

A-Engrossed House Bill 2003

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representative KOTEK; Representative KENY-GUYER

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.

Requires Oregon Department of Administrative Services **with Department of Land Conservation and Development and Housing and Community Services Department** to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to inventory existing housing stock and to establish housing shortage analysis. Requires department to implement analyses and inventory *[every four years]* **by July 1, 2020. Requires Oregon Department of Administrative Services and Department of Land Conservation and Development to report results to interim committee of Legislative Assembly by July 1, 2020.** Requires Department of Land Conservation and Development to report *[findings]* **evaluation** to interim committee of Legislative Assembly no later than January 1, 2021.

Requires *[Metro, and]* each city **outside Metro** with population greater than 10,000 *[or within Metro,]* to *[develop]* estimate *[of]* its housing need **and capacity** no less than once every eight years **and Metro and cities within Metro to estimate their housing need and capacity no less than every six years. Requires such local governments,** within *[12 months]* **one year** of determining estimated housing need, to adopt housing **production** strategy to meet estimated housing need.

Requires Land Conservation and Development Commission to *[annually]* identify *[10 priority]* cities that experience difficulties implementing housing **production** strategy. Appropriates moneys from General Fund to Department of Land Conservation and Development to assist *[10 priority]* cities with implementation of housing **production** strategy. **Allows Department of Land Conservation and Development to seek enforcement order against cities not implementing housing production strategy.**

Allows development or rezoning of public property in urban growth boundary for affordable housing if compatible with surrounding zoning.

[Authorizes Secretary of State to audit system development charges and bring enforcement action to correct violations.]

[Requires Building Codes Division of Department of Consumer and Business Services to maintain list of local governments' system development charges and proposed modifications. Requires local governments to deliver copies of records to division. Appropriates moneys from General Fund to department for maintaining records, making records publicly available and reimbursing local governments for costs of compliance.]

Awards attorney fees to prevailing intervening developers of affordable housing in Land Use Board of Appeals decisions.

Assigns local government burden of proving on appeal necessity of reduction in density or height in housing development application.

Allows nonresidential places of worship to develop multiple affordable dwellings on land where nonresidential place of worship is allowed use.

Prohibits professional disciplinary conduct against employees of Department of Consumer and Business Services who provide certain typical building plans and specifications.

Appropriates funds to Land Conservation and Development Commission for various rulemaking and implementation actions.

Becomes operative on January 1, 2020.

[Takes effect on 91st day following adjournment sine die.]

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319,
3 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062; and declaring an emergency.

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

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.

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

(a) "Area median income" means the median income for households established by the United States Department of Housing and Urban Development.

(b) "Existing housing stock" means housing, by affordability level and type, actually constructed in a city or Metro.

(c) "High income" means above 120 percent of the area median income.

(d) "Housing shortage" means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate population changes over the next 20 years, and the existing housing stock, measured in dwelling units.

(e) "Low income" means income above 50 percent and at or below 80 percent of the area median income.

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

(g) "Moderate income" means income above 80 percent and at or below 120 percent of the area median income.

(h) "Region" has the meaning given that term in ORS 284.752.

(i) "Very low income" means income at or below 50 percent of the area median income.

(2) The Oregon Department of Administrative Services, in coordination with the Department of Land Conservation and Development and the Housing and Community Services Department, shall develop a methodology for calculating:

(a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:

(A) Trends in density and in the average mix of housing types of urban residential development;

(B) Demographic and population trends; and

(C) Economic trends and cycles.

(b) An inventory of existing housing stock of each city and Metro.

(c) A housing shortage analysis for each city and Metro.

(3) The methodologies for calculating the regional housing needs analysis, the inventory of existing housing stock and the housing shortage analysis developed under subsection (2) of this section must classify housing by:

(a) Housing type, including attached and detached single-family housing, multifamily housing and manufactured dwellings or mobile homes; and

(b) Affordability, by housing that is affordable to households with:

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

(4) On or before July 1, 2020, the Oregon Department of Administrative Services, in coordination with the Department of Land Conservation and Development and the Housing and Community Services Department, shall conduct for each region a regional housing needs analysis and, for each city and Metro, shall inventory existing housing stock and establish a housing shortage analysis.

(5) In developing the methodologies and conducting the analyses under this section, the Oregon Department of Administrative Services may:

1 (a) Consult or contract with subject matter experts, cities and Metro, regional solutions
2 centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted
3 regional housing needs analyses;

4 (b) Consider the most recent consolidated population forecast produced by the Portland
5 State University Population Research Center in making any relevant calculation or forecast;
6 and

7 (c) Consider any other relevant existing analyses, data and other information collected
8 or produced by state agencies or public entities.

9 **SECTION 1a.** (1) No later than July 1, 2020, the Oregon Department of Administrative
10 Services and the Department of Land Conservation and Development shall submit a report,
11 in the manner provided in ORS 192.245 to an appropriate interim committee of the Legislative
12 Assembly, that summarizes the findings of the regional housing needs analysis, inventory
13 of housing stock and housing shortage analysis conducted under section 1 (4) of this 2019
14 Act.

15 (2) No later than January 31, 2021, the Department of Land Conservation and Develop-
16 ment, in consultation with Oregon Department of Administrative Services and the Housing
17 and Community Services Department, shall submit a report, in the manner provided in ORS
18 192.245, to the Legislative Assembly that evaluates:

19 (a) Whether a regional housing needs analysis and housing shortage analysis described
20 in section 1 of this 2019 Act could appropriately allocate the housing shortage described
21 among the cities or local governments in a region;

22 (b) How a regional housing needs analysis and housing shortage analysis may compare
23 to existing assessments of housing need and capacity conducted by local governments under
24 ORS 197.296 (3) and (10) in terms of:

25 (A) Cost and cost effectiveness;

26 (B) Reliability and accuracy;

27 (C) Repeatability; and

28 (D) Predictability;

29 (c) How a regional housing needs analysis and housing shortage analysis may relate to
30 statewide planning goals related to housing and any rules and policies adopted pursuant to
31 these goals and ORS 197.295 to 197.314;

32 (d) Whether different boundaries would be more appropriate for defining regions within
33 the regional housing needs analysis based on:

34 (A) Relevance of data in appropriately defining a commuting, employment or housing
35 market; or

36 (B) Ease or cost of collecting or analyzing data;

37 (e) Other ways in which the regional housing needs analysis or housing shortage analysis
38 could be improved; and

39 (f) Whether the regional housing needs analysis, or an improved version, could serve as
40 an acceptable methodology statewide for land use planning relating to housing.

41 (3) In preparing the report required under subsection (2) of this section, the Department
42 of Land Conservation and Development may consult or contract with other state agencies,
43 subject matter experts, private firms, local governments, regional solutions centers de-
44 scribed in ORS 284.754 (2) and other jurisdictions that have created or conducted regional
45 housing needs analyses.

1 **SECTION 2.** Sections 3 to 5 of this 2019 Act are added to and made a part of ORS 197.295
2 to 197.314.

3 **SECTION 3.** (1) A city with a population greater than 10,000 shall develop and adopt a
4 housing production strategy under this section no later than one year after:

5 (a) The city's deadline for completing a housing capacity analysis under ORS 197.296
6 (2)(a);

7 (b) The city's deadline for completing a housing capacity analysis under ORS 197.296
8 (10)(b); or

9 (c) The date that housing capacity was allocated to the city by a metropolitan service
10 district under ORS 197.299 (2)(d).

11 (2) A housing production strategy must include a list of specific actions, including the
12 adoption of measures and policies, that the city shall undertake to promote development
13 within the city to address a housing shortage identified under ORS 197.296 (6) for the most
14 recent 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may in-
15 clude:

16 (a) The reduction of financial and regulatory impediments to developing needed housing,
17 including removing or easing approval standards or procedures for needed housing at higher
18 densities or that is affordable; and

19 (b) The creation of financial and regulatory incentives for development of needed housing,
20 including creating incentives for needed housing at higher densities or that is affordable.

21 (3) In creating a housing production strategy, a city shall review and consider:

22 (a) Socioeconomic and demographic characteristics of households living in existing
23 needed housing;

24 (b) Market conditions affecting the provision of needed housing;

25 (c) Measures already adopted by the city to promote the development of needed housing;

26 (d) Existing and expected barriers to the development of needed housing; and

27 (e) For each action the city includes in its housing production strategy:

28 (A) The schedule for its adoption;

29 (B) The schedule for its implementation;

30 (C) Its expected magnitude of impact on the development of needed housing; and

31 (D) The time frame over which it is expected to impact needed housing.

32 (4) A housing production strategy may not contain proposed changes to a comprehensive
33 plan or land use regulation. The adoption of a housing production strategy is not a land use
34 decision and is not subject to appeal or review except as provided in section 4 of this 2019
35 Act.

36 **SECTION 4.** (1) No later than 20 days after a city's adoption or amendment of a housing
37 production strategy under section 3 of this 2019 Act, a city shall submit the adopted strategy
38 or amended strategy to the Department of Land Conservation and Development.

39 (2) The submission under subsection (1) of this section must include copies of:

40 (a) The signed decision adopting the housing production strategy or amended strategy;

41 (b) The text of the housing production strategy clearly indicating any amendments to the
42 most recent strategy submitted under this section;

43 (c) A brief narrative summary of the housing production strategy; and

44 (d) The information reviewed and considered under section 5 (2) of this 2019 Act.

45 (3) On the same day the city submits notice of the housing production strategy or

1 amended strategy, the city shall provide a notice to persons that participated in the pro-
2 ceedings that led to the adoption of the strategy and requested notice in writing.

3 (4) Within five days of receipt of the submission under subsection (1) of this section, the
4 department shall provide notice to persons described under ORS 197.615 (3).

5 (5) The notices given under subsections (3) and (4) of this section must state:

6 (a) How and where materials described in subsection (2) of this section may be freely
7 obtained;

8 (b) That comments on the strategy may be submitted to the department within 90 days
9 after the department has received the submission; and

10 (c) That there is no further right of appeal.

11 (6) Based upon criteria adopted by the Land Conservation and Development Commission,
12 including any criteria adopted under section 5 (2) of this 2019 Act, the department shall,
13 within 120 days after receiving the submission under subsection (1) of this section:

14 (a) Approve the housing production strategy;

15 (b) Approve the housing production strategy, subject to further review and actions under
16 section 5 (2) of this 2019 Act; or

17 (c) Remand the housing production strategy for further modification as identified by the
18 department.

19 (7) A determination by the department under subsection (6) of this section is not a land
20 use decision and is final and not subject to appeal.

21 **SECTION 5.** (1) The Land Conservation and Development Commission shall adopt criteria
22 for reviewing and identifying cities with a population greater than 10,000 that have not suf-
23 ficiently:

24 (a) Achieved production of needed housing within their jurisdiction; or

25 (b) Implemented a housing production strategy adopted under section 3 of this 2019 Act.

26 (2) The criteria adopted by the commission under subsection (1) of this section may in-
27 clude the city's:

28 (a) Total unmet housing need as described in ORS 197.296 (6);

29 (b) Unmet housing need in proportion to the city's population;

30 (c) Percentage of households identified as severely rent burdened as described in section
31 1, chapter 47, Oregon Laws 2018;

32 (d) Recent housing development;

33 (e) Recent adoption of a housing production strategy under section 3 of this 2019 Act or
34 adoption of actions pursuant to a housing production strategy;

35 (f) Recent or frequent previous identification by the Department of Land Conservation
36 and Development under this section; or

37 (g) Other attributes that the commission considers relevant.

38 (3) The department may periodically review cities under the criteria adopted under sub-
39 section (2) of this section for the purposes of prioritizing actions by the department, includ-
40 ing:

41 (a) Awarding available technical or financial resources;

42 (b) Providing enhanced review and oversight of the city's housing production strategy;

43 (c) Entering into agreements with the city relating to the city's modification or imple-
44 mentation of its housing production strategy; or

45 (d) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to

1 **comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing**
2 **or urbanization.**

3 **SECTION 6.** ORS 197.296 is amended to read:

4 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-
5 vice district regional framework plans and local government comprehensive plans for lands within
6 the urban growth boundary of a city that is located outside of a metropolitan service district and
7 has a population of 25,000 or more.

8 (b) The Land Conservation and Development Commission may establish a set of factors under
9 which additional cities are subject to the provisions of this section. In establishing the set of factors
10 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
11 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
12 more or to a metropolitan service district.

13 (2)(a) [*At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review*
14 *of the comprehensive plan or regional framework plan that concerns the urban growth boundary and*
15 *requires the application of a statewide planning goal relating to buildable lands for residential use,]*
16 A local government shall demonstrate that its comprehensive plan or regional framework plan pro-
17 vides sufficient buildable lands within the urban growth boundary established pursuant to statewide
18 planning goals to accommodate estimated housing needs for 20 years:

19 **(A) At periodic review under ORS 197.628 to 197.651;**

20 **(B) As scheduled by the commission:**

21 **(i) At least once each eight years for local governments that are not within a metropol-**
22 **itan service district; or**

23 **(ii) At least once each six years for a metropolitan service district; or**

24 **(C) At any other legislative review of the comprehensive plan or regional framework plan**
25 **that concerns the urban growth boundary and requires the application of a statewide plan-**
26 **ning goal relating to buildable lands for residential use.**

27 **(b) The 20-year period shall commence on the date initially scheduled for completion of the**
28 **[periodic or legislative] review under paragraph (a) of this subsection.**

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

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

32 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
33 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
34 and amount of land needed for each needed housing type for the next 20 years.

35 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable
36 lands" includes:

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

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

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

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

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

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

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

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

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

7 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
8 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
9 to land within the urban growth boundary that has been collected since the last *[periodic]* review
10 **[or] under subsection (2)(a)(B) of this section** *[five years, whichever is greater]*. The data shall
11 include:

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

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

15 (C) Demographic and population trends;

16 (D) Economic trends and cycles; and

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

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

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

30 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
31 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
32 shall take one or more of the following actions to accommodate the additional housing need:

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

40 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
41 lations to include new measures that demonstrably increase the likelihood that residential develop-
42 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
43 expansion of the urban growth boundary. A local government or metropolitan service district that
44 takes this action shall monitor and record the level of development activity and development density
45 by housing type following the date of the adoption of the new measures; or

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

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

11 (8)(a) A local government outside a metropolitan service district that takes any actions under
12 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
13 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
14 197.314.

15 (b) The local government shall determine the density and mix of housing types anticipated as a
16 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
17 tual density and mix of housing types achieved. The local government shall compare actual and
18 anticipated density and mix. The local government shall submit its comparison to the commission
19 at the next [*periodic review or at the next legislative*] review of its urban growth boundary[, *whichever*
20 *comes first*] **under subsection (2)(a) of this section.**

21 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
22 tion demonstrably increase the likelihood of higher density residential development, the local gov-
23 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
24 for the housing types identified under subsection (3) of this section and is zoned at density ranges
25 that are likely to be achieved by the housing market using the analysis in subsection (3) of this
26 section. Actions or measures, or both, may include but are not limited to:

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

28 [(b) *Financial incentives for higher density housing;*]

29 [(c) *Provisions permitting additional density beyond that generally allowed in the zoning district*
30 *in exchange for amenities and features provided by the developer;*]

31 [(d) *Removal or easing of approval standards or procedures;*]

32 [(e)] (b) Minimum density ranges;

33 [(f)] (c) Redevelopment and infill strategies;

34 [(g)] (d) Authorization of housing types not previously allowed by the plan or regulations;

35 [(h)] (e) Adoption of an average residential density standard; and

36 [(i)] (f) Rezoning or redesignation of nonresidential land.

37 (10)(a) The provisions of this subsection apply to local government comprehensive plans for
38 lands within the urban growth boundary of a city that is located outside of a metropolitan service
39 district and has a population of less than 25,000.

40 (b) [*At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the*
41 *comprehensive plan that requires the application of a statewide planning goal relating to buildable*
42 *lands for residential use,]* **As required under paragraph (c) of this subsection,** a city shall, ac-
43 cording to rules of the commission:

44 (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

45 (B) Inventory the supply of buildable lands available within the urban growth boundary to ac-

1 commodate the estimated housing needs determined under this subsection; and

2 (C) Adopt measures necessary to accommodate the estimated housing needs determined under
3 this subsection.

4 **(c) The actions required under paragraph (b) of this subsection shall be undertaken:**

5 **(A) At periodic review pursuant to ORS 197.628 to 197.651;**

6 **(B) On a schedule established by the commission for cities with a population greater than
7 10,000, not to exceed once each eight years; or**

8 **(C) At any other legislative review of the comprehensive plan that requires the applica-
9 tion of a statewide planning goal relating to buildable lands for residential use.**

10 [(c)] (d) For the purpose of the inventory described in this subsection, "buildable lands" includes
11 those lands described in subsection (4)(a) of this section.

12 **SECTION 7. On or before December 31, 2019, the Land Conservation and Development
13 Commission shall adopt a schedule by which metropolitan service districts and local govern-
14 ments described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable
15 lands.**

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

17 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
18 inventory, determination and analysis required under ORS 197.296 (3) not later than six years after
19 completion of the previous inventory, determination and analysis.

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

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

26 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
27 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
28 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
29 the time the actions are completed.

30 (d) The metropolitan service district shall consider and adopt new measures that the governing
31 body deems appropriate under ORS 197.296 (6)(b) **and shall allocate any housing capacity that is
32 not accommodated under this section to be accommodated by the application of ORS 197.296
33 (6)(b) by cities within the metropolitan service district with a population greater than
34 10,000.**

35 **(e) Cities to which housing capacity is allocated under paragraph (d) of this subsection
36 shall take steps described in ORS 197.296 (6)(b) to demonstrate sufficient residential devel-
37 opment as required by ORS 197.296 (6)(b) within two years after the date of allocation.**

38 (3) The Land Conservation and Development Commission may grant an extension to the time
39 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
40 Development determines that the metropolitan service district has provided good cause for failing
41 to meet the time limits.

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

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

3 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
4 months after submission of a complete application by a large school district as defined in ORS
5 195.110.

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

10 (5) Three years after completing its most recent demonstration of sufficient buildable lands un-
11 der ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination
12 and analysis required as part of the demonstration for the purpose of considering an amendment to
13 the metropolitan service district's urban growth boundary, provided:

14 (a) The metropolitan service district has entered into an intergovernmental agreement and has
15 designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county lo-
16 cated within the district;

17 (b) The commission has acknowledged the rural reserve and urban reserve designations de-
18 scribed in paragraph (a) of this subsection;

19 (c) One or more cities within the metropolitan service district have proposed a development that
20 would require expansion of the urban growth boundary;

21 (d) The city or cities proposing the development have provided evidence to the metropolitan
22 service district that the proposed development would provide additional needed housing to the
23 needed housing included in the most recent determination and analysis;

24 (e) The location chosen for the proposed development is adjacent to the city proposing the de-
25 velopment; and

26 (f) The location chosen for the proposed development is located within an area designated and
27 acknowledged as an urban reserve.

28 (6)(a) If a metropolitan service district, after revising its most recent determination and analysis
29 pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary
30 is warranted, the metropolitan service district may take action to expand its urban growth boundary
31 in one or more locations to accommodate the proposed development, provided the urban growth
32 boundary expansion does not exceed a total of 1,000 acres.

33 (b) A metropolitan service district that expands its urban growth boundary under this sub-
34 section:

35 (A) Must adopt the urban growth boundary expansion not more than four years after completing
36 its most recent demonstration of sufficient buildable lands under ORS 197.296; and

37 (B) Is exempt from the boundary location requirements described in the statewide land use
38 planning goals relating to urbanization.

39 **SECTION 9.** ORS 197.303 is amended to read:

40 197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, "needed housing" means all housing
41 on land zoned for residential use or mixed residential and commercial use that is determined to meet
42 the need shown for housing within an urban growth boundary at price ranges and rent levels that
43 are affordable to households within the county with a variety of incomes, including but not limited
44 to households with low incomes, very low incomes and extremely low incomes, as those terms are
45 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.

1 “Needed housing” includes the following housing types:

2 (a) Attached and detached single-family housing and multiple family housing for both owner and
3 renter occupancy;

4 (b) Government assisted housing;

5 (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

6 (d) Manufactured homes on individual lots planned and zoned for single-family residential use
7 that are in addition to lots within designated manufactured dwelling subdivisions; and

8 (e) Housing for farmworkers.

9 (2) Subsection (1)(a) and (d) of this section does not apply to:

10 (a) A city with a population of less than 2,500.

11 (b) A county with a population of less than 15,000.

12 (3) A local government may take an exception under ORS 197.732 to the definition of “needed
13 housing” in subsection (1) of this section in the same manner that an exception may be taken under
14 the goals.

15 **SECTION 10.** ORS 197.319 is amended to read:

16 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
17 the person shall:

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

19 (b) Request:

20 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
21 or urban service agreement or decision-making process which is the basis for the order; or

22 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
23 cial district agreement, **housing production strategy** or decision-making process that is the basis
24 for the order.

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

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

31 (c) If the local government or special district does not act in a manner which the requestor
32 believes is adequate to address the issues raised in the request within the time period provided in
33 paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Devel-
34 opment Commission under ORS 197.324.

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

37 **SECTION 11.** ORS 197.320 is amended to read:

38 197.320. The Land Conservation and Development Commission shall issue an order requiring a
39 local government, state agency or special district to take action necessary to bring its compre-
40 hensive plan, land use regulation, limited land use decisions or other land use decisions **or actions** into
41 compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regulations
42 **or housing production strategy** if the commission has good cause to believe:

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

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

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

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

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

10 (6) A local government has engaged in a pattern or practice of decision making that violates
11 an acknowledged comprehensive plan or land use regulation. In making its determination under this
12 subsection, the commission shall determine whether there is evidence in the record to support the
13 decisions made. The commission shall not judge the issue solely upon adequacy of the findings in
14 support of the decisions;

15 (7) A local government has failed to comply with a commission order entered under ORS 197.644;

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

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

20 (10) A local government's approval standards, special conditions on approval of specific devel-
21 opment proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

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

24 (12) A local government within the jurisdiction of a metropolitan service district has failed to
25 make changes to the comprehensive plan or land use regulations to comply with the regional
26 framework plan of the district or has engaged in a pattern or practice of decision-making that vio-
27 lates a requirement of the regional framework plan[.]; or

28 **(13) A city is not making satisfactory progress in taking actions listed in its housing**
29 **production strategy under section 3 of this 2019 Act.**

30 **SECTION 12. Section 13 of this 2019 Act is added to and made a part of ORS chapter 197.**

31 **SECTION 13. (1) As used in this section, "public property" means all real property of the**
32 **state, counties, cities, incorporated towns or villages, school districts, irrigation districts,**
33 **drainage districts, ports, water districts, service districts, metropolitan service districts,**
34 **housing authorities, public universities listed in ORS 352.002 or all other public or municipal**
35 **corporations in this state.**

36 **(2) Notwithstanding any land use regulation, comprehensive plan, or statewide land use**
37 **planning goal, a local government shall allow the development of housing on public property**
38 **provided:**

39 **(a) The real property is not preserved as open space or parks;**

40 **(b) The real property is located within the urban growth boundary;**

41 **(c) The real property is zoned for residential development or surrounded by parcels zoned**
42 **for residential development;**

43 **(d) The housing complies with applicable land use regulations and meets the standards**
44 **and criteria for residential development for the underlying zone of the land or the sur-**
45 **rounding residential land described in paragraph (c) of this subsection;**

1 (e) At least 50 percent of the residential units provided under this section is affordable
2 to households with incomes equal to or less than 60 percent of the area median income, as
3 defined in ORS 456.270; and

4 (f) The affordability of the residential units described in paragraph (e) of this subsection
5 is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, held by
6 the local government or the Housing and Community Services Department and with a dura-
7 tion of no less than 60 years.

8 (3) Notwithstanding any statewide land use planning goal, a local government may amend
9 its comprehensive plan and land use regulations to allow public property to be used for the
10 purposes described in subsection (2) of this section.

11 NOTE: Sections 14 through 17 were deleted by amendment. Subsequent sections were not re-
12 numbered.

13 SECTION 18. ORS 197.830 is amended to read:

14 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to
15 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-
16 peals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) May not exceed 10 years after the date of the decision if notice of a hearing or an adminis-
12 trative decision made pursuant to ORS 197.195 or 197.763 is required but has not been provided.

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

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

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

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

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

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

28 (9) A notice of intent to appeal a land use decision or limited land use decision shall be filed
29 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of
30 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to
31 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is
32 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a
33 statement identifying when, how and to whom notice was provided under ORS 197.615 does not
34 render the notice defective. Copies of the notice of intent to appeal shall be served upon the local
35 government, special district or state agency and the applicant of record, if any, in the local gov-
36 ernment, special district or state agency proceeding. The notice shall be served and filed in the form
37 and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$200 and a
38 deposit for costs to be established by the board. If a petition for review is not filed with the board
39 as required in subsections (10) and (11) of this section, the filing fee and deposit shall be awarded
40 to the local government, special district or state agency as cost of preparation of the record.

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

1 ceiving the motion.

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

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

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

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

12 (b) The date of the decision.

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

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

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

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

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

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

37 **(c) The board shall award attorney fees to an applicant under subsection (7)(b)(A) of this**
38 **section who is a prevailing party against a petitioner who appeals a local government's land**
39 **use decision or limited land use decision that grants the applicant a permit to partition,**
40 **subdivide or construct publicly supported housing, as defined in ORS 456.250.**

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

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

45 (b) Any moneys collected or received from sales by the board shall be paid into the Board

1 Publications Account established by ORS 197.832.

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

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

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

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

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

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

22 **SECTION 19.** ORS 215.416 is amended to read:

23 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
24 an owner of land may apply in writing to such persons as the governing body designates, for a
25 permit, in the manner prescribed by the governing body. The governing body shall establish fees
26 charged for processing permits at an amount no more than the actual or average cost of providing
27 that service.

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

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

35 (4)(a) A county may not approve an application if the proposed use of land is found to be in
36 conflict with the comprehensive plan of the county and other applicable land use regulation or or-
37 dinance provisions. The approval may include such conditions as are authorized by statute or county
38 legislation.

39 (b)(A) A county may not deny an application for a housing development located within the urban
40 growth boundary if the development complies with clear and objective standards, including but not
41 limited to clear and objective design standards contained in the county comprehensive plan or land
42 use regulations.

43 (B) This paragraph does not apply to:

44 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

45 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS

1 197.307 (6).

2 (c) A county may not [*reduce the density of*] **condition** an application for a housing development
3 **on a reduction in density** if:

4 (A) The density applied for is at or below the authorized density level under the local land use
5 regulations; and

6 (B) At least 75 percent of the floor area applied for is reserved for housing.

7 (d) A county may not [*reduce the height of*] **condition** an application for a housing development
8 **on a reduction in height** if:

9 (A) The height applied for is at or below the authorized height level under the local land use
10 regulations;

11 (B) At least 75 percent of the floor area applied for is reserved for housing; and

12 (C) Reducing the height has the effect of reducing the authorized density level under local land
13 use regulations.

14 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may [*reduce the density*
15 *or height of*] **condition** an application for a housing development **on a reduction in density or**
16 **height only** if the reduction is necessary to resolve a health, safety or habitability issue or to
17 comply with a protective measure adopted pursuant to a statewide land use planning goal.
18 **Notwithstanding ORS 197.350, the county has the burden of proving the necessity of the re-**
19 **duction.**

20 (f) As used in this subsection:

21 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
22 maximum floor area ratio that is permitted under local land use regulations.

23 (B) "Authorized height level" means the maximum height of a structure that is permitted under
24 local land use regulations.

25 (C) "Habitability" means being in compliance with the applicable provisions of the state building
26 code under ORS chapter 455 and the rules adopted thereunder.

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

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

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

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

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

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

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

44 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which
45 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county

1 and which shall relate approval or denial of a permit application to the zoning ordinance and com-
2 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-
3 dinance and comprehensive plan for the county as a whole.

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

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

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

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

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

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

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

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

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

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

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

43 (b) If a local government provides only a notice of the opportunity to request a hearing, the
44 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
45 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,

1 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
2 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
3 by neighborhood or community organizations recognized by the governing body and whose bounda-
4 ries include the site.

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

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

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

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

14 (B) Notice shall also be provided to any neighborhood or community organization recognized by
15 the governing body and whose boundaries include the site.

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

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

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

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

21 (B) The date of the decision; and

22 (C) A description of the decision made.

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

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

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

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

32 **SECTION 20.** ORS 227.175 is amended to read:

33 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
34 hearings officer, or such other person as the city council designates, for a permit or zone change,
35 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
36 tablish fees charged for processing permits at an amount no more than the actual or average cost
37 of providing that service.

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

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

45 (4)(a) A city may not approve an application unless the proposed development of land would be

1 in compliance with the comprehensive plan for the city and other applicable land use regulation or
2 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215
3 or any city legislation.

4 (b)(A) A city may not deny an application for a housing development located within the urban
5 growth boundary if the development complies with clear and objective standards, including [*but not*
6 *limited to*] clear and objective design standards contained in the city comprehensive plan or land
7 use regulations.

8 (B) This paragraph does not apply to:

9 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

10 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
11 197.307 (6).

12 (c) A city may not [*reduce the density of*] **condition** an application for a housing development
13 **on a reduction in density** if:

14 (A) The density applied for is at or below the authorized density level under the local land use
15 regulations; and

16 (B) At least 75 percent of the floor area applied for is reserved for housing.

17 (d) A city may not [*reduce the height of*] **condition** an application for a housing development **on**
18 **a reduction in height** if:

19 (A) The height applied for is at or below the authorized height level under the local land use
20 regulations;

21 (B) At least 75 percent of the floor area applied for is reserved for housing; and

22 (C) Reducing the height has the effect of reducing the authorized density level under local land
23 use regulations.

24 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may [*reduce the density or*
25 *height of*] **condition** an application for a housing development **on a reduction in density or height**
26 **only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with
27 a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding**
28 **ORS 197.350, the city has the burden of proving the necessity of the reduction.**

29 (f) As used in this subsection:

30 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
31 maximum floor area ratio that is permitted under local land use regulations.

32 (B) "Authorized height level" means the maximum height of a structure that is permitted under
33 local land use regulations.

34 (C) "Habitability" means being in compliance with the applicable provisions of the state building
35 code under ORS chapter 455 and the rules adopted thereunder.

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

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

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

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

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

45 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon

1 Department of Aviation to be an “instrument airport.”

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

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

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

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

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

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

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

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

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

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

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

44 (b) If a local government provides only a notice of the opportunity to request a hearing, the
45 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing

1 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
2 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
3 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
4 by neighborhood or community organizations recognized by the governing body and whose bounda-
5 ries include the site.

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

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

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

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

15 (B) Notice shall also be provided to any neighborhood or community organization recognized by
16 the governing body and whose boundaries include the site.

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

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

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

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

22 (B) The date of the decision; and

23 (C) A description of the decision made.

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

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

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

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

33 **SECTION 21.** ORS 215.441 is amended to read:

34 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
35 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
36 nances and regulations, a county shall allow the reasonable use of the real property for activities
37 customarily associated with the practices of the religious activity, including:

38 (a) Worship services.

39 (b) Religion classes.

40 (c) Weddings.

41 (d) Funerals.

42 (e) Meal programs.

43 (f) Child care, but not including private or parochial school education for prekindergarten
44 through grade 12 or higher education.

45 (g) Providing housing or space for housing in a building **or buildings** that [is] **are** detached from

1 the place of worship, provided:

2 (A) At least 50 percent of the residential units provided under this paragraph are affordable to
3 households with incomes equal to or less than 60 percent of the median family income for the county
4 in which the real property is located;

5 (B) The real property is in an area zoned for residential use that is located within the urban
6 growth boundary; and

7 (C) The housing or space for housing complies with applicable land use regulations and meets
8 the standards and criteria for residential development for the underlying zone.

9 (2) A county may:

10 (a) Subject real property described in subsection (1) of this section to reasonable regulations,
11 including site review or design review, concerning the physical characteristics of the uses author-
12 ized under subsection (1) of this section; or

13 (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1)
14 of this section if the county finds that the level of service of public facilities, including transporta-
15 tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship
16 described in subsection (1) of this section.

17 (3) Notwithstanding any other provision of this section, a county may allow a private or paro-
18 chial school for prekindergarten through grade 12 or higher education to be sited under applicable
19 state law and rules and local zoning ordinances and regulations.

20 (4) Housing and space for housing provided under subsection (1)(g) of this section must be sub-
21 ject to a covenant appurtenant that restricts the owner and each successive owner of [*the*] a build-
22 ing or any residential unit contained in [*the*] a building from selling or renting any residential unit
23 described in subsection (1)(g)(A) of this section as housing that is not affordable to households with
24 incomes equal to or less than 60 percent of the median family income for the county in which the
25 real property is located for a period of 60 years from the date of the certificate of occupancy.

26 **SECTION 22.** ORS 227.500 is amended to read:

27 227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
28 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
29 nances and regulations, a city shall allow the reasonable use of the real property for activities
30 customarily associated with the practices of the religious activity, including:

31 (a) Worship services.

32 (b) Religion classes.

33 (c) Weddings.

34 (d) Funerals.

35 (e) Meal programs.

36 (f) Child care, but not including private or parochial school education for prekindergarten
37 through grade 12 or higher education.

38 (g) Providing housing or space for housing in a building **or buildings** that [*is*] **are** detached from
39 the place of worship, provided:

40 (A) At least 50 percent of the residential units provided under this paragraph are affordable to
41 households with incomes equal to or less than 60 percent of the median family income for the county
42 in which the real property is located;

43 (B) The real property is in an area zoned for residential use that is located within the urban
44 growth boundary; and

45 (C) The housing or space for housing complies with applicable land use regulations and meets

1 the standards and criteria for residential development for the underlying zone.

2 (2) A city may:

3 (a) Subject real property described in subsection (1) of this section to reasonable regulations,
4 including site review and design review, concerning the physical characteristics of the uses au-
5 thorized under subsection (1) of this section; or

6 (b) Prohibit or regulate the use of real property by a place of worship described in subsection
7 (1) of this section if the city finds that the level of service of public facilities, including transporta-
8 tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship
9 described in subsection (1) of this section.

10 (3) Notwithstanding any other provision of this section, a city may allow a private or parochial
11 school for prekindergarten through grade 12 or higher education to be sited under applicable state
12 law and rules and local zoning ordinances and regulations.

13 (4) Housing and space for housing provided under subsection (1)(g) of this section must be sub-
14 ject to a covenant appurtenant that restricts the owner and each successive owner of [*the*] a build-
15 ing or any residential unit contained in [*the*] a building from selling or renting any residential unit
16 described in subsection (1)(g)(A) of this section as housing that is not affordable to households with
17 incomes equal to or less than 60 percent of the median family income for the county in which the
18 real property is located for a period of 60 years from the date of the certificate of occupancy.

19 **SECTION 23.** ORS 455.062 is amended to read:

20 455.062. (1) A Department of Consumer and Business Services employee acting within the scope
21 of that employment may provide typical plans and specifications:

22 (a) For structures of a type for which the provision of plans or specifications is exempted under
23 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from
24 the application of ORS 672.002 to 672.325; and

25 (b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal
26 or wood frame Use and Occupancy Classification Group U structures under the structural specialty
27 code.

28 **(2) A Department of Consumer and Business Services employee, who is licensed or reg-**
29 **istered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of**
30 **that employment and who is providing typical plans and specifications under subsection (1)**
31 **of this section, is not required to seal or sign the typical plans and specifications and is not**
32 **subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on**
33 **providing those typical plans and specifications.**

34 [(2)] (3) A building official or inspector, as those terms are defined in ORS 455.715, when acting
35 within the scope of direct employment by a municipality, may provide typical plans and specifica-
36 tions for structures of a type for which the provision of plans or specifications is exempted under
37 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from
38 the application of ORS 672.002 to 672.325.

39 [(3)] This [*section*] **subsection** does not alter any applicable requirement under ORS 671.010 to
40 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

41 **SECTION 24. In addition to and not in lieu of any other appropriation, there is appro-**
42 **priated to the Land Conservation and Development Commission, for the biennium beginning**
43 **July 1, 2019, out of the General Fund, the amount of \$_____, to make rules or take any**
44 **other actions necessary to implement sections 1a, 3 to 5 and 13 of this 2019 Act and the**
45 **amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175**

1 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

2 **SECTION 25.** In addition to and not in lieu of any other appropriation, there is appro-
3 priated to the Department of Land Conservation and Development, for the biennium begin-
4 ning July 1, 2019, out of the General Fund, the amount of \$1,500,000, to provide technical
5 assistance to local governments to implement sections 3 to 5 and 13 of this 2019 Act and the
6 amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175
7 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

8 **SECTION 26.** (1) Sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS
9 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062
10 by sections 6, 8 to 11 and 18 to 23 of this 2019 Act become operative on January 1, 2020.

11 (2) The Oregon Department of Administrative Services, the Land Conservation and De-
12 velopment Commission, the Department of Land Conservation and Development and the
13 Housing and Community Services Department may take any action before the operative date
14 specified in subsection (1) of this section that is necessary for the departments and the
15 commission to exercise, on or after the operative date specified in subsection (1) of this
16 section, all of the duties, functions and powers conferred on the departments and the com-
17 mission by sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296,
18 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062 by
19 sections 6, 8 to 11 and 18 to 23 this 2019 Act.

20 **SECTION 27.** This 2019 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
22 on its passage.