

HOUSE AMENDMENTS TO HOUSE BILL 2138

By COMMITTEE ON HOUSING AND HOMELESSNESS

April 16

1 On page 1 of the printed bill, line 3, after “94.776,” delete the rest of the line and delete lines
2 4 and 5 and insert “184.453, 184.633, 197.015, 197.090, 197.200, 197.245, 197.360, 197.365, 197.724,
3 197.794, 197.796, 197.825, 197.830, 197A.015, 197A.400, 197A.420, 197A.430, 197A.465, 197A.470,
4 215.402, 215.416, 215.427, 215.429, 223.299, 227.160, 227.173, 227.175, 227.178, 227.179, 227.184, 421.649
5 and”.

6 Delete lines 13 through 22 and delete pages 2 and 3.

7 On page 4, delete lines 1 through 38 and insert:

8 “**SECTION 1.** ORS 197A.420 is amended to read:

9 “197A.420. (1) As used in this section **and section 3 of this 2025 Act:**

10 “(a) ‘City’ [or] **includes a local government with jurisdiction over unincorporated lands**
11 **within an urban growth boundary.**

12 “(b) ‘City with a population of 25,000 or greater’ includes, regardless of size, any city within
13 Tillamook County and the communities of Barview/Twin Rocks/Watseco, Cloverdale, Hebo,
14 Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods.

15 “[*b*] ‘Cottage clusters’ means groupings of no fewer than four detached housing units per acre with
16 a footprint of less than 900 square feet each and that include a common courtyard.]

17 “[*c*] ‘Middle housing’ means:]

18 “[*A*] Duplexes;]

19 “[*B*] Triplexes;]

20 “[*C*] Quadplexes;]

21 “[*D*] Cottage clusters; and]

22 “[*E*] Townhouses.]

23 “(c) ‘Cottage cluster’ means a grouping of dwelling units:

24 “(A) That are detached or attached in subgroupings of up to four units in any config-
25 uration;

26 “(B) That have a common courtyard; and

27 “(C) That each have a small footprint or floor area.

28 “(d) ‘Duplex’ means two attached or detached dwellings in any configuration on a lot or
29 parcel, other than a lot or parcel created by a middle housing land division.

30 “(e)(A) ‘Middle housing’ means housing that consists of duplexes, triplexes, quadplexes,
31 cottage clusters or townhouses.

32 “(B) ‘Middle housing’ includes dwelling units that are:

33 “(i) Additional units allowed under section 3 of this 2025 Act; and

34 “(ii) Existing dwelling units to which additional units are added under subsection (4) of
35 this section.

1 “(f) **‘Middle housing land division’ has the meaning given that term in ORS 92.031.**

2 “(g) **‘Quadplex’ means four attached or detached dwellings in any configuration on a lot**

3 **or parcel, other than a lot or parcel created by a middle housing land division.**

4 “[(d)] (h) [*Townhouses*] **‘Townhouse’** means a dwelling unit constructed in a row of two or

5 more attached units, where each dwelling unit is located on an individual lot or parcel and shares

6 at least one common wall with an adjacent unit.

7 “(i) **‘Triplex’ means three attached or detached dwellings in any configuration on a lot**

8 **or parcel, other than a lot or parcel created by a middle housing land division.**

9 “(j) **‘Zoned for residential use’ means land that:**

10 **“(A) Is within an urban growth boundary;**

11 **“(B) Has base zoning for, or is designated to allow, residential uses;**

12 **“(C) Allows the development of a detached single-unit dwelling;**

13 **“(D) Is not zoned primarily for commercial, industrial, agricultural or public uses; and**

14 **“(E) Is incorporated or urban unincorporated land.**

15 “(2) Except as provided in subsection (4) of this section, **each county**, each city with a popu-

16 lation of 25,000 or greater, and each [*county or*] city **with a population of 1,000 or greater** within

17 [*a metropolitan service district*] **Metro**, shall allow the development of[.]

18 “[(a)] all middle housing types [*in areas*] **on each lot or parcel** zoned for residential use. [*that*

19 *allow for the development of detached single-family dwellings; and*]

20 “[(b)] *A duplex on each lot or parcel zoned for residential use that allows for the development of*

21 *detached single-family dwellings.*]

22 “(3) [*Except as provided in subsection (4) of this section,*] Each city not within [*a metropolitan*

23 *service district*] **Metro** with a population of 2,500 or greater and less than 25,000 shall allow the

24 development of a duplex on each lot or parcel zoned for residential use. [*that allows for the devel-*

25 *opment of detached single-family dwellings. Nothing in this subsection prohibits a local government*

26 *from allowing middle housing types in addition to duplexes.*]

27 “[(4)(a)] *Except within Tillamook County, this section does not apply to:*

28 “[(A)] *Cities with a population of 1,000 or fewer, except inside of Tillamook County;*]

29 “[(B)] *Lands not within an urban growth boundary;*]

30 “[(C)] *Lands that are not incorporated and also lack sufficient urban services, as defined in ORS*

31 *195.065; or*]

32 “[(D)] *Lands that are not incorporated and are zoned under an interim zoning designation that*

33 *maintains the land’s potential for planned urban development.*]

34 “[(b)] *This section does not apply to lands that are not zoned for residential use, including lands*

35 *zoned primarily for commercial, industrial, agricultural or public uses.*]

36 “(4)(a) **Each city required to allow middle housing under subsection (2) or (3) of this**

37 **section, excluding urban unincorporated land not within Metro, shall allow the lot or parcel**

38 **to include existing housing consisting of:**

39 **“(A) One single-unit dwelling;**

40 **“(B) One single-unit dwelling plus one accessory dwelling unit; or**

41 **“(C) One duplex.**

42 **“(b) The city may require only the new units, and not the existing units, to comply with**

43 **siting and design standards adopted under subsection (5) of this section.**

44 **“(c) Existing units on the lot or parcel may be separated from the new units by a middle**

45 **housing land division and are considered a single unit for the purposes of such division.**

1 “(5) Local governments:
2 “(a) May regulate siting and design of middle housing required to be permitted under this sec-
3 tion, provided that the regulations do not[,] individually or cumulatively[,] discourage, **through**
4 **unreasonable costs or delay**, the development of all middle housing types permitted in the area
5 [*through unreasonable costs or delay*].
6 “(b) [*Local governments*] May regulate middle housing to comply with protective measures
7 adopted pursuant to statewide land use planning goals.
8 “(6)(a) **A local government may not, based on traffic impacts from any individual middle**
9 **housing development allowed under this section or section 3 of this 2025 Act:**
10 “(A) **Require a traffic impact analysis; or**
11 “(B) **Attribute an exaction other than a generally applicable system development charge**
12 **or fee-in-lieu variance charge or a development requirement specific to the lot or parcel or**
13 **its frontage.**
14 “(b) **This subsection does not apply to:**
15 “(A) **Developments of townhouses or cottage clusters with more than twelve units.**
16 “(B) **Lots or parcels created by a division of land, other than a middle housing land divi-**
17 **sion, that occurred within the previous five years.**
18 “[6] (7) This section does not prohibit local governments from permitting:
19 “(a) [*Single-family*] **Single-unit** dwellings in areas zoned to allow for [*single-family*] **single-unit**
20 dwellings; or
21 “(b) Middle housing in areas not required under this section.
22 “[7] (8) A local government that amends its comprehensive plan or land use regulations relat-
23 ing to allowing additional middle housing is not required to consider whether the amendments sig-
24 nificantly affect an existing or planned transportation facility.
25 “**SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 197A.**
26 “**SECTION 3. (1) As used in this section:**
27 “(a) **‘Accessible unit’ means a unit of housing that complies with the ‘Type A’ require-**
28 **ments applicable to units as set forth in the Standard for Accessible and Usable Buildings**
29 **and Facilities published by the International Code Council and as referenced by the state**
30 **building code.**
31 “(b) **‘Affordable unit’ means a unit of housing that is subject to an affordable housing**
32 **covenant, as described in ORS 456.270 to 456.295, that:**
33 “(A) **Makes the unit available to purchase for a maximum sales price and requires that**
34 **the unit be purchased by a household with an income below 120 percent of median income,**
35 **with both the maximum price and income threshold as published per region on an annual**
36 **basis by the division of the Oregon Department of Administrative Services that serves as**
37 **office of economic analysis; and**
38 “(B) **Is enforceable for a duration of not less than 10 years from the date of the certif-**
39 **icate of occupancy.**
40 “(2) **The definitions in ORS 197A.420 apply to this section.**
41 “(3) **On any lot or parcel on which middle housing may be sited under ORS 197A.420 (2)**
42 **or (3), except for urban unincorporated land not within Metro, if one or more of the units**
43 **of middle housing is an accessible or affordable unit, a city shall allow, subject to ORS**
44 **197A.420 (5), the additional development of:**
45 “(a) **For any allowable duplex or triplex, one additional attached or detached dwelling**

1 **unit, resulting in a triplex or quadplex.**

2 **“(b) For any allowable townhouse, quadplex or cottage cluster, up to two additional at-**
3 **tached or detached dwelling units, resulting in additional townhouse or cottage cluster units**
4 **or attached or detached five-unit or six-unit developments.**

5 **“(4) The additional units under this section are subject to the regulations under ORS**
6 **197A.420 (5), except that a city must allow commensurate increases to the developable area,**
7 **floor area, height or density requirements to allow for the development of the units.**

8 **“(5) This section does not limit a local government from enacting density bonuses that**
9 **provide a greater number of accessible or affordable units, or housing that is affordable to**
10 **more families, than required by this section.**

11 **“SECTION 3a.** ORS 197A.015, as amended by section 1, chapter 102, Oregon Laws 2024, is
12 amended to read:

13 “197A.015. As used in this chapter:

14 “(1) ‘Allocated housing need’ means the housing need allocated to a city under ORS 184.453 (2)
15 as segmented by income level under ORS 184.453 (4).

16 “(2) ‘Buildable lands’ means lands in urban and urbanizable areas that are suitable, available
17 and necessary for the development of needed housing over a 20-year planning period, including both
18 vacant land and developed land likely to be redeveloped.

19 “(3) ‘City’ and ‘city with a population of 10,000 or greater’ includes, regardless of size:

20 “(a) Any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco,
21 Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods; and

22 “(b) A county with respect to its jurisdiction over Metro urban unincorporated lands.

23 “(4) ‘Development-ready lands’ means buildable lands that are likely to support the production
24 of housing during the period of their housing production target under ORS 184.455 (1) because the
25 lands are:

26 “(a) Currently annexed and zoned to allow housing through clear and objective standards and
27 procedures;

28 “(b) Readily served through adjacent public facilities or identified for the near-term provision
29 of public facilities through an adopted capital improvement plan; and

30 “(c) Not encumbered by any applicable local, state or federal protective regulations or have
31 appropriate entitlements to prepare the land for development.

32 “(5) ‘Government assisted housing’ means housing that is financed in whole or part by either a
33 federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that
34 is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided
35 by either a federal or state housing agency or a local housing authority.

36 “(6) ‘Housing capacity’ means the number of needed housing units that can be developed on
37 buildable lands within the 20-year planning period based on the land’s comprehensive plan desig-
38 nation and capacity for housing development and redevelopment.

39 “(7) ‘Housing production strategy’ means a strategy adopted by a local government to promote
40 housing production under ORS 197A.100.

41 “(8) ‘Manufactured dwelling,’ ‘manufactured dwelling park,’ ‘manufactured home’ and ‘mobile
42 home park’ have the meanings given those terms in ORS 446.003.

43 “(9) ‘Metro urban unincorporated lands’ means [*lands*] **urban unincorporated lands** within the
44 Metro urban growth boundary. [*that are identified by the county as:*]

45 “[*(a) Not within a city;*]

1 “[(b) Zoned for urban development;]

2 “[(c) Within the boundaries of a sanitary district or sanitary authority formed under ORS chapter

3 450 or a district formed for the purposes of sewage works under ORS chapter 451;]

4 “[(d) Within the service boundaries of a water provider with a water system subject to regulation

5 as described in ORS 448.119; and]

6 “[(e) Not zoned with a designation that maintains the land’s potential for future urbanization.]

7 “(10) ‘Periodic review’ means the process and procedures as set forth in ORS 197.628 to 197.651.

8 “(11) ‘Prefabricated structure’ means a prefabricated structure, as defined in ORS 455.010, that

9 is relocatable, more than eight and one-half feet wide and designed for use as a [single-family]

10 **single-unit** dwelling.

11 “(12) ‘Urban unincorporated lands’ means lands within an urban growth boundary that

12 **are identified by the county as:**

13 “(a) Not within a city;

14 “(b) Zoned for urban development;

15 “(c) Within the boundaries of a sanitary district or sanitary authority formed under ORS

16 **chapter 450 or a district formed for the purposes of sewage works under ORS chapter 451;**

17 “(d) Within the service boundaries of a water provider with a water system subject to

18 **regulation as described in ORS 448.119; and**

19 “(e) Not zoned with a designation that maintains the land’s potential for future

20 **urbanization.**

21 “**SECTION 4.** Section 3, chapter 639, Oregon Laws 2019, as amended by section 21, chapter 223,

22 Oregon Laws 2023, and section 3, chapter 283, Oregon Laws 2023, is amended to read:

23 “**Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations

24 or amend its comprehensive plan to implement ORS [197.758] **197A.420 or section 3 of this 2025**

25 **Act** no later than:

26 “(a) June 30, 2021, for each city subject to ORS 197.758 (3) (2021 Edition) **as in effect on Jan-**

27 **uary 1, 2023;**

28 “(b) June 30, 2022, for each local government subject to ORS [197.758 (2)] **197A.420 (2)**, except

29 as provided in [paragraph (d)] **paragraphs (d) to (f)** of this subsection;

30 “(c) June 30, 2025, for each city subject to ORS [197.758 (3), as amended by section 20 of this 2023

31 *Act*] **197A.420 (3) but not included in paragraph (a) of this subsection; [or]**

32 “(d) July 1, 2025, for each city, as defined in ORS [197.758] **197A.420**, in Tillamook County[.];

33 “(e) **Except as provided in paragraph (f) of this subsection, January 1, 2027, for cities to**

34 **conform with section 3 of this 2025 Act or the amendments to ORS 197A.420 by section 1 of**

35 **this 2025 Act; or**

36 “(f) **January 1, 2028, for cities to conform with amendments to ORS 197A.420 by section**

37 **1 of this 2025 Act pertaining to changes relating to cottage clusters.**

38 “(2) The Land Conservation and Development Commission, with the assistance of the Building

39 Codes Division of the Department of Consumer and Business Services, shall develop a model middle

40 housing ordinance no later than December 31, 2020.

41 “(3) A local government that has not acted within the time provided under subsection (1) of this

42 section shall directly apply the model ordinance developed by the commission under subsection (2)

43 of this section [under] **as provided by** ORS 197.646 (3) until the local government acts as described

44 in subsection (1) of this section.

45 “(4) In adopting regulations or amending a comprehensive plan under this section, a local gov-

1 ernment shall consider ways to increase the affordability of middle housing by considering ordi-
2 nances and policies that include but are not limited to:

3 “(a) Waiving or deferring system development charges;

4 “(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523,
5 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

6 “(c) Assessing a construction tax under ORS 320.192 and 320.195.”.

7 On page 5, line 14, delete “December 31” and insert “June 30”.

8 Delete lines 28 through 45.

9 On page 6, delete lines 1 through 15 and insert:

10 “**SECTION 5a.** ORS 184.453, as amended by section 6, chapter 102, Oregon Laws 2024, is
11 amended to read:

12 “184.453. (1) On an annual basis the Oregon Department of Administrative Services shall con-
13 duct a statewide housing analysis. The analysis must be conducted statewide and segmented into
14 regions as determined by the department. The analysis shall estimate factors including, but not
15 limited to:

16 “(a) Projected needed housing units over the next 20 years;

17 “(b) Current housing underproduction;

18 “(c) Housing units needed for people experiencing homelessness; and

19 “(d) Housing units projected to be converted into vacation homes or second homes during the
20 next 20 years.

21 “(2) At the time the department performs the housing analysis under subsection (1) of this sec-
22 tion, the department shall allocate a housing need for each city. For Metro urban unincorporated
23 lands, as defined in ORS 197A.015, the department shall make one allocation for each county in
24 Metro.

25 “(3) In making an allocation under subsection (2) of this section, the department shall consider:

26 “(a) The forecasted population growth under ORS 195.033 or 195.036;

27 “(b) The forecasted regional job growth;

28 “(c) An equitable statewide distribution of housing for income levels described in subsection (4)
29 of this section;

30 “(d) The estimates made under subsection (1) of this section;

31 “(e) For cities within Metro, the needed housing projected under ORS 197A.348 (2); and

32 “(f) The purpose of the Oregon Housing Needs Analysis under ORS 184.451 (1).

33 “(4) In estimating and allocating housing need under this section, the department shall segment
34 need by the following income levels:

35 “(a) Housing affordable to households making less than 30 percent of median family income;

36 “(b) Housing affordable to households making 30 percent or more and less than 60 percent of
37 median family income;

38 “(c) Housing affordable to households making 60 percent or more and less than 80 percent of
39 median family income;

40 “(d) Housing affordable to households making 80 percent or more and less than 120 percent of
41 median family income; and

42 “(e) Housing affordable to households making 120 percent or more of median family income.

43 “**(5) On an annual basis, the department shall publish maximum sales prices and income**
44 **affordability requirements, by region, as described in section 3 (1) of this 2025 Act.**

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“SINGLE ROOM OCCUPANCIES

“**SECTION 6.** ORS 197A.430 is amended to read:

“197A.430. (1) As used in this section, ‘single room occupancy’ means a residential development with no fewer than four attached **or detached** units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

“(2) Within an urban growth boundary, each local government shall allow the development of a single room occupancy:

“(a) With up to six units on each lot or parcel zoned to allow for the development of a detached [*single-family*] **single-unit** dwelling; and

“[(b) *With the number of units consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.*]

“(b) **With up to three times the number of units allowed by the maximum density standards of a lot or parcel on which is allowed multiunit housing with five or more dwelling units.**

“(3)(a) **For a single room occupancy, a local government may not require more parking for every three single room occupancy units than the local government requires for:**

“(A) **A single detached dwelling, if the single room occupancy development has six or fewer units; or**

“(B) **A dwelling unit in a multiunit housing development, if the single room occupancy development has more than six units.**

“(b) **This subsection does not apply to a single room occupancy used as a residential care facility as defined in ORS 443.400.**

“**SECTION 6a.** **A local government shall comply as described in ORS 197.646 (1) with the new requirements imposed under the amendments to ORS 197A.430 by section 6 of this 2025 Act on or before January 1, 2027.**

“PROMOTING HOUSING DENSITY

“**SECTION 7.** ORS 93.277 is amended to read:

“93.277. A provision in a recorded instrument affecting real property is [*not enforceable if:*] **void and unenforceable, as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100, if, within an urban growth boundary as defined in ORS 197.015,**

“[(1)] the provision would allow the development of a [*single-family*] **single-unit** dwelling on the real property but would prohibit the development of, or the partitioning or subdividing of lands under ORS 92.031 for:

“[(a)] (1) Middle housing, as defined in ORS 197A.420; or

“[(b)] (2) An accessory dwelling unit allowed under ORS 197A.425 [(1); and].

“[(2) *The instrument was executed on or after January 1, 2021.*].”

Delete lines 32 through 45 and delete pages 7 through 9.

On page 10, delete lines 1 through 30 and insert:

“**SECTION 11.** **The amendments to ORS 93.277 and 94.776 by sections 7 and 9 of this 2025 Act become operative on January 1, 2027.**

1 “**NOTE:** Section 12 was deleted by amendment. Subsequent sections were not renumbered.

2 “**SECTION 13.** ORS 197A.400, as amended by section 2, chapter 533, Oregon Laws 2023, and
3 section 4, chapter 111, Oregon Laws 2024, is amended to read:

4 “197A.400. (1)(a) Except as provided in subsection (3) of this section, a local government may
5 adopt and apply only clear and objective standards, conditions and procedures regulating:

6 “**(A)** The development of housing[, *including needed housing, on land within an urban growth*
7 *boundary, unincorporated communities designated in a county’s acknowledged comprehensive plan after*
8 *December 5, 1994, nonresource lands and areas zoned for rural residential use as defined in ORS*
9 *215.501.*]; **and**

10 “**(B) Tree removal codes related to the development of housing.**

11 “**(b)** The standards, conditions and procedures:

12 “[(a)] **(A)** May include, but are not limited to, one or more provisions regulating the density or
13 height of a development.

14 “[(b)] **(B)** May not have the effect, either in themselves or cumulatively, of discouraging needed
15 housing through unreasonable cost or delay.

16 “[(c)] **(C)** May be contained in a comprehensive plan, land use regulation or an ordinance re-
17 lating to housing adopted by a city that adopts, including by reference, a model ordinance adopted
18 by the Land Conservation and Development Commission that comports with any qualifications,
19 conditions or applicability of the model ordinance.

20 “**(c) This subsection applies only within:**

21 “**(A) An urban growth boundary;**

22 “**(B) An unincorporated community designated in a county’s acknowledged comprehen-**
23 **sive plan after December 5, 1994;**

24 “**(C) Nonresource land; or**

25 “**(D) An area zoned for rural residential use as defined in ORS 215.501.**

26 “(2) The provisions of subsection (1) of this section do not apply to:

27 “(a) An application or permit for residential development in an area identified in a formally
28 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
29 500,000 or greater.

30 “(b) An application or permit for residential development in historic areas designated for pro-
31 tection under a land use planning goal protecting historic areas.

32 “(3) In addition to an approval process for needed housing based on clear and objective stan-
33 dards, conditions and procedures as provided in subsection (1) of this section, a local government
34 may adopt and apply an alternative approval process for applications and permits for residential
35 development based on approval criteria that are not clear and objective if:

36 “(a) The applicant retains the option of proceeding under the approval process that meets the
37 requirements of subsection (1) of this section;

38 “(b) The approval criteria for the alternative approval process comply with applicable statewide
39 land use planning goals and rules; and

40 “(c) The approval criteria for the alternative approval process authorize a density at or above
41 the density level authorized in the zone under the approval process provided in subsection (1) of this
42 section.

43 “(4) Subject to subsection (1) of this section, this section does not infringe on a local
44 government’s prerogative to:

45 “(a) Set approval standards under which a particular housing type is permitted outright;

1 “(b) Impose special conditions upon approval of a specific development proposal; or

2 “(c) Establish approval procedures.

3
4 **“EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS**

5
6 **“SECTION 14.** ORS 92.031, as amended by section 10, chapter 102, Oregon Laws 2024, is
7 amended to read:

8 “92.031. (1) As used in this section, ‘middle housing land division’ means a partition or subdivi-
9 sion of a lot or parcel on which the development of middle housing is allowed under ORS 197A.420
10 (2) or (3) **or section 3 of this 2025 Act.**

11 “(2) A city or county shall approve a tentative plan for a middle housing land division if the
12 application includes:

13 “[*(a) A proposal for development of middle housing in compliance with the Oregon residential*
14 *specialty code and land use regulations applicable to the original lot or parcel allowed under ORS*
15 *197A.420 (5);]*

16 “[*(b)*] (a) Separate utilities, **other than water or wastewater**, for each dwelling unit;

17 **“(b) A proposal for development of middle housing that is in compliance or must comply**
18 **with the Oregon residential specialty code and land use regulations under ORS 197A.420 (5)**
19 **that are applicable to the original lot or parcel and which may consist of:**

20 **“(A) A single duplex, triplex, quadplex, cottage cluster or structure containing**
21 **townhouses;**

22 **“(B) Additional units as allowed by section 3 (3) of this 2025 Act; and**

23 **“(C) Retained or rehabilitated existing units allowed under ORS 197A.420 (4), if any;**

24 “(c) Proposed easements necessary for each dwelling unit on the plan for:

25 “(A) Locating, accessing, replacing and servicing all utilities;

26 “(B) Pedestrian access from each dwelling unit to a private or public road;

27 “(C) Any common use areas or shared building elements;

28 “(D) Any dedicated driveways or parking; and

29 “(E) Any dedicated common area;

30 “(d) Exactly one dwelling unit on each resulting lot or parcel, except for:

31 **“(A) Lots, parcels or tracts used as common areas; or**

32 **“(B) Lots or parcels with a detached single-unit dwelling and accessory dwelling unit or**
33 **a duplex as allowed under ORS 197A.420 (4); and**

34 “(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply
35 with applicable building codes provisions relating to new property lines and, notwithstanding the
36 creation of new lots or parcels, how structures or buildings located on the newly created lots or
37 parcels will comply with the Oregon residential specialty code.

38 “(3) A city or county may add conditions to the approval of a tentative plan for a middle housing
39 land division to:

40 **“(a) Subject to subsection (6) of this section,** prohibit the further division of the resulting lots
41 or parcels.

42 **“(b) Require that a notation appear on the final plat indicating that the approval was given**
43 **under this section.**

44 **“(4) In reviewing an application for a middle housing land division, a city or county:**

45 **“(a) Shall apply the procedures [*under ORS 197.360 to 197.380*] applicable to an expedited land**

1 **division under ORS 197.365, if requested by the applicant and without regard to the criteria**
2 **in ORS 197.360 (1).**

3 “(b) May require street frontage improvements where a resulting lot or parcel abuts the street
4 consistent with land use regulations implementing ORS 197A.420.

5 “(c) May not subject an application to approval criteria except as provided in this section, in-
6 cluding that a lot or parcel require driveways, vehicle access, parking or minimum or maximum
7 street frontage.

8 “(d) May not subject the application to procedures, ordinances or regulations adopted under
9 ORS 92.044 or 92.046 that are inconsistent with this section or, **only if requested by the applicant,**
10 **ORS 197.365 [ORS 197.360 to 197.380].**

11 “(e) [May] **Shall** allow the submission of an application **for a tentative plan** for a middle
12 housing land division **before, after or** at the same time as the submission of an application for
13 building permits for the middle housing.

14 “(f) May require the dedication of right of way if the original parcel did not previously provide
15 a dedication.

16 “(g) **May require separate water and wastewater utilities for each dwelling unit.**

17 “(h) **Shall allow any existing units allowed under ORS 197A.420 (4) to be considered a**
18 **single middle housing unit and allow for the unit to be allocated its own lot or parcel by the**
19 **division.**

20 “(5) The type of middle housing developed on the original parcel is not altered by a middle
21 housing land division.

22 “[*(6) Notwithstanding ORS 197A.425 (1), a city or county is not required to allow an accessory*
23 *dwelling unit on a lot or parcel resulting from a middle housing land division.*]

24 “**(6) Notwithstanding ORS 197A.425 (1) and subsection (4)(d) and (e) of this section, a city**
25 **or county may prohibit or add approval criteria to the allowance of a new accessory dwelling**
26 **unit on, or a subsequent middle housing land division of, a lot or parcel resulting from a**
27 **middle housing land division:**

28 “**(a) To the extent allowed under this section and ORS 197A.420; and**

29 “**(b) Provided that the middle housing land division lots or parcels may be used to create**
30 **housing that is at or above the minimum density for the zoning of the land.**

31 “(7) Notwithstanding any other provision of ORS 92.010 to 92.192, within the same calendar year
32 as an original partition **that was not a middle housing land division**, a city or county may allow
33 one **or more** of the resulting vacant parcels to be further [*divided*] **partitioned** into not more than
34 three parcels through a middle housing land division. [*provided that:*]

35 “[*(a) The original partition was not a middle housing land division; and*]

36 “[*(b) The original parcel or parcels not divided will not be part of the resulting partition plat for*
37 *the middle housing land division.*]

38 “(8) The tentative approval of a middle housing land division is void if and only if a final sub-
39 division or partition plat is not approved within three years of the tentative approval. Nothing in
40 this section [*or ORS 197.360 to 197.380*] prohibits a city or county from requiring a final plat before
41 issuing building permits.”.

42 On page 16, lines 43 and 44, delete the boldfaced material and insert “If requested by the ap-
43 plicant, a local government”.

44 On page 17, delete lines 38 through 45 and delete pages 18 and 19 and insert:

45 “**SECTION 20.** ORS 197.365 is amended to read:

1 “197.365. [Unless the applicant requests to use the procedure set forth in a comprehensive plan and
2 land use regulations, a local government shall use the following procedure for an expedited land divi-
3 sion, as described in ORS 197.360, or a middle housing land division under ORS 92.031:]

4 “[1)(a) If the application for a land division is incomplete, the local government shall notify the
5 applicant of exactly what information is missing within 21 days of receipt of the application and allow
6 the applicant to submit the missing information. For purposes of computation of time under this section,
7 the application shall be deemed complete on the date the applicant submits the requested information
8 or refuses in writing to submit it.]

9 “[b) If the application was complete when first submitted or the applicant submits the requested
10 additional information within 180 days of the date the application was first submitted, approval or
11 denial of the application shall be based upon the standards and criteria that were applicable at the time
12 the application was first submitted.]

13 “[2) The local government shall provide written notice of the receipt of the completed application
14 for a land division to any state agency, local government or special district responsible for providing
15 public facilities or services to the development and to owners of property within 100 feet of the entire
16 contiguous site for which the application is made. The notification list shall be compiled from the most
17 recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this re-
18 quirement shall be deemed met when the local government can provide an affidavit or other certification
19 that such notice was given. Notice shall also be provided to any neighborhood or community planning
20 organization recognized by the governing body and whose boundaries include the site.]

21 “[3) The notice required under subsection (2) of this section shall:]

22 “[a) State:]

23 “[A) The deadline for submitting written comments;]

24 “[B) That issues that may provide the basis for an appeal to the referee must be raised in writing
25 prior to the expiration of the comment period; and]

26 “[C) That issues must be raised with sufficient specificity to enable the local government to re-
27 spond to the issue.]

28 “[b) Set forth, by commonly used citation, the applicable criteria for the decision.]

29 “[c) Set forth the street address or other easily understood geographical reference to the subject
30 property.]

31 “[d) State the place, date and time that comments are due.]

32 “[e) State a time and place where copies of all evidence submitted by the applicant will be avail-
33 able for review.]

34 “[f) Include the name and telephone number of a local government contact person.]

35 “[g) Briefly summarize the local decision-making process for the land division decision being
36 made.]

37 “[4) After notice under subsections (2) and (3) of this section, the local government shall:]

38 “[a) Provide a 14-day period for submission of written comments prior to the decision.]

39 **“Notwithstanding any other requirement applicable to a land use decision under ORS**
40 **chapter 197 or 197A, for an application that is reviewed as an expedited land division based**
41 **on the request of the applicant:**

42 **“(1) A decision is not subject to the requirements of ORS 197.797.**

43 **“(2) A local government:**

44 “[b) (a) **Shall** make a decision to approve or deny the application within 63 days of receiving
45 a completed application **as described in ORS 215.246 or 227.178**, based on whether [it] **the appli-**

1 **cation** satisfies the substantive requirements of the applicable land use regulations. An approval
2 may include conditions to ensure that the application meets the applicable land use regulations.
3 *[For applications subject to this section, the local government:]*

4 “[*(A)*] **(b)** *[Shall]* **May** not hold a hearing on the application[; *and*] **or allow any third party**
5 **to intervene to oppose the application.**

6 “[*(B)*] **(c)** Shall issue a written determination of compliance or noncompliance with applicable
7 land use regulations that includes a summary statement explaining the determination. The summary
8 statement may be in any form reasonably intended to communicate the local government’s basis for
9 the determination. **The determination must include an explanation of the applicant’s right to**
10 **appeal the determination under ORS 197.830 to 197.855.**

11 “[*(c)* *Provide notice of the decision to the applicant and to those who received notice under sub-*
12 *section (2) of this section within 63 days of the date of a completed application. The notice of decision*
13 *shall include:*]

14 “[*(A)* *The summary statement described in paragraph (b)(B) of this subsection; and*]

15 “[*(B)* *An explanation of appeal rights under ORS 197.375.*]

16 **“(d) Shall provide notice of the decision to the applicant but may not require that notice**
17 **be given to any other person.**

18 **“(e) May assess an application fee calculated to recover the estimated full cost of pro-**
19 **cessing an application based on the estimated average cost of such applications. Within one**
20 **year of establishing a fee under this section, the city or county shall review and revise the**
21 **fee, if necessary, to reflect actual experience in processing expedited land decisions.**

22 **“(3) Only the applicant may appeal an expedited land division made under this section.**

23 **“SECTION 21. ORS 92.377, 197.370, 197.375, 197.380, 197.726 and 197.727 are repealed.**

24
25 **“RULEMAKING**

26
27 **“SECTION 22. (1) On or before January 1, 2028, the Land Conservation and Development**
28 **Commission shall adopt rules that must include:**

29 **“(a) Prohibiting or restricting siting and design standards that prevent or discourage, or**
30 **have the effect of preventing or discouraging, the siting of middle housing that is manufac-**
31 **tured, site-built or prefabricated;**

32 **“(b) Establishing parameters on unreasonable cost or delay for siting and design stan-**
33 **dards for accessory dwelling units and single room occupancies under standards allowed un-**
34 **der ORS 197A.425 and 197A.430;**

35 **“(c) Regulating cottage clusters for the purposes of incentivizing the provision of smaller,**
36 **less expensive housing, shared community amenities and other public benefits and including**
37 **regulations that implement the term ‘small footprint or floor area’ as used within the defi-**
38 **inition of cottage clusters in ORS 197A.420;**

39 **“(d) Amending siting and design parameters for middle housing types;**

40 **“(e) Amending permissible discretionary criteria applied by local government in evaluat-**
41 **ing housing under ORS 197A.400 (3);**

42 **“(f) Developing model system development charges for residential development types for**
43 **optional adoption or incorporation by local governments; and**

44 **“(g) Establishing procedures to estimate the reasonable zoned housing capacity of an**
45 **area as part of an inventory of buildable lands or housing capacity under ORS 197A.270,**

1 **197A.280 and 197A.350.**

2 **“(2) In adopting rules under this section, the commission shall:**

3 **“(a) Emphasize improving the efficiency of the development process with a focus on in-**
4 **creasing housing production, availability and affordability, especially that of middle housing,**
5 **accessory dwelling units and single room occupancies.**

6 **“(b) To the extent practicable, implement recommendations in the reports produced un-**
7 **der section 5 (1) to (3), chapter 110, Oregon Laws 2024.**

8 **“(c) Implement the principles in ORS 197A.025.**

9 **“(d) Adopt operative and applicable dates for the rules, subject to section 3, chapter 639,**
10 **Oregon Laws 2019.**

11 **“(e) Provide a report on or before July 1, 2028, to the interim committees of the Legis-**
12 **lative Assembly relating to land use, in the manner provided in ORS 192.245, on the feasibility**
13 **and advisability of providing safe harbor protections for cities that use the commission’s**
14 **model system development charges under subsection (1)(f) of this section or otherwise**
15 **incentivizing the use of the models.”.**

16 On page 27, delete lines 36 through 45.

17 On page 28, delete lines 1 through 27 and insert:

18 **“NOTE:** Section 31 was deleted by amendment. Subsequent sections were not renumbered.”.

19 On page 30, delete lines 31 through 45.

20 On page 31, delete lines 1 through 40 and insert:

21 **“SECTION 36.** ORS 197.830 is amended to read:

22 **“197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to**
23 **197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-**
24 **peals.**

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

27 **“(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;**
28 **and**

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

30 **“(3) If a local government makes a land use decision without providing a hearing, except as**
31 **provided under ORS 197.365 (2), 215.416 (11) or 227.175 (10), or the local government makes a land**
32 **use decision that is different from the proposal described in the notice of hearing to such a degree**
33 **that the notice of the proposed action did not reasonably describe the local government’s final**
34 **actions, a person adversely affected by the decision may appeal the decision to the board under this**
35 **section:**

36 **“(a) Within 21 days of actual notice where notice is required; or**

37 **“(b) Within 21 days of the date a person knew or should have known of the decision where no**
38 **notice is required.**

39 **“(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416**
40 **(11) or 227.175 (10):**

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

44 **“(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who**
45 **is adversely affected or aggrieved by the decision may appeal the decision to the board under this**

1 section within 21 days after the expiration of the period for filing a local appeal of the decision es-
2 tablished by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

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

7 “(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a
8 decision made without a hearing under ORS **197.365 (2)**, 215.416 (11) or 227.175 (10) may not appeal
9 the decision to the board under this section.

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

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

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

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

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

20 “(b) May not exceed 10 years after the date of the decision if notice of a hearing or an admin-
21 istrative decision made pursuant to ORS 197.195 or 197.797 is required but has not been provided.

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

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

28 “(A) The applicant who initiated the action before the local government, special district or state
29 agency; or

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

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

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

37 “(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed
38 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of
39 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to
40 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is
41 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a
42 statement identifying when, how and to whom notice was provided under ORS 197.615 does not
43 render the notice defective. Copies of the notice of intent to appeal shall be served upon the local
44 government, special district or state agency and the applicant of record, if any, in the local gov-
45 ernment, special district or state agency proceeding. The notice shall be served and filed in the form

1 and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a
2 petition for review is not filed with the board as required in subsections (10) and (11) of this section,
3 the board shall award the filing fee to the local government, special district or state agency.

4 “(10)(a) Within 21 days after service of the notice of intent to appeal, the local government,
5 special district or state agency shall transmit to the board the original or a certified copy of the
6 entire record of the proceeding under review. By stipulation of all parties to the review proceeding
7 the record may be shortened. The board may require or permit subsequent corrections to the record;
8 however, the board shall issue an order on a motion objecting to the record within 60 days of re-
9 ceiving the motion. If the board denies a petitioner’s objection to the record, the board may establish
10 a new deadline for the petition for review to be filed that may not be less than 14 days from the
11 later of the original deadline for the brief or the date of denial of the petitioner’s record objection.

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

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

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

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

22 “(b) The date of the decision.

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

24 “(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for
25 oral argument.

26 “(b) The local government or state agency may withdraw its decision for purposes of reconsid-
27 eration at any time:

28 “(A) Subsequent to the filing of a notice of intent; and

29 “(B) Prior to:

30 “(i) The date set for filing the record; or

31 “(ii) On appeal of a decision under ORS 197.610 to 197.625 or relating to the development of a
32 residential structure, the filing of the respondent’s brief.

33 “(c) If a local government or state agency withdraws an order for purposes of reconsideration,
34 it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the
35 petitioner is dissatisfied with the local government or agency action after withdrawal for purposes
36 of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon
37 the revised order. An amended notice of intent is not required if the local government or state
38 agency, on reconsideration, affirms the order or modifies the order with only minor changes.

39 “(14) The board shall issue a final order within 77 days after the date of transmittal of the re-
40 cord. If the order is not issued within 77 days the applicant may apply in Marion County or the
41 circuit court of the county where the application was filed for a writ of mandamus to compel the
42 board to issue a final order.

43 “(15) Upon entry of its final order, the board:

44 “(a) May, in its discretion, award costs to the prevailing party including the cost of preparation
45 of the record if the prevailing party is the local government, special district or state agency whose

1 decision is under review.

2 “(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other
3 party who the board finds presented a position or filed any motion without probable cause to believe
4 the position or motion was well-founded in law or on factually supported information.

5 “(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

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

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

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

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

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

16 “(a) The number of reviews commenced, as described in subsection (1) of this section, the num-
17 ber of reviews commenced for which a petition is filed under subsection (2) of this section and, in
18 relation to each of those numbers, the rate at which the reviews result in a decision of the board
19 to uphold, reverse or remand the land use decision or limited land use decision. The board shall
20 track and report reviews under this paragraph in categories established by the board.

21 “(b) A list of petitioners, the number of reviews commenced and the rate at which the
22 petitioner’s reviews have resulted in decisions of the board to uphold, reverse or remand the land
23 use decision or limited land use decision.

24 “(c) A list of respondents, the number of reviews involving each respondent and the rate at
25 which reviews involving the respondent have resulted in decisions of the board to uphold, reverse
26 or remand the land use decision or limited land use decision. Additionally, when a respondent is the
27 local government that made the land use decision or limited land use decision, the board shall track
28 whether the local government appears before the board.

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

32 On page 40, after line 37, insert:

33 “**SECTION 44a.** ORS 227.175, as amended by section 5, chapter 111, Oregon Laws 2024, is
34 amended to read:

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

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

45 “(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least

1 one public hearing on the application.

2 “(4)(a) A city may not approve an application unless the proposed development of land would
3 be in compliance with the comprehensive plan for the city and other applicable land use regulation
4 or ordinance provisions, including an ordinance described in ORS 197A.400 [(1)(c)] **(1)(b)(C)**. The
5 approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

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

9 “(B) This paragraph does not apply to:

10 “(i) Applications or permits for residential development in areas described in ORS 197A.400 (2);
11 or

12 “(ii) Applications or permits reviewed under an alternative approval process adopted under ORS
13 197A.400 (3).

14 “(c) A city may not condition an application for a housing development on a reduction in density
15 if:

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

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

19 “(d) A city may not condition an application for a housing development on a reduction in height
20 if:

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

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

24 “(C) Reducing the height has the effect of reducing the authorized density level under local land
25 use regulations.

26 “(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may condition an applica-
27 tion for a housing development on a reduction in density or height only if the reduction is necessary
28 to resolve a health, safety or habitability issue or to comply with a protective measure adopted
29 pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the city must adopt
30 findings supported by substantial evidence demonstrating the necessity of the reduction.

31 “(f) As used in this subsection:

32 “(A) ‘Authorized density level’ means the maximum number of lots or dwelling units or the
33 maximum floor area ratio that is permitted under local land use regulations.

34 “(B) ‘Authorized height level’ means the maximum height of a structure that is permitted under
35 local land use regulations.

36 “(C) ‘Habitability’ means being in compliance with the applicable provisions of the state building
37 code under ORS chapter 455 and the rules adopted thereunder.

38 “(5) Hearings under this section may be held only after notice to the applicant and other inter-
39 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.797.

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

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

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

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

1 Department of Aviation to be a 'visual airport'; or

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

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

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

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

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

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

23 "(C) Notice under this subsection shall comply with ORS 197.797 (3)(a), (c), (g) and (h) and shall
24 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
25 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
26 section may appeal the decision by filing a written appeal in the manner and within the time period
27 provided in the city's land use regulations. A city may not establish an appeal period that is less
28 than 12 days from the date the written notice of decision required by this subsection was mailed.
29 The notice shall state that the decision will not become final until the period for filing a local appeal
30 has expired. The notice also shall state that a person who is mailed written notice of the decision
31 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

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

36 "(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
37 evidentiary hearing required under ORS 197.797 as the basis for an appeal to the Land Use Board
38 of Appeals. At the de novo hearing:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(B) The date of the decision; and

25 “(C) A description of the decision made.

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

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

29 “(12) At the option of the applicant, the local government shall provide notice of the decision
30 described in ORS 227.160 (2)(b) in the manner required by ORS 197.797 (2), in which case an appeal
31 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
32 of appeal rights.

33 “(13) Notwithstanding other requirements of this section, limited land use decisions are subject
34 to the requirements set forth in ORS 197.195 and 197.828.

35 “**SECTION 44b. The amendments to ORS 227.175 by section 44a of this 2025 Act become**
36 **operative on July 1, 2025.”.**