal relating to buildable lands for residential use, a  
41 local government shall demonstrate that its comprehensive plan or regional plan provides sufficient  
42 buildable lands within the urban growth boundary established pursuant to statewide **land use**  
43 planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall  
44 commence on the date initially scheduled for completion of the periodic or legislative review.

45 (3) In performing the duties under subsection (2) of this section, a local government shall:

1 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the  
 2 housing capacity of the buildable lands; and

3 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS  
 4 197.303 and statewide **land use** planning goals and rules relating to housing, to determine the  
 5 number of units and amount of land needed for each needed housing type for the next 20 years.

6 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable  
 7 lands” includes:

8 (A) Vacant lands planned or zoned for residential use;

9 (B) Partially vacant lands planned or zoned for residential use;

10 (C) Lands that may be used for a mix of residential and employment uses under the existing  
 11 planning or zoning; and

12 (D) Lands that may be used for residential infill or redevelopment.

13 (b) For the purpose of the inventory and determination of housing capacity described in sub-  
 14 section (3)(a) of this section, the local government must demonstrate consideration of:

15 (A) The extent that residential development is prohibited or restricted by local regulation and  
 16 ordinance, state law and rule or federal statute and regulation;

17 (B) A written long term contract or easement for radio, telecommunications or electrical facili-  
 18 ties, if the written contract or easement is provided to the local government; and

19 (C) The presence of a single family dwelling or other structure on a lot or parcel.

20 (c) Except for land that may be used for residential infill or redevelopment, a local government  
 21 shall create a map or document that may be used to verify and identify specific lots or parcels that  
 22 have been determined to be buildable lands.

23 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of  
 24 housing capacity and need pursuant to subsection (3) of this section must be based on data relating  
 25 to land within the urban growth boundary that has been collected since the last periodic review or  
 26 five years, whichever is greater. The data shall include:

27 (A) The number, density and average mix of housing types of urban residential development that  
 28 have actually occurred;

29 (B) Trends in density and average mix of housing types of urban residential development;

30 (C) Demographic and population trends;

31 (D) Economic trends and cycles; and

32 (E) The number, density and average mix of housing types that have occurred on the buildable  
 33 lands described in subsection (4)(a) of this section.

34 (b) A local government shall make the determination described in paragraph (a) of this sub-  
 35 section using a shorter time period than the time period described in paragraph (a) of this subsection  
 36 if the local government finds that the shorter time period will provide more accurate and reliable  
 37 data related to housing capacity and need. The shorter time period may not be less than three years.

38 (c) A local government shall use data from a wider geographic area or use a time period for  
 39 economic cycles and trends longer than the time period described in paragraph (a) of this subsection  
 40 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-  
 41 curate, complete and reliable data relating to trends affecting housing need than an analysis per-  
 42 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the  
 43 geographic area, time frame and source of data used in a determination performed under this para-  
 44 graph.

45 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than

1 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government  
 2 shall take one or more of the following actions to accommodate the additional housing need:

3 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate  
 4 housing needs for the next 20 years. As part of this process, the local government shall consider the  
 5 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include  
 6 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The  
 7 need and inclusion of lands for new public school facilities shall be a coordinated process between  
 8 the affected public school districts and the local government that has the authority to approve the  
 9 urban growth boundary;

10 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
 11 clude new measures that demonstrably increase the likelihood that residential development will oc-  
 12 cur at densities sufficient to accommodate housing needs for the next 20 years without expansion  
 13 of the urban growth boundary. A local government or metropolitan service district that takes this  
 14 action shall monitor and record the level of development activity and development density by hous-  
 15 ing type following the date of the adoption of the new measures; or

16 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

17 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government  
 18 shall determine the overall average density and overall mix of housing types at which residential  
 19 development of needed housing types must occur in order to meet housing needs over the next 20  
 20 years. If that density is greater than the actual density of development determined under subsection  
 21 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined  
 22 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall  
 23 adopt measures that demonstrably increase the likelihood that residential development will occur  
 24 at the housing types and density and at the mix of housing types required to meet housing needs  
 25 over the next 20 years.

26 (8)(a) A local government outside a metropolitan service district that takes any actions under  
 27 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
 28 regulations comply with goals and rules adopted by the *[commission]* **Land Conservation and De-**  
 29 **velopment Commission and rules adopted by the regional commission for the region** and im-  
 30 plement ORS 197.295 to 197.314.

31 (b) The local government shall determine the density and mix of housing types anticipated as a  
 32 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-  
 33 tual density and mix of housing types achieved. The local government shall compare actual and  
 34 anticipated density and mix. The local government shall submit its comparison to the **regional**  
 35 **commission** at the next periodic review or at the next legislative review of its urban growth  
 36 boundary, whichever comes first.

37 (9) In establishing that actions and measures adopted under subsections (6) or (7) of this section  
 38 demonstrably increase the likelihood of higher density residential development, the local government  
 39 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the  
 40 housing types identified under subsection (3) of this section and is zoned at density ranges that are  
 41 likely to be achieved by the housing market using the analysis in subsection (3) of this section.  
 42 Actions or measures, or both, may include but are not limited to:

43 (a) Increases in the permitted density on existing residential land;

44 (b) Financial incentives for higher density housing;

45 (c) Provisions permitting additional density beyond that generally allowed in the zoning district

1 in exchange for amenities and features provided by the developer;

2 (d) Removal or easing of approval standards or procedures;

3 (e) Minimum density ranges;

4 (f) Redevelopment and infill strategies;

5 (g) Authorization of housing types not previously allowed by the plan or regulations;

6 (h) Adoption of an average residential density standard; and

7 (i) Rezoning or redesignation of nonresidential land.

8 **SECTION 25.** ORS 197.299 is amended to read:

9 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the  
10 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after  
11 completion of the previous inventory, determination and analysis.

12 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296  
13 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3)  
14 within one year of completing the analysis.

15 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-  
16 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two  
17 years of completing the analysis.

18 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year  
19 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land  
20 within the urban growth boundary to accommodate the estimated housing needs for 20 years from  
21 the time the actions are completed. The metropolitan service district shall consider and adopt new  
22 measures that the governing body deems appropriate under ORS 197.296 (6)(b).

23 (3) The [*Land Conservation and Development Commission*] **regional commission for the region**  
24 may grant an extension to the time limits of subsection (2) of this section if the Director of the  
25 Department of Land Conservation and Development determines that the metropolitan service district  
26 has provided good cause for failing to meet the time limits.

27 (4)(a) The metropolitan service district shall establish a process to expand the urban growth  
28 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-  
29 dated within the existing urban growth boundary. The metropolitan service district shall design the  
30 process to:

31 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth  
32 boundary capacity required by subsection (1) of this section; and

33 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four  
34 months after submission of a complete application by a large school district as defined in ORS  
35 195.110.

36 (b) At the request of a large school district, the metropolitan service district shall assist the  
37 large school district to identify school sites required by the school facility planning process de-  
38 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under  
39 ORS 197.298 (3).

40 **SECTION 26.** ORS 197.319 is amended to read:

41 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,  
42 the person shall:

43 (a) Present the reasons, in writing, for such an order to the affected local government; and

44 (b) Request:

45 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative

1 or urban service agreement or decision-making process which is the basis for the order; or

2 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-  
3 cial district agreement or decision-making process that is the basis for the order.

4 (2)(a) The local government or special district shall issue a written response to the request  
5 within 60 days of the date the request is mailed to the local government or special district.

6 (b) The requestor and the local government or special district may enter into mediation to re-  
7 solve issues in the request. The Department of Land Conservation and Development shall provide  
8 mediation services when jointly requested by the local government or special district and the  
9 requestor.

10 (c) If the local government or special district does not act in a manner *[which]* **that** the  
11 requestor believes is adequate to address the issues raised in the request within the time period  
12 provided in paragraph (a) of this subsection, a petition may be presented to the *[Land Conservation*  
13 *and Development Commission]* **regional commission for the region** under ORS 197.324.

14 (3) A metropolitan service district may request an enforcement order under ORS 197.320 (12)  
15 without first complying with subsections (1) and (2) of this section.

16 **SECTION 27.** ORS 197.320 is amended to read:

17 197.320. The *[Land Conservation and Development Commission]* **regional commission for the**  
18 **region** shall issue an order requiring a local government, state agency or special district to take  
19 action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or  
20 other land use decisions into compliance with the goals, acknowledged comprehensive plan pro-  
21 visions or land use regulations if the **regional** commission has good cause to believe:

22 (1) A comprehensive plan or land use regulation adopted by a local government not on a com-  
23 pliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for  
24 such compliance;

25 (2) A plan, program, rule or regulation affecting land use adopted by a state agency or special  
26 district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such  
27 compliance;

28 (3) A local government is not making satisfactory progress toward performance of its compliance  
29 schedule;

30 (4) A state agency is not making satisfactory progress in carrying out its coordination agree-  
31 ment or the requirements of ORS 197.180;

32 (5) A local government has no comprehensive plan or land use regulation and is not on a com-  
33 pliance schedule directed to developing the plan or regulation;

34 (6) A local government has engaged in a pattern or practice of decision making that violates  
35 an acknowledged comprehensive plan or land use regulation. In making its determination under this  
36 subsection, the **regional** commission shall determine whether there is evidence in the record to  
37 support the decisions made. The **regional** commission *[shall]* **may** not judge the issue solely upon  
38 adequacy of the findings in support of the decisions;

39 (7) A local government has failed to comply with a **regional** commission order entered under  
40 ORS 197.644;

41 (8) A special district has engaged in a pattern or practice of decision-making that violates an  
42 acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

43 (9) A special district is not making satisfactory progress toward performance of its obligations  
44 under ORS chapters 195 and 197;

45 (10) A local government is applying approval standards, special conditions on approval of spe-



1 cific development proposals or procedures for approval that do not comply with ORS 197.307 (6);  
2 [or]

3 (11) A local government is not making satisfactory progress toward meeting its obligations un-  
4 der ORS 195.065[.]; **or**

5 (12) A local government within the jurisdiction of a metropolitan service district has failed to  
6 make changes to the comprehensive plan or land use regulations to comply with the regional  
7 framework plan of the district or has engaged in a pattern or practice of decision-making that vio-  
8 lates a requirement of the regional framework plan.

9 **SECTION 28.** ORS 197.324 is amended to read:

10 197.324. (1) [*On its own motion,*] The Land Conservation and Development Commission may **di-**  
11 **rect the regional commission for the region to** initiate a proceeding to carry out the provisions  
12 of ORS 197.320. If the **regional** commission proceeds on its own motion, [*it*] **the regional commis-**  
13 **sion** shall proceed as set forth in ORS 197.328.

14 (2)(a) After a person meets the requirements of ORS 197.319, the person may file a petition to  
15 request that the **regional commission for the region** consider the matter. Filing occurs upon mail-  
16 ing the petition to the Department of Land Conservation and Development.

17 (b) The **regional** commission shall determine if there is good cause to proceed on the petition.

18 (c) If the **regional** commission determines that there is not good cause to proceed on the peti-  
19 tion, the **regional** commission shall issue a final order dismissing the petition, stating the reasons  
20 [*therefor*] **for dismissal.**

21 (d) If the **regional** commission determines that there is good cause to proceed on the petition,  
22 the **regional** commission shall proceed as set forth in ORS 197.328.

23 (3) Following initiation of a proceeding under subsection (1) of this section or a determination  
24 by the **regional** commission that there is good cause to proceed on a petition under subsection (2)  
25 of this section, the affected local government shall include the following disclosure in any subse-  
26 quent notice of a land use decision that could be affected by the enforcement order:

27 \_\_\_\_\_  
28  
29  
30 NOTICE: THE [*OREGON LAND CONSERVATION AND DEVELOPMENT COMMISSION*] **RE-**  
31 **GIONAL LAND USE PLANNING COMMISSION FOR REGION** \_\_\_\_\_ HAS FOUND  
32 GOOD CAUSE FOR AN ENFORCEMENT PROCEEDING AGAINST \_\_\_\_\_ (Name of local  
33 government). AN ENFORCEMENT ORDER MAY BE EVENTUALLY ADOPTED THAT COULD  
34 LIMIT, PROHIBIT OR REQUIRE APPLICATION OF SPECIFIED CRITERIA TO ANY ACTION  
35 AUTHORIZED BY THIS DECISION BUT NOT APPLIED FOR UNTIL AFTER ADOPTION OF THE  
36 ENFORCEMENT ORDER. FUTURE APPLICATIONS FOR BUILDING PERMITS OR ANY TIME  
37 EXTENSIONS MAY BE AFFECTED.

38 \_\_\_\_\_  
39  
40 **SECTION 29.** ORS 197.328 is amended to read:

41 197.328. If a proceeding is initiated under ORS 197.324, the following procedures apply:

42 (1) The [*Land Conservation and Development Commission*] **regional commission for the region**  
43 shall hold a hearing to consider the petition or shall appoint a hearings officer to consider the pe-  
44 tition under the provisions of ORS chapter 183 applicable to contested cases, except as otherwise  
45 provided in this section.

1 (2) The **regional** commission or hearings officer shall schedule a hearing within 45 days of re-  
2 ceipt of the petition.

3 (3) If the **regional** commission appoints a hearings officer, the hearings officer shall prepare a  
4 proposed order, including recommended findings and conclusions of law. The proposed order shall  
5 be served on the Department of Land Conservation and Development and all parties to the hearing  
6 within 30 days of the date the record closed.

7 (4) If the **regional** commission appoints a hearings officer, the **regional** commission review of  
8 the proposed order shall be limited to the record of proceedings before the hearings officer. In its  
9 review of a proposed order, the **regional** commission *[shall]* **may** not receive new evidence but shall  
10 hear arguments as to the proposed order and any exceptions. Any exception to the proposed order  
11 shall be filed with the **regional** commission no later than 15 days following issuance of the proposed  
12 order.

13 (5) The **regional** commission shall adopt a final order relative to a petition no later than 120  
14 days from the date the petition was filed.

15 **SECTION 30.** ORS 197.335 is amended to read:

16 197.335. (1) An order issued under ORS 197.328 and the copy of the order mailed to the local  
17 government, state agency or special district shall set forth:

18 (a) The nature of the noncompliance, including, but not limited to, the contents of the compre-  
19 hensive plan or land use regulation, if any, of a local government that do not comply with the goals  
20 or the contents of a plan, program or regulation affecting land use adopted by a state agency or  
21 special district that do not comply with the goals. In the case of a pattern or practice of decision-  
22 making *[which]* **that** violates the goals, comprehensive plan or land use regulations, the order shall  
23 specify the decision-making *[which]* **that** constitutes the pattern or practice, including specific pro-  
24 visions the *[Land Conservation and Development Commission]* **regional commission for the region**  
25 believes are being misapplied;

26 (b) The specific lands, if any, within a local government for which the existing plan or land use  
27 regulation, if any, does not comply with the goals; and

28 (c) The corrective action decided upon by the **regional** commission, including the specific re-  
29 quirements, with which the local government, state agency or special district must comply. In the  
30 case of a pattern or practice of decision-making that violates an acknowledged comprehensive plan  
31 or land use regulation, the **regional** commission may require revisions to the comprehensive plan,  
32 land use regulations or local procedures *[which]* **that** the **regional** commission believes are neces-  
33 sary to correct the pattern or practice. Notwithstanding the provisions of this section, except as  
34 provided in subsection (3)(c) of this section, an enforcement order does not affect:

35 (A) Land use applications filed with a local government prior to the date of adoption of the  
36 enforcement order unless specifically identified by the order;

37 (B) Land use approvals issued by a local government prior to the date of adoption of the  
38 enforcement order; or

39 (C) The time limit for exercising land use approvals issued by a local government prior to the  
40 date of adoption of the enforcement order.

41 (2) Judicial review of a final order of the **regional** commission shall be governed by the pro-  
42 visions of ORS chapter 183 applicable to contested cases except as otherwise stated in this section.  
43 The **regional** commission's final order shall include a clear statement of findings *[which set]* **that**  
44 **sets** forth the basis for the order. Where a petition to review the order has been filed in the Court  
45 of Appeals, the **regional** commission shall transmit to the court the entire administrative record of

1 the proceeding under review. Notwithstanding ORS 183.482 (3) relating to a stay of enforcement of  
 2 an agency order, an appellate court, before it may stay an order of the **regional** commission, shall  
 3 give due consideration to the public interest in the continued enforcement of the **regional**  
 4 commission's order and may consider testimony or affidavits thereon. Upon review, an appellate  
 5 court may affirm, reverse, modify or remand the order. The court shall reverse, modify or remand  
 6 the order only if it finds:

7 (a) The order to be unlawful in substance or procedure, but error in procedure shall not be  
 8 cause for reversal, modification or remand unless the court shall find that substantial rights of any  
 9 party were prejudiced thereby;

10 (b) The order to be unconstitutional;

11 (c) The order is invalid because it exceeds the statutory authority of the agency; or

12 (d) The order is not supported by substantial evidence in the whole record.

13 (3)(a) If the **regional** commission finds that in the interim period during which a local govern-  
 14 ment, state agency or special district would be bringing itself into compliance with the **regional**  
 15 commission's order under ORS 197.320 or subsection (2) of this section it would be contrary to the  
 16 public interest in the conservation or sound development of land to allow the continuation of some  
 17 or all categories of land use decisions or limited land use decisions, it shall, as part of its order,  
 18 limit, prohibit or require the approval by the local government of applications for subdivisions,  
 19 partitions, building permits, limited land use decisions or land use decisions until the plan, land use  
 20 regulation or subsequent land use decisions and limited land use decisions are brought into compli-  
 21 ance. The **regional** commission may issue an order that requires review of local decisions by a  
 22 hearings officer or the Department of Land Conservation and Development before the local decision  
 23 becomes final.

24 (b) Any requirement under this subsection may be imposed only if the **regional** commission finds  
 25 that the activity, if continued, aggravates the goal, comprehensive plan or land use regulation vio-  
 26 lation and that the requirement is necessary to correct the violation.

27 (c) The limitations on enforcement orders under subsection (1)(c)(B) of this section [*shall*] **may**  
 28 not be interpreted to affect the **regional** commission's authority to limit, prohibit or require appli-  
 29 cation of specified criteria to subsequent land use decisions involving land use approvals issued by  
 30 a local government prior to the date of adoption of the enforcement order.

31 (4) As part of its order under ORS 197.320 or subsection (2) of this section, the **regional** com-  
 32 mission may withhold grant funds from the local government to which the order is directed. As part  
 33 of an order issued under this section, the **regional** commission may notify the officer responsible for  
 34 disbursing state-shared revenues to withhold that portion of state-shared revenues to which the local  
 35 government is entitled under ORS 221.770, 323.455, 366.762 and 366.800 and ORS chapter 471  
 36 [*which*] **that** represents the amount of state planning grant moneys previously provided the local  
 37 government by the [*commission*] **department**. The officer responsible for disbursing state-shared re-  
 38 venues shall withhold state-shared revenues as outlined in this section and shall release funds to the  
 39 local government or department when notified to so do by the **regional** commission or its designee.  
 40 The **regional** commission may retain a portion of the withheld revenues to cover costs of providing  
 41 services incurred under the order, including use of a hearings officer or staff resources to monitor  
 42 land use decisions and limited land use decisions or conduct hearings. The remainder of the funds  
 43 withheld under this [*provision*] **subsection** shall be released to the local government upon com-  
 44 pletion of requirements of the **regional** commission order.

45 (5)(a) As part of its order under this section, the **regional** commission may notify the officer

1 responsible for disbursing funds from any grant or loan made by a state agency to withhold such  
 2 funds from a special district to which the order is directed. The officer responsible for disbursing  
 3 funds shall withhold funds as outlined in this section and shall release funds to the special district  
 4 or department when notified to do so by the **regional** commission.

5 (b) The **regional** commission may retain a portion of the funds withheld to cover costs of pro-  
 6 viding services incurred under the order, including use of a hearings officer or staff resources to  
 7 monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the  
 8 funds withheld under this *[provision]* **subsection** shall be released to the special district upon com-  
 9 pletion of the requirements of the **regional** commission order.

10 (6) The **regional** commission may institute actions or proceedings for legal or equitable remedies  
 11 in the Circuit Court for Marion County or in the circuit court for the county to which the **regional**  
 12 commission's order is directed or within which all or a portion of the applicable city is located to  
 13 enforce compliance with the provisions of any order issued under this section or to restrain vio-  
 14 lations thereof. Such actions or proceedings may be instituted without the necessity of prior agency  
 15 notice, hearing and order on an alleged violation.

16 **SECTION 31.** ORS 197.340 is amended to read:

17 197.340. (1) The *[Land Conservation and Development Commission, the]* Department of Land  
 18 Conservation and Development, other state agencies and local governments shall give the goals  
 19 equal weight in any matter in which the goals are required to be applied.

20 (2) The *[commission and the]* department shall consider and recognize regional diversity and  
 21 differences in regional needs when making or reviewing a land use decision or otherwise applying  
 22 the goals.

23 **SECTION 32.** ORS 197.350 is amended to read:

24 197.350. (1) A party appealing a land use decision or limited land use decision made by a local  
 25 government to the *[board or]* **Land Use Board of Appeals or the Department of Land Conserva-**  
 26 **tion and Development** *[Commission]* has the burden of persuasion.

27 (2) A local government that claims an exception to a goal adopted by the **Land Conservation**  
 28 **and Development** Commission has the burden of persuasion.

29 (3) There shall be no burden of proof in administrative proceedings under ORS chapters 195, 196  
 30 and 197.

31 **SECTION 33.** ORS 197.395 is amended to read:

32 197.395. (1) Any person or public agency desiring to initiate an activity *[which]* **that** the state  
 33 may regulate or control and *[which]* **that** occurs upon federal land shall apply to the local govern-  
 34 ment in which the activity will take place for a permit. The application shall contain an explanation  
 35 of the activity to be initiated, the plans for the activity and any other information required by the  
 36 local government as prescribed by rule of the *[Land Conservation and Development Commission]*  
 37 **regional commission for the region.**

38 (2) If the local government finds after review of the application that the proposed activity com-  
 39 plies with goals and the comprehensive plans of the local government affected by the activity, *[it]*  
 40 **the local government** shall approve the application and issue a permit for the activity to the per-  
 41 son or public agency applying for the permit. If the governing body does not approve or disapprove  
 42 the permit within 60 days of receipt of the application, the application shall be considered approved.

43 (3) The local government may prescribe and include in the permit any conditions or restrictions  
 44 that *[it]* **the local government** considers necessary to *[assure]* **ensure** that the activity complies  
 45 with the goals and the comprehensive plans of the local governments affected by the activity.

1 (4) Actions pursuant to this section are subject to review under ORS 197.830 to 197.845.

2 **SECTION 34.** ORS 197.445 is amended to read:

3 197.445. A destination resort is a self-contained development that provides for visitor-oriented  
4 accommodations and developed recreational facilities in a setting with high natural amenities. To  
5 qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, a  
6 proposed development must meet the following standards:

7 (1) The resort must be located on a site of 160 acres or more except within two miles of the  
8 ocean shoreline where the site shall be 40 acres or more.

9 (2) At least 50 percent of the site must be dedicated to permanent open space, excluding streets  
10 and parking areas.

11 (3) At least \$7 million must be spent on improvements for on-site developed recreational facili-  
12 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and  
13 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

14 (4) Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100  
15 persons and 150 separate rentable units for overnight lodging shall be provided. However, the  
16 rentable overnight lodging units may be phased in as follows:

17 (a) On lands not described in paragraph (b) of this subsection:

18 (A) A total of 150 units of overnight lodging must be provided.

19 (B) At least 75 units of overnight lodging, not including any individually owned homes, lots or  
20 units, must be constructed or guaranteed through surety bonding or equivalent financial assurance  
21 prior to the closure of sale of individual lots or units.

22 (C) The remaining overnight lodging units must be provided as individually owned lots or units  
23 subject to deed restrictions that limit their use to use as overnight lodging units. The deed re-  
24 strictions may be rescinded when the resort has constructed 150 units of permanent overnight  
25 lodging as required by this subsection.

26 (D) The number of units approved for residential sale may not be more than two units for each  
27 unit of permanent overnight lodging provided under this paragraph.

28 (E) The development approval must provide for the construction of other required overnight  
29 lodging units within five years of the initial lot sales.

30 (b) On lands in eastern Oregon, as defined in ORS 321.805:

31 (A) A total of 150 units of overnight lodging must be provided.

32 (B) At least 50 units of overnight lodging must be constructed prior to the closure of sale of  
33 individual lots or units.

34 (C) At least 50 of the remaining 100 required overnight lodging units must be constructed or  
35 guaranteed through surety bonding or equivalent financial assurance within five years of the initial  
36 lot sales.

37 (D) The remaining required overnight lodging units must be constructed or guaranteed through  
38 surety bonding or equivalent financial assurances within 10 years of the initial lot sales.

39 (E) The number of units approved for residential sale may not be more than 2-1/2 units for each  
40 unit of permanent overnight lodging provided under this paragraph.

41 (F) If the developer of a resort guarantees the overnight lodging units required under subpara-  
42 graphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance,  
43 the overnight lodging units must be constructed within four years of the date of execution of the  
44 surety bond or other equivalent financial assurance.

45 (5) Commercial uses allowed are limited to types and levels of use necessary to meet the needs

1 of visitors to the development. Industrial uses of any kind are not permitted.

2 (6) In lieu of the standards in subsections (1), (3) and (4) of this section, the standards set forth  
 3 in subsection (7) of this section apply to a destination resort:

4 (a) On land that is not defined as agricultural or forest land under any statewide **land use**  
 5 planning goal;

6 (b) On land where there has been an exception to any statewide **land use** planning goal on ag-  
 7 ricultural lands, forestlands, public facilities and services and urbanization; or

8 (c) On such secondary lands as the [*Land Conservation and Development Commission*] **regional**  
 9 **commission for the region** deems appropriate.

10 (7) The following standards apply to the provisions of subsection (6) of this section:

11 (a) The resort must be located on a site of 20 acres or more.

12 (b) At least \$2 million must be spent on improvements for on-site developed recreational facili-  
 13 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and  
 14 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

15 (c) At least 25 units, but not more than 75 units, of overnight lodging must be provided.

16 (d) Restaurant and meeting room with at least one seat for each unit of overnight lodging must  
 17 be provided.

18 (e) Residential uses must be limited to those necessary for the staff and management of the re-  
 19 sort.

20 (f) The governing body of the county or its designee has reviewed the resort proposed under this  
 21 subsection and has determined that the primary purpose of the resort is to provide lodging and other  
 22 services oriented to a recreational resource which can only reasonably be enjoyed in a rural area.  
 23 Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing  
 24 stream.

25 (g) The resort must be constructed and located so that it is not designed to attract highway  
 26 traffic. Resorts may not use any manner of outdoor advertising signing except:

27 (A) Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and

28 (B) On-site identification and directional signs.

29 (8) Spending required under subsections (3) and (7) of this section is stated in 1993 dollars. The  
 30 spending required shall be adjusted to the year in which calculations are made in accordance with  
 31 the United States Consumer Price Index.

32 (9) When making a land use decision authorizing construction of a destination resort in eastern  
 33 Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall require  
 34 the resort developer to provide an annual accounting to document compliance with the overnight  
 35 lodging standards of this section. The annual accounting requirement commences one year after the  
 36 initial lot or unit sales. The annual accounting must contain:

37 (a) Documentation showing that the resort contains a minimum of 150 permanent units of over-  
 38 night lodging or, during the phase-in period, documentation showing the resort is not yet required  
 39 to have constructed 150 units of overnight lodging.

40 (b) Documentation showing that the resort meets the lodging ratio described in subsection (4)  
 41 of this section.

42 (c) For a resort counting individually owned units as qualified overnight lodging units, the  
 43 number of weeks that each overnight lodging unit is available for rental to the general public as  
 44 described in ORS 197.435.

45 **SECTION 35.** ORS 197.505 is amended to read:

1 197.505. As used in ORS 197.505 to 197.540:

2 (1) "Public facilities" means those public facilities for which a public facilities plan is required  
3 under ORS 197.712.

4 (2) "Special district" refers to only those [entities] **special districts** as defined in ORS 197.015  
5 [(19)] that provide services for which public facilities plans are required.

6 **SECTION 36.** ORS 197.610 is amended to read:

7 197.610. (1) A proposal to amend a local government acknowledged comprehensive plan or land  
8 use regulation or to adopt a new land use regulation shall be forwarded to the Director of the De-  
9 partment of Land Conservation and Development at least 45 days before the first evidentiary hear-  
10 ing on adoption. The proposal forwarded shall contain the text and any supplemental information  
11 that the local government believes is necessary to inform the director as to the effect of the pro-  
12 posal. The notice shall include the date set for the first evidentiary hearing. The director shall notify  
13 persons who have requested notice that the proposal is pending.

14 (2) When a local government determines that the goals do not apply to a particular proposed  
15 amendment or new regulation, notice under subsection (1) of this section is not required. In addition,  
16 a local government may submit an amendment or new regulation with less than 45 days' notice if  
17 the local government determines that there are emergency circumstances requiring expedited re-  
18 view. In both cases:

19 (a) The amendment or new regulation shall be submitted after adoption as provided in ORS  
20 197.615 (1) and (2); and

21 (b) Notwithstanding the requirements of ORS 197.830 (2), the director or any other person may  
22 appeal the decision to the [board] **Land Use Board of Appeals** under ORS 197.830 to 197.845.

23 (3) When the Department of Land Conservation and Development participates in a local gov-  
24 ernment proceeding, at least 15 days before the final hearing on the proposed amendment to the  
25 comprehensive plan or land use regulation or the new land use regulation, the department shall  
26 notify the local government of:

27 (a) Any concerns the department has concerning the proposal; and

28 (b) Advisory recommendations on actions the department considers necessary to address the  
29 concerns, including, but not limited to, suggested corrections to achieve compliance with the goals.

30 (4) The director shall report to the [*Land Conservation and Development Commission*] **regional**  
31 **commission for the region** on whether the director:

32 (a) Believes the local government's proposal violates the goals; and

33 (b) Is participating in the local government proceeding.

34 **SECTION 37.** ORS 197.620 is amended to read:

35 197.620. (1) [*Notwithstanding the requirements of ORS 197.830 (2), persons who participated either*  
36 *orally or in writing in the local government proceedings leading to*] **Persons that are adversely af-**  
37 **ected by** the adoption of an amendment to an acknowledged comprehensive plan or land use regu-  
38 lation or a new land use regulation **under ORS 197.610 to 197.625** may appeal the decision to the  
39 Land Use Board of Appeals under ORS 197.830 to 197.845. A decision to not adopt a legislative  
40 amendment or a new land use regulation **under ORS 197.610 to 197.625** is not appealable [*except*  
41 *where*] **unless** the amendment is necessary to address the requirements of a new or amended goal,  
42 rule or statute.

43 (2) Notwithstanding the requirements of ORS 197.830 (2), the Director of the Department of Land  
44 Conservation and Development or any [*other*] person **that is adversely affected** may file an appeal  
45 of the local government's decision under **ORS 197.610 to 197.625 pursuant to** ORS 197.830 to

1 197.845, if an amendment to an acknowledged comprehensive plan or land use regulation or a new  
 2 land use regulation differs from the proposal submitted under ORS 197.610 to such a degree that the  
 3 notice under ORS 197.610 did not reasonably describe the nature of the local government final  
 4 action.

5 **SECTION 38.** ORS 197.625 is amended to read:

6 197.625. (1) If a notice of intent to appeal is not filed within the 21-day period set out in ORS  
 7 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the  
 8 new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.  
 9 An amendment to an acknowledged comprehensive plan or land use regulation is not considered  
 10 acknowledged unless the notices required under ORS 197.610 and 197.615 have been submitted to the  
 11 Director of the Department of Land Conservation and Development and:

12 (a) The 21-day appeal period has expired; or

13 (b) If an appeal is timely filed, the *[board]* **Land Use Board of Appeals** affirms the decision or  
 14 the appellate courts affirm the decision.

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

19 (3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land  
 20 use regulation or an amendment to a comprehensive plan or land use regulation is effective at the  
 21 time specified by local government charter or ordinance and is applicable to land use decisions,  
 22 expedited land divisions and limited land use decisions if the amendment was adopted in substantial  
 23 compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

24 (b) Any approval of a land use decision, expedited land division or limited land use decision  
 25 subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall in-  
 26 clude findings of compliance with those land use goals applicable to the amendment.

27 (c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land  
 28 use regulation shall not be relied upon to justify retention of improvements so permitted if the  
 29 comprehensive plan provision or land use regulation does not gain acknowledgment.

30 (d) The provisions of this subsection apply to applications for land use decisions, expedited land  
 31 divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive  
 32 plan and land use regulation amendments adopted:

33 (A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628, 197.633 and  
 34 197.636;

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

36 (C) After November 4, 1993.

37 (4) The director shall issue certification of the acknowledgment upon receipt of an affidavit from  
 38 the board stating either:

39 (a) That no appeal was filed within the 21 days allowed under ORS 197.830 (9); or

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

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

44 (6) After issuance of the notice provided in ORS 197.633, nothing in this section *[shall prevent*  
 45 *the Land Conservation and Development Commission]* **prevents the regional commission for the**



1 **region** from entering an order pursuant to ORS 197.633, 197.636 or 197.644 to require a local gov-  
2 ernment to respond to the standards of ORS 197.628.

3 **SECTION 39.** ORS 197.626 is amended to read:

4 197.626. A metropolitan service district that amends its urban growth boundary to include more  
5 than 100 acres, or that amends the district's regional framework plan or land use regulations im-  
6 plementing the plan to establish urban reserves designated under ORS 195.145 (1)(b), a city with a  
7 population of 2,500 or more within its urban growth boundary that amends the urban growth  
8 boundary to include more than 50 acres or that designates urban reserve under ORS 195.145, or a  
9 county that amends the county's comprehensive plan or land use regulations implementing the plan  
10 to establish rural reserves designated under ORS 195.141, shall submit the amendment or designation  
11 to the [*Land Conservation and Development Commission*] **regional commission for the region** in the  
12 manner provided for periodic review under ORS 197.628 to 197.650.

13 **SECTION 40.** ORS 197.628 is amended to read:

14 197.628. (1) It is the policy of the State of Oregon to require the periodic review of comprehen-  
15 sive plans and land use regulations in order to respond to changes in local, regional and state con-  
16 ditions to ensure that the plans and regulations remain in compliance with the statewide **land use**  
17 planning goals adopted pursuant to ORS [*197.230*] **197.225**, and to ensure that the plans and regu-  
18 lations make adequate provision for economic development, needed housing, transportation, public  
19 facilities and services and urbanization.

20 (2) [*The Land Conservation and Development Commission*] **A regional commission** shall con-  
21 centrate periodic review assistance to local governments on achieving compliance with those state-  
22 wide land use planning laws and goals that address economic development, needed housing,  
23 transportation, public facilities and services and urbanization.

24 (3) The following conditions indicate the need for periodic review of comprehensive plans and  
25 land use regulations:

26 (a) There has been a substantial change in circumstances including but not limited to the con-  
27 ditions, findings or assumptions upon which the comprehensive plan or land use regulations were  
28 based, so that the comprehensive plan or land use regulations do not comply with the statewide **land**  
29 **use** planning goals relating to economic development, needed housing, transportation, public facili-  
30 ties and services and urbanization;

31 (b) Decisions implementing acknowledged comprehensive plan and land use regulations are in-  
32 consistent with the goals relating to economic development, needed housing, transportation, public  
33 facilities and services and urbanization;

34 (c) There are issues of regional or statewide significance, intergovernmental coordination or  
35 state agency plans or programs affecting land use [*which*] **that** must be addressed in order to bring  
36 comprehensive plans and land use regulations into compliance with the goals relating to economic  
37 development, needed housing, transportation, public facilities and services and urbanization; or

38 (d) The local government[, *commission*] or **the** Department of Land Conservation and Develop-  
39 ment determines that the existing comprehensive plan and land use regulations are not achieving  
40 the statewide **land use** planning goals relating to economic development, needed housing, transpor-  
41 tation, public facilities and services and urbanization.

42 **SECTION 41.** ORS 197.629 is amended to read:

43 197.629. (1) The Land Conservation and Development Commission shall establish and maintain  
44 **by rule** a schedule for periodic review of comprehensive plans and land use regulations **by regional**  
45 **commissions**. Except as necessary to coordinate approved periodic review work programs and to

1 account for special circumstances that from time to time arise, the schedule shall reflect the fol-  
2 lowing timelines:

3 (a) A city with a population of more than 2,500 within a metropolitan planning organization or  
4 a metropolitan service district shall conduct periodic review every seven years after completion of  
5 the previous periodic review; and

6 (b) A city with a population of 10,000 or more inside its urban growth boundary that is not  
7 within a metropolitan planning organization shall conduct periodic review every 10 years after  
8 completion of the previous periodic review.

9 (2) A county with a portion of its population within the urban growth boundary of a city subject  
10 to periodic review under this section shall conduct periodic review for that portion of the county  
11 according to the schedule and work program set for the city.

12 (3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific  
13 as to that portion of the county within the urban growth boundary of a city subject to periodic re-  
14 view under this section, the county shall conduct periodic review for that portion of the county  
15 according to the schedule and work program set for the county.

16 (4) If the [*Land Conservation and Development Commission*] **regional commission for the re-**  
17 **gion** pays the costs of a local government that is not subject to subsection (1) of this section to  
18 perform new work programs and work tasks, the **regional** commission may require the local gov-  
19 ernment to complete periodic review when the local government has not completed periodic review  
20 within the previous five years if:

21 (a) A city has been growing faster than the annual population growth rate of the state for five  
22 consecutive years;

23 (b) A major transportation project on the Statewide Transportation Improvement Program that  
24 is approved for funding by the Oregon Transportation Commission is likely to:

25 (A) Have a significant impact on a city or an urban unincorporated community; or

26 (B) Be significantly affected by growth and development in a city or an urban unincorporated  
27 community;

28 (c) A major facility, including a prison, is sited or funded by a state agency; or

29 (d) Approval by the city or county of a facility for a major employer will increase employment  
30 opportunities and significantly affect the capacity of housing and public facilities in the city or ur-  
31 ban unincorporated community.

32 (5) The [*Land Conservation and Development Commission*] **regional commission for the region**  
33 may schedule periodic review for a local government earlier than provided in subsection (1) of this  
34 section if necessary to ensure that all local governments in [*a*] **the** region whose land use decisions  
35 would significantly affect other local governments in the region are conducting periodic review  
36 concurrently, but not sooner than five years after completion of the previous periodic review.

37 (6) A city or county that is not required to complete periodic review under subsection (1) of this  
38 section may request periodic review by the **regional commission for the region**.

39 (7) As used in this section, "metropolitan planning organization" means an organization located  
40 wholly within the State of Oregon and designated by the Governor to coordinate transportation  
41 planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c).

42 **SECTION 42.** ORS 197.633 is amended to read:

43 197.633. (1) The periodic review process is divided into two phases. Phase one is the evaluation  
44 of the existing comprehensive plan, land use regulations and citizen involvement program and, if  
45 necessary, the development of a work program to make needed changes to the comprehensive plan

1 or land use regulations. Phase two is the completion of work tasks outlined in the work program.

2 (2) The Land Conservation and Development Commission shall adopt rules for conducting peri-  
3 odic review. The rules shall provide a process for:

4 (a) Initiating periodic review;

5 (b) Citizen participation;

6 (c) The participation of state agencies;

7 (d) The preparation, review and approval of an evaluation of a comprehensive plan and land use  
8 regulations;

9 (e) Review of a work program; and

10 (f) Review of completed work tasks.

11 (3) A decision by the Director of the Department of Land Conservation and Development to  
12 approve a work program, that no work program is necessary or that no further work is necessary  
13 is final and not subject to appeal.

14 (4) The director:

15 (a) Shall take action on a work task not later than 120 days after the local government submits  
16 the work task for review unless the local government waives the 120-day deadline or the **regional**  
17 commission **for the region** grants the director an extension. If the director does not take action  
18 within the time period required by this subsection, the work task is deemed approved. The depart-  
19 ment shall provide a letter to the local government certifying that the work task is approved unless  
20 an interested party has filed a timely objection to the work task consistent with administrative rules  
21 for conducting periodic review. If a timely objection is filed, the director shall refer the work task  
22 to the **regional** commission.

23 (b) May approve or remand a work task or refer the work task to the **regional** commission for  
24 a decision. A decision by the director to approve or remand a work task may be appealed to the  
25 **regional** commission.

26 (5) Except as provided in this subsection, the **regional** commission shall take action on the ap-  
27 peal or referral within 90 days of the appeal or referral. Action by the **regional** commission in re-  
28 sponse to an appeal from a decision of the director is a final order subject to judicial review in the  
29 manner provided in ORS 197.650. The **regional** commission may extend the time for taking action  
30 on the appeal or referral if the **regional** commission finds that:

31 (a) The appeal or referral is appropriate for mediation;

32 (b) The appeal or referral raises new or complex issues of fact or law that make it unreasonable  
33 for the **regional** commission to give adequate consideration to the issues within the 90-day limit; or

34 (c) The parties to the appeal and the **regional** commission agree to an extension, not to exceed  
35 an additional 90 days.

36 (6) The **regional** commission and a local government shall attempt to complete periodic review  
37 within three years after approval of a work program. In order to promote the timely completion of  
38 periodic review, the **regional** commission shall establish a system of incentives to encourage local  
39 government compliance with timelines in periodic review work programs.

40 **SECTION 43.** ORS 197.636 is amended to read:

41 197.636. (1) Upon good cause shown by a local government, the Director of the Department of  
42 Land Conservation and Development may allow the local government an extension of time for sub-  
43 mitting a work program or completing a work task. A decision by the director to grant or deny an  
44 extension may be referred to the [*Land Conservation and Development Commission*] **regional com-**  
45 **mission for the region** by the director. The Department of Land Conservation and Development

1 or the **regional** commission [*shall*] **may** not extend the deadline for submitting a work program more  
 2 than once nor for more than 90 days, and [*shall*] **may** not extend the deadline for a work task more  
 3 than once nor for more than one year.

4 (2) If a local government fails to submit a work program or to complete a work task by the  
 5 deadline set by the director or the **regional** commission, including any extension that has been  
 6 granted, the director shall schedule a hearing before the **regional** commission. The **regional** com-  
 7 mission shall issue an order imposing one or more of the following sanctions until the work program  
 8 or the work task receives final approval by the director or the **regional** commission:

9 (a) Require the local government to apply those portions of the goals and rules to land use de-  
 10 cisions as specified in the order. Sanctions may be imposed under this paragraph only when neces-  
 11 sary to resolve a specific deficiency identified in the order.

12 (b) Forfeiture of all or a portion of the grant money received to conduct the review, develop the  
 13 work program or complete the work task.

14 (c) Completion of the work program or work task by the department. The **regional** commission  
 15 may require the local government to pay the cost for completion of work performed by the depart-  
 16 ment, following the withholding process set forth in ORS 197.335 (4).

17 (d) Application of [*such*] interim measures as the **regional** commission deems necessary to en-  
 18 sure compliance with the statewide **land use** planning goals.

19 (3) If the department receives a work program or work task completed in response to a **regional**  
 20 commission order issued under subsection (2) of this section, the director shall evaluate and issue  
 21 a decision on the work program or work task within 90 days.

22 (4) **Regional** commission action pursuant to subsection (1) or (2) of this section is a final order  
 23 subject to judicial review in the manner provided in ORS 197.650.

24 **SECTION 44.** ORS 197.637 is amended to read:

25 197.637. (1) Upon request of the Department of Land Conservation and Development, the Hous-  
 26 ing and Community Services Department shall review the inventory and analysis of housing, and  
 27 measures taken to address the housing need, required of certain local governments under ORS  
 28 197.296. The review shall address the likely effect of measures developed by a local government  
 29 under ORS 197.296 (6) or (7) on the adequacy of the supply of buildable land and opportunities to  
 30 satisfy needs identified under ORS 197.296 (3).

31 (2) The [*Land Conservation and Development Commission and the Director of the*] Department of  
 32 Land Conservation and Development shall consider the review and any recommendations of the  
 33 Housing and Community Services Department when determining whether a local government has  
 34 complied with the statewide land use planning goals and the requirements of ORS 197.296.

35 **SECTION 45.** ORS 197.638 is amended to read:

36 197.638. (1) Upon request of the Department of Land Conservation and Development, the Oregon  
 37 Business Development Department shall review the inventory and analysis of industrial and com-  
 38 mercial land, and measures taken to address the land needs, required of certain local governments  
 39 under ORS 197.712. The review shall address the likely effect of measures developed by a local  
 40 government on the adequacy of the supply of sites and opportunities to satisfy needs identified under  
 41 ORS 197.712.

42 (2) The [*Land Conservation and Development Commission and the Director of the*] Department of  
 43 Land Conservation and Development shall consider the review and any recommendations of the  
 44 Oregon Business Development Department when determining whether a local government has com-  
 45 plied with the statewide land use planning goals and the requirements of ORS 197.712.

1        **SECTION 46.** ORS 197.639 is amended to read:

2        197.639. (1) In addition to coordination between state agencies and local government established  
3 in certified state agency coordination programs, the Department of Land Conservation and Devel-  
4 opment may establish one or more state assistance teams made up of representatives of various  
5 agencies and local governments, utilize the Economic Revitalization Team established under ORS  
6 284.555 or institute an alternative process for coordinating agency participation in the periodic re-  
7 view of comprehensive plans.

8        (2) The Economic Revitalization Team may work with a city to create a voluntary comprehen-  
9 sive plan review that focuses on the unique vision of the city, instead of conducting a standard pe-  
10 riodic review, if the team identifies a city that the team determines can benefit from a customized  
11 voluntary comprehensive plan review.

12        (3) The department may develop model ordinance provisions to assist local governments in the  
13 periodic review plan update process and in complying with new statutory requirements or new land  
14 use planning goal or rule requirements adopted by the **department** [*Land Conservation and Devel-*  
15 *opment Commission*] outside the periodic review process.

16        (4) A local government may arrange with the department for the provision of periodic review  
17 planning services and those services may be paid with grant program funds.

18        (5) The **Land Conservation and Development** Commission shall establish an advisory commit-  
19 tee composed, at a minimum, of representatives from the League of Oregon Cities, the Association  
20 of Oregon Counties, metropolitan service districts, the Special Districts Association of Oregon, land  
21 use planning public interest groups and developer interest groups. The advisory committee shall  
22 advise the commission and the department on the allocation of grants and technical assistance  
23 funding from General Fund sources and other issues assigned by the commission.

24        **SECTION 47.** ORS 197.644 is amended to read:

25        197.644. (1) The [*Land Conservation and Development Commission*] **regional commission for the**  
26 **region** may direct or, upon request of the local government, the Director of the Department of Land  
27 Conservation and Development may authorize a local government to modify an approved work pro-  
28 gram when:

29        (a) Issues of regional or statewide significance arising out of another local government's periodic  
30 review require an enhanced level of coordination;

31        (b) Issues of goal compliance are raised as a result of completion of a work program task re-  
32 sulting in a need to undertake further review or revisions;

33        (c) Issues relating to the organization of the work program, coordination with affected agencies  
34 or persons, or orderly implementation of work tasks result in a need for further review or revision;  
35 or

36        (d) Issues relating to needed housing, employment, transportation or public facilities and ser-  
37 vices were omitted from the work program but must be addressed in order to ensure compliance  
38 with the statewide **land use** planning goals.

39        (2) The **regional** commission shall have exclusive jurisdiction for review of the evaluation, work  
40 program and completed work program tasks as set forth in ORS 197.628 to 197.650. The **Land**  
41 **Conservation and Development** Commission shall adopt rules governing standing, the provision  
42 of notice, conduct of hearings, adoption of stays, extension of time periods and other matters related  
43 to the administration of ORS 197.180, 197.245, 197.254, 197.295, 197.320, 197.620, 197.625, 197.628 to  
44 197.650, 197.712, 197.747, 197.840, 215.416, 227.175 and 466.385.

45        (3)(a) **Regional** commission action pursuant to subsection (1) or (2) of this section is a final order

1 subject to judicial review in the manner provided in ORS 197.650.

2 (b) Action by the director pursuant to subsection (1) of this section may be appealed to the **re-**  
 3 **gional** commission **for the region** pursuant to rules adopted by the **regional** commission. **Regional**  
 4 commission action under this paragraph is a final order subject to judicial review in the manner  
 5 provided in ORS 197.650.

6 **SECTION 48.** ORS 197.646 is amended to read:

7 197.646. (1) A local government shall amend its acknowledged comprehensive plan, regional  
 8 framework plan and land use regulations implementing either plan by a self-initiated post-  
 9 acknowledgment process under ORS 197.610 to 197.625 to comply with:

10 (a) A [*new*] statutory requirement; [*or*]

11 (b) A [*new*] land use planning goal or rule [*requirement*] adopted by the Land Conservation and  
 12 Development Commission[.]; **or**

13 **(c) A rule adopted by the regional commission for the region.**

14 (2) Periodic review is not the implementation process for new statutory, land use planning goal  
 15 or rule requirements.

16 (3)(a) The Department of Land Conservation and Development shall notify local governments  
 17 when a new statutory requirement, [*or*] a new land use planning goal **adopted by the Land Con-**  
 18 **servaion and Development Commission** or a new rule [*requirement*] adopted by the **commission**  
 19 **or a regional** commission requires changes to an acknowledged comprehensive plan, a regional  
 20 framework plan and land use regulations implementing either plan.

21 (b) The **Land Conservaion and Development** Commission shall establish, by rule, the time  
 22 period within which an acknowledged comprehensive plan, a regional framework plan and land use  
 23 regulations implementing either plan must be in compliance with:

24 (A) A [*new*] statutory requirement, if the legislation does not specify a time period for compli-  
 25 ance; [*and*]

26 (B) A [*new*] land use planning goal or rule [*requirement*] adopted by the commission[.]; **and**

27 **(C) A rule adopted by a regional commission, if the rule does not specify a time period**  
 28 **for compliance.**

29 (4) When a local government does not adopt amendments to a comprehensive plan, a regional  
 30 framework plan and land use regulations implementing either plan as required by subsection (1) of  
 31 this section, the [*new*] statutory **requirement**, land use planning goal or rule [*requirements apply*]  
 32 **applies** directly to the local government's land use decisions. The failure to adopt amendments to  
 33 a comprehensive plan, a regional framework plan and land use regulations implementing either plan  
 34 required by subsection (1) of this section is a basis for initiation of enforcement action pursuant to  
 35 ORS 197.319 to 197.335.

36 **SECTION 49.** ORS 197.650 is amended to read:

37 197.650. (1) A [*Land Conservaion and Development Commission*] **regional commission** order  
 38 may be appealed to the Court of Appeals in the manner provided in ORS 183.482 by the following  
 39 persons:

40 (a) Persons who submitted comments or objections pursuant to ORS 197.251 (2) or proceedings  
 41 under ORS 197.633, 197.636 or 197.644 and are appealing [*a commission*] **an** order issued under ORS  
 42 197.251 or 197.633, 197.636 or 197.644;

43 (b) Persons who submitted comments or objections pursuant to procedures adopted by the **re-**  
 44 **gional** commission for certification of state agency coordination programs and are appealing a cer-  
 45 tification issued under ORS 197.180 (7);

1 (c) Persons who petitioned the **regional** commission for an order under ORS 197.324 and whose  
2 petition was dismissed;

3 (d) Persons who submitted comments or objections pursuant to ORS 197.659 and 215.788 to  
4 215.794 or proceedings under ORS 197.659 and 215.788 to 215.794 and are appealing a **regional**  
5 commission order issued under ORS 197.659 and 215.788 to 215.794;

6 (e) Persons who submitted comments or objections pursuant to ORS 197.652 to 197.658 and  
7 197.659 or proceedings under ORS 197.652 to 197.658 and 197.659 and are appealing a **regional**  
8 commission order issued under ORS 197.652 to 197.658 and 197.659; or

9 (f) Persons who submitted oral or written testimony in a proceeding before the **regional** com-  
10 mission pursuant to ORS 215.780.

11 (2) Notwithstanding ORS 183.482 (2) relating to contents of the petition, the petition shall state  
12 the nature of the order petitioner desires reviewed and whether the petitioner submitted comments  
13 or objections as provided in ORS 197.251 (2) or pursuant to ORS 197.633, 197.636, 197.644 or 197.659.

14 (3) Notwithstanding ORS 183.482 (2) relating to service of the petition, copies of the petition  
15 shall be served by registered or certified mail upon the Department of Land Conservation and De-  
16 velopment, the local government and all persons who filed comments or objections.

17 **SECTION 50.** ORS 197.651 is amended to read:

18 197.651. (1) Notwithstanding ORS 197.650, a [*Land Conservation and Development Commission*]  
19 **regional commission** order concerning the designation of urban reserves under ORS 195.145 (1)(b)  
20 or rural reserves under ORS 195.141 may be appealed to the Court of Appeals by the persons de-  
21 scribed in ORS 197.650.

22 (2) Judicial review of orders described in subsection (1) of this section is as provided in this  
23 section.

24 (3) Jurisdiction for judicial review is conferred upon the Court of Appeals. A proceeding for ju-  
25 dicial review may be instituted by filing a petition in the Court of Appeals. The petition must be  
26 filed within 21 days after the date the **regional** commission delivered or mailed the order upon  
27 which the petition is based.

28 (4) The filing of the petition, as set forth in subsection (3) of this section, and service of a peti-  
29 tion on the persons who submitted oral or written testimony in the proceeding before the **regional**  
30 commission are jurisdictional and may not be waived or extended.

31 (5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies  
32 of the petition must be served by registered or certified mail upon the **regional** commission and the  
33 persons who submitted oral or written testimony in the proceeding before the **regional** commission.

34 (6) Within 21 days after service of the petition, the **regional** commission shall transmit to the  
35 Court of Appeals the original or a certified copy of the entire record of the proceeding under review.  
36 However, by stipulation of the parties to the review proceeding, the record may be shortened. The  
37 Court of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the  
38 additional costs. The Court of Appeals may require or permit subsequent corrections or additions  
39 to the record. Except as specifically provided in this subsection, the Court of Appeals may not tax  
40 the cost of the record to the petitioner or an intervening party. However, the Court of Appeals may  
41 tax the costs to a party that files a frivolous petition for judicial review.

42 (7) Petitions and briefs must be filed within time periods and in a manner established by the  
43 Court of Appeals by rule.

44 (8) The Court of Appeals shall:

45 (a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court

1 of Appeals determines that the ends of justice served by holding oral argument on a later day out-  
 2 weigh the best interests of the public and the parties. However, the Court of Appeals may not hold  
 3 oral argument more than 49 days after the date of transmittal of the record because of general  
 4 congestion of the court calendar or lack of diligent preparation or attention to the case by a member  
 5 of the court or a party.

6 (b) Set forth in writing and provide to the parties a determination to hear oral argument more  
 7 than 49 days from the date the record is transmitted, together with the reasons for the determi-  
 8 nation. The Court of Appeals shall schedule oral argument as soon as is practicable.

9 (c) Consider, in making a determination under paragraph (b) of this subsection:

10 (A) Whether the case is so unusual or complex, due to the number of parties or the existence  
 11 of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief  
 12 the case and for the Court of Appeals to prepare for oral argument; and

13 (B) Whether the failure to hold oral argument at a later date likely would result in a miscar-  
 14 riage of justice.

15 (9) The court:

16 (a) Shall limit judicial review of an order reviewed under this section to the record.

17 (b) May not substitute its judgment for that of the [*Land Conservation and Development Com-*  
 18 *mission*] **regional commission** as to an issue of fact.

19 (10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section.  
 20 The Court of Appeals shall reverse or remand the order only if the court finds the order is:

21 (a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal  
 22 or remand unless the Court of Appeals determines that substantial rights of the petitioner were  
 23 prejudiced.

24 (b) Unconstitutional.

25 (c) Not supported by substantial evidence in the whole record as to facts found by the **regional**  
 26 commission.

27 (11) The Court of Appeals shall issue a final order on the petition for judicial review with the  
 28 greatest possible expediency.

29 (12) If the order of the **regional** commission is remanded by the Court of Appeals or the Su-  
 30 preme Court, the **regional** commission shall respond to the court's appellate judgment within 30  
 31 days.

32 **SECTION 51.** ORS 197.652 is amended to read:

33 197.652. (1) At the request of a county and at least one other local government in a region, the  
 34 Department of Land Conservation and Development, other state agencies, as defined in ORS 171.133,  
 35 metropolitan planning organizations, special districts and advisory committees on transportation  
 36 may participate with the local governments in a collaborative regional problem-solving process.

37 (2) If requested to participate, the department shall assist the county with the process and en-  
 38 courage regional efforts to resolve land use planning problems using the authorities described in  
 39 ORS 197.652 to 197.658.

40 (3) The county, in cooperation with the other local governments, shall identify the land use  
 41 planning problems to be addressed and the participants whose actions are necessary to resolve the  
 42 land use planning problems.

43 (4) The county shall submit a proposed work scope and a proposed list of participants as a  
 44 proposal to the [*Land Conservation and Development*] **regional commission for the region** for re-  
 45 view. The **regional** commission shall review:



1 (a) The proposed work scope to determine whether it can reasonably be completed within the  
2 time allowed;

3 (b) The proposed participant list to determine whether it includes, at a minimum, all local gov-  
4 ernments that will need to amend a comprehensive plan provision or a land use regulation, or adopt  
5 a new provision or regulation, in order to resolve the land use planning problems identified in the  
6 work scope; and

7 (c) The proposed work scope and the proposed participant list for consistency.

8 (5) A county may initiate amendments of a comprehensive plan or land use regulation under  
9 ORS 197.652 to 197.658 only if the **regional commission for the region** approves the work scope,  
10 the list of participants and a schedule for completion of the process. The schedule for completion  
11 of the process may:

12 (a) Not exceed three years except as provided in paragraph (b) of this subsection.

13 (b) Be extended by the **regional commission** for up to one year for good cause shown.

14 (6) The decision of a county to submit a proposal under this section, and the decision of the  
15 **regional commission for the region** to approve a proposal, are not final actions subject to judicial  
16 review.

17 (7) If the **regional commission for the region** approves a proposal under this section, the county  
18 must periodically report on the progress in carrying out the proposal, as specified by the **regional**  
19 commission.

20 (8) For purposes of ORS 197.654 and 197.656, the participants in a collaborative regional  
21 problem-solving process include all participants on the list of participants approved by the **regional**  
22 commission **for the region** unless the **regional commission** subsequently approves the addition or  
23 removal of a participant.

24 **SECTION 52.** ORS 197.654 is amended to read:

25 197.654. (1) After the [*Land Conservation and Development*] **regional commission for the region**  
26 approves a proposal for regional problem-solving under ORS 197.652, the participants shall develop  
27 proposed actions to resolve the problems identified in the work scope. The participants must agree  
28 to:

29 (a) Regional goals that describe how the region intends to resolve each regional problem de-  
30 scribed in the work scope;

31 (b) Actions necessary to achieve the regional goals, including changes to comprehensive plans  
32 or land use regulations;

33 (c) Measurable indicators of performance and a system for monitoring progress toward  
34 achievement of the regional goals;

35 (d) Incentives and disincentives to encourage successful implementation of the actions to  
36 achieve the regional goals;

37 (e) If the regional goals involve the management of an urban growth boundary, actions to co-  
38 ordinate the planning and provision of water, sewer and transportation facilities in the region; and

39 (f) A process for correction of actions if monitoring indicates that the actions are not achieving  
40 the regional goals.

41 (2) A decision by a participant to enter into a regional problem-solving agreement under ORS  
42 197.652 to 197.658 is not a final land use decision. However, a regional problem-solving agreement  
43 is not final and binding until:

44 (a) All local governments that are participants have adopted the provisions of the comprehensive  
45 plans or land use regulations contemplated in the agreement; and

1 (b) The **regional commission for the region** has approved the comprehensive plan provisions  
2 and land use regulations as provided under ORS 197.656.

3 (3) Changes to provisions of comprehensive plans and land use regulations adopted to implement  
4 a regional problem-solving agreement take effect 60 days after the **regional commission for the**  
5 **region** notifies all participants that the **regional** commission has approved all of the changes.

6 **SECTION 53.** ORS 197.656 is amended to read:

7 197.656. (1) After the adoption of changes to comprehensive plans and land use regulations to  
8 implement a regional problem-solving agreement under ORS 197.652 to 197.658, the local govern-  
9 ments that are participants shall submit the changes to the [*Land Conservation and Development*]  
10 **regional commission for the region** for review in the manner set forth in this section.

11 (2) Following the procedures set forth in this subsection, the **regional commission for the re-**  
12 **gion** may approve changes to comprehensive plans and land use regulations that do not fully comply  
13 with the statewide land use planning goals, without taking an exception under ORS 197.732, upon  
14 a determination that the changes:

15 (a) Conform, on the whole, with the purposes of the goals, and any failure to meet individual  
16 goal requirements is technical or minor in nature;

17 (b) Are needed to achieve the regional goals specified by the participants; and

18 (c) In combination with other actions agreed upon by the participants, are reasonably likely to  
19 achieve the regional goals.

20 (3) The **regional commission for the region**:

21 (a) Shall review changes to the comprehensive plans or land use regulations adopted by a local  
22 government to implement a regional problem-solving agreement under ORS 197.652 to 197.658 pur-  
23 suant to the procedures set forth in this section and ORS 197.659.

24 (b) Has exclusive jurisdiction for review of changes to comprehensive plans or land use regu-  
25 lations adopted by a local government to implement a regional problem-solving agreement under  
26 ORS 197.652 to 197.658.

27 (4) A participant in the regional problem-solving process or a person who participated in the  
28 proceedings leading to the adoption of changes to the comprehensive plans or land use regulations  
29 may not raise an issue on review before the **regional commission for the region** that was not raised  
30 in the local proceedings for adoption of the changes to the plans or regulations.

31 (5) If the **regional commission for the region** disapproves changes to the comprehensive plans  
32 or land use regulations adopted by a local government to implement a regional problem-solving  
33 agreement under ORS 197.652 to 197.658, the **regional** commission shall issue a written statement  
34 describing the reasons for the disapproval and suggesting alternative methods for accomplishing the  
35 goals on a timely basis.

36 (6) If, in order to resolve regional land use problems, the participants in a collaborative regional  
37 problem-solving process decide to devote agricultural land or forestland, as defined in the statewide  
38 **land use** planning goals, to uses not authorized by those goals, the participants shall choose land  
39 that is not part of the region's commercial agricultural or forestland base, or take an exception to  
40 those goals pursuant to ORS 197.732. To identify land that is not part of the region's commercial  
41 agricultural or forestland base, the participants shall consider the recommendation of a committee  
42 of persons appointed by the affected county, with expertise in appropriate fields, including but not  
43 limited to farmers, ranchers, foresters and soils scientists and representatives of the State Depart-  
44 ment of Agriculture, the State Forestry Department and the Department of Land Conservation and  
45 Development.

1 (7) The Governor may require all appropriate state agencies to participate in the collaborative  
2 regional problem-solving process.

3 (8) The **Land Conservation and Development** Commission may adopt rules to establish addi-  
4 tional procedural and substantive requirements for review of changes to comprehensive plans and  
5 land use regulations adopted by local governments to implement a regional problem-solving agree-  
6 ment under ORS 197.652 to 197.658.

7 **SECTION 54.** ORS 197.658 is amended to read:

8 197.658. In addition to the provisions of ORS 197.644, the [*Land Conservation and Development*  
9 *Commission*] **regional commission for the region** may modify an approved work program when a  
10 local government has agreed to participate in a collaborative regional problem-solving process pur-  
11 suant to ORS 197.654 and 197.656.

12 **SECTION 55.** ORS 197.712 is amended to read:

13 197.712. (1) In addition to the findings and policies set forth in ORS 197.005, 197.010 and 215.243,  
14 the Legislative Assembly finds and declares that, in carrying out statewide comprehensive land use  
15 planning, the provision of adequate opportunities for a variety of economic activities throughout the  
16 state is vital to the health, welfare and prosperity of all the people of the state.

17 (2) By the adoption of new goals or rules, or the application, interpretation or amendment of  
18 existing goals or rules, the Land Conservation and Development Commission **and the regional**  
19 **commissions** shall implement all of the following:

20 (a) Comprehensive plans shall include an analysis of the community's economic patterns,  
21 potentialities, strengths and deficiencies as they relate to state and national trends.

22 (b) Comprehensive plans shall contain policies concerning the economic development opportu-  
23 nities in the community.

24 (c) Comprehensive plans and land use regulations shall provide for at least an adequate supply  
25 of sites of suitable sizes, types, locations and service levels for industrial and commercial uses con-  
26 sistent with plan policies.

27 (d) Comprehensive plans and land use regulations shall provide for compatible uses on or near  
28 sites zoned for specific industrial and commercial uses.

29 (e) A city or county shall develop and adopt a public facility plan for areas within an urban  
30 growth boundary containing a population greater than 2,500 persons. The public facility plan shall  
31 include rough cost estimates for public projects needed to provide sewer, water and transportation  
32 for the land uses contemplated in the comprehensive plan and land use regulations. Project timing  
33 and financing provisions of public facility plans shall not be considered land use decisions.

34 (f) In accordance with ORS 197.180, state agencies that provide funding for transportation, water  
35 supply, sewage and solid waste facilities shall identify in their coordination programs how they will  
36 coordinate that funding with other state agencies and with the public facility plans of cities and  
37 counties. In addition, state agencies that issue permits affecting land use shall identify in their co-  
38 ordination programs how they will coordinate permit issuance with other state agencies and cities  
39 and counties.

40 (g) Local governments shall provide:

41 (A) Reasonable opportunities to satisfy local and rural needs for residential and industrial de-  
42 velopment and other economic activities on appropriate lands outside urban growth boundaries, in  
43 a manner consistent with conservation of the state's agricultural and forest land base; and

44 (B) Reasonable opportunities for urban residential, commercial and industrial needs over time  
45 through changes to urban growth boundaries.

1 (3) A comprehensive plan and land use regulations shall be in compliance with this section by  
 2 the first periodic review of that plan and regulations.

3 **SECTION 56.** ORS 197.717 is amended to read:

4 197.717. (1) State agencies shall provide technical assistance to local governments in:

5 (a) Planning and zoning land adequate in amount, size, topography, transportation access and  
 6 surrounding land use and public facilities for the special needs of various industrial and commercial  
 7 uses;

8 (b) Developing public facility plans; and

9 (c) Streamlining local permit procedures.

10 (2) The Oregon Business Development Department shall provide a local government with “state  
 11 and national trend” information to assist in compliance with ORS 197.712 (2)(a).

12 (3) The Land Conservation and Development Commission shall, **and the regional commissions**  
 13 **may**, develop model ordinances to assist local governments in streamlining local permit procedures.

14 (4) The Department of Land Conservation and Development and the Oregon Business Develop-  
 15 ment Department shall establish a joint program to assist rural communities with economic and  
 16 community development services. The assistance shall include, but not be limited to, grants, loans,  
 17 model ordinances and technical assistance. The purposes of the assistance are to remove obstacles  
 18 to economic and community development and to facilitate that development. The departments shall  
 19 give priority to communities with high rates of unemployment.

20 **SECTION 57.** ORS 197.768 is amended to read:

21 197.768. (1) As used in this section, “special district” has the meaning given that term in ORS  
 22 197.505.

23 (2)(a) A local government or special district may adopt a public facilities strategy if the public  
 24 facilities strategy:

25 (A)(i) Is acknowledged under ORS 197.251; or

26 (ii) Is approved by the [*Land Conservation and Development Commission*] **regional commission**  
 27 **for the region** under ORS 197.628 to 197.650; and

28 (B) Meets the requirements of this section.

29 (b) If a special district seeks to implement a public facilities strategy, that special district is  
 30 considered a local government for the purposes of ORS 197.251 and 197.628 to 197.650.

31 (3) A local government or special district may adopt a public facilities strategy only if the local  
 32 government or special district:

33 (a) Makes written findings justifying the need for the public facilities strategy;

34 (b) Holds a public hearing on the adoption of a public facilities strategy and the findings that  
 35 support the adoption of the public facilities strategy; and

36 (c) Provides written notice to the Department of Land Conservation and Development at least  
 37 45 days prior to the final public hearing that is held to consider the adoption of the public facilities  
 38 strategy.

39 (4) At a minimum, the findings under subsection (3) of this section must demonstrate that:

40 (a) There is a rapid increase in the rate or intensity of land development in a specific geographic  
 41 area that was unanticipated at the time the original planning for that area was adopted or there  
 42 has been a natural disaster or other catastrophic event in a specific geographic area;

43 (b) The total land development expected within the specific geographic area will exceed the  
 44 planned or existing capacity of public facilities; and

45 (c) The public facilities strategy is structured to ensure that the necessary supply of housing

1 and commercial and industrial facilities that will be impacted within the relevant geographic area  
 2 is not unreasonably restricted by the adoption of the public facilities strategy.

3 (5) A public facilities strategy shall include a clear, objective and detailed description of actions  
 4 and practices a local government or special district may engage in to control the time and sequence  
 5 of development approvals in response to the identified deficiencies in public facilities.

6 (6) A public facilities strategy shall be effective for no more than 24 months after the date on  
 7 which it is adopted, but may be extended, subject to subsection (7) of this section, provided the local  
 8 government or special district adopting the public facilities strategy holds a public hearing on the  
 9 proposed extension and adopts written findings that:

10 (a) Verify that the problem giving rise to the need for a public facilities strategy still exists;

11 (b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to  
 12 the need for a public facilities strategy; and

13 (c) Set a specific duration for the extension of the public facilities strategy.

14 (7)(a) A local government or special district considering an extension of a public facilities  
 15 strategy shall give the department notice at least 14 days prior to the date of the public hearing  
 16 on the extension.

17 (b) A single extension may not exceed one year, and a public facilities strategy may not be ex-  
 18 tended more than three times.

19 **SECTION 58.** ORS 197.825 is amended to read:

20 197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the  
 21 Land Use Board of Appeals shall have exclusive jurisdiction to review:

22 (a) Any land use decision or limited land use decision of a local government, special district or  
 23 a state agency in the manner provided in ORS 197.830 to 197.845.

24 (b) **A petition filed by the Land Conservation and Development Commission alleging that**  
 25 **a rule or order of a regional commission is not consistent with the statewide land use plan-**  
 26 **ning goals adopted under ORS 197.225.**

27 (c) **A petition filed by a local government challenging a determination by the Land Con-**  
 28 **servation and Development Commission that the local government's comprehensive plan,**  
 29 **regional framework plan, land use regulation or order is not consistent with the statewide**  
 30 **land use planning goals adopted under ORS 197.225.**

31 (2) The jurisdiction of the board:

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

34 (b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Ap-  
 35 peals;

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

37 (A) Submitted to the Department of Land Conservation and Development for acknowledgment  
 38 under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government de-  
 39 cision submitted to the department for acknowledgment, unless the Director of the Department of  
 40 Land Conservation and Development, in the director's sole discretion, transfers the matter to the  
 41 board; or

42 (B) Subject to the review authority of the department under ORS 197.430, 197.445, 197.450 or  
 43 197.455 or a matter related to a local government decision subject to the review authority of the  
 44 department under ORS 197.430, 197.445, 197.450 or 197.455;

45 (d) Does not include those land use decisions of a state agency over which the Court of Appeals

1 has jurisdiction for initial judicial review under ORS 183.400[,] **or** 183.482 or other statutory provisions;  
 2

3 (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;  
 4

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

8 (g) Does not include review of expedited land divisions under ORS 197.360.

9 (3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain jurisdiction:  
 10

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

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

16 **SECTION 59.** ORS 197.830 is amended to read:

17 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to  
 18 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.  
 19

20 (2) *[Except as provided in ORS 197.620 (1) and (2),]* A person may petition the board for review  
 21 of a land use decision or limited land use decision if the person:

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

24 (b) *[Appeared before the local government, special district or state agency orally or in writing]* **Is**  
 25 **adversely affected by the land use decision or limited land use decision.**

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

31 (a) Within 21 days of actual notice *[where]* **when** notice is required; or

32 (b) Within 21 days of the date a person knew or should have known of the decision *[where no]*  
 33 **when** notice is **not** required.

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

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

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

43 (c) A person who receives mailed notice of a decision made without a hearing under ORS 215.416  
 44 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of re-  
 45 ceiving actual notice of the nature of the decision, if the mailed notice of the decision did not rea-

1 sonably describe the nature of the decision.

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

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

9 (a) Within 21 days of actual notice [*where*] **when** notice is required; or

10 (b) Within 21 days of the date a person knew or should have known of the decision [*where no*]  
11 **when** notice is **not** required.

12 (6)(a) Except as provided in paragraph (b) of this subsection, the appeal periods described in  
13 subsections (3), (4) and (5) of this section shall not exceed three years after the date of the decision.

14 (b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.763  
15 is required but has not been provided, the provisions of paragraph (a) of this subsection do not ap-  
16 ply.

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

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

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

25 (B) Persons [*who appeared before the local government, special district or state agency, orally or*  
26 *in writing*] **that are adversely affected by the land use decision or the limited land use**  
27 **decision.**

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

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

33 (9) A notice of intent to appeal a land use decision or limited land use decision shall be filed  
34 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of  
35 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to  
36 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is  
37 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a  
38 certificate of mailing with the notice mailed under ORS 197.615 shall not render the notice defective.  
39 Copies of the notice of intent to appeal shall be served upon the local government, special district  
40 or state agency and the applicant of record, if any, in the local government, special district or state  
41 agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule  
42 of the board and shall be accompanied by a filing fee of \$200 and a deposit for costs to be estab-  
43 lished by the board. If a petition for review is not filed with the board as required in subsections  
44 (10) and (11) of this section, the filing fee and deposit shall be awarded to the local government,  
45 special district or state agency as cost of preparation of the record.

1 (10)(a) Within 21 days after service of the notice of intent to appeal, the local government, spe-  
2 cial district or state agency shall transmit to the board the original or a certified copy of the entire  
3 record of the proceeding under review. By stipulation of all parties to the review proceeding the  
4 record may be shortened. The board may require or permit subsequent corrections to the record;  
5 however, the board shall issue an order on a motion objecting to the record within 60 days of re-  
6 ceiving the motion.

7 (b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice  
8 to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860.  
9 Any person moving to intervene shall be provided such notice within seven days after a motion to  
10 intervene is filed. The notice required by this paragraph shall be accompanied by a statement that  
11 mediation information or assistance may be obtained from the Department of Land Conservation and  
12 Development.

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

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

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

17 (b) The date of the decision.

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

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

21 (b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing  
22 the record, or, on appeal of a decision under ORS 197.610 to 197.625, prior to the filing of the  
23 respondent's brief, the local government or state agency may withdraw its decision for purposes of  
24 reconsideration. If a local government or state agency withdraws an order for purposes of recon-  
25 sideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision.  
26 If the petitioner is dissatisfied with the local government or agency action after withdrawal for  
27 purposes of reconsideration, the petitioner may refile the notice of intent and the review shall pro-  
28 ceed upon the revised order. An amended notice of intent shall not be required if the local govern-  
29 ment or state agency, on reconsideration, affirms the order or modifies the order with only minor  
30 changes.

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

35 (15)(a) Upon entry of its final order the board may, in its discretion, award costs to the pre-  
36 vailing party including the cost of preparation of the record if the prevailing party is the local  
37 government, special district or state agency whose decision is under review. The deposit required  
38 by subsection (9) of this section shall be applied to any costs charged against the petitioner.

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

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

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



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

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

6 **SECTION 60.** ORS 197.835 is amended to read:

7 197.835. (1) The Land Use Board of Appeals shall review the land use decision or limited land  
8 use decision and prepare a final order affirming, reversing or remanding the land use decision or  
9 limited land use decision. The board shall adopt rules defining the circumstances in which *[it]* **the**  
10 **board** will reverse rather than remand a land use decision or limited land use decision that is not  
11 affirmed.

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

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

19 (3) Issues shall be limited to those raised by any participant before the local hearings body as  
20 provided by ORS 197.195 or 197.763, whichever is applicable.

21 (4) A petitioner may raise new issues to the board if:

22 (a) The local government failed to list the applicable criteria for a decision under ORS 197.195  
23 (3)(c) or 197.763 (3)(b), in which case a petitioner may raise new issues based upon applica-  
24 ble criteria that were omitted from the notice. However, the board may refuse to allow new issues to be  
25 raised if *[it]* **the board** finds that the issue could have been raised before the local government; or

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

29 (5) The board shall reverse or remand a land use decision not subject to an acknowledged  
30 comprehensive plan and land use regulations if the decision does not comply with the goals. The  
31 board shall reverse or remand a land use decision or limited land use decision subject to an ac-  
32 knowledged comprehensive plan or land use regulation if the decision does not comply with the  
33 goals and the *[Land Conservation and Development Commission]* **regional commission for the re-**  
34 **gion** has issued an order under ORS 197.320 or **the Land Conservation and Development Com-**  
35 **mission has** adopted a new or amended goal under ORS 197.245 requiring the local government to  
36 apply the goals to the type of decision being challenged.

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

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

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

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

45 (8) The board shall reverse or remand a decision involving the application of a plan or land use

1 regulation provision if the decision is not in compliance with applicable provisions of the compre-  
 2 hensive plan or land use regulations.

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

5 (a) The local government or special district:

6 (A) Exceeded its jurisdiction;

7 (B) Failed to follow the procedures applicable to the matter before it in a manner that preju-  
 8 diced the substantial rights of the petitioner;

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

10 (D) Improperly construed the applicable law; or

11 (E) Made an unconstitutional decision; or

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

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

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

18 (B) That the local government's action was for the purpose of avoiding the requirements of ORS  
 19 215.427 or 227.178.

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

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

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

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

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

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

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

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

45 **SECTION 61.** ORS 197.840 is amended to read:

1 197.840. (1) The following periods of delay shall be excluded from the 77-day period within which  
2 the [board] **Land Use Board of Appeals** must make a final decision on a petition under ORS 197.830  
3 (14):

4 (a) Any period of delay up to 120 days resulting from the board's deferring all or part of its  
5 consideration of a petition for review of a land use decision or limited land use decision that  
6 allegedly violates the goals if the decision has been:

7 (A) Submitted **to the regional commission for the region** for acknowledgment under ORS  
8 197.251; or

9 (B) Submitted to the Department of Land Conservation and Development as part of a periodic  
10 review work program task pursuant to ORS 197.628 to 197.650 and not yet acknowledged.

11 (b) Any period of delay resulting from a motion, including but not limited to, a motion disputing  
12 the constitutionality of the decision, standing, ex parte contacts or other procedural irregularities  
13 not shown in the record.

14 (c) Any reasonable period of delay resulting from a request for a stay under ORS 197.845.

15 (d) Any reasonable period of delay resulting from a continuance granted by a member of the  
16 board on the member's own motion or at the request of one of the parties, if the member granted  
17 the continuance on the basis of findings that the ends of justice served by granting the continuance  
18 outweigh the best interest of the public and the parties in having a decision within 77 days.

19 (2) [No] A period of delay resulting from a continuance granted by the board under subsection  
20 (1)(d) of this section [shall be] **is not** excludable under this section unless the board sets forth in the  
21 record, either orally or in writing, its reasons for finding that the ends of justice served by granting  
22 the continuance outweigh the best interests of the public and the other parties in a decision within  
23 the 77 days. The factors the board shall consider in determining whether to grant a continuance  
24 under subsection (1)(d) of this section in any case are as follows:

25 (a) Whether the failure to grant a continuance in the proceeding would be likely to make a  
26 continuation of the proceeding impossible or result in a miscarriage of justice; or

27 (b) Whether the case is so unusual or so complex, due to the number of parties or the existence  
28 of novel questions of fact or law, that it is unreasonable to expect adequate consideration of the  
29 issues within the 77-day time limit.

30 (3) No continuance under subsection (1)(d) of this section shall be granted because of general  
31 congestion of the board calendar or lack of diligent preparation or attention to the case by any  
32 member of the board or any party.

33 (4) The board may defer all or part of its consideration of a land use decision or limited land  
34 use decision described in subsection (1)(a) of this section until the [*Land Conservation and Develop-*  
35 *ment Commission*] **regional commission for the region** has disposed of the acknowledgment pro-  
36 ceeding described in subsection (1)(a) of this section. If the board deferred all or part of its  
37 consideration of a decision under this subsection, the board may grant a stay of the comprehensive  
38 plan provision, land use regulation, limited land use decision or land use decision under ORS  
39 197.845.

40 **SECTION 62.** ORS 183.457 is amended to read:

41 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by an-  
42 other law, a person participating in a contested case hearing conducted by an agency described in  
43 this subsection may be represented by an attorney or by an authorized representative subject to the  
44 provisions of subsection (2) of this section. The Attorney General shall prepare model rules for  
45 proceedings with lay representation that do not have the effect of precluding lay representation.

1 No rule adopted by a state agency shall have the effect of precluding lay representation. The  
 2 agencies before which an authorized representative may appear are:

3 (a) The State Landscape Contractors Board in the administration of the Landscape Contractors  
 4 Law.

5 (b) The State Department of Energy and the Energy Facility Siting Council.

6 (c) The Environmental Quality Commission and the Department of Environmental Quality.

7 (d) The Department of Consumer and Business Services for proceedings in which an insured  
 8 appears pursuant to ORS 737.505.

9 (e) The Department of Consumer and Business Services and any other agency for the purpose  
 10 of proceedings to enforce the state building code, as defined by ORS 455.010.

11 (f) The State Fire Marshal in the Department of State Police.

12 (g) The Department of State Lands for proceedings regarding the issuance or denial of fill or  
 13 removal permits under ORS 196.800 to 196.825.

14 (h) The Public Utility Commission.

15 (i) The Water Resources Commission and the Water Resources Department.

16 (j) The [*Land Conservation and Development Commission and the*] Department of Land Conser-  
 17 vation and Development.

18 (k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

19 (L) The Bureau of Labor and Industries.

20 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-  
 21 tion may appear by an authorized representative if:

22 (a) The agency conducting the contested case hearing has determined that appearance of such  
 23 a person by an authorized representative will not hinder the orderly and timely development of the  
 24 record in the type of contested case hearing being conducted;

25 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives  
 26 to appear on behalf of such participants in the type of contested case hearing being conducted; and

27 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-  
 28 thorized representative's presentation of evidence, examination and cross-examination of witnesses,  
 29 or presentation of factual arguments to ensure the orderly and timely development of the hearing  
 30 record, and shall not allow an authorized representative to present legal arguments except to the  
 31 extent authorized under subsection (3) of this section.

32 (3) The officer presiding at a contested case hearing in which an authorized representative ap-  
 33 pears under the provisions of this section may allow the authorized representative to present evi-  
 34 dence, examine and cross-examine witnesses, and make arguments relating to the:

35 (a) Application of statutes and rules to the facts in the contested case;

36 (b) Actions taken by the agency in the past in similar situations;

37 (c) Literal meaning of the statutes or rules at issue in the contested case;

38 (d) Admissibility of evidence; and

39 (e) Proper procedures to be used in the contested case hearing.

40 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-  
 41 ipation of an authorized representative shall be the basis for reversal or remand of agency action  
 42 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the  
 43 agency action.

44 (5) For the purposes of this section, "authorized representative" means a member of a partic-  
 45 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-

1 ciation or organized group, or an authorized officer or employee of a participating governmental  
 2 authority other than a state agency.

3 **SECTION 63.** ORS 183.530 is amended to read:

4 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or  
 5 repeal of any rule or any amendment to an existing rule by:

- 6 (1) The State Housing Council;
- 7 (2) A building codes division of the Department of Consumer and Business Services or any board  
 8 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;
- 9 (3) The **Department of** Land Conservation and Development [*Commission*];
- 10 (4) The Environmental Quality Commission;
- 11 (5) The Construction Contractors Board;
- 12 (6) The Occupational Safety and Health Division of the Department of Consumer and Business  
 13 Services; or
- 14 (7) The State Department of Energy.

15 **SECTION 64.** ORS 183.635 is amended to read:

16 183.635. (1) Except as provided in this section, all agencies must use administrative law judges  
 17 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-  
 18 tested case hearings, without regard to whether those hearings are subject to the procedural re-  
 19 quirements for contested case hearings.

20 (2) The following agencies need not use administrative law judges assigned from the office:

- 21 (a) Attorney General.
- 22 (b) Boards of stewards appointed by the Oregon Racing Commission.
- 23 (c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.
- 24 (d) Department of Corrections.
- 25 (e) Department of Education, State Board of Education and Superintendent of Public Instruction.
- 26 (f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.  
 27 722(c) and disability determination cases under 42 U.S.C. 405.
- 28 (g) Department of Revenue.
- 29 (h) Department of State Police.
- 30 (i) Employment Appeals Board.
- 31 (j) Employment Relations Board.
- 32 (k) Energy Facility Siting Council.
- 33 (L) Fair Dismissal Appeals Board.
- 34 (m) Governor.
- 35 (n) **Department of** Land Conservation and Development [*Commission*].
- 36 (o) Land Use Board of Appeals.
- 37 (p) Local government boundary commissions created pursuant to ORS 199.430.
- 38 (q) Oregon University System and institutions of higher education listed in ORS 352.002.
- 39 (r) Oregon Youth Authority.
- 40 (s) Psychiatric Security Review Board.
- 41 (t) Public Utility Commission.
- 42 (u) State Accident Insurance Fund Corporation.
- 43 (v) State Apprenticeship and Training Council.
- 44 (w) State Board of Parole and Post-Prison Supervision.
- 45 (x) State Land Board.

1 (y) State Treasurer.

2 (z) Wage and Hour Commission.

3 (3) The Workers' Compensation Board is exempt from using administrative law judges assigned  
4 from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except  
5 as specifically provided in this subsection, the Department of Consumer and Business Services must  
6 use administrative law judges assigned from the office only for contested cases arising out of the  
7 department's powers and duties under:

8 (a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

9 (b) ORS chapter 455;

10 (c) ORS chapter 674;

11 (d) ORS chapters 706 to 716;

12 (e) ORS chapter 717;

13 (f) ORS chapters 723, 725 and 726; and

14 (g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750.

15 (4) Notwithstanding any other provision of law, in any proceeding in which an agency is re-  
16 quired to use an administrative law judge assigned from the office, an officer or employee of the  
17 agency may not conduct the hearing on behalf of the agency.

18 (5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to  
19 use an administrative law judge assigned from the office if:

20 (a) Federal law requires that a different administrative law judge or hearing officer be used; or

21 (b) Use of an administrative law judge from the office could result in a loss of federal funds.

22 (6) Notwithstanding any other provision of this section, the Department of Environmental  
23 Quality must use administrative law judges assigned from the office only for contested case hearings  
24 conducted under the provisions of ORS 183.413 to 183.470.

25 **SECTION 65.** ORS 195.020 is amended to read:

26 195.020. (1) Special districts shall exercise their planning duties, powers and responsibilities and  
27 take actions that are authorized by law with respect to programs affecting land use, including a city  
28 or special district boundary change as defined in ORS 197.175 (1), in accordance with goals approved  
29 pursuant to ORS chapters 195, 196 and 197.

30 (2) A county assigned coordinative functions under ORS 195.025 (1), or the Metropolitan Service  
31 District, which is assigned coordinative functions for Multnomah, Washington and Clackamas coun-  
32 ties by ORS 195.025 (1), shall enter into a cooperative agreement with each special district that  
33 provides an urban service within the boundaries of the county or the metropolitan district. A county  
34 or the Metropolitan Service District may enter into a cooperative agreement with any other special  
35 district operating within the boundaries of the county or the metropolitan district.

36 (3) The appropriate city and county and, if within the boundaries of the Metropolitan Service  
37 District, the Metropolitan Service District, shall enter into a cooperative agreement with each spe-  
38 cial district that provides an urban service within an urban growth boundary. The appropriate city  
39 and county, and the Metropolitan Service District, may enter into a cooperative agreement with any  
40 other special district operating within an urban growth boundary.

41 (4) The agreements described in subsection (2) of this section shall conform to the requirements  
42 of paragraphs (a) to (d), (f) and (g) of this subsection. The agreements described in subsection (3) of  
43 this section shall:

44 (a) Describe how the city or county will involve the special district in comprehensive planning,  
45 including plan amendments, periodic review and amendments to land use regulations;

1 (b) Describe the responsibilities of the special district in comprehensive planning, including plan  
 2 amendments, periodic review and amendments to land use regulations regarding provision of urban  
 3 services;

4 (c) Establish the role and responsibilities of each party to the agreement with respect to city  
 5 or county approval of new development;

6 (d) Establish the role and responsibilities of the city or county with respect to district interests  
 7 including, where applicable, water sources, capital facilities and real property, including rights of  
 8 way and easements;

9 (e) Specify the units of local government which shall be parties to an urban service agreement  
 10 under ORS 195.065;

11 (f) If a Metropolitan Service District is a party to the agreement, describe how the Metropolitan  
 12 Service District will involve the special district in the exercise of the Metropolitan Service District's  
 13 regional planning responsibilities; and

14 (g) Contain such other provisions as the **Department of** Land Conservation and Development  
 15 [*Commission*] may require by rule.

16 (5) **Cooperative** agreements required under subsections (2) and (3) of this section are subject to  
 17 review by the **regional commission for the region, as described in section 2 of this 2011 Act**.  
 18 The **regional** commission may provide by rule for periodic submission and review of cooperative  
 19 agreements to [*insure that they*] **ensure that the agreements** are consistent with acknowledged  
 20 comprehensive plans.

21 **SECTION 66.** ORS 195.025 is amended to read:

22 195.025. (1) In addition to the responsibilities stated in ORS 197.175, each county, through its  
 23 governing body, shall be responsible for coordinating all planning activities affecting land uses  
 24 within the county, including planning activities of the county, cities, special districts and state  
 25 agencies, to [*assure*] **ensure** an integrated comprehensive plan for the entire area of the county. In  
 26 addition to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city  
 27 or special district boundary changes, as defined by ORS 197.175 (1), the governing body of the  
 28 Metropolitan Service District shall be considered the county review, advisory and coordinative body  
 29 for Multnomah, Clackamas and Washington Counties for the areas within that district.

30 (2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily  
 31 join together with adjacent counties as authorized in ORS 190.003 to 190.620.

32 (3) Whenever counties and cities representing 51 percent of the population in their area petition  
 33 the **Department of** Land Conservation and Development [*Commission*] for an election in their area  
 34 to form a regional planning agency to exercise the authority of the counties under subsection (1)  
 35 of this section in the area, the **regional commission for the region, as described in section 2 of**  
 36 **this 2011 Act**, shall review the petition. If [*it*] **the regional commission** finds that the area de-  
 37 scribed in the petition forms a reasonable planning unit, [*it*] **the regional commission** shall call an  
 38 election in the area on a date specified in ORS 203.085, to form a regional planning agency. The  
 39 election shall be conducted in the manner provided in ORS chapter 255. The county clerk shall be  
 40 considered the elections officer and the **regional** commission shall be considered the district  
 41 elections authority. The **regional planning** agency shall be considered established if the majority  
 42 of votes favor the establishment.

43 (4) If a voluntary association of local governments adopts a resolution ratified by each partic-  
 44 ipating county and a majority of the participating cities therein which authorizes the association to  
 45 perform the review, advisory and coordination functions assigned to the counties under subsection

1 (1) of this section, the association may perform such duties.

2 **SECTION 67.** ORS 195.034 is amended to read:

3 195.034. (1) If the coordinating body under ORS 195.025 (1) has adopted, within 10 years before  
4 a city initiates an evaluation or amendment of the city's urban growth boundary, a population  
5 forecast as required by ORS 195.036 that no longer provides a 20-year forecast for an urban area,  
6 a city may propose a revised 20-year forecast for its urban area by extending the coordinating body's  
7 current urban area forecast to a 20-year period using the same growth trend for the urban area  
8 assumed in the coordinating body's current adopted forecast.

9 (2) If the coordinating body has not adopted a forecast as required by ORS 195.036 or if the  
10 current forecast was adopted more than 10 years before the city initiates an evaluation or amend-  
11 ment of the city's urban growth boundary, a city may propose a 20-year forecast for its urban area  
12 by:

13 (a) Basing the proposed forecast on the population forecast prepared by the Office of Economic  
14 Analysis for the county for a 20-year period that commences when the city initiates the evaluation  
15 or amendment of the city's urban growth boundary; and

16 (b) Assuming that the urban area's share for the forecasted county population determined in  
17 paragraph (a) of this subsection will be the same as the urban area's current share of the county  
18 population based on the most recent certified population estimates from Portland State University  
19 and the most recent data for the urban area published by the United States Census Bureau.

20 (3)(a) If the coordinating body does not take action on the city's proposed forecast for the urban  
21 area under subsection (1) or (2) of this section within six months after the city's written request for  
22 adoption of the forecast, the city may adopt the extended forecast if:

23 (A) The city provides notice to the other local governments in the county; and

24 (B) The city includes the adopted forecast in the comprehensive plan, or a document included  
25 in the plan by reference, in compliance with the applicable requirements of ORS 197.610 to 197.650.

26 (b) If the extended forecast is adopted under paragraph (a) of this subsection consistent with the  
27 requirements of subsection (1) or (2) of this section:

28 (A) The forecast is deemed to satisfy the requirements of a statewide land use planning goal  
29 relating to urbanization to establish a coordinated 20-year population forecast for the urban area;  
30 and

31 (B) The city may rely on the population forecast as an appropriate basis upon which the city  
32 and county may conduct the evaluation or amendment of the city's urban growth boundary.

33 (4) The process for establishing a population forecast provided in this section is in addition to  
34 and not in lieu of a process established by goal and rule of the **Department of Land Conservation**  
35 and Development [*Commission*].

36 **SECTION 68.** ORS 195.040 is amended to read:

37 195.040. Upon the expiration of one year after the date of the approval of the goals and guide-  
38 lines and annually thereafter, each county governing body, upon request of the [*Land Conservation*  
39 *and Development Commission*] **regional commission for the region**, shall report to the **regional**  
40 commission on the status of comprehensive plans within each county. Each report shall include:

41 (1) Copies of comprehensive plans reviewed by the county governing body and copies of land  
42 use regulations applied to areas of critical state concern within the county.

43 (2) For those areas or jurisdictions within the county without comprehensive plans, a statement  
44 and review of the progress made toward compliance with the goals.

45 **SECTION 69.** ORS 195.085 is amended to read:



1 195.085. (1) No later than the first periodic review that begins after November 4, 1993, local  
2 governments and special districts shall demonstrate compliance with ORS 195.020 and 195.065.

3 (2) The [*Land Conservation and Development Commission*] **regional commission for the region**  
4 may adjust the deadline for compliance under this section when cities and counties that are parties  
5 to an agreement under ORS 195.020 and 195.065 are scheduled for periodic review at different times.

6 (3) Local governments and special districts that are parties to an agreement in effect on No-  
7 vember 4, 1993, which provides for the future provision of an urban service shall demonstrate com-  
8 pliance with ORS 195.065 no later than the date such agreement expires or the second periodic  
9 review that begins after November 4, 1993, whichever comes first.

10 **SECTION 70.** ORS 195.120 is amended to read:

11 195.120. (1) The Legislative Assembly finds that Oregon's parks are special places and the pro-  
12 tection of parks for the use and enjoyment of present and future generations is a matter of statewide  
13 concern.

14 (2) The **Department of** Land Conservation and Development [*Commission*], in cooperation with  
15 the State Parks and Recreation Commission and representatives of local government, shall adopt  
16 rules and land use planning goal amendments as necessary to provide for:

17 (a) Allowable uses in state and local parks that have adopted master plans;

18 (b) Local government planning necessary to implement state park master plans; and

19 (c) Coordination and dispute resolution among state and local agencies regarding planning and  
20 activities in state parks.

21 (3) Rules and goal amendments adopted under subsection (2) of this section shall provide for the  
22 following uses in state parks:

23 (a) Campgrounds, day use areas and supporting infrastructure, amenities and accessory visitor  
24 service facilities designed to meet the needs of park visitors;

25 (b) Recreational trails and boating facilities;

26 (c) Facilities supporting resource-interpretive and educational activities for park visitors;

27 (d) Park maintenance workshops, staff support facilities and administrative offices;

28 (e) Uses that directly support resource-based outdoor recreation; and

29 (f) Other park uses adopted by the **Department of** Land Conservation and Development [*Com-  
30 mission*].

31 (4) A local government shall not be required to adopt an exception under ORS 197.732 from a  
32 land use planning goal protecting agriculture or forestry resources to authorize a use identified by  
33 rule of the [*Land Conservation and Development Commission*] **regional commission for the region**  
34 under this section in a state or local park.

35 (5) A local government shall comply with the provisions of ORS 215.296 for all uses and activ-  
36 ities proposed in or adjacent to an exclusive farm use zone described in the state or local master  
37 plan as adopted by the local government and made a part of its comprehensive plan and land use  
38 regulation.

39 **SECTION 71.** ORS 195.145 is amended to read:

40 195.145. (1) To ensure that the supply of land available for urbanization is maintained:

41 (a) Local governments may cooperatively designate lands outside urban growth boundaries as  
42 urban reserves subject to ORS 197.610 to 197.625.

43 (b) Alternatively, a metropolitan service district established under ORS chapter 268 and a  
44 county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652  
45 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph

1 are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

2 (2)(a) The [*Land Conservation and Development Commission*] **regional commission for the re-**  
3 **gion** may require a local government to designate an urban reserve pursuant to subsection (1)(a)  
4 of this section during its periodic review in accordance with the conditions for periodic review un-  
5 der ORS 197.628.

6 (b) Notwithstanding paragraph (a) of this subsection, the **regional** commission may require a  
7 local government to designate an urban reserve pursuant to subsection (1)(a) of this section outside  
8 of its periodic review if:

9 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-  
10ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

11 (B) The local government has been required to designate an urban reserve by rule prior to No-  
12 vember 4, 1993.

13 (3) In carrying out subsections (1) and (2) of this section:

14 (a) Within an urban reserve, neither the **regional commission for the region** nor any local  
15 government shall prohibit the siting on a legal parcel of a single family dwelling that would other-  
16 wise have been allowed under law existing prior to designation as an urban reserve.

17 (b) The **regional** commission shall provide to local governments a list of options, rather than  
18 prescribing a single planning technique, to ensure the efficient transition from rural to urban use  
19 in urban reserves.

20 (4) Urban reserves designated by a metropolitan service district and a county pursuant to sub-  
21 section (1)(b) of this section must be planned to accommodate population and employment growth for  
22 at least 20 years, and not more than 30 years, after the 20-year period for which the district has  
23 demonstrated a buildable land supply in the most recent inventory, determination and analysis per-  
24 formed under ORS 197.296.

25 (5) A district and a county shall base the designation of urban reserves under subsection (1)(b)  
26 of this section upon consideration of factors including, but not limited to, whether land proposed for  
27 designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

28 (a) Can be developed at urban densities in a way that makes efficient use of existing and future  
29 public infrastructure investments;

30 (b) Includes sufficient development capacity to support a healthy urban economy;

31 (c) Can be served by public schools and other urban-level public facilities and services efficiently  
32 and cost-effectively by appropriate and financially capable service providers;

33 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-  
34 priate service providers;

35 (e) Can be designed to preserve and enhance natural ecological systems; and

36 (f) Includes sufficient land suitable for a range of housing types.

37 (6) The **regional** commission shall adopt by goal or by rule a process and criteria for designating  
38 urban reserves pursuant to subsection (1)(b) of this section.

39 **SECTION 72.** ORS 195.225 is amended to read:

40 195.225. (1) In areas subject to the jurisdiction of a local government boundary commission, the  
41 boundary commission shall conduct an advisory review of an annexation plan for conformity with  
42 annexation plan requirements set forth in ORS 195.220, 199.462 and the rules of procedure of the  
43 [*Land Conservation and Development Commission*] **regional commission for the region**.

44 (2) If a boundary commission finds that an annexation plan does not comply with ORS 195.220,  
45 199.462 or the procedural rules of the **regional** commission, the boundary commission, by order,

1 shall disapprove the annexation plan and return the plan to the governing body of the city or dis-  
2 trict. The order of the boundary commission that disapproves an annexation plan shall describe with  
3 particularity the provisions of the annexation plan that do not comply with ORS 195.220, 199.462 or  
4 the procedural rules of the **regional** commission and shall specifically indicate the reasons for non-  
5 compliance.

6 (3) The governing body of the city or district, upon receiving an order of the boundary com-  
7 mission that disapproves an annexation plan, may amend the plan and resubmit the amended plan  
8 to the boundary commission.

9 (4) After a boundary commission reviews an annexation plan, the annexation plan shall be sub-  
10 mitted to the electors of the city or district and affected territory as provided in ORS 195.205.

11 (5) Notwithstanding ORS chapter 199, annexations provided for in an annexation plan approved  
12 by the electors of a city or district and affected territory do not require the approval of a local  
13 government boundary commission.

14 (6) A city or district shall submit an annexation plan approved by the electors and a copy of the  
15 resolution, ordinance, order or proclamation proclaiming an annexation under an approved  
16 annexation plan to the local government boundary commission filing with the Secretary of State,  
17 Department of Revenue, assessor and county clerk of each county in which the affected territory is  
18 located.

19 **SECTION 73.** ORS 195.260 is amended to read:

20 195.260. (1) In order to reduce the risk of serious bodily injury or death resulting from rapidly  
21 moving landslides, a local government:

22 (a) Shall exercise all available authority to protect the public during emergencies, consistent  
23 with ORS 401.032.

24 (b) May require a geotechnical report and, if a report is required, shall provide for a coordinated  
25 review of the geotechnical report by the State Department of Geology and Mineral Industries or the  
26 State Forestry Department, as appropriate, before issuing a building permit for a site in a further  
27 review area.

28 (c) Except those structures exempt from building codes under ORS 455.310 and 455.315, shall  
29 amend its land use regulations, or adopt new land use regulations, to regulate the siting of dwellings  
30 and other structures designed for human occupancy, including those being restored under ORS  
31 215.130 (6), in further review areas where there is evidence of substantial risk for rapidly moving  
32 landslides. All final decisions under this paragraph and paragraph (b) of this subsection are the re-  
33 sponsibility of the local government with jurisdiction over the site. A local government may not  
34 delegate such final decisions to any state agency.

35 (d) May deny a request to issue a building permit if a geotechnical report discloses that the  
36 entire parcel is subject to a rapidly moving landslide or that the subject lot or parcel does not  
37 contain sufficient buildable area that is not subject to a rapidly moving landslide.

38 (e) Shall maintain a record, available to the public, of properties for which a geotechnical report  
39 has been prepared within the jurisdiction of the local government.

40 (2) A landowner allowed a building permit under subsection (1)(c) of this section shall sign a  
41 statement that shall:

42 (a) Be recorded with the county clerk of the county in which the property is located, in which  
43 the landowner acknowledges that the landowner may not in the future bring any action against an  
44 adjacent landowner about the effects of rapidly moving landslides on or adjacent to the landowner's  
45 property; and

1 (b) Record in the deed records for the county where the lot or parcel is located a nonrevocable  
2 deed restriction that the landowner signs and acknowledges, that contains a legal description com-  
3 plying with ORS 93.600 and that prohibits any present or future owner of the property from bringing  
4 any action against an adjacent landowner about the effects of rapidly moving landslides on or ad-  
5 jacent to the property.

6 (3) Restrictions on forest practices adopted under ORS 527.710 (10) do not apply to risk situ-  
7 ations arising solely from the construction of a building designed for human occupancy in a further  
8 review area on or after October 23, 1999.

9 (4) The following state agencies shall implement the following specific responsibilities to reduce  
10 the risk of serious bodily injury or death resulting from rapidly moving landslides:

11 (a) The State Department of Geology and Mineral Industries shall:

12 (A) Identify and map further review areas selected in cooperation with local governments and  
13 in coordination with the State Forestry Department, and provide technical assistance to local gov-  
14 ernments to facilitate the use and application of this information pursuant to subsection (1)(b) of this  
15 section; and

16 (B) Provide public education regarding landslide hazards.

17 (b) The State Forestry Department shall regulate forest operations to reduce the risk of serious  
18 bodily injury or death from rapidly moving landslides directly related to forest operations, and assist  
19 local governments in the siting review of permanent dwellings on and adjacent to forestlands in  
20 further review areas pursuant to subsection (1)(b) of this section.

21 (c) The **Department of Land Conservation and Development** [*Commission*] may take steps under  
22 its existing authority to assist local governments to appropriately apply the requirements of sub-  
23 section (1)(c) of this section.

24 (d) The Department of Transportation shall provide warnings to motorists during periods deter-  
25 mined to be of highest risk of rapidly moving landslides along areas on state highways with a history  
26 of being most vulnerable to rapidly moving landslides.

27 (e) The Office of Emergency Management shall coordinate state resources for rapid and effective  
28 response to landslide-related emergencies.

29 (5) Notwithstanding any other provision of law, any state or local agency adopting rules related  
30 to the risk of serious bodily injury or death from rapidly moving landslides shall do so only in con-  
31 formance with the policies and provisions of ORS 195.250 to 195.260.

32 (6) No state or local agency may adopt or enact any rule or ordinance for the purpose of re-  
33 ducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of  
34 land that is in addition to land identified as a further review area by the State Department of  
35 Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this  
36 section.

37 (7) Except as provided in ORS 527.710 or in Oregon's ocean and coastal land use planning goals,  
38 no state agency may adopt criteria regulating activities for the purpose of reducing risk of serious  
39 bodily injury or death from rapidly moving landslides on lands subject to the provisions of ORS  
40 195.250 to 195.260 that are more restrictive than the criteria adopted by a local government pursu-  
41 ant to subsection (1)(c) of this section.

42 **SECTION 74.** ORS 195.300 is amended to read:

43 195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11,  
44 chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009:

45 (1) "Acquisition date" means the date described in ORS 195.328.

- 1 (2) "Claim" means a written demand for compensation filed under:  
 2 (a) ORS 195.305, as in effect immediately before December 6, 2007; or  
 3 (b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.  
 4 (3) "Enacted" means enacted, adopted or amended.  
 5 (4) "Fair market value" means the value of property as determined under ORS 195.332.  
 6 (5) "Farming practice" has the meaning given that term in ORS 30.930.  
 7 (6) "Federal law" means:  
 8 (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity  
 9 acting under authority delegated by the federal government;  
 10 (b) A requirement contained in a plan or rule enacted by a compact entity; or  
 11 (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal  
 12 statute or regulation.  
 13 (7) "File" means to submit a document to a public entity.  
 14 (8) "Forest practice" has the meaning given that term in ORS 527.620.  
 15 (9) "Ground water restricted area" means an area designated as a critical ground water area  
 16 or as a ground water limited area by the Water Resources Department or Water Resources Com-  
 17 mission before December 6, 2007.  
 18 (10) "High-value farmland" means:  
 19 (a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone  
 20 or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are  
 21 December 6, 2007.  
 22 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class  
 23 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and  
 24 the following soils:  
 25 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;  
 26 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and  
 27 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.  
 28 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June  
 29 28, 2007, is:  
 30 (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation  
 31 issued by the Water Resources Department;  
 32 (B) Within the boundaries of a district, as defined in ORS 540.505; or  
 33 (C) Within the boundaries of a diking district formed under ORS chapter 551.  
 34 (d) Land that contains not less than five acres planted in wine grapes.  
 35 (e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000  
 36 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero  
 37 and 15 percent, and that is located within:  
 38 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;  
 39 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or  
 40 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.  
 41 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean  
 42 sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent,  
 43 and that is located within:  
 44 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is  
 45 within the State of Oregon;

- 1 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;
- 2 (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is  
3 within the State of Oregon;
- 4 (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that  
5 is within the State of Oregon; or
- 6 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that  
7 is within the State of Oregon.
- 8 (11) “High-value forestland” means land:
- 9 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon  
10 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per  
11 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-  
12 mercial tree species; or
- 13 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon  
14 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year  
15 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial  
16 tree species.
- 17 (12) “Home site approval” means approval of the subdivision or partition of property or approval  
18 of the establishment of a dwelling on property.
- 19 (13) “Just compensation” means:
- 20 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17,  
21 chapter 855, Oregon Laws 2009, for land use regulations enacted on or before January 1, 2007; and
- 22 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.
- 23 (14) “Land use regulation” means:
- 24 (a) A statute that establishes a minimum lot or parcel size;
- 25 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter  
26 215 that restricts the residential use of private real property;
- 27 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that  
28 restricts the residential use of private real property zoned for residential use;
- 29 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that  
30 restricts the residential use of private real property;
- 31 (e) A provision, enacted or adopted on or after January 1, 2010, of:
- 32 (A) The Oregon Forest Practices Act;
- 33 (B) An administrative rule of the State Board of Forestry; or
- 34 (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest prac-  
35 tice;
- 36 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State  
37 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;
- 38 (g) *[An administrative rule or]* **A goal of the Land Conservation and Development Commission**  
39 **or an administrative rule of the commission or a regional commission;** or
- 40 (h) A provision of a Metro functional plan that restricts the residential use of private real  
41 property.
- 42 (15) “Lawfully established unit of land” has the meaning given that term in ORS 92.010.
- 43 (16) “Lot” has the meaning given that term in ORS 92.010.
- 44 (17) “Measure 37 permit” means a final decision by Metro, a city or a county to authorize the  
45 development, subdivision or partition or other use of property pursuant to a waiver.

1 (18) "Owner" means:

2 (a) The owner of fee title to the property as shown in the deed records of the county where the  
3 property is located;

4 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force  
5 for the property; or

6 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,  
7 except that when the trust becomes irrevocable only the trustee is the owner.

8 (19) "Parcel" has the meaning given that term in ORS 92.010.

9 (20) "Property" means the private real property described in a claim and contiguous private real  
10 property that is owned by the same owner, whether or not the contiguous property is described in  
11 another claim, and that is not property owned by the federal government, an Indian tribe or a public  
12 body, as defined in ORS 192.410.

13 (21) "Protection of public health and safety" means a law, rule, ordinance, order, policy, permit  
14 or other governmental authorization that restricts a use of property in order to reduce the risk or  
15 consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural  
16 or human disaster or threat to persons or property including, but not limited to, building and fire  
17 codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control  
18 regulations.

19 (22) "Public entity" means the state, Metro, a county or a city.

20 (23) "Urban growth boundary" has the meaning given that term in ORS 195.060.

21 (24) "Waive" or "waiver" means an action or decision of a public entity to modify, remove or  
22 not apply one or more land use regulations under ORS 195.305 to 195.336 and sections 5 to 11,  
23 chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, or ORS  
24 195.305, as in effect immediately before December 6, 2007, to allow the owner to use property for a  
25 use permitted when the owner acquired the property.

26 (25) "Zoned for residential use" means zoning that has as its primary purpose single-family res-  
27 idential use.

28 **SECTION 75.** ORS 196.107 is amended to read:

29 196.107. (1) The Legislative Assembly, considering the recommendations of the **Department of**  
30 **Land Conservation and Development** [*Commission*], finds that the management plan adopted pursu-  
31 ant to the Columbia River Gorge National Scenic Area Act achieves on balance the purposes of the  
32 statewide **land use** planning goals adopted pursuant to ORS [197.230] **197.225**.

33 (2) Land use decisions subject to review under ORS 197.835 for compliance with the goals for  
34 those portions of Multnomah, Hood River and Wasco Counties within the Columbia River Gorge  
35 National Scenic Area, except land within urban area boundaries, are exempt from the requirements  
36 of ORS 197.610 to 197.625. This exemption becomes effective in a county when that county or the  
37 Columbia River Gorge Commission adopts and implements ordinances that are approved pursuant  
38 to sections 7(b) and 8(h) to 8(k) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663.

39 (3) The Director of the Department of Land Conservation and Development may petition the  
40 [*Land Conservation and Development Commission*] **regional commission for the region** to decertify  
41 the management plan at any time. If the [*Land Conservation and Development Commission*] **regional**  
42 **commission** receives a petition from the director, the [*Land Conservation and Development Com-*  
43 *mission*] **regional commission** shall decertify the management plan within 120 days, if it determines  
44 that any part of the management plan does not achieve on balance the purposes of the statewide  
45 **land use** planning goals adopted pursuant to ORS [197.230] **197.225**.

**SECTION 76.** ORS 196.115 is amended to read:

196.115. (1) For purposes of judicial review, decisions of the Columbia River Gorge Commission shall be subject to review solely as provided in this section, except as otherwise provided by the Columbia River Gorge National Scenic Area Act, P.L. 99-663.

(2)(a) A final action or order by the commission in a review or appeal of any action of the commission pursuant to section 10(c) or 15(b)(4) of the Columbia River Gorge National Scenic Area Act, or a final action or order by the commission in a review or appeal of any action of a county pursuant to section 15(a)(2) or 15(b)(4) of the Columbia River Gorge National Scenic Area Act, shall be reviewed by the Court of Appeals on a petition for judicial review filed and served as provided in subsections (3) and (4) of this section and ORS 183.482.

(b) On a petition for judicial review under paragraph (a) of this subsection the Court of Appeals also shall review the action of the county that is the subject of the commission's order, if requested in the petition.

(c) The Court of Appeals shall issue a final order on review under this subsection within the time limits provided by ORS 197.855.

(d) In lieu of judicial review under paragraphs (a) and (b) of this subsection, a county action may be appealed to the Land Use Board of Appeals under ORS 197.805 to 197.855. A notice of intent to appeal the county's action shall be filed not later than 21 days after the commission's order on the county action becomes final.

(e) Notwithstanding ORS 197.835, the scope of review in an appeal pursuant to paragraph (d) of this subsection shall not include any issue relating to interpretation or implementation of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, and any issue related to such interpretation or implementation shall be waived by the filing of an appeal under paragraph (d) of this subsection.

(f) After county land use ordinances are approved pursuant to sections 7(b) and 8(h) to (k) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Land Use Board of Appeals shall not review land use decisions within the general management area or special management area for compliance with the statewide **land use** planning goals. The limitation of this paragraph shall not apply if the [*Land Conservation and Development Commission*] **regional commission for the region** decertifies the management plan pursuant to ORS 196.107.

(3)(a) If a petition for judicial review of a **Columbia River Gorge** Commission order is filed pursuant to subsection (2)(a) of this section, the procedures to be followed by the parties, the commission and the court, and the court's review, shall be in accordance with ORS 183.480, 183.482 (1) to (7), 183.485, 183.486, 183.490 and 183.497, except as this section or the Columbia River Gorge National Scenic Area Act, P.L. 99-663, otherwise provides.

(b) Notwithstanding any provision of ORS 183.482:

(A) The commission shall transmit the original record or the certified copy of the entire record within 21 days after service of a petition for judicial review is served on the commission; and

(B) The parties shall file briefs with the court within the times allowed by rules of the court.

(c) The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, the court shall:

(A) Set aside or modify the order; or

(B) Remand the case to the agency for further action under a correct interpretation of the provision of law.



1 (d) The court shall remand the order to the agency if the court finds the agency's exercise of  
2 discretion to be:

3 (A) Outside the range of discretion delegated to the agency by law;

4 (B) Inconsistent with an agency rule, an officially stated agency position or a prior agency  
5 practice, unless the inconsistency is explained by the agency; or

6 (C) Otherwise in violation of a constitutional or statutory provision.

7 (e) The court shall set aside or remand the order if the court finds that the order is not sup-  
8 ported by substantial evidence in the whole record.

9 (f) Notwithstanding any other provision of this section, in any case where review of a county  
10 action as well as a commission order is sought pursuant to subsection (2)(a) and (b) of this section,  
11 the court shall accept any findings of fact by the commission which the court finds to be supported  
12 by substantial evidence in the whole record, and such findings by the commission shall prevail over  
13 any findings by the county concerning the same or substantially the same facts.

14 (4)(a) Except as otherwise provided by this section or the Columbia River Gorge National Scenic  
15 Area Act, P.L. 99-663, if review of a county action is sought pursuant to subsection (2)(b) of this  
16 section, the procedures to be followed by the parties, the county and the court, and the court's re-  
17 view, shall be in accordance with those provisions governing review of county land use decisions  
18 by the Land Use Board of Appeals set forth in ORS 197.830 (2) to (8), (10), (15) and (16) and 197.835  
19 (2) to (10), (12) and (13). As used in this section, "board" as used in the enumerated provisions shall  
20 mean "court" and the term "notice of intent to appeal" in ORS 197.830 (10) shall refer to the petition  
21 described in subsection (2) of this section.

22 (b) In addition to the other requirements of service under this section, the petitioner shall serve  
23 the petition upon the persons and bodies described in ORS 197.830 (9), as a prerequisite to judicial  
24 review of the county action.

25 (c) In accordance with subsection (3)(b)(B) of this section, a party to a review of both a com-  
26 mission order and a county action shall file only one brief with the court, which shall address both  
27 the commission order and the county action.

28 (d) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record. Subject  
29 to subsection (3)(f) of this section, the court shall be bound by any finding of fact of the county for  
30 which there is substantial evidence in the whole record. The court may appoint a master and follow  
31 the procedures of ORS 183.482 (7) in connection with matters that the board may take evidence for  
32 under ORS 197.835 (2).

33 (5) Approval of county land use ordinances by the commission pursuant to section 7 of the  
34 Columbia River Gorge National Scenic Area Act, P.L. 99-663, may be reviewed by the Court of Ap-  
35 peals as provided in ORS 183.482.

36 (6) Notwithstanding ORS 183.484, any proceeding filed in circuit court by or against the com-  
37 mission shall be filed with the circuit court for the county in which the commission has a principal  
38 business office or in which the land involved in the proceeding is located.

39 **SECTION 77.** ORS 196.485 is amended to read:

40 196.485. (1) If a state agency incorporates the Oregon Ocean Resources Management Plan and  
41 Territorial Sea Plan by reference in its coordination program and, upon a finding by the [*Land*  
42 *Conservation and Development Commission*] **regional commission for the region** that the agency  
43 has amended its rules, procedures and standards to conform with the objectives and requirements  
44 of the plan and Territorial Sea Plan, the state agency shall satisfy the requirements of state agency  
45 planning and coordination required by ORS 197.180 for ocean planning.

1 (2) If a state agency does not incorporate the plan or Territorial Sea Plan in its coordination  
2 program, the agency shall be subject to the state agency coordination requirements of ORS chapters  
3 195, 196 and 197 for state agency programs, procedures and standards that in any way affect ocean  
4 resources.

5 (3) State agency programs or rules for management of ocean resources or ocean uses shall be  
6 consistent with the Oregon Ocean Resources Management Plan and the Territorial Sea Plan.

7 **SECTION 78.** ORS 196.681 is amended to read:

8 196.681. (1) In accordance with rules adopted pursuant to this chapter, the Department of State  
9 Lands shall:

10 (a) Review any proposed wetland conservation plan or proposed amendment to an approved  
11 wetland conservation plan against the standards in this section;

12 (b) Prepare a proposed order that approves, approves with conditions or denies the proposed  
13 wetland conservation plan or proposed amendment to an approved wetland conservation plan;

14 (c) Provide notice and the opportunity for public hearing and comment on the proposed order;

15 (d) Consult with affected local, state and federal agencies; and

16 (e) Consider the applicable findings made in the order of acknowledgment [*issued by the Land*  
17 *Conservation and Development Commission*] **under ORS 197.251.**

18 (2) The Director of the Department of State Lands may approve by order a wetland conservation  
19 plan that includes the necessary elements of ORS 196.678 (2) and meets the standards of subsections  
20 (3) and (4) of this section.

21 (3) A wetland conservation plan shall comply with the following standards:

22 (a) Uses and activities permitted in the plan including fill or removal, or both, conform to sound  
23 policies of conservation and will not interfere with public health and safety;

24 (b) Uses and activities permitted in the plan including fill or removal, or both, are not incon-  
25 sistent with the protection, conservation and best use of the water resources of this state and the  
26 use of state waters for navigation, fishing and public recreation; and

27 (c) Designation of wetlands for protection, conservation and development is consistent with the  
28 resource functions and values of the area and the capability of the wetland area to withstand al-  
29 terations and maintain important functions and values.

30 (4) Wetland areas may be designated for development including fill or removal, or both, only if  
31 they meet the following standards:

32 (a) There is a public need for the proposed uses set forth in the acknowledged comprehensive  
33 plan for the area;

34 (b) Any planned wetland losses shall be fully offset by creation, restoration or enhancement of  
35 wetland functions and values or in an estuarine area, estuarine resource replacement is consistent  
36 with ORS 196.830; and

37 (c) Practicable, less damaging alternatives, including alternative locations for the proposed use  
38 are not available.

39 (5) Approval by the director of a wetland conservation plan shall be conditioned upon adoption  
40 by the affected local governments of comprehensive plan policies and land use regulations consistent  
41 with and sufficient to implement the wetland conservation plan. Appropriate implementing measures  
42 may include the following planning and zoning requirements regulating:

43 (a) Adjacent lands or buffer areas necessary to maintain, protect or restore wetland functions  
44 and values, including riparian vegetation, and the uses to be allowed in those areas;

45 (b) Sites for mitigation of impacts from development activities;

1 (c) Upland areas adjacent to wetlands; and

2 (d) Activities or location of buildings, structures and improvements which may affect wetland  
3 values or functions, such as storm water runoff.

4 (6) The director shall issue an order approving, approving with conditions or denying a wetland  
5 conservation plan, including a clear statement of findings which sets forth the basis for the approval,  
6 conditioning or denial. The order shall include:

7 (a) A clear statement of findings that the elements specified in ORS 196.678 (2) have been de-  
8 veloped;

9 (b) The findings in support of the determination of compliance or noncompliance with the stan-  
10 dards in subsections (3) and (4) of this section; and

11 (c) The conditions under which fill or removal or both may occur.

12 (7) The director may, as a part of an order approving a plan, authorize site-specific fill or re-  
13 moval without an individual permit as required by ORS 196.810 provided that:

14 (a) The director adopts findings demonstrating that fill or removal for any proposed project  
15 complies with ORS 196.682 (1)(a) to (e); or

16 (b) The director adopts findings that specific areas of fill or removal within areas designated as  
17 development in the plan meet the following standards:

18 (A) The fill or removal approved by the order will result in minimal impacts to the wetland  
19 system in the planning area;

20 (B) The public need for the proposed area of fill or removal outweighs the environmental damage  
21 likely to result from full development;

22 (C) The director conditions any such order as necessary to ensure that the fill or removal, or  
23 both, is designed to minimize impacts from implementing the project; and

24 (D) Full replacement of wetland losses is provided through creation, restoration or enhancement  
25 of wetlands with comparable functions and values.

26 (8) Upon a finding by the director that a fill or removal, or both, authorized under subsection  
27 (7)(b) of this section has caused or is likely to cause more than minimal adverse impact to the  
28 wetland system considering required mitigation conditions, the director shall revise the order to  
29 require individual permit review according to ORS 196.682 or provide additional conditions to ensure  
30 that adverse impacts are minimal. Such revision shall not be subject to ORS 196.684.

31 **SECTION 79.** ORS 215.213 is amended to read:

32 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991  
33 Edition), the following uses may be established in any area zoned for exclusive farm use:

34 (a) Churches and cemeteries in conjunction with churches.

35 (b) The propagation or harvesting of a forest product.

36 (c) Utility facilities necessary for public service, including wetland waste treatment systems but  
37 not including commercial facilities for the purpose of generating electrical power for public use by  
38 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
39 may be established as provided in ORS 215.275.

40 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
41 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,  
42 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
43 operator does or will require the assistance of the relative in the management of the farm use and  
44 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
45 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS

1 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
 2 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-  
 3 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
 4 shall operate as a partition of the homesite to create a new parcel.

5 (e) Nonresidential buildings customarily provided in conjunction with farm use.

6 (f) Primary or accessory dwellings customarily provided in conjunction with farm use. For a  
 7 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-  
 8 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-  
 9 edged under ORS 197.251.

10 (g) Operations for the exploration for and production of geothermal resources as defined by ORS  
 11 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
 12 compressors, separators and other customary production equipment for an individual well adjacent  
 13 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
 14 an exception under ORS 197.732 (2)(a) or (b).

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

18 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
 19 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
 20 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
 21 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
 22 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
 23 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
 24 view of the hardship claimed under this paragraph. A temporary residence approved under this  
 25 paragraph is not eligible for replacement under paragraph (q) of this subsection.

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

27 (k) Reconstruction or modification of public roads and highways, including the placement of  
 28 utility facilities overhead and in the subsurface of public roads and highways along the public right  
 29 of way, but not including the addition of travel lanes, where no removal or displacement of buildings  
 30 would occur, or no new land parcels result.

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

33 (m) Minor betterment of existing public road and highway related facilities, such as maintenance  
 34 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous  
 35 public-owned property utilized to support the operation and maintenance of public roads and high-  
 36 ways.

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

39 (o) Creation, restoration or enhancement of wetlands.

40 (p) A winery, as described in ORS 215.452.

41 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

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

43 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to  
 44 a sanitary waste disposal system;

45 (C) Has interior wiring for interior lights;

1 (D) Has a heating system; and

2 (E) In the case of replacement:

3 (i) Is removed, demolished or converted to an allowable nonresidential use within three months  
4 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of  
5 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable  
6 siting standards. However, the standards shall not be applied in a manner that prohibits the siting  
7 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned  
8 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the  
9 deed records for the county where the property is located a deed restriction prohibiting the siting  
10 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless  
11 a statement of release is placed in the deed records for the county. The release shall be signed by  
12 the county or its designee and state that the provisions of this paragraph regarding replacement  
13 dwellings have changed to allow the siting of another dwelling. The county planning director or the  
14 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting  
15 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
16 and release statements filed under this paragraph; and

17 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-  
18 ished within three months after the deferred replacement permit is issued. A deferred replacement  
19 permit allows construction of the replacement dwelling at any time. If, however, the established  
20 dwelling is not removed or demolished within three months after the deferred replacement permit  
21 is issued, the permit becomes void. The replacement dwelling must comply with applicable building  
22 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to  
23 siting at the time of construction. A deferred replacement permit may not be transferred, by sale  
24 or otherwise, except by the applicant to the spouse or a child of the applicant.

25 (r) Farm stands if:

26 (A) The structures are designed and used for the sale of farm crops or livestock grown on the  
27 farm operation, or grown on the farm operation and other farm operations in the local agricultural  
28 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm  
29 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-  
30 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;  
31 and

32 (B) The farm stand does not include structures designed for occupancy as a residence or for  
33 activity other than the sale of farm crops or livestock and does not include structures for banquets,  
34 public gatherings or public entertainment.

35 (s) An armed forces reserve center, if the center is within one-half mile of a community college.  
36 For purposes of this paragraph, "armed forces reserve center" includes an armory or National  
37 Guard support facility.

38 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as  
39 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor  
40 area or placed on a permanent foundation unless the building or facility preexisted the use approved  
41 under this paragraph. The site shall not include an aggregate surface or hard surface area unless  
42 the surface preexisted the use approved under this paragraph. An owner of property used for the  
43 purpose authorized in this paragraph may charge a person operating the use on the property rent  
44 for the property. An operator may charge users of the property a fee that does not exceed the  
45 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model

1 aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
2 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
3 ground.

4 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS  
5 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops  
6 processed at the facility. The building established for the processing facility shall not exceed 10,000  
7 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm  
8 use or devote more than 10,000 square feet to the processing activities within another building  
9 supporting farm uses. A processing facility shall comply with all applicable siting standards but the  
10 standards shall not be applied in a manner that prohibits the siting of the processing facility.

11 (v) Fire service facilities providing rural fire protection services.

12 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities  
13 associated with a district as defined in ORS 540.505.

14 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-  
15 cilities or structures that end at the point where the utility service is received by the customer and  
16 that are located on one or more of the following:

17 (A) A public right of way;

18 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
19 jacent property owners has been obtained; or

20 (C) The property to be served by the utility.

21 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
22 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
23 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
24 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
25 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
26 exclusive farm use zone under this chapter.

27 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
28 the following uses may be established in any area zoned for exclusive farm use subject to ORS  
29 215.296:

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

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

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

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

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

44 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-  
45 nual income.

1 (c) Commercial activities that are in conjunction with farm use, including the processing of farm  
2 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

3 (d) Operations conducted for:

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

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

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

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

10 (e) Community centers owned by a governmental agency or a nonprofit community organization  
11 and operated primarily by and for residents of the local rural community, hunting and fishing pre-  
12 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the  
13 county governing body or its designee, a private campground may provide yurts for overnight  
14 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include  
15 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.  
16 Upon request of a county governing body, the [*Land Conservation and Development Commission*]  
17 **regional commission for the region, as described in section 2 of this 2011 Act**, may provide by  
18 rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a  
19 county if the **regional** commission determines that the increase will comply with the standards de-  
20 scribed in ORS 215.296 (1). A public park or campground may be established as provided under ORS  
21 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a  
22 collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

23 (f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

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

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

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

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

45 (k) Dog kennels.

- 1 (L) Residential homes as defined in ORS 197.660, in existing dwellings.
- 2 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not  
 3 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
 4 shall not include any species under quarantine by the State Department of Agriculture or the United  
 5 States Department of Agriculture. The county shall provide notice of all applications under this  
 6 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
 7 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
 8 tive decision or initial public hearing on the application.
- 9 (n) Home occupations as provided in ORS 215.448.
- 10 (o) Transmission towers over 200 feet in height.
- 11 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way  
 12 but not resulting in the creation of new land parcels.
- 13 (q) Reconstruction or modification of public roads and highways involving the removal or dis-  
 14 placement of buildings but not resulting in the creation of new land parcels.
- 15 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh  
 16 stations and rest areas, where additional property or right of way is required but not resulting in  
 17 the creation of new land parcels.
- 18 (s) A destination resort that is approved consistent with the requirements of any statewide **land**  
 19 **use** planning goal relating to the siting of a destination resort.
- 20 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-  
 21 dences.
- 22 (u) A living history museum related to resource based activities owned and operated by a gov-  
 23 ernmental agency or a local historical society, together with limited commercial activities and fa-  
 24 cilities that are directly related to the use and enjoyment of the museum and located within  
 25 authentic buildings of the depicted historic period or the museum administration building, if areas  
 26 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
 27 the museum administration buildings and parking lot are located within one quarter mile of the  
 28 metropolitan urban growth boundary. As used in this paragraph:
- 29 (A) "Living history museum" means a facility designed to depict and interpret everyday life and  
 30 culture of some specific historic period using authentic buildings, tools, equipment and people to  
 31 simulate past activities and events; and
- 32 (B) "Local historical society" means the local historical society, recognized as such by the  
 33 county governing body and organized under ORS chapter 65.
- 34 (v) Operations for the extraction and bottling of water.
- 35 (w) An aerial fireworks display business that has been in continuous operation at its current  
 36 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's  
 37 permit to sell or provide fireworks.
- 38 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-  
 39 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction  
 40 with the growing and marketing of nursery stock on the land that constitutes farm use.
- 41 (y) Public or private schools for kindergarten through grade 12, including all buildings essential  
 42 to the operation of a school, primarily for residents of the rural area in which the school is located.
- 43 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),  
 44 a single-family residential dwelling not provided in conjunction with farm use may be established  
 45 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by



1 the Agricultural Capability Classification System in use by the United States Department of Agri-  
2 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval  
3 of the governing body or its designee in any area zoned for exclusive farm use upon written findings  
4 showing all of the following:

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

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

11 (c) Complies with such other conditions as the governing body or its designee considers neces-  
12 sary.

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

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

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

23 (c) The dwelling complies with other conditions considered necessary by the governing body or  
24 its designee.

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

27 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-  
28 tablished; and

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

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

40 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,  
41 1948, and July 1, 1983. For the purposes of this section:

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

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

45 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels

1 or lots and parcels by the same person, spouses or a single partnership or business entity, separately  
 2 or in tenancy in common.

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

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

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

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

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

15 (b) ORS 215.296 for those uses identified by rule of the [*Land Conservation and Development*  
 16 *Commission as provided in section 3, chapter 529, Oregon Laws 1993*] **regional commission for the**  
 17 **region, as described in section 2 of this 2011 Act.**

18 **SECTION 80.** ORS 215.263 is amended to read:

19 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting  
 20 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the  
 21 governing body or its designee of the county in which the land is situated. The governing body of  
 22 a county by ordinance shall require such prior review and approval for such divisions of land within  
 23 exclusive farm use zones established within the county.

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

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

28 (b) The parcels created by the proposed division are not smaller than the minimum size estab-  
 29 lished under ORS 215.780.

30 (3) The governing body of a county or its designee may approve a proposed division of land in  
 31 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283  
 32 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for  
 33 the use. The governing body may establish other criteria as it considers necessary.

34 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined  
 35 in ORS 215.010, the governing body of a county or its designee:

36 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels  
 37 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-  
 38 vided in conjunction with farm use if:

39 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

40 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
 41 created prior to July 1, 2001;

42 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with  
 43 the minimum size established under ORS 215.780;

44 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings  
 45 complies with the minimum size established under ORS 215.780; and

1 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
2 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
3 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
4 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
5 forest use in conjunction with other land.

6 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into  
7 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

8 (A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

9 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
10 created prior to July 1, 2001;

11 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or  
12 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

13 (D) The parcels for the nonfarm dwellings are:

14 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;  
15 and

16 (ii) Composed of at least 90 percent Class VI through VIII soils;

17 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;  
18 and

19 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
20 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
21 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
22 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
23 forest use in conjunction with other land.

24 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

25 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels  
26 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-  
27 vided in conjunction with farm use if:

28 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

29 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
30 created prior to July 1, 2001;

31 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with  
32 the minimum size established under ORS 215.780;

33 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings  
34 complies with the minimum size established under ORS 215.780; and

35 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
36 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
37 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
38 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
39 forest use in conjunction with other land.

40 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into  
41 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

42 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

43 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully  
44 created prior to July 1, 2001;

45 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or

1 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

2 (D) The parcels for the nonfarm dwellings are:

3 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;  
4 and

5 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90  
6 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage  
7 for grazing livestock. The [*Land Conservation and Development Commission*] **regional commission**  
8 **for the region, as described in section 2 of this 2011 Act**, in cooperation with the State Depart-  
9 ment of Agriculture and other interested persons, may establish by rule objective criteria for iden-  
10 tifying units of land that are not capable of producing adequate herbaceous forage for grazing  
11 livestock. In developing the criteria, the **regional** commission shall use the latest information from  
12 the United States Natural Resources Conservation Service and consider costs required to utilize  
13 grazing lands that differ in acreage and productivity level;

14 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;  
15 and

16 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm  
17 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-  
18 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-  
19 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or  
20 forest use in conjunction with other land.

21 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within  
22 the boundaries designated for a farm use zone at the time the zone is established.

23 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions  
24 of land resulting from foreclosure of recorded contracts for the sale of real property.

25 (8) The governing body of a county may not approve any proposed division of a lot or parcel  
26 described in ORS 215.213 (1)(d) or (i), 215.283 (1)(d) or (2)(L) or 215.284 (1), or a proposed division  
27 that separates a processing facility from the farm operation specified in ORS 215.213 (1)(u) or 215.283  
28 (1)(r).

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

31 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved  
32 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

33 (b) For historic property that meets the requirements of ORS 215.213 (1)(n) and 215.283 (1)(L).

34 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-  
35 prove a proposed division of land provided:

36 (A) The land division is for the purpose of allowing a provider of public parks or open space,  
37 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;  
38 and

39 (B) A parcel created by the land division that contains a dwelling is large enough to support  
40 continued residential use of the parcel.

41 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

42 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

43 (B) May not be considered in approving or denying an application for siting any other dwelling;

44 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a  
45 redesignation or rezoning to allow a public park, open space or other natural resource use; and

1 (D) May not be smaller than 25 acres unless the purpose of the land division is:

2 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a  
3 wildlife habitat protection plan; or

4 (ii) To allow a transaction in which at least one party is a public park or open space provider,  
5 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000  
6 acres of open space or park property.

7 (11) The governing body of a county or its designee may approve a division of land smaller than  
8 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone  
9 provided:

10 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction  
11 with the church;

12 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

13 (c) The newly created lot or parcel is not larger than five acres; and

14 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size  
15 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or  
16 parcel.

17 (12) The governing body of a county may not approve a division of land for nonfarm use under  
18 subsection (3), (4), (5), (9), (10) or (11) of this section unless any additional tax imposed for the  
19 change in use has been paid.

20 (13) Parcels used or to be used for training or stabling facilities may not be considered appro-  
21 priate to maintain the existing commercial agricultural enterprise in an area where other types of  
22 agriculture occur.

23 **SECTION 81.** ORS 215.275 is amended to read:

24 215.275. (1) A utility facility established under ORS 215.213 (1)(c) or 215.283 (1)(c) is necessary  
25 for public service if the facility must be sited in an exclusive farm use zone in order to provide the  
26 service.

27 (2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS  
28 215.213 (1)(c) or 215.283 (1)(c) must show that reasonable alternatives have been considered and that  
29 the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

30 (a) Technical and engineering feasibility;

31 (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if  
32 it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reason-  
33 ably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

34 (c) Lack of available urban and nonresource lands;

35 (d) Availability of existing rights of way;

36 (e) Public health and safety; and

37 (f) Other requirements of state or federal agencies.

38 (3) Costs associated with any of the factors listed in subsection (2) of this section may be con-  
39 sidered, but cost alone may not be the only consideration in determining that a utility facility is  
40 necessary for public service. Land costs shall not be included when considering alternative locations  
41 for substantially similar utility facilities. The [*Land Conservation and Development Commission*] **re-**  
42 **gional commission for the region, as described in section 2 of this 2011 Act**, shall determine  
43 by rule how land costs may be considered when evaluating the siting of utility facilities that are  
44 not substantially similar.

45 (4) The owner of a utility facility approved under ORS 215.213 (1)(c) or 215.283 (1)(c) shall be

1 responsible for restoring, as nearly as possible, to its former condition any agricultural land and  
2 associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair  
3 or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility fa-  
4 cility from requiring a bond or other security from a contractor or otherwise imposing on a con-  
5 tractor the responsibility for restoration.

6 (5) The governing body of the county or its designee shall impose clear and objective conditions  
7 on an application for utility facility siting under ORS 215.213 (1)(c) or 215.283 (1)(c) to mitigate and  
8 minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in  
9 order to prevent a significant change in accepted farm practices or a significant increase in the cost  
10 of farm practices on the surrounding farmlands.

11 (6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas  
12 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy  
13 Regulatory Commission.

14 **SECTION 82.** ORS 215.278 is amended to read:

15 215.278. (1) The [*Land Conservation and Development Commission*] **regional commission for the**  
16 **region, as described in section 2 of this 2011 Act**, shall revise administrative rules regarding  
17 dwellings customarily provided in conjunction with farm use to allow, under ORS 215.213 and  
18 215.283, the establishment of accessory dwellings needed to provide opportunities for farmworker  
19 housing for individuals primarily engaged in farm use whose assistance in the management of the  
20 farm is or will be required by the farm operator on the farm unit.

21 (2) As used in this section, "farm unit" means the contiguous and noncontiguous tracts in com-  
22 mon ownership used by the farm operator for farm use as defined in ORS 215.203.

23 **SECTION 83.** ORS 215.282 is amended to read:

24 215.282. The [*Land Conservation and Development Commission*] **regional commission for the**  
25 **region, as described in section 2 of this 2011 Act**, shall consider the findings of ORS 215.281 and  
26 adopt rules that provide standards for the review of a primary or accessory dwelling customarily  
27 provided in conjunction with a commercial dairy farm. Notwithstanding any other administrative  
28 rule establishing a gross farm income standard, the rules adopted under this section shall allow the  
29 siting of a dwelling on a commercial dairy farm prior to the dairy earning any gross farm income.

30 **SECTION 84.** ORS 215.283 is amended to read:

31 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

32 (a) Churches and cemeteries in conjunction with churches.

33 (b) The propagation or harvesting of a forest product.

34 (c) Utility facilities necessary for public service, including wetland waste treatment systems but  
35 not including commercial facilities for the purpose of generating electrical power for public use by  
36 sale or transmission towers over 200 feet in height. A utility facility necessary for public service  
37 may be established as provided in ORS 215.275.

38 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the  
39 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,  
40 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm  
41 operator does or will require the assistance of the relative in the management of the farm use and  
42 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.  
43 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS  
44 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or  
45 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-

1 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure  
 2 shall operate as a partition of the homesite to create a new parcel.

3 (e) Primary or accessory dwellings and other buildings customarily provided in conjunction with  
 4 farm use.

5 (f) Operations for the exploration for and production of geothermal resources as defined by ORS  
 6 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of  
 7 compressors, separators and other customary production equipment for an individual well adjacent  
 8 to the wellhead. Any activities or construction relating to such operations shall not be a basis for  
 9 an exception under ORS 197.732 (2)(a) or (b).

10 (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or  
 11 construction relating to such operations shall not be a basis for an exception under ORS 197.732  
 12 (2)(a) or (b).

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

14 (i) Reconstruction or modification of public roads and highways, including the placement of  
 15 utility facilities overhead and in the subsurface of public roads and highways along the public right  
 16 of way, but not including the addition of travel lanes, where no removal or displacement of buildings  
 17 would occur, or no new land parcels result.

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

20 (k) Minor betterment of existing public road and highway related facilities such as maintenance  
 21 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous  
 22 public-owned property utilized to support the operation and maintenance of public roads and high-  
 23 ways.

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

26 (m) Creation, restoration or enhancement of wetlands.

27 (n) A winery, as described in ORS 215.452.

28 (o) Farm stands if:

29 (A) The structures are designed and used for the sale of farm crops or livestock grown on the  
 30 farm operation, or grown on the farm operation and other farm operations in the local agricultural  
 31 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm  
 32 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-  
 33 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;  
 34 and

35 (B) The farm stand does not include structures designed for occupancy as a residence or for  
 36 activity other than the sale of farm crops or livestock and does not include structures for banquets,  
 37 public gatherings or public entertainment.

38 (p) Alteration, restoration or replacement of a lawfully established dwelling that:

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

40 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to  
 41 a sanitary waste disposal system;

42 (C) Has interior wiring for interior lights;

43 (D) Has a heating system; and

44 (E) In the case of replacement:

45 (i) Is removed, demolished or converted to an allowable nonresidential use within three months

1 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of  
2 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable  
3 siting standards. However, the standards shall not be applied in a manner that prohibits the siting  
4 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned  
5 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the  
6 deed records for the county where the property is located a deed restriction prohibiting the siting  
7 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless  
8 a statement of release is placed in the deed records for the county. The release shall be signed by  
9 the county or its designee and state that the provisions of this paragraph regarding replacement  
10 dwellings have changed to allow the siting of another dwelling. The county planning director or the  
11 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting  
12 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions  
13 and release statements filed under this paragraph; and

14 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-  
15 ished within three months after the deferred replacement permit is issued. A deferred replacement  
16 permit allows construction of the replacement dwelling at any time. If, however, the established  
17 dwelling is not removed or demolished within three months after the deferred replacement permit  
18 is issued, the permit becomes void. The replacement dwelling must comply with applicable building  
19 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to  
20 siting at the time of construction. A deferred replacement permit may not be transferred, by sale  
21 or otherwise, except by the applicant to the spouse or a child of the applicant.

22 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as  
23 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor  
24 area or placed on a permanent foundation unless the building or facility preexisted the use approved  
25 under this paragraph. The site shall not include an aggregate surface or hard surface area unless  
26 the surface preexisted the use approved under this paragraph. An owner of property used for the  
27 purpose authorized in this paragraph may charge a person operating the use on the property rent  
28 for the property. An operator may charge users of the property a fee that does not exceed the  
29 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model  
30 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is  
31 used or intended to be used for flight and is controlled by radio, lines or design by a person on the  
32 ground.

33 (r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS  
34 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops  
35 processed at the facility. The building established for the processing facility shall not exceed 10,000  
36 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm  
37 use or devote more than 10,000 square feet to the processing activities within another building  
38 supporting farm uses. A processing facility shall comply with all applicable siting standards but the  
39 standards shall not be applied in a manner that prohibits the siting of the processing facility.

40 (s) Fire service facilities providing rural fire protection services.

41 (t) Irrigation canals, delivery lines and those structures and accessory operational facilities as-  
42 sociated with a district as defined in ORS 540.505.

43 (u) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-  
44 cilities or structures that end at the point where the utility service is received by the customer and  
45 that are located on one or more of the following:



1 (A) A public right of way;

2 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-  
3 jacent property owners has been obtained; or

4 (C) The property to be served by the utility.

5 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-  
6 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with  
7 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application  
8 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,  
9 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an  
10 exclusive farm use zone under this chapter.

11 (w) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to  
12 provide rural law enforcement services primarily in rural areas, including parole and post-prison  
13 supervision, but not including a correctional facility as defined under ORS 162.135.

14 (2) The following nonfarm uses may be established, subject to the approval of the governing body  
15 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

16 (a) Commercial activities that are in conjunction with farm use, including the processing of farm  
17 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(r) of this section.

18 (b) Operations conducted for:

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

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

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

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

25 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the  
26 approval of the county governing body or its designee, a private campground may provide yurts for  
27 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,  
28 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent  
29 foundation. Upon request of a county governing body, the [*Land Conservation and Development*  
30 *Commission*] **regional commission for the region, as described in section 2 of this 2011 Act**,  
31 may provide by rule for an increase in the number of yurts allowed on all or a portion of the  
32 campgrounds in a county if the **regional** commission determines that the increase will comply with  
33 the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed  
34 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or  
35 internal cooking appliance.

36 (d) Parks and playgrounds. A public park may be established consistent with the provisions of  
37 ORS 195.120.

38 (e) Community centers owned by a governmental agency or a nonprofit community organization  
39 and operated primarily by and for residents of the local rural community. A community center au-  
40 thorized under this paragraph may provide services to veterans, including but not limited to emer-  
41 gency and transitional shelter, preparation and service of meals, vocational and educational  
42 counseling and referral to local, state or federal agencies providing medical, mental health, disability  
43 income replacement and substance abuse services, only in a facility that is in existence on January  
44 1, 2006. The services may not include direct delivery of medical, mental health, disability income  
45 replacement or substance abuse services.

1 (f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.

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

3 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-  
4 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-  
5 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional  
6 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-  
7 erations. No aircraft may be based on a personal-use airport other than those owned or controlled  
8 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be  
9 granted through waiver action by the Oregon Department of Aviation in specific instances. A  
10 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-  
11 ject to any applicable rules of the Oregon Department of Aviation.

12 (i) Home occupations as provided in ORS 215.448.

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

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

24 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an  
25 existing building, in conjunction with an existing dwelling as a temporary use for the term of a  
26 hardship suffered by the existing resident or a relative of the resident. Within three months of the  
27 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-  
28 ished or, in the case of an existing building, the building shall be removed, demolished or returned  
29 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-  
30 view of the hardship claimed under this paragraph. A temporary residence approved under this  
31 paragraph is not eligible for replacement under subsection (1)(p) of this section.

32 (m) Transmission towers over 200 feet in height.

33 (n) Dog kennels.

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

35 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not  
36 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species  
37 shall not include any species under quarantine by the State Department of Agriculture or the United  
38 States Department of Agriculture. The county shall provide notice of all applications under this  
39 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the  
40 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-  
41 tive decision or initial public hearing on the application.

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

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

1 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh  
 2 stations and rest areas, where additional property or right of way is required but not resulting in  
 3 the creation of new land parcels.

4 (t) A destination resort that is approved consistent with the requirements of any statewide **land**  
 5 **use** planning goal relating to the siting of a destination resort.

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

8 (v) Operations for the extraction and bottling of water.

9 (w) Expansion of existing county fairgrounds and activities directly relating to county  
 10 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

11 (x) A living history museum related to resource based activities owned and operated by a gov-  
 12 ernmental agency or a local historical society, together with limited commercial activities and fa-  
 13 cilities that are directly related to the use and enjoyment of the museum and located within  
 14 authentic buildings of the depicted historic period or the museum administration building, if areas  
 15 other than an exclusive farm use zone cannot accommodate the museum and related activities or if  
 16 the museum administration buildings and parking lot are located within one quarter mile of an ur-  
 17 ban growth boundary. As used in this paragraph:

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

21 (B) "Local historical society" means the local historical society recognized by the county gov-  
 22 erning body and organized under ORS chapter 65.

23 (y) An aerial fireworks display business that has been in continuous operation at its current  
 24 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's  
 25 permit to sell or provide fireworks.

26 (z) A landscape contracting business, as defined in ORS 671.520, or a business providing land-  
 27 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction  
 28 with the growing and marketing of nursery stock on the land that constitutes farm use.

29 (aa) Public or private schools for kindergarten through grade 12, including all buildings essential  
 30 to the operation of a school, primarily for residents of the rural area in which the school is located.

31 (3) Roads, highways and other transportation facilities and improvements not allowed under  
 32 subsections (1) and (2) of this section may be established, subject to the approval of the governing  
 33 body or its designee, in areas zoned for exclusive farm use subject to:

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

36 (b) ORS 215.296 for those uses identified by rule of the [*Land Conservation and Development*  
 37 *Commission*] **regional commission for the region, as described in section 2 of this 2011 Act**, as  
 38 provided in section 3, chapter 529, Oregon Laws 1993.

39 **SECTION 85.** ORS 215.304 is amended to read:

40 215.304. (1) The [*Land Conservation and Development Commission shall*] **regional commission**  
 41 **for the region, as described in section 2 of this 2011 Act**, may not adopt or implement any rule  
 42 to identify or designate small-scale farmland or secondary land.

43 (2) Amendments required to conform rules to the provisions of subsection (1) of this section and  
 44 ORS 215.700 to 215.780 shall be adopted by March 1, 1994.

45 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,

1 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700  
 2 to 215.780 on March 1, 1994:

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

4 (b) Has no legal effect.

5 **SECTION 86.** ORS 215.306 is amended to read:

6 215.306. (1) The limitations on uses made of land in exclusive farm use zones described in ORS  
 7 215.213, 215.283, 215.284 and 215.700 to 215.780 and limitations imposed by or adopted pursuant to  
 8 ORS 197.040 **or section 2 of this 2011 Act** do not apply to activities described in this section.

9 (2) The provisions of this section do not affect the eligibility of a zone for special assessment  
 10 as provided in ORS 308A.050 to 308A.128.

11 (3)(a) On-site filming and activities accessory to on-site filming may be conducted in any area  
 12 zoned for exclusive farm use without prior approval of local government but subject to ORS 30.930  
 13 to 30.947.

14 (b) Notwithstanding paragraph (a) of this subsection, on-site filming and activities accessory to  
 15 on-site filming that exceed 45 days on any site within a one-year period or involve erection of sets  
 16 that would remain in place for longer than 45 days may be conducted only upon approval of the  
 17 governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296. In  
 18 addition to other activities described in subsection (4) of this section, these activities may include  
 19 office administrative functions such as payroll and scheduling, and the use of campers, truck trailers  
 20 or similar temporary facilities. Temporary facilities may be used as temporary housing for security  
 21 personnel.

22 (4) For purposes of this section, “on-site filming and activities accessory to on-site filming”:

23 (a) Includes:

24 (A) Filming and site preparation, construction of sets, staging, makeup and support services  
 25 customarily provided for on-site filming.

26 (B) Production of advertisements, documentaries, feature film, television services and other film  
 27 productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental  
 28 way.

29 (b) Does not include:

30 (A) Facilities for marketing, editing and other such activities that are allowed only as a home  
 31 occupation; or

32 (B) Construction of new structures that requires a building permit.

33 (5) A decision of local government issuing any permits necessary for activities under subsection  
 34 (3)(a) of this section is not a land use decision.

35 **SECTION 87.** ORS 215.311 is amended to read:

36 215.311. (1) The limitations on uses of land in exclusive farm use zones described in ORS 215.283,  
 37 215.284 and 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 **or**  
 38 **section 2 of this 2011 Act** do not apply to log truck parking under this section.

39 (2) The provisions of this section do not affect the eligibility of a zone for special assessment  
 40 as provided in ORS 308A.050 to 308A.128.

41 (3) Notwithstanding any other provision of law except for health and safety provisions, parking  
 42 no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local gov-  
 43 ernment determines that log truck parking on a lot or parcel will:

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

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

3 **SECTION 88.** ORS 215.457 is amended to read:

4 215.457. A person may establish a youth camp on land zoned for forest use or mixed farm and  
5 forest use, consistent with rules adopted [*by the Land Conservation and Development Commission*]  
6 under section 3, chapter 586, Oregon Laws 1999, **by the regional commission for the region, as**  
7 **described in section 2 of this 2011 Act.**

8 **SECTION 89.** ORS 215.459 is amended to read:

9 215.459. (1)(a) Subject to the approval of the county governing body or its designee, a private  
10 campground may be established in an area zoned for forest use or mixed farm and forest use. Subject  
11 to the approval of the county governing body or its designee, the campground may provide yurts for  
12 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,  
13 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent  
14 foundation.

15 (b) A public park or campground may be established as provided in ORS 195.120 in an area  
16 zoned for forest use or mixed farm and forest use.

17 (2) Upon request of a county governing body, the [*Land Conservation and Development Commis-*  
18 *sion*] **regional commission for the region, as described in section 2 of this 2011 Act,** may pro-  
19 vide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds  
20 in a county if the **regional** commission determines that the increase will comply with the standards  
21 described in ORS 215.296 (1).

22 (3) As used in this section, “yurt” means a round, domed shelter of cloth or canvas on a  
23 collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

24 **SECTION 90.** ORS 215.503 is amended to read:

25 215.503. (1) As used in this section, “owner” means the owner of the title to real property or the  
26 contract purchaser of real property, of record as shown on the last available complete tax assess-  
27 ment roll.

28 (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by  
29 the governing body of a county shall be by ordinance.

30 (3) Except as provided in subsection (6) of this section and in addition to the notice required  
31 by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on  
32 an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to  
33 adopt a new comprehensive plan, the governing body of a county shall cause a written individual  
34 notice of land use change to be mailed to each owner whose property would have to be rezoned in  
35 order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

36 (4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40  
37 days before the date of the first hearing on an ordinance that proposes to rezone property, the  
38 governing body of a county shall cause a written individual notice of land use change to be mailed  
39 to the owner of each lot or parcel of property that the ordinance proposes to rezone.

40 (5) An additional individual notice of land use change required by subsection (3) or (4) of this  
41 section shall be approved by the governing body of the county and shall describe in detail how the  
42 proposed ordinance would affect the use of the property. The notice shall:

43 (a) Contain substantially the following language in boldfaced type across the top of the face  
44 page extending from the left margin to the right margin:

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This is to notify you that (governing body of the county) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

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(b) Contain substantially the following language in the body of the notice:

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On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The (governing body) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ County Courthouse located at \_\_\_\_\_. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (governing body) Planning Department at \_\_\_\_\_-\_\_\_\_\_.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

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This is to notify you that (governing body of the county) has proposed a land use that may affect the permissible uses of your property and other properties.

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(b) Contain substantially the following language in the body of the notice:

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As a result of an order of the Land Conservation and Development Commission **or the regional commission for the region**, (governing body) has proposed Ordinance Number \_\_\_\_\_. (Governing Body) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ County Courthouse located at \_\_\_\_\_. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

1 For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (governing  
2 body) Planning Department at \_\_\_\_\_-\_\_\_\_\_.  
3 \_\_\_\_\_  
4

5 (7) Notice provided under this section may be included with the tax statement required under  
6 ORS 311.250.

7 (8) Notwithstanding subsection (7) of this section, the governing body of a county may provide  
8 notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all  
9 persons for whom notice is required under subsections (3) and (4) of this section.

10 (9) For purposes of this section, property is rezoned when the governing body of the county:

11 (a) Changes the base zoning classification of the property; or

12 (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously  
13 allowed in the affected zone.

14 (10) The provisions of this section do not apply to legislative acts of the governing body of the  
15 county resulting from action of the Legislative Assembly, [or] the Land Conservation and Develop-  
16 ment Commission **or a regional commission, as defined in ORS 197.015**, for which notice is pro-  
17 vided under ORS 197.047, or resulting from an order of a court of competent jurisdiction.

18 (11) The governing body of the county is not required to provide more than one notice under  
19 this section to a person who owns more than one lot or parcel affected by a change to the local  
20 comprehensive plan or land use regulation.

21 (12) The Department of Land Conservation and Development shall reimburse the governing body  
22 of a county for all usual and reasonable costs incurred to provide notice required under subsection  
23 (6) of this section.

24 **SECTION 91.** ORS 215.740 is amended to read:

25 215.740. (1) If a dwelling is not allowed under ORS 215.720 (1), a dwelling may be allowed on  
26 land zoned for forest use under a goal protecting forestland if it complies with other provisions of  
27 law and is sited on a tract:

28 (a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection (3) of  
29 this section; or

30 (b) In western Oregon of at least 160 contiguous acres except as provided in subsection (3) of  
31 this section.

32 (2) For purposes of subsection (1) of this section, a tract shall not be considered to consist of  
33 less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

34 (3)(a) An owner of tracts that are not contiguous but are in the same county or adjacent coun-  
35 ties and zoned for forest use may add together the acreage of two or more tracts to total 320 acres  
36 or more in eastern Oregon or 200 acres or more in western Oregon to qualify for a dwelling under  
37 subsection (1) of this section.

38 (b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this subsection,  
39 the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records for the  
40 tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall preclude all future rights  
41 to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of  
42 dwellings for present and any future owners unless the tract is no longer subject to protection under  
43 goals for agricultural lands or forestlands.

44 (c) The [*Land Conservation and Development Commission*] **regional commission for the region,**  
45 **as described in section 2 of this 2011 Act,** shall adopt rules that prescribe the language of the

1 deed restriction, the procedures for recording, the procedures under which counties shall keep re-  
 2 cords of lots or parcels used to create the total, the mechanisms for providing notice to subsequent  
 3 purchasers of the limitations under paragraph (b) of this subsection and other rules to implement  
 4 this section.

5 **SECTION 92.** ORS 215.780 is amended to read:

6 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or  
 7 parcel sizes apply to all counties:

- 8 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- 9 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- 10 (c) For land designated forestland, at least 80 acres.

11 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)  
 12 of this section in any of the following circumstances:

13 (a) By demonstrating to the [*Land Conservation and Development Commission*] **regional com-**  
 14 **mission for the region, as described in section 2 of this 2011 Act**, that [*it*] **the county** can do  
 15 so while continuing to meet the requirements of ORS 215.243 and 527.630 and the **statewide** land  
 16 use planning goals adopted under ORS [*197.230*] **197.225**.

17 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed  
 18 farm and forest use, subject to the following requirements:

19 (A) The parcel established shall not be larger than five acres, except as necessary to recognize  
 20 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

21 (B) The dwelling existed prior to June 1, 1995;

22 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-  
 23 dards of the zone; or

24 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and  
 25 together the parcels meet the minimum land division standards of the zone; and

26 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-  
 27 sequently authorized by law or goal.

28 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for  
 29 mixed farm and forest use the following requirements apply:

30 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

31 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for  
 32 special assessment under a program under ORS chapter 321.

33 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and  
 34 215.283 that are not allowed on forestland.

35 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that  
 36 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this  
 37 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

38 (A) Shall not be eligible for siting of a new dwelling;

39 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

40 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of  
 41 resource lands;

42 (D) Shall not result in a parcel of less than 35 acres, except:

43 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-  
 44 ernmental agency; or

45 (ii) Where the purpose of the land division is to allow transactions in which at least one par-



1 participant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

2 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in  
3 a parcel less than the minimum lot or parcel size of the zone.

4 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under  
5 a statewide **land use** planning goal protecting forestland if:

6 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

7 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(q)  
8 or 215.283 (1)(p);

9 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two  
10 and five acres in size;

11 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and

12 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-  
13 striction prohibiting the landowner and the landowner's successors in interest from further dividing  
14 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel  
15 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of  
16 release is signed by the county planning director of the county in which the lot or parcel is located  
17 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have  
18 been changed so that the lot or parcel is no longer subject to statewide **land use** planning goals  
19 protecting forestland or unless the land division is subsequently authorized by law or by a change  
20 in a statewide **land use** planning goal for land zoned for forest use or mixed farm and forest use.

21 (f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as  
22 provided in ORS 215.783.

23 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for  
24 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record  
25 shall be readily available to the public.

26 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing  
27 dwelling on the lot or parcel was approved under:

28 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that  
29 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

30 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest  
31 use zone under a statewide **land use** planning goal protecting forestland.

32 (5) A county with a minimum lot or parcel size acknowledged [*by the commission pursuant to*]  
33 **under** ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements  
34 under ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section  
35 need not comply with subsection (2) of this section.

36 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall  
37 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been  
38 recorded with the county clerk of the county where the property is located. An applicant for the  
39 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-  
40 striction on the newly created parcel has been recorded with the county clerk of the county where  
41 the property is located. The restriction shall allow no dwellings unless authorized by law or goal  
42 on land zoned for forest use except as permitted under subsection (2) of this section.

43 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release  
44 is signed by the county planning director of the county where the property is located indicating that  
45 the comprehensive plan or land use regulations applicable to the property have been changed in

1 such a manner that the parcel is no longer subject to statewide **land use** planning goals pertaining  
2 to agricultural land or forestland.

3 (c) The county planning director shall maintain a record of parcels that do not qualify for the  
4 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily  
5 available to the public.

6 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-  
7 ment that shall be recorded with the county clerk of the county in which the property is located,  
8 declaring that the landowner and the landowner's successors in interest will not in the future com-  
9 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

10 **SECTION 93.** ORS 223.317 is amended to read:

11 223.317. (1) Notwithstanding any other law, a local government may apportion a final assessment  
12 levied by it against a single tract or parcel of real property among all the parcels formed from a  
13 subsequent partition or other division of that tract or parcel, if the subsequent partition or division  
14 is in accordance with ORS 92.010 to 92.192 and is consistent with all applicable comprehensive plans  
15 [*as acknowledged by the Land Conservation and Development Commission*] **acknowledged** under ORS  
16 197.251. The proportionate distribution of a final assessment authorized under this subsection may  
17 be made whenever the final assessment remains wholly or partially unpaid, and full payment or an  
18 installment payment is not due.

19 (2) A local government shall apportion a final assessment under this section when requested to  
20 do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the  
21 partition or other division of the larger tract of real property against which the final assessment  
22 was originally levied. When the deed, mortgage or other instrument evidencing the applicant's  
23 ownership or other interest in the parcel has not been recorded by the county clerk of the county  
24 in which the parcel is situated, the local government shall not apportion the final assessment unless  
25 the applicant files a true copy of that deed, mortgage or instrument with the local government.

26 (3) Apportionment of a final assessment under this section shall be done in accordance with an  
27 order or resolution of the governing body of the local government. The order or resolution shall  
28 describe each parcel of real property affected by the apportionment, the amount of the final assess-  
29 ment levied against each parcel, the owner of each parcel and such additional information as is re-  
30 quired to keep a permanent and complete record of the final assessments and the payments thereon.  
31 A copy of the order or resolution shall be filed with the recorder required to maintain the lien  
32 docket for the local government, who shall make any necessary changes or entries in the lien docket  
33 for the local government.

34 **SECTION 94.** ORS 227.186 is amended to read:

35 227.186. (1) As used in this section, "owner" means the owner of the title to real property or the  
36 contract purchaser of real property, of record as shown on the last available complete tax assess-  
37 ment roll.

38 (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by  
39 a city shall be by ordinance.

40 (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40  
41 days before the date of the first hearing on an ordinance that proposes to amend an existing com-  
42 prehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause  
43 a written individual notice of a land use change to be mailed to each owner whose property would  
44 have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance  
45 becomes effective.

1 (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordi-  
2 nance that proposes to rezone property, a city shall cause a written individual notice of a land use  
3 change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to  
4 rezone.

5 (5) An additional individual notice of land use change required by subsection (3) or (4) of this  
6 section shall be approved by the city and shall describe in detail how the proposed ordinance would  
7 affect the use of the property. The notice shall:

8 (a) Contain substantially the following language in boldfaced type across the top of the face  
9 page extending from the left margin to the right margin:

10 \_\_\_\_\_  
11  
12 This is to notify you that (city) has proposed a land use regulation that may affect the permis-  
13 sible uses of your property and other properties.

14 \_\_\_\_\_  
15  
16 (b) Contain substantially the following language in the body of the notice:

17 \_\_\_\_\_  
18  
19 On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance  
20 Number \_\_\_\_\_. The (city) has determined that adoption of this ordinance may affect the permis-  
21 sible uses of your property, and other properties in the affected zone, and may change the value of  
22 your property.

23 Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ City Hall located at  
24 \_\_\_\_\_. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of  
25 \_\_\_\_\_.

26 For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (city)  
27 Planning Department at \_\_\_\_\_-\_\_\_\_\_.  
28 \_\_\_\_\_

29  
30 (6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use  
31 regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under  
32 ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use  
33 change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the  
34 adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment  
35 may affect the use of the property. The notice also shall:

36 (a) Contain substantially the following language in boldfaced type across the top of the face  
37 page extending from the left margin to the right margin:

38 \_\_\_\_\_  
39  
40 This is to notify you that (city) has proposed a land use regulation that may affect the permis-  
41 sible uses of your property and other properties.

42 \_\_\_\_\_  
43  
44 (b) Contain substantially the following language in the body of the notice:  
45 \_\_\_\_\_

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As a result of an order of the Land Conservation and Development Commission **or the regional commission for the region**, (city) has proposed Ordinance Number \_\_\_\_\_. (City) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ City Hall located at \_\_\_\_\_. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (city) Planning Department at \_\_\_\_\_.

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(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly, [or] the Land Conservation and Development Commission **or the regional commission for the region, as described in section 2 of this 2011 Act**, for which notice is provided under ORS 197.047 or resulting from an order of a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section.

**SECTION 95.** ORS 244.050 is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

1 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and  
 2 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the  
 3 State Board of Higher Education.

4 (g) The following state officers:

5 (A) Adjutant General.

6 (B) Director of Agriculture.

7 (C) Manager of State Accident Insurance Fund Corporation.

8 (D) Water Resources Director.

9 (E) Director of Department of Environmental Quality.

10 (F) Director of Oregon Department of Administrative Services.

11 (G) State Fish and Wildlife Director.

12 (H) State Forester.

13 (I) State Geologist.

14 (J) Director of Human Services.

15 (K) Director of the Department of Consumer and Business Services.

16 (L) Director of the Department of State Lands.

17 (M) State Librarian.

18 (N) Administrator of Oregon Liquor Control Commission.

19 (O) Superintendent of State Police.

20 (P) Director of the Public Employees Retirement System.

21 (Q) Director of Department of Revenue.

22 (R) Director of Transportation.

23 (S) Public Utility Commissioner.

24 (T) Director of Veterans' Affairs.

25 (U) Executive director of Oregon Government Ethics Commission.

26 (V) Director of the State Department of Energy.

27 (W) Director and each assistant director of the Oregon State Lottery.

28 (X) Director of the Department of Corrections.

29 (Y) Director of the Oregon Department of Aviation.

30 (Z) Executive director of the Oregon Criminal Justice Commission.

31 (AA) Director of the Oregon Business Development Department.

32 (BB) Director of the Office of Emergency Management.

33 (CC) Director of the Employment Department.

34 (DD) Chief of staff for the Governor.

35 (EE) Administrator of the Office for Oregon Health Policy and Research.

36 (FF) Director of the Housing and Community Services Department.

37 (GG) State Court Administrator.

38 (HH) Director of the Department of Land Conservation and Development.

39 (II) Board chairperson of the Land Use Board of Appeals.

40 (JJ) State Marine Director.

41 (KK) Executive director of the Oregon Racing Commission.

42 (LL) State Parks and Recreation Director.

43 (MM) Public defense services executive director.

44 (NN) Chairperson of the Public Employees' Benefit Board.

45 (OO) Director of the Department of Public Safety Standards and Training.

- 1 (PP) Chairperson of the Oregon Student Assistance Commission.
- 2 (QQ) Executive director of the Oregon Watershed Enhancement Board.
- 3 (RR) Director of the Oregon Youth Authority.
- 4 (SS) Director of the Oregon Health Authority.
- 5 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 6 (i) Every elected city or county official.
- 7 (j) Every member of a city or county planning, zoning or development commission.
- 8 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 9 cipal administrator of the city or county.
- 10 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 11 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 12 ficer thereof.
- 13 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 14 (o) The chief administrative officer and the financial officer of each common and union high
- 15 school district, education service district and community college district.
- 16 (p) Every member of the following state boards and commissions:
- 17 (A) Board of Geologic and Mineral Industries.
- 18 (B) Oregon Business Development Commission.
- 19 (C) State Board of Education.
- 20 (D) Environmental Quality Commission.
- 21 (E) Fish and Wildlife Commission of the State of Oregon.
- 22 (F) State Board of Forestry.
- 23 (G) Oregon Government Ethics Commission.
- 24 (H) Oregon Health Policy Board.
- 25 (I) State Board of Higher Education.
- 26 (J) Oregon Investment Council.
- 27 (K) Land Conservation and Development Commission **or a regional land use planning com-**
- 28 **mission established under section 2 of this 2011 Act.**
- 29 (L) Oregon Liquor Control Commission.
- 30 (M) Oregon Short Term Fund Board.
- 31 (N) State Marine Board.
- 32 (O) Mass transit district boards.
- 33 (P) Energy Facility Siting Council.
- 34 (Q) Board of Commissioners of the Port of Portland.
- 35 (R) Employment Relations Board.
- 36 (S) Public Employees Retirement Board.
- 37 (T) Oregon Racing Commission.
- 38 (U) Oregon Transportation Commission.
- 39 (V) Wage and Hour Commission.
- 40 (W) Water Resources Commission.
- 41 (X) Workers' Compensation Board.
- 42 (Y) Oregon Facilities Authority.
- 43 (Z) Oregon State Lottery Commission.
- 44 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
- 45 (BB) Columbia River Gorge Commission.

1 (CC) Oregon Health and Science University Board of Directors.

2 (DD) Capitol Planning Commission.

3 (q) The following officers of the State Treasurer:

4 (A) Chief Deputy State Treasurer.

5 (B) Chief of staff for the office of the State Treasurer.

6 (C) Director of the Investment Division.

7 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725  
8 or 777.915 to 777.953.

9 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

10 (2) By April 15 next after the date an appointment takes effect, every appointed public official  
11 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-  
12 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070  
13 and 244.090.

14 (3) By April 15 next after the filing deadline for the primary election, each candidate described  
15 in subsection (1) of this section shall file with the commission a statement of economic interest as  
16 required under ORS 244.060, 244.070 and 244.090.

17 (4) Within 30 days after the filing deadline for the general election, each candidate described in  
18 subsection (1) of this section who was not a candidate in the preceding primary election, or who  
19 was nominated for public office described in subsection (1) of this section at the preceding primary  
20 election by write-in votes, shall file with the commission a statement of economic interest as re-  
21 quired under ORS 244.060, 244.070 and 244.090.

22 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or  
23 appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections  
24 (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the  
25 filing deadline for the statewide general election.

26 (6) If a statement required to be filed under this section has not been received by the commis-  
27 sion within five days after the date the statement is due, the commission shall notify the public of-  
28 ficial or candidate and give the public official or candidate not less than 15 days to comply with the  
29 requirements of this section. If the public official or candidate fails to comply by the date set by the  
30 commission, the commission may impose a civil penalty as provided in ORS 244.350.

31 **SECTION 96.** ORS 284.577 is amended to read:

32 284.577. In furtherance of the state economic development strategy developed under ORS  
33 284.570, the [*Land Conservation and Development Commission*] **regional commission for the region,**  
34 **as described in section 2 of this 2011 Act,** shall:

35 (1) Provide local governments with basic and advanced methods for identifying, analyzing and  
36 providing for industrial, commercial and retail development sites.

37 (2) Develop and provide guidebooks and other appropriate materials to assist local governments  
38 in identifying and analyzing potential industrial, commercial and retail development sites.

39 (3) Provide local governments with technical assistance to assist in completing the identification  
40 and analysis and in amending comprehensive plans and land use regulations based on the identifi-  
41 cation and analysis.

42 (4) Provide grants to local governments in a manner that furthers the implementation of the  
43 state economic development strategy.

44 (5) Adopt, amend or repeal administrative rules and procedures as necessary to ensure that the  
45 following actions can be accomplished in a timely manner:

1 (a) Expansion of urban growth boundaries where necessary to accommodate industrial or traded  
2 sector development;

3 (b) Review of amendments to comprehensive plans and land use regulations and periodic review  
4 of comprehensive plans and land use regulations; and

5 (c) Focus the resources of the Department of Land Conservation and Development on issues  
6 related to land supply within urban growth boundaries and transportation and public facilities nec-  
7 essary to stimulate economic growth.

8 **SECTION 97.** ORS 285C.500, as amended by section 1, chapter 595, Oregon Laws 2005, is  
9 amended to read:

10 285C.500. As used in ORS 285C.500 to 285C.506:

11 (1) "Business firm" has the meaning given that term in ORS 285C.050.

12 (2) "County per capita personal income" means the per capita personal income level published  
13 by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

14 (3) "County unemployment rate" means the most recently available unemployment rate for the  
15 county, as determined by the Employment Department.

16 (4) "Facility" means the land, real property improvements and personal property that are used  
17 by a business firm to conduct business operations, and that are the subject of an application for  
18 preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

19 (5) "Qualified location" means any area that is:

20 (a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or  
21 fewer residents; and

22 (b) Located in a county that, during either of the two years preceding the date an application  
23 for preliminary certification is filed under ORS 285C.503, had both:

24 (A) A county unemployment rate that was in the top half of county unemployment rates in this  
25 state; and

26 (B) A county per capita personal income that was in the bottom half of county per capita per-  
27 sonal incomes in this state.

28 (6) "Urban growth boundary" means an urban growth boundary contained in [a] **an acknowl-**  
29 **edged** city or county comprehensive plan [*that has been acknowledged by the Land Conservation and*  
30 *Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been*] **or**  
31 **an acknowledged regional framework plan** adopted by a metropolitan service district [*under ORS*  
32 *268.390 (3)*].

33 **SECTION 98.** ORS 308A.065 is amended to read:

34 308A.065. (1) Upon written request of the county assessor or county governing body, the county  
35 counsel shall review the zoning ordinances of the county that purport to establish exclusive farm  
36 use zones to determine if any zone mentioned in the ordinance is not an exclusive farm use zone.  
37 If the county counsel is in doubt as to whether a zone is an exclusive farm use zone, the county  
38 counsel shall request the assistance of the Department of Revenue under ORS 305.110. The county  
39 counsel shall promptly notify the county assessor and county governing body by letter of the  
40 findings of the county counsel.

41 (2) If the assessor discovers any land that has been granted farm use special assessment under  
42 ORS 308A.062 that is not qualified for such assessment because the zone is not an exclusive farm  
43 use zone, the assessor shall immediately notify the county governing body of this fact.

44 (3) Within six months from the date the county governing body receives notice from the assessor  
45 or from the **Department of** Land Conservation and Development [*Commission*] that a farm use zone



1 is not an exclusive farm use zone, the county governing body shall qualify the zone as an exclusive  
 2 farm use zone within the meaning of ORS 308A.062. The assessor shall continue to assess the land  
 3 at the special assessment provided in ORS 308A.107 until the county governing body qualifies the  
 4 zone or the land is disqualified under ORS 308A.113.

5 (4) Subsections (1) to (3) of this section shall provide the exclusive procedure for correcting the  
 6 erroneous granting of farm use special assessment as exclusive farm use zone farmland when the  
 7 zone does not meet the definition of an exclusive farm use zone under ORS 308A.053.

8 **SECTION 99.** ORS 308A.350 is amended to read:

9 308A.350. As used in ORS 308A.350 to 308A.383:

10 (1) "Owner" means the party or parties having the fee interest in land, except that where land  
 11 is subject to a real estate sales contract, "owner" means the contract vendee under a recorded  
 12 contract.

13 (2) "Department" means the State Department of Fish and Wildlife.

14 (3) "Designated riparian land" means the beds of streams, the adjacent vegetation communities,  
 15 and the land thereunder, which are predominantly influenced by their association with water, not  
 16 to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately  
 17 owned and which qualify for exemption under ORS 308A.350 to 308A.383.

18 (4) "Urban growth boundary" means an urban growth boundary contained in [a] **an acknowl-**  
 19 **edged** city or county comprehensive plan [*that has been acknowledged by the Land Conservation and*  
 20 *Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been*] **or**  
 21 **an acknowledged regional framework plan** adopted by a metropolitan service district council  
 22 [*under ORS 268.390 (3)*].

23 **SECTION 100.** ORS 308A.700 is amended to read:

24 308A.700. As used in ORS 308A.700 to 308A.733:

25 (1) "Disqualification" includes the removal of forestland designation under ORS 321.359, 321.712,  
 26 321.716 or 321.842.

27 (2) "Urban growth boundary" means an urban growth boundary contained in [a] **an acknowl-**  
 28 **edged** city or county comprehensive plan [*that has been acknowledged by the Land Conservation and*  
 29 *Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been*] **or**  
 30 **an acknowledged regional framework plan** adopted by a metropolitan service district [*under ORS*  
 31 *268.390 (3)*].

32 **SECTION 101.** ORS 383.017 is amended to read:

33 383.017. (1) The Department of Transportation may award any contract, franchise, license or  
 34 agreement related to a tollway project, other than a concession for the provision of goods or ser-  
 35 vices at a rest area, under a competitive process or by private negotiation with one or more entities,  
 36 or by any combination of competition and negotiation without regard to any other laws concerning  
 37 the procurement of goods or services for projects of the state.

38 (2) When using a competitive process for the award of a tollway project contract, the depart-  
 39 ment shall consider the following factors in addition to the proposer's estimate of cost:

40 (a) The quality of the design, if applicable, submitted by a proposer. In considering the quality  
 41 of the design of a tollway project, the department shall take into consideration:

42 (A) The structural integrity of the design, including the probable effect of the design on the fu-  
 43 ture costs of maintenance of the tollway;

44 (B) The aesthetic qualities of the design, including such factors as the width of lane separators,  
 45 landscaping and sound walls;

1 (C) The traffic capacity of the design;

2 (D) The aspects of the design that affect safety, such as the lane width, the quality of lane  
3 markers and separators, the shape and positioning of ramps and curves and the changes in elevation;  
4 and

5 (E) The ease with which traffic will be able to pass through the toll collection facilities.

6 (b) The extent to which small businesses will be involved in the tollway project. The department  
7 shall encourage participation by small businesses to the maximum extent the department determines  
8 is practicable. As used in this paragraph, "small business" means an independent business with  
9 fewer than 20 employees and with average annual gross receipts over the last three years not ex-  
10 ceeding \$1 million for construction firms and \$300,000 for nonconstruction firms. "Small business"  
11 does not include a subsidiary or parent company belonging to a group of firms that are owned and  
12 controlled by the same individuals and that have average aggregate annual gross receipts in excess  
13 of \$1 million for construction firms or \$300,000 for nonconstruction firms over the last three years.

14 (c) The financial stability of the proposer and the ability of the proposer to provide funding for  
15 the tollway project and surety for its performance and financial obligations with respect to the  
16 tollway project.

17 (d) The experience of the proposer and its subcontractors in building and operating projects  
18 such as the tollway project.

19 (e) The terms of the financial arrangement proposed or accepted by the proposer with respect  
20 to franchise fees, license fees, lease payments or operating expenses and the proposer's required rate  
21 of return from its operation or maintenance of the tollway.

22 (3)(a) The department may adopt rules and procedures for the award of franchises, licenses,  
23 leases or other concessions for rest areas without regard to any other laws concerning the pro-  
24 curement of goods or services for projects of the state. All such franchises, licenses, leases or other  
25 concessions shall require the franchisee, licensee, lessee or concessionaire, as applicable, to main-  
26 tain the subject premises in accordance with all applicable state and federal health and safety  
27 standards, to maintain one or more policies of casualty and property insurance and adequate  
28 workers' compensation insurance, and to pay and discharge all taxes, utilities, fees and other  
29 charges or claims that are levied, assessed or charged against the premises or concession or that  
30 may become a lien upon the premises. The rules shall encourage participation by small businesses  
31 to the maximum extent the department determines is practicable. The department may grant any  
32 small business a 10 percent or greater bid advantage in any bidding process for a concession.

33 (b) As used in this subsection, "small business" means an independent business with fewer than  
34 20 employees and with average annual gross receipts over the last three years not exceeding  
35 \$300,000. "Small business" does not include a subsidiary or parent company belonging to a group  
36 of firms that are owned and controlled by the same individuals and that have average aggregate  
37 annual gross receipts in excess of \$300,000 over the last three years. "Small business" also does not  
38 include a franchise of any business that has average aggregate annual gross receipts in excess of  
39 \$300,000 over the last three years.

40 (4) Notwithstanding any other provision of this section, the department may use any method for  
41 the award of any contract, franchise, license or agreement that is necessary to comply with the re-  
42 quirements of any grant or other funding source.

43 (5) If public funds are involved in the project, construction of a tollway project shall be subject  
44 to the prevailing wage requirements of ORS 279C.800 to 279C.870.

45 (6) For purposes of complying with applicable state and local land use laws, including statewide

1 **land use** planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196, 197, 198,  
2 199, 215, 221, 222 and 227, and any requirement imposed by the **Department of Land Conservation**  
3 and Development [*Commission*], a tollway project shall be treated as a project of the Department  
4 **of Transportation** and not as a project of any other person or entity.

5 (7) Tollways, and any related facilities that would normally be purchased, constructed or in-  
6 stalled by the department if the tollway were a conventional highway that was constructed and op-  
7 erated by the department, shall be exempt from ad valorem property taxation.

8 (8) Tollways are considered state highways for purposes of law enforcement and application of  
9 the Oregon Vehicle Code.

10 **SECTION 102.** ORS 390.322 is amended to read:

11 390.322. (1) Following the preparation of the plan or any segment thereof under ORS 390.318, the  
12 State Parks and Recreation Department shall submit such plan or segment to the [*Land Conservation*  
13 and Development Commission] **regional commission for the region, as described in section 2 of**  
14 **this 2011 Act.** The **regional** commission shall investigate and review such plan or segment as [*it*]  
15 **the regional commission** considers necessary. If the **regional** commission finds that the plan or  
16 segment complies with ORS 390.310 to 390.368, [*it*] **the regional commission** shall approve the plan  
17 or segment. If the **regional** commission finds revision of any part of the submitted plan or segment  
18 to be necessary, [*it*] **the regional commission** may revise the plan or segment itself or require such  
19 revision by the department and units of local government.

20 (2) Upon approval of the plan for the Willamette River Greenway or segment thereof, the **re-**  
21 **gional** commission shall cause copies of such plan or segment to be filed with the recording officer  
22 for each county having lands within the Willamette River Greenway situated within its boundaries.  
23 Such plan or segment filed as required by this subsection shall be retained in the office of the  
24 county recording officer open for public inspection during reasonable business hours.

25 (3) If the plan for the Willamette River Greenway is prepared and approved in segments, the  
26 total of all such approved segments shall constitute the plan for the Willamette River Greenway for  
27 the purposes of ORS 390.310 to 390.368. The department and units of local government, with the  
28 approval of the **regional** commission, may revise the plan for the Willamette River Greenway from  
29 time to time.

30 **SECTION 103.** ORS 468A.363 is amended to read:

31 468A.363. The Legislative Assembly declares the purpose of ORS 468A.363, 468A.365, 468A.400  
32 and 815.300 is to:

33 (1) [*Insure*] **Ensure** that the health of citizens in the Portland area is not threatened by recur-  
34 ring air pollution conditions.

35 (2) Provide necessary authority to the Environmental Quality Commission to implement one of  
36 the critical elements of the air quality maintenance strategy for the Portland area related to im-  
37 improvements in the motor vehicle inspection program.

38 (3) [*Insure*] **Ensure** that the Department of Environmental Quality is able to submit an  
39 approvable air quality maintenance plan for the Portland area through the year 2006 to the Envi-  
40 ronmental Protection Agency as soon as possible so that area can again be designated as an at-  
41 tainment area and impediments to industrial growth imposed in the Clean Air Act can be removed.

42 (4) Direct the Environmental Quality Commission to use existing authority to incorporate the  
43 following programs for emission reduction credits into the air quality maintenance plan for the  
44 Portland area:

45 (a) California or United States Environmental Protection Agency emission standards for new

1 lawn and garden equipment sold in the Portland area.

2 (b) Transportation-efficient land use requirements of the transportation planning rule adopted  
3 by the [*Land Conservation and Development Commission*] **regional commission for the region, as**  
4 **described in section 2 of this 2011 Act.**

5 (c) Improvements in the vehicle inspection program as authorized in ORS 468A.350 to 468A.400,  
6 including emission reduction from on-road vehicles resulting from enhanced testing, elimination of  
7 exemptions for 1974 and later model year vehicles, and expansion of inspection program boundaries.

8 (d) An employer trip reduction program that provides an emission reduction from on-road vehi-  
9 cles.

10 (e) A parking ratio program that limits the construction of new parking spaces for employment,  
11 retail and commercial locations.

12 (f) Emission reductions resulting from any new federal motor vehicle fuel tax.

13 (g) State and federal alternative fuel vehicles fleet programs that result in emission reductions.

14 (h) Installation of maximum achievable control technology by major sources of hazardous air  
15 pollutants as required by the federal Clean Air Act, as amended, resulting in emission reductions.

16 (i) As a safety margin, or as a substitute in whole or in part for other elements of the plan,  
17 emission reductions resulting from any new state gasoline tax or for any new vehicle registration  
18 fee that allows use of revenue for air quality improvement purposes.

19 **SECTION 104.** ORS 469.320 is amended to read:

20 469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be  
21 constructed or expanded unless a site certificate has been issued for the site thereof in the manner  
22 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be  
23 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,  
24 469.590 to 469.619, 469.930 and 469.992.

25 (2) A site certificate is not required for:

26 (a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had  
27 operable electric generating equipment for a modification that uses the same fuel type and increases  
28 electric generating capacity, if:

29 (A) The site is not enlarged; and

30 (B) The ability of the energy facility to use fuel for electricity production under peak steady  
31 state operating conditions is not more than 200 million Btu per hour greater than it was on August  
32 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy  
33 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

34 (b) Construction or expansion of any interstate natural gas pipeline or associated underground  
35 natural gas storage facility authorized by and subject to the continuing regulation of the Federal  
36 Energy Regulatory Commission or successor agency.

37 (c) An energy facility, except coal and nuclear power plants, if the energy facility:

38 (A) Sequentially produces electrical energy and useful thermal energy from the same fuel source;  
39 and

40 (B) Under average annual operating conditions, has a nominal electric generating capacity:

41 (i) Of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater  
42 than 6,000 Btu per kilowatt hour;

43 (ii) Of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater  
44 than 5,500 Btu per kilowatt hour; or

45 (iii) Specified by the Energy Facility Siting Council by rule based on the council's determination

1 relating to emissions of the energy facility.

2 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site cer-  
3 tificate has been issued by the State of Oregon, of radioactive waste from the plant.

4 (e) An energy facility as defined in ORS 469.300 (11)(a)(G), if the plant also produces a secondary  
5 fuel used on site for the production of heat or electricity, if the output of the primary fuel is less  
6 than six billion Btu of heat a day.

7 (f) An energy facility as defined in ORS 469.300 (11)(a)(G), if the facility:

8 (A) Exclusively uses biomass, including but not limited to grain, whey, potatoes, oil seeds, waste  
9 vegetable oil or cellulosic biomass, as the source of material for conversion to a liquid fuel;

10 (B) Has received local land use approval under the applicable acknowledged comprehensive plan  
11 and land use regulations of the affected local government [*and*] **or, if the applicable comprehen-**  
12 **sive plan and land use regulations are not acknowledged**, the facility complies with any state-  
13 wide **land use** planning goals or **any** rules of the Land Conservation and Development Commission  
14 **or the regional commission for the region, as described in section 2 of this 2011 Act**, that are  
15 directly applicable to the facility;

16 (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would  
17 require a site certificate under subsection (1) of this section;

18 (D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling  
19 facility located within one mile of the facility or is transported from the facility by rail or barge;  
20 and

21 (E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for con-  
22 version energy.

23 (g) A standby generation facility, if the facility complies with all of the following:

24 (A) The facility has received local land use approval under the applicable acknowledged com-  
25 prehensive plan and land use regulations of the affected local government and the facility complies  
26 with all statewide **land use** planning goals and applicable rules of the Land Conservation and De-  
27 velopment Commission **or the regional commission for the region**;

28 (B) The standby generators have been approved by the Department of Environmental Quality  
29 as having complied with all applicable air and water quality requirements. For an applicant that  
30 proposes to provide the physical facilities for the installation of standby generators, the requirement  
31 of this subparagraph may be met by agreeing to require such a term in the lease contract for the  
32 facility; and

33 (C) The standby generators are electrically incapable of being interconnected to the trans-  
34 mission grid. For an applicant that proposes to provide the physical facilities for the installation of  
35 standby generators, the requirement of this subparagraph may be met by agreeing to require such  
36 a term in the lease contract for the facility.

37 (3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable  
38 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,  
39 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in  
40 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power  
41 heat rate value for the best available, commercially viable thermal power plant technology at the  
42 time of the revision.

43 (4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-  
44 emption under subsection (2)(a), (c), (f) or (g) of this section from the requirement to obtain a site  
45 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-

1 cility qualifies for the claimed exemption. The council shall make its determination within 60 days  
 2 after the request for exemption is filed. An appeal from the council's determination on a request for  
 3 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court  
 4 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the  
 5 Supreme Court shall be the record established in the council proceeding on the exemption.

6 (5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-  
 7 quired for:

8 (a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if  
 9 such related or supporting facilities are addressed in and are subject to a site certificate for another  
 10 energy facility;

11 (b) Expansion within the site or within the energy generation area of a facility for which a site  
 12 certificate has been issued, if the existing site certificate has been amended to authorize expansion;  
 13 or

14 (c) Expansion, either within the site or outside the site, of an existing council certified surface  
 15 facility related to an underground gas storage reservoir, if the existing site certificate is amended  
 16 to authorize expansion.

17 (6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of  
 18 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this  
 19 section, the electric generating facility shall cease to operate one year after the substantial loss of  
 20 the steam host unless an application for a site certificate has been filed in accordance with the  
 21 provisions of ORS 469.300 to 469.563.

22 (7) As used in this section:

23 (a) "Standby generation facility" means an electric power generating facility, including standby  
 24 generators and the physical structures necessary to install and connect standby generators, that  
 25 provides temporary electric power in the event of a power outage and that is electrically incapable  
 26 of being interconnected with the transmission grid.

27 (b) "Total energy output" means the sum of useful thermal energy output and useful electrical  
 28 energy output.

29 (c) "Useful thermal energy" means the verifiable thermal energy used in any viable industrial  
 30 or commercial process, heating or cooling application.

31 (8) Notwithstanding the definition of "energy facility" in ORS 469.300 (11)(a)(J), an electric  
 32 power generating plant with an average electric generating capacity of less than 35 megawatts  
 33 produced from wind energy at a single energy facility or within a single energy generation area may  
 34 elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590 to  
 35 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall be  
 36 final upon submission of an application for a site certificate.

37 **SECTION 105.** ORS 469.504 is amended to read:

38 469.504. (1) **Pursuant to ORS 469.503 (4)**, a proposed facility shall be found in compliance with  
 39 the statewide **land use** planning goals [*under ORS 469.503 (4)*] if:

40 (a) The facility has received local land use approval under the acknowledged comprehensive  
 41 plan and land use regulations of the affected local government; or

42 (b) The Energy Facility Siting Council determines that:

43 (A) The facility complies with applicable substantive criteria from the affected local  
 44 government's acknowledged comprehensive plan and land use regulations that are required by the  
 45 statewide **land use** planning goals and in effect on the date the application is submitted, [*and*] **or**,

1 **if the applicable comprehensive plan and land use regulations are not acknowledged**, with any  
2 [*Land Conservation and Development Commission administrative rules and*] goals, **any rules of the**  
3 **Land Conservation and Development Commission or the regional commission for the region,**  
4 **as described in section 2 of this 2011 Act**, and any land use statutes that apply directly to the  
5 facility under ORS 197.646;

6 (B) For an energy facility or a related or supporting facility that must be evaluated against the  
7 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility  
8 does not comply with one or more of the applicable substantive criteria but does otherwise comply  
9 with the applicable statewide **land use** planning goals, or that an exception to any applicable  
10 statewide **land use** planning goal is justified under subsection (2) of this section; or

11 (C) For a facility that the council elects to evaluate against the statewide **land use** planning  
12 goals pursuant to subsection (5) of this section, that the proposed facility complies with the appli-  
13 cable statewide **land use** planning goals or that an exception to any applicable statewide **land use**  
14 planning goal is justified under subsection (2) of this section.

15 (2) The council may find goal compliance for a facility that does not otherwise comply with one  
16 or more statewide **land use** planning goals by taking an exception to the applicable goal.  
17 Notwithstanding the requirements of ORS 197.732, the statewide **land use** planning goal pertaining  
18 to the exception process or any rules of the Land Conservation and Development Commission **or**  
19 **the regional commission for the region** pertaining to an exception process goal, the council may  
20 take an exception to a goal if the council finds:

21 (a) The land subject to the exception is physically developed to the extent that the land is no  
22 longer available for uses allowed by the applicable goal;

23 (b) The land subject to the exception is irrevocably committed as described by the rules of the  
24 Land Conservation and Development Commission **or the regional commission for the region** to  
25 uses not allowed by the applicable goal because existing adjacent uses and other relevant factors  
26 make uses allowed by the applicable goal impracticable; or

27 (c) The following standards are met:

28 (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

29 (B) The significant environmental, economic, social and energy consequences anticipated as a  
30 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-  
31 cordance with rules of the council applicable to the siting of the proposed facility; and

32 (C) The proposed facility is compatible with other adjacent uses or will be made compatible  
33 through measures designed to reduce adverse impacts.

34 (3) If compliance with applicable substantive local criteria and applicable statutes and state  
35 administrative rules would result in conflicting conditions in the site certificate or amended site  
36 certificate, the council shall resolve the conflict consistent with the public interest. A resolution  
37 may not result in a waiver of any applicable state statute.

38 (4) An applicant for a site certificate shall elect whether to demonstrate compliance with the  
39 statewide **land use** planning goals under subsection (1)(a) or (b) of this section. The applicant shall  
40 make the election on or before the date specified by the council by rule.

41 (5) Upon request by the State Department of Energy, the special advisory group established  
42 under ORS 469.480 shall recommend to the council, within the time stated in the request, the ap-  
43 plicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group  
44 does not recommend applicable substantive criteria within the time established in the department's  
45 request, the council may either determine and apply the applicable substantive criteria under sub-

1 section (1)(b) of this section or determine compliance with the statewide **land use** planning goals  
 2 under subsection (1)(b)(B) or (C) of this section. If the special advisory group recommends applicable  
 3 substantive criteria for an energy facility described in ORS 469.300 or a related or supporting fa-  
 4 cility that does not pass through more than one local government jurisdiction or more than three  
 5 zones in any one jurisdiction, the council shall apply the criteria recommended by the special advi-  
 6 sory group. If the special advisory group recommends applicable substantive criteria for an energy  
 7 facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or supporting facility that passes  
 8 through more than one jurisdiction or more than three zones in any one jurisdiction, the council  
 9 shall review the recommended criteria and determine whether to evaluate the proposed facility  
 10 against the applicable substantive criteria recommended by the special advisory group, against the  
 11 statewide **land use** planning goals or against a combination of the applicable substantive criteria  
 12 and statewide **land use** planning goals. In making its determination, the council shall consult with  
 13 the special advisory group and shall consider:

14 (a) The number of jurisdictions and zones in question;

15 (b) The degree to which the applicable substantive criteria reflect local government consider-  
 16 ation of energy facilities in the planning process; and

17 (c) The level of consistency of the applicable substantive criteria from the various zones and  
 18 jurisdictions.

19 (6) The council is not subject to ORS 197.180 and a state agency may not require an applicant  
 20 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

21 (7) On or before its next periodic review, each affected local government shall amend its com-  
 22 prehensive plan and land use regulations as necessary to reflect the decision of the council per-  
 23 taining to a site certificate or amended site certificate.

24 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local  
 25 government's land use approval of a proposed facility under subsection (1)(a) of this section and the  
 26 special advisory group's recommendation of applicable substantive criteria under subsection (5) of  
 27 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant  
 28 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply  
 29 only to proposed projects for which the land use approval of the local government occurs after the  
 30 date a notice of intent or an application for expedited processing is submitted to the State Depart-  
 31 ment of Energy.

32 (9) The State Department of Energy, in cooperation with other state agencies, shall provide, to  
 33 the extent possible, technical assistance and information about the siting process to local govern-  
 34 ments that request such assistance or that anticipate having a facility proposed in their jurisdiction.

35 **SECTION 106. (1) Sections 1 and 2 of this 2011 Act and the amendments to ORS 183.457,**  
 36 **183.530, 183.635, 195.020, 195.025, 195.034, 195.040, 195.085, 195.120, 195.145, 195.225, 195.260,**  
 37 **195.300, 196.107, 196.115, 196.485, 196.681, 197.015, 197.030, 197.040, 197.045, 197.047, 197.060,**  
 38 **197.070, 197.075, 197.090, 197.095, 197.175, 197.180, 197.225, 197.230, 197.251, 197.253, 197.254,**  
 39 **197.265, 197.274, 197.277, 197.283, 197.296, 197.299, 197.319, 197.320, 197.324, 197.328, 197.335,**  
 40 **197.340, 197.350, 197.395, 197.445, 197.505, 197.610, 197.620, 197.625, 197.626, 197.628, 197.629,**  
 41 **197.633, 197.636, 197.637, 197.638, 197.639, 197.644, 197.646, 197.650, 197.651, 197.652, 197.654,**  
 42 **197.656, 197.658, 197.712, 197.717, 197.768, 197.825, 197.830, 197.835, 197.840, 215.213, 215.263,**  
 43 **215.275, 215.278, 215.282, 215.283, 215.304, 215.306, 215.311, 215.457, 215.459, 215.503, 215.740,**  
 44 **215.780, 223.317, 227.186, 244.050, 284.577, 285C.500, 308A.065, 308A.350, 308A.700, 383.017,**  
 45 **390.322, 468A.363, 469.320 and 469.504 by sections 3 to 105 of this 2011 Act become operative**



1 on January 2, 2012.

2 (2) The majority vote of the governing bodies of each county in the region, voting as a  
3 unit, may select and, if necessary, the Governor may appoint and the Senate may confirm,  
4 members of the five regional land use planning commissions established under section 2 of  
5 this 2011 Act before the operative date of section 2 of this 2011 Act.

6 (3) The Department of Land Conservation and Development may take action necessary  
7 to implement section 2 of this 2011 Act before the operative date of section 2 of this 2011  
8 Act.

9 (4) Rules adopted by the Land Conservation and Development Commission in force before  
10 the operative date of section 2 of this 2011 Act for which rulemaking authority is transferred  
11 from the commission to a regional commission remain in force in a region until the regional  
12 commission for the region, as described in section 2 of this 2011 Act, adopts rules in lieu of  
13 the Land Conservation and Development Commission's rules, including a provision that ex-  
14 plicitly identifies the specific Land Conservation and Development Commission rules super-  
15 seded.

16 SECTION 107. This 2011 Act being necessary for the immediate preservation of the public  
17 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
18 on its passage.

19 \_\_\_\_\_