

## HOUSE AMENDMENTS TO HOUSE BILL 3414

By COMMITTEE ON RULES

June 21

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest of the line and line 3 and  
2 insert “amending ORS 183.471, 197.843 and 455.770; and declaring an emergency.”.

3 Delete lines 5 through 26 and delete pages 2 through 7 and insert:

4 **“SECTION 1. Sections 2 to 4 of this 2023 Act are added to and made a part of ORS 197.286**  
5 **to 197.314.**

6 **“SECTION 2. (1) As used in sections 2 to 4 of this 2023 Act:**

7 **“(a) ‘Adjustment’ means a deviation from an existing land use regulation.**

8 **“(b) ‘Adjustment’ does not include:**

9 **“(A) A request to allow a use of property not otherwise permissible under applicable**  
10 **zoning requirements;**

11 **“(B) Deviations from land use regulations or requirements related to accessibility,**  
12 **affordability, fire ingress or egress or statewide land use planning goals relating to natural**  
13 **resources, natural hazards, Willamette River Greenway, estuarine resources, coastal**  
14 **shorelands, beaches and dunes or ocean resources;**

15 **“(C) A complete waiver of land use regulations; or**

16 **“(D) Deviations to requirements of building codes, federal or state water quality re-**  
17 **quirements or requirements of any other federal, state or local law that is not a land use**  
18 **regulation.**

19 **“(2) This section applies only if all of the following conditions are met:**

20 **“(a) Applications are for a building permit or a quasi-judicial, limited or ministerial land**  
21 **use decision;**

22 **“(b) Development is on lands zoned for residential or mixed-use residential uses;**

23 **“(c) Development is within an urban growth boundary, not including lands that have not**  
24 **been annexed by a city; and**

25 **“(d) Development is of net new housing units, including single-family or multifamily,**  
26 **mixed-use residential, manufactured dwelling parks, accessory dwelling units or middle**  
27 **housing as defined in ORS 197.758.**

28 **“(3) A local government may not approve more than 10 distinct adjustments under this**  
29 **section. Each development standard described in subsection (4) of this section and each de-**  
30 **sign standard described in subsection (5) of this section is considered a distinct adjustment.**  
31 **Adjustments meeting the criteria under this section shall be granted by a local government**  
32 **and may be resolved through an existing or new administrative process of the local govern-**  
33 **ment that allows for flexibility in addressing development or design standards for residential**  
34 **development.**

35 **“(4) A local government shall grant an adjustment to the following development stan-**

1 **dards:**

2 **“(a) Side and rear setbacks and step backs, provided that the setbacks still comply with**  
3 **utility siting requirements;**

4 **“(b) The amount of landscaped area, common area or open space area, for a reduction**  
5 **of up to 25 percent, provided that stormwater management requirements and tree codes are**  
6 **met and that there is no impact to tree canopy requirements or ground or surface water**  
7 **resources;**

8 **“(c) Parking minimums;**

9 **“(d) Minimum or maximum lot sizes, for up to a 10 percent adjustment;**

10 **“(e) Minimum or maximum lot widths and depths, for up to a 10 percent adjustment;**

11 **“(f) Requirements for bicycle parking that establish:**

12 **“(A) The minimum number of spaces, provided that there is at least one-half space per**  
13 **residential unit; or**

14 **“(B) The location of the spaces, provided that secure, covered bicycle parking spaces are**  
15 **within or adjacent to the residential development;**

16 **“(g) Minimum or maximum building lot coverage requirements:**

17 **“(A) For up to a 15 percent adjustment, for accessory dwelling units with a single-family**  
18 **detached house; or**

19 **“(B) For up to a 20 percent adjustment, for multifamily, mixed-use residential and middle**  
20 **housing;**

21 **“(h) Unit density maximums, up to an amount necessary to account for other adjust-**  
22 **ments under this section;**

23 **“(i) Building height maximums, in addition to existing applicable height bonuses, except**  
24 **for single-family detached houses or where denial of the variance is necessary to address a**  
25 **fire, life or safety issue, for an increase of the greater of:**

26 **“(A) One story; or**

27 **“(B) A 20 percent increase to base zone height with rounding consistent with methodol-**  
28 **ogy outlined in city code, if any; and**

29 **“(j) Prohibitions, on the ground floor of a mixed-use building, against:**

30 **“(A) Residential uses except for one face of the building that faces the street and is**  
31 **within 20 feet of the street; and**

32 **“(B) Nonresidential active uses that support the residential uses of the building, including**  
33 **lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity**  
34 **spaces or live-work spaces, except for active uses in specifically and clearly defined mixed**  
35 **use areas or commercial corridors designated by local governments.**

36 **“(5) A local government shall grant an adjustment to design standards that regulate:**

37 **“(a) Facade materials, articulation, color or pattern;**

38 **“(b) Roof forms and materials;**

39 **“(c) Entry and garage door materials and patterns;**

40 **“(d) Garage door orientation, except when the building is adjacent to or across from a**  
41 **school or public park;**

42 **“(e) Window material and design;**

43 **“(f) Window size or total window area, for up to a 30 percent adjustment;**

44 **“(g) Building orientation requirements, not including transit street orientation require-**  
45 **ments;**

1       “(h) Building height transition requirements, for up to a 50 percent adjustment from the  
2 base zone, except where necessary to address a fire, life or safety issue; or

3       “(i) Balconies, porches, recesses and offsets.

4       “(6) To qualify for an adjustment under this section, the applicant must state in the ap-  
5 plication for adjustment that at least one of the following criteria apply:

6       “(a) The adjustment will enable development of housing that would not otherwise be  
7 feasible due to cost or delay resulting from the unadjusted land use regulations;

8       “(b) The adjustment will enable development of housing that reduces the sale or rental  
9 prices per residential unit;

10       “(c) The adjustment will increase the number of housing units within the application;

11       “(d) All of the units in the application are subject to an affordable housing covenant  
12 making them affordable to moderate income households as described in ORS 456.270 to  
13 456.295 for a minimum of 30 years; or

14       “(e) At least 20 percent of the units in the application are subject to an affordable hous-  
15 ing covenant making them affordable to low income households as described in ORS 456.270  
16 to 456.295 for a minimum of 60 years.

17       “SECTION 3. (1) Notwithstanding ORS 197.015 (10)(b), a decision on an application for an  
18 adjustment under section 2 of this 2023 Act is a land use decision for the purposes of ORS  
19 chapter 197.

20       “(2)(a) Within 30 days after receiving a complete application under section 2 of this 2023  
21 Act, the local government shall inform the applicant whether the local government believes  
22 that the adjustments requested by the application satisfy the criteria under section 2 of this  
23 2023 Act.

24       “(b) If a local government informs the applicant that any adjustments do not satisfy such  
25 criteria, the applicant is allowed 30 days to submit additional evidence for evaluation under  
26 this subsection.

27       “(c) A decision by a local government under this subsection is not a land use decision.

28       “(3) Unless an appeal is filed before a final decision under subsection (6) of this section,  
29 an application for an adjustment under section 2 of this 2023 Act must receive a final deci-  
30 sion on or before the development application decision and within the timelines imposed by  
31 ORS 197.311, 215.416 and 227.175.

32       “(4) A denial of an application for an adjustment under section 2 of this 2023 Act must  
33 be in a brief written statement that explains the criteria and standards considered relevant  
34 to the decision, states the facts relied upon in rendering the decision and explains the justi-  
35 fication for the decision based on the criteria, standards and facts set forth. If the denial of  
36 an application for an adjustment is made separately from any other related application, the  
37 decision does not require notice under ORS 197.195 or 197.797.

38       “(5) Only the applicant or the Housing Accountability and Production Office established  
39 under section 7 of this 2023 Act may appeal a land use decision made under section 2 of this  
40 2023 Act.

41       “(6) In lieu of any other appeal process, an applicant may elect to appeal a land use de-  
42 cision made under section 2 of this 2023 Act to the Land Use Board of Appeals under an ex-  
43 pedited appellate process that, notwithstanding ORS 197.825 (2)(a) or 197.830 to 197.845, is  
44 subject to the following process:

45       “(a) The petition for appeal may be made only once from any decision, including a deci-

1 sion other than a final decision, made by a local government’s governing body, planning  
2 commission, hearings body, hearings officer, planning director or any other local government  
3 staff or body entitled to make a binding decision.

4 “(b) The appeal serves to waive any unexhausted right of appeal prescribed by the local  
5 government, including a right as described in ORS 215.422 and 227.180.

6 “(c) The caption of the petition must request review under this subsection.

7 “(d) The board may, by order, require that issues on appeal under this subsection be  
8 bifurcated, and decided separately, from any other related application.

9 “(e) The issues on appeal must be argued without oral argument on an expedited petition  
10 and briefing schedule established by an order of the board.

11 “(f) All issues on appeal must be decided by a final order of the board made before the  
12 latter of:

13 “(A) 60 days after the receipt of the notice of appeal; or

14 “(B) 40 days after the transmittal of the record.

15 “(7) During an appeal taken under subsection (6) of this section any other related appli-  
16 cation or its appeal is stayed and any deadline of a local government with respect to the  
17 decision under ORS 197.311, 215.416 or 227.175 is tolled.

18 “(8) As used in this section, ‘other related application’ means a land use decision, if any  
19 exists, for which the developer has requested an approval of an adjustment under section 2  
20 of this 2023 Act.

21 “SECTION 4. (1) A city required to provide a report under section 37 (1), chapter 13,  
22 Oregon Laws 2023 (Enrolled House Bill 2001), shall include as part of that report information  
23 reasonably requested from the Department of Land Conservation and Development on resi-  
24 dential development produced through approvals of adjustments granted under section 2 of  
25 this 2023 Act. The department may not develop a separate process for collecting this data  
26 or otherwise place an undue burden on local governments.

27 “(2) On or before September 15 of each even-numbered year, the department shall provide  
28 a report to an interim committee of the Legislative Assembly related to housing in the  
29 manner provided in ORS 192.245 on the data collected under subsection (1) of this section.  
30 The committee shall invite the League of Oregon Cities to provide feedback on the report  
31 and the efficacy of section 2 of this 2023 Act.

32 “SECTION 5. Sections 2 to 4 of this 2023 Act are repealed on January 2, 2032.

33 “SECTION 6. As used in sections 6 to 9 of this 2023 Act, ‘housing law’ means ORS 92.010  
34 to 92.192, 92.830 to 92.845, 197.286 to 197.314, 197.360 to 197.380, 197.475 to 197.490, 197.505 to  
35 197.540, 197.660 to 197.670, 197.748, 197.758, 215.402 to 215.438, 227.160 to 227.186, 455.148,  
36 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198,  
37 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467 and section 2 of this 2023 Act  
38 and administrative rules implementing those laws, to the extent that the law or rule imposes  
39 a mandatory duty on a local government or its agent and the application of the law or rule  
40 relates to residential development or pertains to a permit for a residential use or division  
41 of land for residential purposes.

42 “SECTION 7. (1) The Department of Land Conservation and Development and the De-  
43 partment of Consumer and Business Services shall enter into an interagency agreement to  
44 establish and administer the Housing Accountability and Production Office.

45 “(2) The Housing Accountability and Production Office shall:

1       “(a) Provide technical assistance to local jurisdictions to:  
2       “(A) Comply with housing laws;  
3       “(B) Reduce permitting and land use barriers to housing production; and  
4       “(C) Support reliable and effective implementation of local procedures and standards re-  
5 relating to the approval of residential development projects;  
6       “(b) Serve as a resource for housing developers experiencing permitting and land use  
7 barriers related to housing production, through activities that include responding to requests  
8 for technical assistance regarding housing laws;  
9       “(c) Investigate and respond to complaints of violations of housing laws under section 8  
10 of this 2023 Act; and  
11       “(d) Mediate active disputes relating to housing laws between a local government and  
12 residential developer, including mediation under ORS 197.860.  
13       “(3) The Land Conservation and Development Commission and the Department of Con-  
14 sumer and Business Services may jointly or separately adopt, amend or repeal rules for:  
15       “(a) Carrying out the respective responsibilities of the departments and the office under  
16 sections 6 to 9 of this 2023 Act; and  
17       “(b) Establishing model codes, procedures and practices by which local governments may  
18 comply with housing laws.  
19       “(4) The office shall prioritize assisting jurisdictions voluntarily undertaking changes to  
20 come into compliance with housing laws.  
21       “SECTION 8. (1) The Housing Accountability and Production Office established under  
22 section 7 of this 2023 Act shall establish a form or format through which the office receives  
23 allegations of local governments’ violations of housing laws. For complaints that relate to a  
24 specific development project, the office may receive complaints only from the residential  
25 developer of the project. For complaints not related to a specific development project, the  
26 office may receive complaints from any person, including the Department of Land Conser-  
27 vation and Development or the Department of Consumer and Business Services.  
28       “(2)(a) Except as provided in paragraph (b) of this subsection, the office shall investigate  
29 suspected violations of housing laws or violations credibly alleged under subsection (1) of this  
30 section.  
31       “(b) If, at any time, a complainant has filed a notice of appeal with the Land Use Board  
32 of Appeals or has initiated private litigation regarding any aspect of the application decision  
33 that was alleged to have been the subject of the housing law violation, the office’s continuing  
34 involvement may only consist of:  
35       “(A) Providing agency briefs, including briefs under ORS 197.830 (8), to the board or the  
36 court;  
37       “(B) Providing technical assistance to the local government unrelated to the resolution  
38 of the specific complaint; or  
39       “(C) Providing mediation at the request of the local government and complainant, in-  
40 cluding under ORS 197.860.  
41       “(3) If the office has a reasonable basis to conclude that a violation has been or is likely  
42 to be committed, the office shall deliver written warning notice to the local government  
43 specifying the violation and any authority under this section that the office intends to invoke  
44 if the violation continues or is not remedied. The notice may include an invitation to address  
45 the suspected violation through mediation, the execution of a voluntary compliance agree-

1 ment or the adoption of suitable models developed by the office under section 7 (3)(b) of this  
2 2023 Act. The office shall prioritize technical assistance funding to local governments that  
3 agree to comply with housing laws under this subsection. A determination by the office is  
4 not a legislative or judicial decision.

5 “(4) No earlier than 60 days after a warning notice is delivered under subsection (3) of  
6 this section, the office may take the following actions:

7 “(a) Initiate a request for an enforcement order of the Land Conservation and Develop-  
8 ment Commission by providing a notice of request under section 9 (2) of this 2023 Act.

9 “(b) Seek a court order against a local government as described under ORS 455.160 (3)  
10 without being adversely affected or serving the demand as described in ORS 455.160 (2).

11 “(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and seek review of a matter  
12 under ORS 197.090 (2)(a) that pertains to housing laws without the notice or consent of the  
13 commission. No less than once every two years, the office shall report to the commission  
14 on the matters in which the office participated under this paragraph.

15 “(d) Except regarding matters under the exclusive jurisdiction of the Land Use Board of  
16 Appeals, apply to any circuit court for an order compelling compliance with any housing law.  
17 If the court finds that the defendant is not complying with a housing law, the court may  
18 grant an injunction requiring compliance.

19 “(5) The office may not, in the name of the office, exercise the authority of the Depart-  
20 ment of Land Conservation and Development under ORS 197.293.

21 “(6) The office shall send notice to any complainant under subsection (1) of this section  
22 when the office:

23 “(a) Takes any action under subsection (3) or (4) of this section; or

24 “(b) Has determined that it will not take further actions or make further investigations.

25 “(7) The actions authorized of the office under this section are in addition to and may  
26 be exercised in conjunction with any other investigative or enforcement authority that may  
27 be exercised by the Department of Land Conservation and Development, the Land Conser-  
28 vation and Development Commission or the Department of Consumer and Business Services.

29 “(8) Nothing in this section:

30 “(a) Amends the jurisdiction of the Land Use Board of Appeals or of a circuit court;

31 “(b) Creates a new cause of action; or

32 “(c) Tolls or extends the statute of limitations for any claim or deadline for any appeal  
33 or other action.

34 “SECTION 9. (1) Under section 8 (4)(a) of this 2023 Act, the Housing Accountability and  
35 Production Office may request an enforcement order that a local government take action  
36 necessary to bring its comprehensive plan, land use regulation, limited land use decisions or  
37 other land use decisions or actions into compliance with a housing law, except for a housing  
38 law that pertains to building codes or the administration of building codes. Except as other-  
39 wise provided in this section, a request for an enforcement order by the office is subject to  
40 the applicable provisions of ORS 197.335 and ORS chapter 183 and is not subject to ORS  
41 197.319, 197.324 or 197.328.

42 “(2) The office shall make a request for an enforcement order under this section through  
43 a notice to the local government that states the grounds for initiation and summarizes the  
44 procedures for the enforcement order proceeding along with a copy of the notice to the Land  
45 Conservation and Development Commission. A decision of the office to initiate an enforce-

1 **ment order is final and is not subject to appeal.**

2 **“(3) After receiving notice of an enforcement order request under subsection (2) of this**  
3 **section, the affected local government shall include the following disclosure in any subse-**  
4 **quent notice of a land use decision that could be affected by the enforcement order:**

5 **“**

6 \_\_\_\_\_  
7 **NOTICE: The Housing and Accountability and Production Office has found good cause for**  
8 **an enforcement proceeding against \_\_\_\_\_ (name of local government).**  
9 **An enforcement order may be adopted that could limit, prohibit or require the application**  
10 **of specified criteria to any action authorized by this decision but not applied for until after**  
11 **the adoption of the enforcement order. Future applications for building permits or time ex-**  
12 **tensions may be affected.**

13 **“**

14 \_\_\_\_\_  
15 **“(4) Within 14 days following receipt by the commission of the notice under subsection**  
16 **(2) of this section, the Director of the Department of Land Conservation and Development**  
17 **shall assign the enforcement order proceedings to a hearings officer who is:**

18 **“(a) An administrative law judge assigned under ORS 183.635; or**

19 **“(b) A hearings officer randomly selected from a pool of officers appointed by the com-**  
20 **mission to review proceedings initiated under this section.**

21 **“(5) The hearings officer shall schedule a contested case hearing within 60 days of the**  
22 **delivery of the notice to the commission under subsection (2) of this section.**

23 **“(6) The hearings officer shall prepare a proposed enforcement order, including recom-**  
24 **mended findings and conclusions of law. A proposed enforcement order may require the local**  
25 **government to adopt models that have been developed by the office under section 7 (3)(b) of**  
26 **this 2023 Act that are suitable to address the basis for the proposed enforcement order. The**  
27 **hearings officer must issue and serve the proposed enforcement order on the office and all**  
28 **parties to the hearing within 30 days of the date the record closed.**

29 **“(7)(a) The proposed enforcement order becomes a final order of the commission 14 days**  
30 **after service on the office and all parties to the hearing, unless the office or a party to the**  
31 **hearing appeals the proposed enforcement order to the commission prior to the proposed**  
32 **enforcement order becoming final.**

33 **“(b) If the proposed enforcement order is appealed, the commission shall consider the**  
34 **matter at:**

35 **“(A) Its next regularly scheduled meeting; or**

36 **“(B) If the appeal is made 45 or fewer days prior to the next regularly scheduled meeting,**  
37 **at the following regularly scheduled meeting or a special meeting held earlier.**

38 **“(8) The commission shall affirm, affirm with modifications or reverse the proposed**  
39 **enforcement order. The commission shall issue a final order no later than 30 days after the**  
40 **meeting at which it considered the matter.**

41 **“(9) The commission may adopt rules administering this section, including rules related**  
42 **to standing, preserving issues for commission review or other provisions concerning the**  
43 **commission’s scope and standard for review of proposed enforcement orders under this sec-**  
44 **tion.**

45 **“SECTION 10. Sections 8 and 9 of this 2023 Act apply only to violations of housing laws**

1 occurring on or after April 1, 2024.

2 “SECTION 11. On or before September 15, 2024, the Housing Accountability and Pro-  
3 duction Office established under section 7 of this 2023 Act shall:

4 “(1) Contract with an organization possessing relevant expertise to produce a report  
5 identifying improvements in the local building plan approval, land use, zoning and permitting  
6 processes, including but not limited to plan approval timelines, process efficiency, local best  
7 practices and other ways to accelerate and improve the efficiency of the development process  
8 for construction, with a focus on increasing housing production; and

9 “(2) Provide the report under subsection (1) of this section to an appropriate interim  
10 committee of the Legislative Assembly in the manner provided in ORS 192.245.

11 “SECTION 12. ORS 183.471 is amended to read:

12 “183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain  
13 the final order in a digital format that:

14 “(a) Identifies the final order by the date it was issued;

15 “(b) Is suitable for indexing and searching; and

16 “(c) Preserves the textual attributes of the document, including the manner in which the docu-  
17 ment is paginated and any boldfaced, italicized or underlined writing in the document.

18 “(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its  
19 designee, with electronic copies of final orders issued by the agency in contested cases. The request  
20 must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS  
21 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic  
22 copy of all final orders identified in the request.

23 “(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests  
24 submitted under this section in a calendar year. For any subsequent request, an agency may impose  
25 a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with  
26 the request.

27 “(4) For purposes of this section, a final order entered in a contested case by an administrative  
28 law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the adminis-  
29 trative law judge to conduct the hearing.

30 “(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to  
31 final orders issued in contested cases by:

32 “(a) The Department of Revenue;

33 “(b) The State Board of Parole and Post-Prison Supervision;

34 “(c) The Department of Corrections;

35 “(d) The Employment Relations Board;

36 “(e) The Public Utility Commission of Oregon;

37 “(f) The Oregon Health Authority;

38 “(g) The Land Conservation and Development Commission, **except for enforcement orders**  
39 **under section 9 of this 2023 Act;**

40 “(h) The Land Use Board of Appeals;

41 “(i) The Division of Child Support of the Department of Justice;

42 “(j) The Department of Transportation, if the final order relates to the suspension, revocation  
43 or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or  
44 to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

45 “(k) The Employment Department or the Employment Appeals Board, if the final order relates



1 to benefits as defined in ORS 657.010;

2 “(L) The Employment Department, if the final order relates to an assessment of unemployment  
3 tax for which a hearing was not held; or

4 “(m) The Department of Human Services, if the final order was not related to licensing or cer-  
5 tification.

6 “**SECTION 13.** ORS 455.770 is amended to read:

7 “455.770. (1) In addition to any other authority and power granted to the Director of the De-  
8 partment of Consumer and Business Services under ORS 446.003 to 446.200, 446.225 to 446.285,  
9 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and [*this chapter and*] ORS  
10 chapters 447, **455**, 460 and 693 **and sections 6 to 9 of this 2023 Act**, with respect to municipalities,  
11 building officials and inspectors, if the director has reason to believe that there is a failure to en-  
12 force or a violation of any provision of the state building code or ORS 446.003 to 446.200, 446.225  
13 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 [*or this chapter*] or  
14 ORS chapter 447, **455**, 460 or 693 or any rule adopted under those statutes, the director may:

15 “(a) Examine building code activities of the municipality;

16 “(b) Take sworn testimony; and

17 “(c) With the authorization of the Office of the Attorney General, subpoena persons and records  
18 to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise  
19 subject to public inspection under ORS 192.311 to 192.478.

20 “(2) The investigative authority authorized in subsection (1) of this section covers the violation  
21 or omission by a municipality related to enforcement of codes or administrative rules, certification  
22 of inspectors or financial transactions dealing with permit fees and surcharges under any of the  
23 following circumstances when:

24 “(a) The duties are clearly established by law, rule or agreement;

25 “(b) The duty involves procedures for which the means and methods are clearly established by  
26 law, rule or agreement; or

27 “(c) The duty is described by clear performance standards.

28 “(3) Prior to starting an investigation under subsection (1) of this section, the director shall  
29 notify the municipality in writing setting forth the allegation and the rules or statutes pertaining  
30 to the allegation and give the municipality 30 days to respond to the allegation. If the municipality  
31 does not satisfy the director’s concerns, the director may then commence an investigation.

32 “(4) If the Department of Consumer and Business Services or the director directs corrective  
33 action, the following shall be done:

34 “(a) The corrective action shall be in writing and served on the building official and the chief  
35 executive officers of all municipalities affected;

36 “(b) The corrective action shall identify the facts and law relied upon for the required action;  
37 and

38 “(c) A reasonable time shall be provided to the municipality for compliance.

39 “(5) The director may revoke any authority of the municipality to administer any part of the  
40 state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to  
41 479.945, 479.995 or 480.510 to 480.670 [*or this chapter*] or ORS chapter 447, **455**, 460 or 693 or any  
42 rule adopted under those statutes if the director determines after a hearing conducted under ORS  
43 183.413 to 183.497 that:

44 “(a) All of the requirements of this section and ORS 455.775 and 455.895 were met; and

45 “(b) The municipality did not comply with the corrective action required.

1       **“SECTION 14.** Sections 15 to 22 of this 2023 Act are added to and made a part of ORS  
2 197.286 to 197.314.

3       **“SECTION 15.** As used in sections 15 to 22 of this 2023 Act:

4       **“(1) ‘Net residential acre’** means an acre of residentially designated buildable land, not  
5 including nondevelopable rights of way for streets, roads or utilities.

6       **“(2) ‘Site’** means a lot or parcel or contiguous lots or parcels, or both, with or without  
7 common ownership.

8       **“SECTION 16.** (1) Notwithstanding any other provision of ORS 197.286 to 197.314, a city  
9 outside of Metro may adopt an amendment to the city’s urban growth boundary to include  
10 a site if:

11       **“(a)** The site is adjacent to the existing urban growth boundary of the city or is separated  
12 from the existing urban growth boundary by only a street or road;

13       **“(b)** The site is:

14       **“(A)** Designated as an urban reserve under ORS 195.137 to 195.145, including sites whose  
15 designations are adopted under ORS 197.652 to 197.658;

16       **“(B)** Designated as nonresource land; or

17       **“(C)** Subject to an acknowledged exception to a statewide land use planning goal relating  
18 to farmland or forest land;

19       **“(c)** The city has not previously adopted an urban growth boundary amendment under  
20 sections 15 to 22 of this 2023 Act;

21       **“(d)** The city has adopted a conceptual plan for the site that satisfies the requirements  
22 of section 18 of this 2023 Act; and

23       **“(e)** The total acreage of the site:

24       **“(A)** For a city with a population of 25,000 or greater, does not exceed 150 net residential  
25 acres; or

26       **“(B)** For a city with a population of less than 25,000, does not exceed 75 net residential  
27 acres.

28       **“(2)** The adoption of an amendment to an urban growth boundary under this section does  
29 not require county approval.

30       **“SECTION 17.** (1) A city within Metro may petition Metro to include a site within the  
31 urban growth boundary that satisfies the requirements of section 16 (1) of this 2023 Act and  
32 that is designated as an urban reserve.

33       **“(2)** Within 120 days of receiving a petition, Metro shall determine whether the petition  
34 substantially complies with the provisions of section 18 of this 2023 Act. If Metro determines  
35 that a petition does not substantially comply with the provisions of section 18 of this 2023  
36 Act, Metro shall:

37       **“(a)** Notify the city of any deficiencies in the petition, specifying sufficient detail to allow  
38 the city to remedy any deficiency in a subsequent resubmittal; and

39       **“(b)** Allow the city to amend its conceptual plan and resubmit it as a petition to Metro  
40 under this section.

41       **“(3)** If Metro determines that a petition does comply with section 18 of this 2023 Act,  
42 notwithstanding any other provision of ORS 197.286 to 197.314, Metro shall adopt amendments  
43 to its urban growth boundary to include the site in the petition, provided the amendment  
44 does not result in more than 600 total net residential acres added under this subsection.

45       **“(4)** If the net residential acres included in approved petitions received on or before July

1 1, 2024, total less than 600 net residential acres, Metro shall adopt amendments to its urban  
2 growth boundary under subsection (3) of this section:

3 “(a) On or before November 1, 2024, for petitions received on or before July 1, 2024; or

4 “(b) Within 120 days following the receipt of a petition received after July 1, 2024, in the  
5 order in which the petitions are received.

6 “(5) If the net residential acres included in approved petitions received on or before July  
7 1, 2024, total 600 or more net residential acres, on or before January 1, 2026, Metro shall  
8 adopt amendments to its urban growth boundary under subsection (3) of this section to in-  
9 clude the sites in those petitions that Metro determines will:

10 “(a) Best comply with the provisions of section 18 of this 2023 Act; and

11 “(b) Maximize the development of needed housing.

12 “(6) Metro may not conduct a hearing to review or select petitions or adopt amendments  
13 to its urban growth boundary under this section.

14 “SECTION 18. (1) As used in this section:

15 “(a) ‘Affordable units’ means residential units described in subsection (3)(f)(A) or (4) of  
16 this section.

17 “(b) ‘Market rate units’ means residential units other than affordable units.

18 “(2) Prior to adopting an urban growth boundary amendment under section 16 of this 2023  
19 Act or petitioning Metro under section 17 of this 2023 Act, a city must adopt a conceptual  
20 plan for the site as an amendment to its comprehensive plan.

21 “(3) The conceptual plan must:

22 “(a) Establish the total net residential acres within the site and must require for those  
23 residential areas:

24 “(A) A diversity of housing types and sizes, including middle housing as defined in ORS  
25 197.758; and

26 “(B)(i) For a city within Metro, an average density of at least 15 dwelling units per net  
27 residential acre;

28 “(ii) For cities within Baker, Clatsop, Coos, Crook, Curry, Gilliam, Grant, Harney,  
29 Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union,  
30 Wallowa and Wheeler Counties and the cities of Dunes City, Florence and Reedsport, an av-  
31 erage density of at least four dwelling units per net residential acre, whether for affordable  
32 units, market rate units or both; or

33 “(iii) For all other cities, an average density of at least eight dwelling units per net res-  
34 idential acre, whether for affordable units, market rate units or both;

35 “(b) Designate within the site:

36 “(A) Recreation and open space lands; and

37 “(B) Lands for commercial uses, either separate or as a mixed use, that:

38 “(i) Primarily serve the immediate surrounding housing;

39 “(ii) Provide goods and services at a smaller scale than provided on typical lands zoned  
40 for commercial use; and

41 “(iii) Are provided at the minimum amount necessary to support and integrate viable  
42 commercial and residential uses;

43 “(c) If the city has a population of 5,000 or greater, include a transportation network for  
44 the site that provides diverse transportation options, including walking, bicycling and transit  
45 use if public transit services are available, along with both sufficient internal connections

1 and connections to areas within the existing urban growth boundary of the city;

2 “(d) Ensure that any area within the site will either retain its designation or otherwise  
3 be protected if the area is designated for protection in an acknowledged comprehensive plan  
4 pursuant to a statewide land use planning goal relating to:

5 “(A) Open spaces, scenic and historic areas or natural resources;

6 “(B) Areas subject to natural hazards;

7 “(C) The Willamette River Greenway;

8 “(D) Estuarine resources;

9 “(E) Coast shorelands; or

10 “(F) Beaches and dunes;

11 “(e) Ensure that the site will be served with all necessary urban services as defined in  
12 ORS 195.065, which may be facilitated through a binding agreement among the city, each  
13 owner within the site and any other necessary public or private utility provider, local gov-  
14 ernment or district, as defined in ORS 195.060, or combination of local governments and  
15 districts; and

16 “(f) Include requirements that ensure that:

17 “(A) At least 30 percent of the residential units are subject to affordability restrictions,  
18 including but not limited to affordable housing covenants, as described in ORS 456.270 to  
19 456.295, that require for a period of not less than 60 years that the units be:

20 “(i) Available for rent, with or without government assistance, by households with an  
21 income of 80 percent or less of the area median income as defined in ORS 456.270; or

22 “(ii) Available for purchase, with or without government assistance, by households with  
23 an income of 130 percent or less of the area median income;

24 “(B) The construction of all affordable units has commenced before the city issues cer-  
25 tificates of occupancy to the last 15 percent of market rate units;

26 “(C) All common areas and amenities are equally available to residents of affordable units  
27 and of market rate units; and

28 “(D) Necessary restrictions to ensure the development of affordable units are recorded  
29 under ORS 456.280 (1)(b) before building permits are issued for any property within the site.

30 “(4) A city may require greater affordability requirements for residential units than are  
31 required under subsection (3)(f)(A) of this section, provided that the city significantly and  
32 proportionally offsets development costs related to:

33 “(a) Permits or fees;

34 “(b) System development charges;

35 “(c) Property taxes; or

36 “(d) Land acquisition and predevelopment costs.

37 “SECTION 19. (1) Before adopting a conceptual plan under section 18 of this 2023 Act, a  
38 city shall:

39 “(a) Review a petition filed by a property owner or group of property owners proposing  
40 an urban growth boundary amendment under sections 15 to 22 of this 2023 Act.

41 “(b) Provide opportunities for public participation, including, at least:

42 “(A) One public comment period;

43 “(B)(i) One meeting of the city’s planning commission where public testimony is consid-  
44 ered;

45 “(ii) One meeting of the city’s council where public testimony is considered; or

1       “(iii) One public open house; and  
2       “(C) Notice on the city’s website or published in a paper of record at least 14 days before:  
3       “(i) A meeting under subparagraph (B) of this paragraph; and  
4       “(ii) The beginning of a comment period under subparagraph (A) of this paragraph.  
5       “(c) Consult with, request necessary information from and provide the opportunity for  
6 written comment from:  
7       “(A) The owners of each lot or parcel within the site;  
8       “(B) If the city does not currently exercise land use jurisdiction over the entire site, the  
9 governing body of each county with land use jurisdiction over the site;  
10       “(C) Any special district that provides urban services to the site; and  
11       “(D) Any public or private utility that provides utilities to the site.  
12       “(2) The petition under subsection (1)(a) of this section must:  
13       “(a) Be in writing in a form and format as required by the city;  
14       “(b) Specify the lots or parcels that are the subject of the petition; and  
15       “(c) Be signed by all owners of lots or parcels included within the petition, including a  
16 consent to annexation if the property is added to the urban growth boundary.  
17       “(3) If the city has received approval for the amendment to the petition from all property  
18 owners of such lands, in writing in a form and format specified by the city, a city may adopt  
19 a conceptual plan for all or a portion of the lands contained within a petition filed under  
20 subsection (1)(a) of this section.  
21       “(4) A conceptual plan must include findings identifying reasons for inclusion of lands  
22 within the conceptual plan and reasons why any lands for which a petition was submitted  
23 were not included within the conceptual plan.  
24       “SECTION 20. (1) Within 21 days after the adoption of an amendment to an urban growth  
25 boundary and the adoption or amendment of a conceptual plan under sections 15 to 22 of this  
26 2023 Act, one of the following shall submit the conceptual plan and amendment to the De-  
27 partment of Land Conservation and Development for review:  
28       “(a) The city, for an amendment under section 16 of this 2023 Act; or  
29       “(b) Metro, for an amendment under section 17 of this 2023 Act.  
30       “(2) Within 60 days after receiving a submittal under subsection (1) of this section, the  
31 department shall:  
32       “(a) Review the submittal for compliance with the provisions of sections 15 to 22 of this  
33 2023 Act.  
34       “(b)(A) If the submittal substantially complies with the provisions of sections 15 to 22 of  
35 this 2023 Act, issue an order approving the submittal; or  
36       “(B) If the submittal does not substantially comply with the provisions of sections 15 to  
37 22 of this 2023 Act, issue an order remanding the submittal to the city or to Metro with a  
38 specific determination of any deficiencies in the submittal and with sufficient detail to iden-  
39 tify a specific remedy for any deficiency in a subsequent resubmittal.  
40       “(3) If a conceptual plan is remanded to Metro under subsection (2)(b) of this section:  
41       “(a) The department shall notify the city; and  
42       “(b) The city may amend its conceptual plan and resubmit a petition to Metro under  
43 section 17 of this 2023 Act.  
44       “(4) Judicial review of the department’s order:  
45       “(a) Must be as a review of orders other than a contested case under ORS 183.484; and

1 “(b) May be initiated only by the city or an owner of a proposed site.

2 “**SECTION 21.** A city for which an amendment was made to an urban growth boundary  
3 under section 16 or 17 of this 2023 Act and approved under section 20 of this 2023 Act shall  
4 submit a report describing the status of development within the included area to the De-  
5 partment of Land Conservation and Development every two years until:

6 “(1) January 2, 2033; or

7 “(2) The city determines that development consistent with the acknowledged conceptual  
8 plan is deemed complete.

9 “**SECTION 22.** Notwithstanding ORS 197.626, an action by a local government under  
10 sections 15 to 22 of this 2023 Act is not a land use decision as defined in ORS 197.015.

11 “**SECTION 23.** Sections 15 to 22 of this 2023 Act are repealed on January 2, 2033.

12 “**SECTION 24.** ORS 197.843 is amended to read:

13 “197.843. (1) The Land Use Board of Appeals shall award attorney fees to [*an applicant whose*  
14 *application is only for the development of affordable housing, as defined in ORS 197.308, or publicly*  
15 *supported housing, as defined in ORS 456.250*] **a person whose application includes the develop-**  
16 **ment of needed housing, as defined in section 23, chapter 13, Oregon Laws 2023 (Enrolled**  
17 **House Bill 2001), and any local government that approved a quasi-judicial land use decision,**  
18 if the board affirms a quasi-judicial land use decision approving the application or reverses a  
19 quasi-judicial land use decision denying the application.

20 “(2) A [*party who was*] **person** awarded attorney fees under this section or ORS 197.850 shall  
21 repay the fees plus any interest from the time of the judgment if the property upon which the fees  
22 are based is developed for a use other than [*affordable*] **the proposed** housing.

23 “(3) As used in this section[:],

24 “[*(a) ‘Applicant’ includes:*]

25 “[*(A) An applicant with a funding reservation agreement with a public funder for the purpose of*  
26 *developing publicly supported housing;*]

27 “[*(B) A housing authority, as defined in ORS 456.005;*]

28 “[*(C) A qualified housing sponsor, as defined in ORS 456.548;*]

29 “[*(D) A religious nonprofit corporation;*]

30 “[*(E) A public benefit nonprofit corporation whose primary purpose is the development of affor-*  
31 *able housing; and*]

32 “[*(F) A local government that approved the application of an applicant described in this*  
33 *paragraph.*]

34 “[*(b)*] ‘attorney fees’ includes prelitigation legal expenses, including preparing the application  
35 and supporting the application in local land use hearings or proceedings.

36 “**SECTION 25.** The amendments to ORS 197.843 by section 24 of this 2023 Act apply to  
37 decisions for which a notice of intent to appeal under ORS 197.830 is filed on or after January  
38 1, 2024.

39 “**SECTION 26.** (1) Sections 2 to 4, 6 and 7 of this 2023 Act and the amendments to ORS  
40 197.843 and 455.770 by sections 13 and 24 of this 2023 Act become operative on January 1, 2024.

41 “(2) Sections 8 and 9 of this 2023 Act become operative on April 1, 2024.

42 “(3) The Department of Land Conservation and Development and the Department of  
43 Consumer and Business Services may take any action before the operative dates specified in  
44 subsections (1) and (2) of this section that is necessary for the departments to exercise, on  
45 and after the operative dates specified in subsections (1) and (2) of this section, all of the

1 duties, functions and powers conferred on the departments by sections 2 to 4 and 6 to 9 of  
2 this 2023 Act and the amendments to ORS 197.843 and 455.770 by sections 13 and 24 of this  
3 2023 Act.

4 “**SECTION 27.** Section 6 of this 2023 Act is amended to read:

5 “**Sec. 6.** As used in sections 6 to 9 of this 2023 Act, ‘housing law’ means ORS 92.010 to 92.192,  
6 92.830 to 92.845, 197.286 to 197.314, 197.360 to 197.380, 197.475 to 197.490, 197.505 to 197.540, 197.660  
7 to 197.670, 197.748, 197.758, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153,  
8 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208,  
9 455.210, 455.220, 455.465 and 455.467 [*and section 2 of this 2023 Act*] and administrative rules imple-  
10 menting those laws, to the extent that the law or rule creates a mandatory duty on a local govern-  
11 ment or its agent and the application of the law or rule relates to residential development or  
12 pertains to a permit for a residential use or division of land for residential purposes.

13 “**SECTION 28.** The amendments to section 6 of this 2023 Act by section 27 of this 2023  
14 Act become operative on January 1, 2032.

15 “**SECTION 29.** In addition to and not in lieu of any other appropriation, there is appro-  
16 priated to the Department of Land Conservation and Development, for the biennium begin-  
17 ning July 1, 2023, out of the General Fund:

18 “(1) The amount of \$\_\_\_\_\_ to perform the duties of the Housing Accountability and Pro-  
19 duction Office under sections 6 to 9 of this 2023 Act.

20 “(2) The amount of \$10,000,000 to provide:

21 “(a) Programs or documents relating to education, guidance or best practices for local  
22 governments regarding compliance with state housing laws, as defined in section 6 of this  
23 2023 Act;

24 “(b) Grants to local governments or nonprofit organizations to develop programs or  
25 documents under paragraph (a) of this subsection;

26 “(c) Before April 1, 2024, technical assistance and grants to local governments that pro-  
27 actively acknowledge the need to update the local implementation of land use regulations and  
28 building code enforcement to comply with housing laws; and

29 “(d) On and after April 1, 2024, technical assistance and grants to assist local govern-  
30 ments with:

31 “(A) The implementation of voluntary compliance agreements as described in section 8  
32 (3) of this 2023 Act; or

33 “(B) Updates to land use regulations needed to comply with changes to Land Conserva-  
34 tion and Development Commission rules or the legal interpretations of land use laws or  
35 rules, if those changes relate to housing.

36 “**SECTION 30.** This 2023 Act being necessary for the immediate preservation of the public  
37 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect  
38 July 1, 2023.”.