

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2138**

1 On page 1 of the printed bill, line 3, after “94.776,” delete the rest of the  
2 line and delete lines 4 and 5 and insert “184.453, 184.633, 197.015, 197.090,  
3 197.200, 197.245, 197.360, 197.365, 197.724, 197.794, 197.796, 197.825, 197.830,  
4 197A.015, 197A.400, 197A.420, 197A.430, 197A.465, 197A.470, 215.402, 215.416,  
5 215.427, 215.429, 223.299, 227.160, 227.173, 227.175, 227.178, 227.179, 227.184,  
6 421.649 and”.

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

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

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

10 “197A.420. (1) As used in this section **and section 3 of this 2025 Act:**

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

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

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

20 “[*c*] ‘Middle housing’ means:]

21 “[*A*] Duplexes;]

1       “[(B) *Triplexes*;

2       “[(C) *Quadplexes*;

3       “[(D) *Cottage clusters*; and]

4       “[(E) *Townhouses*.]

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

6       “(A) That are detached or attached in subgroupings of up to four  
7 units in any configuration;

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

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

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

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

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

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

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

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

21       “(g) ‘Quadplex’ means four attached or detached dwellings in any  
22 configuration on a lot or parcel, other than a lot or parcel created by  
23 a middle housing land division.

24       “[(d)] (h) [*Townhouses*] ‘Townhouse’ means a dwelling unit constructed  
25 in a row of two or more attached units, where each dwelling unit is located  
26 on an individual lot or parcel and shares at least one common wall with an  
27 adjacent unit.

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

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

2       “(A) Is within an urban growth boundary;

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

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

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

7       “(E) Is incorporated or urban unincorporated land.

8       “(2) Except as provided in subsection (4) of this section, **each county,**  
9 each city with a population of 25,000 or greater, and each [*county or*] city  
10 **with a population of 1,000 or greater** within [*a metropolitan service*  
11 *district*] **Metro**, shall allow the development of[:]

12       “[(a)] all middle housing types [*in areas*] **on each lot or parcel** zoned for  
13 residential use. [*that allow for the development of detached single-family*  
14 *dwelling; and*]

15       “[(b)] *A duplex on each lot or parcel zoned for residential use that allows*  
16 *for the development of detached single-family dwellings.*]

17       “(3) [*Except as provided in subsection (4) of this section,*] Each city not  
18 within [*a metropolitan service district*] **Metro** with a population of 2,500 or  
19 greater and less than 25,000 shall allow the development of a duplex on each  
20 lot or parcel zoned for residential use. [*that allows for the development of*  
21 *detached single-family dwellings. Nothing in this subsection prohibits a local*  
22 *government from allowing middle housing types in addition to duplexes.*]

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

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

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

27       “[(C)] *Lands that are not incorporated and also lack sufficient urban ser-*  
28 *vices, as defined in ORS 195.065; or*]

29       “[(D)] *Lands that are not incorporated and are zoned under an interim*  
30 *zoning designation that maintains the land’s potential for planned urban de-*

1 *velopment.]*

2 “[*b*] *This section does not apply to lands that are not zoned for residential*  
3 *use, including lands zoned primarily for commercial, industrial, agricultural*  
4 *or public uses.]*

5 “(4)(a) **Each city required to allow middle housing under subsection**  
6 **(2) or (3) of this section, excluding urban unincorporated land not**  
7 **within Metro, shall allow the lot or parcel to include existing housing**  
8 **consisting of:**

9 “(A) **One single-unit dwelling;**

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

11 “(C) **One duplex.**

12 “(b) **The city may require only the new units, and not the existing**  
13 **units, to comply with siting and design standards adopted under sub-**  
14 **section (5) of this section.**

15 “(c) **Existing units on the lot or parcel may be separated from the**  
16 **new units by a middle housing land division and are considered a sin-**  
17 **gle unit for the purposes of such division.**

18 “(5) **Local governments:**

19 “(a) **May regulate siting and design of middle housing required to be**  
20 **permitted under this section, provided that the regulations do not[,] individ-**  
21 **ually or cumulatively[,] discourage, through unreasonable costs or delay,**  
22 **the development of all middle housing types permitted in the area [through**  
23 **unreasonable costs or delay].**

24 “(b) [*Local governments*] **May regulate middle housing to comply with**  
25 **protective measures adopted pursuant to statewide land use planning goals.**

26 “(6)(a) **A local government may not, based on traffic impacts from**  
27 **any individual middle housing development allowed under this section**  
28 **or section 3 of this 2025 Act:**

29 “(A) **Require a traffic impact analysis; or**

30 “(B) **Attribute an exaction other than a generally applicable system**

1 **development charge or a development requirement specific to the lot**  
2 **or parcel or its frontage.**

3 **“(b) This subsection does not apply to:**

4 **“(A) Developments of townhouses or cottage clusters with more**  
5 **than twelve units.**

6 **“(B) Lots or parcels created by a division of land, other than a**  
7 **middle housing land division, that occurred within the previous five**  
8 **years.**

9 **“[(6)] (7) This section does not prohibit local governments from permit-**  
10 **ting:**

11 **“(a) [*Single-family*] **Single-unit** dwellings in areas zoned to allow for**  
12 **[*single-family*] **single-unit** dwellings; or**

13 **“(b) Middle housing in areas not required under this section.**

14 **“[(7)] (8) A local government that amends its comprehensive plan or land**  
15 **use regulations relating to allowing additional middle housing is not re-**  
16 **quired to consider whether the amendments significantly affect an existing**  
17 **or planned transportation facility.**

18 **“SECTION 2. Section 3 of this 2025 Act is added to and made a part**  
19 **of ORS chapter 197A.**

20 **“SECTION 3. (1) As used in this section:**

21 **“(a) ‘Accessible unit’ means a unit of housing that complies with**  
22 **the ‘Type A’ requirements applicable to units as set forth in the**  
23 **Standard for Accessible and Usable Buildings and Facilities published**  
24 **by the International Code Council and as referenced by the state**  
25 **building code.**

26 **“(b) ‘Affordable unit’ means a unit of housing that is subject to an**  
27 **affordable housing covenant, as described in ORS 456.270 to 456.295,**  
28 **that:**

29 **“(A) Makes the unit available to purchase for a maximum sales**  
30 **price and requires that the unit be purchased by a household with an**

1 **income below 120 percent of median income, with both the maximum**  
2 **price and income threshold as published per region on an annual basis**  
3 **by the division of the Oregon Department of Administrative Services**  
4 **that serves as office of economic analysis; and**

5 **“(B) Is enforceable for a duration of not less than 10 years from the**  
6 **date of the certificate of occupancy.**

7 **“(2) The definitions in ORS 197A.420 apply to this section.**

8 **“(3) On any lot or parcel on which middle housing may be sited**  
9 **under ORS 197A.420 (2) or (3), except for urban unincorporated land**  
10 **not within Metro, if one or more of the units of middle housing is an**  
11 **accessible or affordable unit, a city shall allow, subject to ORS**  
12 **197A.420 (5), the additional development of:**

13 **“(a) For any allowable duplex or triplex, one additional attached or**  
14 **detached dwelling unit, resulting in a triplex or quadplex.**

15 **“(b) For any allowable townhouse, quadplex or cottage cluster, up**  
16 **to two additional attached or detached dwelling units, resulting in**  
17 **additional townhouse or cottage cluster units or attached or detached**  
18 **five-unit or six-unit developments.**

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

23 **“(5) This section does not limit a local government from enacting**  
24 **density bonuses that provide a greater number of accessible or af-**  
25 **fordable units, or housing that is affordable to more families, than**  
26 **required by this section.**

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

29 **“197A.015. As used in this chapter:**

30 **“(1) ‘Allocated housing need’ means the housing need allocated to a city**

1 under ORS 184.453 (2) as segmented by income level under ORS 184.453 (4).

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

6 “(3) ‘City’ and ‘city with a population of 10,000 or greater’ includes, re-  
7 gardless of size:

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

11 “(b) A county with respect to its jurisdiction over Metro urban unincor-  
12 porated lands.

13 “(4) ‘Development-ready lands’ means buildable lands that are likely to  
14 support the production of housing during the period of their housing pro-  
15 duction target under ORS 184.455 (1) because the lands are:

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

18 “(b) Readily served through adjacent public facilities or identified for the  
19 near-term provision of public facilities through an adopted capital improve-  
20 ment plan; and

21 “(c) Not encumbered by any applicable local, state or federal protective  
22 regulations or have appropriate entitlements to prepare the land for devel-  
23 opment.

24 “(5) ‘Government assisted housing’ means housing that is financed in  
25 whole or part by either a federal or state housing agency or a housing au-  
26 thority as defined in ORS 456.005, or housing that is occupied by a tenant  
27 or tenants who benefit from rent supplements or housing vouchers provided  
28 by either a federal or state housing agency or a local housing authority.

29 “(6) ‘Housing capacity’ means the number of needed housing units that  
30 can be developed on buildable lands within the 20-year planning period based

1 on the land’s comprehensive plan designation and capacity for housing de-  
2 velopment and redevelopment.

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

5 “(8) ‘Manufactured dwelling,’ ‘manufactured dwelling park,’ ‘manufac-  
6 tured home’ and ‘mobile home park’ have the meanings given those terms in  
7 ORS 446.003.

8 “(9) ‘Metro urban unincorporated lands’ means [*lands*] **urban unincor-**  
9 **porated lands** within the Metro urban growth boundary. [*that are identified*  
10 *by the county as:*]

11 “[*(a) Not within a city;*]

12 “[*(b) Zoned for urban development;*]

13 “[*(c) Within the boundaries of a sanitary district or sanitary authority*  
14 *formed under ORS chapter 450 or a district formed for the purposes of sewage*  
15 *works under ORS chapter 451;*]

16 “[*(d) Within the service boundaries of a water provider with a water system*  
17 *subject to regulation as described in ORS 448.119; and*]

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

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

22 “(11) ‘Prefabricated structure’ means a prefabricated structure, as defined  
23 in ORS 455.010, that is relocatable, more than eight and one-half feet wide  
24 and designed for use as a [*single-family*] **single-unit** dwelling.

25 “(12) ‘**Urban unincorporated lands**’ means **lands within an urban**  
26 **growth boundary that are identified by the county as:**

27 “(a) **Not within a city;**

28 “(b) **Zoned for urban development;**

29 “(c) **Within the boundaries of a sanitary district or sanitary au-**  
30 **thority formed under ORS chapter 450 or a district formed for the**



1 **purposes of sewage works under ORS chapter 451;**

2 **“(d) Within the service boundaries of a water provider with a water**  
3 **system subject to regulation as described in ORS 448.119; and**

4 **“(e) Not zoned with a designation that maintains the land’s poten-**  
5 **tial for future urbanization.**

6 **“SECTION 4.** Section 3, chapter 639, Oregon Laws 2019, as amended by  
7 section 21, chapter 223, Oregon Laws 2023, and section 3, chapter 283, Oregon  
8 Laws 2023, is amended to read:

9 **“Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt  
10 land use regulations or amend its comprehensive plan to implement ORS  
11 [197.758] **197A.420 or section 3 of this 2025 Act** no later than:

12 **“(a) June 30, 2021, for each city subject to ORS 197.758 (3) (2021 Edition)**  
13 **as in effect on January 1, 2023;**

14 **“(b) June 30, 2022, for each local government subject to ORS [197.758**  
15 **(2)] 197A.420 (2), except as provided in [paragraph (d)] paragraphs (d) to**  
16 **(f) of this subsection;**

17 **“(c) June 30, 2025, for each city subject to ORS [197.758 (3), as amended**  
18 **by section 20 of this 2023 Act] 197A.420 (3) but not included in paragraph**  
19 **(a) of this subsection; [or]**

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

22 **“(e) Except as provided in paragraph (f) of this subsection, July 1,**  
23 **2026, for cities to conform with section 3 of this 2025 Act or the**  
24 **amendments to ORS 197A.420 by section 1 of this 2025 Act; or**

25 **“(f) January 1, 2028, for cities to conform with amendments to ORS**  
26 **197A.420 by section 1 of this 2025 Act pertaining to changes relating to**  
27 **cottage clusters.**

28 **“(2) The Land Conservation and Development Commission, with the as-**  
29 **sistance of the Building Codes Division of the Department of Consumer and**  
30 **Business Services, shall develop a model middle housing ordinance no later**

1 than December 31, 2020.

2 “(3) A local government that has not acted within the time provided under  
3 subsection (1) of this section shall directly apply the model ordinance de-  
4 veloped by the commission under subsection (2) of this section [*under*] **as**  
5 **provided by** ORS 197.646 (3) until the local government acts as described in  
6 subsection (1) of this section.

7 “(4) In adopting regulations or amending a comprehensive plan under this  
8 section, a local government shall consider ways to increase the affordability  
9 of middle housing by considering ordinances and policies that include but  
10 are not limited to:

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

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

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

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

17 Delete lines 28 through 45.

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

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

21 “184.453. (1) On an annual basis the Oregon Department of Administrative  
22 Services shall conduct a statewide housing analysis. The analysis must be  
23 conducted statewide and segmented into regions as determined by the de-  
24 partment. The analysis shall estimate factors including, but not limited to:

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

26 “(b) Current housing underproduction;

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

28 “(d) Housing units projected to be converted into vacation homes or sec-  
29 ond homes during the next 20 years.

30 “(2) At the time the department performs the housing analysis under

1 subsection (1) of this section, the department shall allocate a housing need  
2 for each city. For Metro urban unincorporated lands, as defined in ORS  
3 197A.015, the department shall make one allocation for each county in Metro.

4 “(3) In making an allocation under subsection (2) of this section, the de-  
5 partment shall consider:

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

7 “(b) The forecasted regional job growth;

8 “(c) An equitable statewide distribution of housing for income levels de-  
9 scribed in subsection (4) of this section;

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

11 “(e) For cities within Metro, the needed housing projected under ORS  
12 197A.348 (2); and

13 “(f) The purpose of the Oregon Housing Needs Analysis under ORS  
14 184.451 (1).

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

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

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

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

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

25 “(e) Housing affordable to households making 120 percent or more of me-  
26 dian family income.

27 **“(5) On an annual basis, the department shall publish income**  
28 **affordability requirements, by region, as described in section 3 (1) of**  
29 **this 2025 Act.**

30



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

2       “93.277. A provision in a recorded instrument affecting real property is  
3 *[not enforceable if:]* **void and unenforceable, as being against the policy**  
4 **of this state of promoting housing availability and affordability and**  
5 **affirmatively furthering fair housing as defined in ORS 197A.100, if,**  
6 **within an urban growth boundary as defined in ORS 197.015,**

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

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

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

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

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

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

16       “**NOTE:** Sections 11 and 12 were deleted by amendment. Subsequent  
17 sections were not renumbered.

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

21       “197A.400. (1)(a) Except as provided in subsection (3) of this section, a  
22 local government may adopt and apply only clear and objective standards,  
23 conditions and procedures regulating:

24       “(A) The development of housing~~],~~ *including needed housing, on land*  
25 *within an urban growth boundary, unincorporated communities designated in*  
26 *a county’s acknowledged comprehensive plan after December 5, 1994,*  
27 *nonresource lands and areas zoned for rural residential use as defined in ORS*  
28 *215.501.]; and*

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

30       “(b) The standards, conditions and procedures:

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

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

5        “[c] (C) May be contained in a comprehensive plan, land use regulation  
6 or an ordinance relating to housing adopted by a city that adopts, including  
7 by reference, a model ordinance adopted by the Land Conservation and De-  
8 velopment Commission that comports with any qualifications, conditions or  
9 applicability of the model ordinance.

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

11        **“(A) An urban growth boundary;**

12        **“(B) An unincorporated community designated in a county’s ac-  
13 knowledged comprehensive plan after December 5, 1994;**

14        **“(C) Nonresource land; and**

15        **“(D) An area zoned for rural residential use as defined in ORS  
16 215.501.**

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

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

21        “(b) An application or permit for residential development in historic areas  
22 designated for protection under a land use planning goal protecting historic  
23 areas.

24        “(3) In addition to an approval process for needed housing based on clear  
25 and objective standards, conditions and procedures as provided in subsection  
26 (1) of this section, a local government may adopt and apply an alternative  
27 approval process for applications and permits for residential development  
28 based on approval criteria that are not clear and objective if:

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

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

3 “(c) The approval criteria for the alternative approval process authorize  
4 a density at or above the density level authorized in the zone under the ap-  
5 proval process provided in subsection (1) of this section.

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

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

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

12 “(c) Establish approval procedures.

13 **“(5) If a local government denies an application for development of**  
14 **housing in an area described under subsection (1)(c) of this section on**  
15 **the basis of a public works requirement, whether or not the applica-**  
16 **tion was submitted under subsection (1) or (2) of this section, the de-**  
17  **denial must include clear and objective standards under which the**  
18 **applicant may resubmit the application and cure the deficiency with**  
19 **regard to those standards.**

20

21 **“EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS**

22

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

25 “92.031. (1) As used in this section, ‘middle housing land division’ means  
26 a partition or subdivision of a lot or parcel on which the development of  
27 middle housing is allowed under ORS 197A.420 (2) or (3) **or section 3 of this**  
28 **2025 Act.**

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

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

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

6        **“(b) A proposal for one development of middle housing that com-**  
7 **plies with the Oregon residential specialty code and land use regu-**  
8 **lations under ORS 197A.420 (5) that are applicable to the original lot**  
9 **or parcel and which may consist of:**

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

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

13        **“(C) Retained or rehabilitated existing units allowed under ORS**  
14 **197A.420 (4), if any;**

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

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

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

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

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

21        “(E) Any dedicated common area;

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

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

25        **“(B) Lots or parcels with a detached single-unit dwelling and ac-**  
26 **cessory dwelling unit or a duplex as allowed under ORS 197A.420 (4);**

27 and

28        “(e) Evidence demonstrating how buildings or structures on a resulting  
29 lot or parcel will comply with applicable building codes provisions relating  
30 to new property lines and, notwithstanding the creation of new lots or par-



1 cels, how structures or buildings located on the newly created lots or parcels  
2 will comply with the Oregon residential specialty code.

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

5 “(a) **Subject to subsection (6) of this section**, prohibit the further di-  
6 vision of the resulting lots or parcels.

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

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

11 “(a) Shall apply the procedures [*under ORS 197.360 to 197.380*] **applicable**  
12 **to an expedited land division under ORS 197.365, if requested by the**  
13 **applicant.**

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

17 “(c) May not subject an application to approval criteria except as pro-  
18 vided in this section, **or as provided by rule by the Land Conservation**  
19 **and Development Commission**, including that a lot or parcel require  
20 driveways, vehicle access, parking or minimum or maximum street frontage.

21 “(d) May not subject the application to procedures, ordinances or regu-  
22 lations adopted under ORS 92.044 or 92.046 that are inconsistent with this  
23 section or, **only if requested by the applicant, ORS 197.365** [*ORS 197.360*  
24 *to 197.380*].

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

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

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

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

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

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

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

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

17       “(b) Provided that the middle housing land division lots or parcels  
18 may be used to create housing that is at or above the minimum den-  
19 sity for the zoning of the land.

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

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

26       “[(b) *The original parcel or parcels not divided will not be part of the re-*  
27 *sulting partition plat for the middle housing land division.*]

28       “(8) The tentative approval of a middle housing land division is void if  
29 and only if a final subdivision or partition plat is not approved within three  
30 years of the tentative approval. Nothing in this section [*or ORS 197.360 to*

1 197.380] prohibits a city or county from requiring a final plat before issuing  
2 building permits.

3 “(9) The commission may adopt rules to interpret or implement this  
4 section.”.

5 On page 11, after line 43, insert:

6 “**SECTION 15a.** The amendments to ORS 92.031 and 92.044 by  
7 sections 14 and 15 of this 2025 Act become operative on July 1, 2026.”.

8 On page 16, lines 43 and 44, delete the boldfaced material and insert “If  
9 requested by the applicant, a local government”.

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

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

13 “197.365. *[Unless the applicant requests to use the procedure set forth in a*  
14 *comprehensive plan and land use regulations, a local government shall use the*  
15 *following procedure for an expedited land division, as described in ORS*  
16 *197.360, or a middle housing land division under ORS 92.031:]*

17 “*[(1)(a) If the application for a land division is incomplete, the local gov-*  
18 *ernment shall notify the applicant of exactly what information is missing*  
19 *within 21 days of receipt of the application and allow the applicant to submit*  
20 *the missing information. For purposes of computation of time under this sec-*  
21 *tion, the application shall be deemed complete on the date the applicant sub-*  
22 *mits the requested information or refuses in writing to submit it.]*

23 “*[(b) If the application was complete when first submitted or the applicant*  
24 *submits the requested additional information within 180 days of the date the*  
25 *application was first submitted, approval or denial of the application shall be*  
26 *based upon the standards and criteria that were applicable at the time the*  
27 *application was first submitted.]*

28 “*[(2) The local government shall provide written notice of the receipt of the*  
29 *completed application for a land division to any state agency, local government*  
30 *or special district responsible for providing public facilities or services to the*

1 *development and to owners of property within 100 feet of the entire contiguous*  
2 *site for which the application is made. The notification list shall be compiled*  
3 *from the most recent property tax assessment roll. For purposes of appeal to*  
4 *the referee under ORS 197.375, this requirement shall be deemed met when the*  
5 *local government can provide an affidavit or other certification that such notice*  
6 *was given. Notice shall also be provided to any neighborhood or community*  
7 *planning organization recognized by the governing body and whose boundaries*  
8 *include the site.]*

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

10 *“(a) State:]*

11 *“(A) The deadline for submitting written comments;]*

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

14 *“(C) That issues must be raised with sufficient specificity to enable the*  
15 *local government to respond to the issue.]*

16 *“(b) Set forth, by commonly used citation, the applicable criteria for the*  
17 *decision.]*

18 *“(c) Set forth the street address or other easily understood geographical*  
19 *reference to the subject property.]*

20 *“(d) State the place, date and time that comments are due.]*

21 *“(e) State a time and place where copies of all evidence submitted by the*  
22 *applicant will be available for review.]*

23 *“(f) Include the name and telephone number of a local government contact*  
24 *person.]*

25 *“(g) Briefly summarize the local decision-making process for the land di-*  
26 *vision decision being made.]*

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

29 *“(a) Provide a 14-day period for submission of written comments prior to*  
30 *the decision.]*

1       **“Notwithstanding any other requirement applicable to a land use**  
2 **decision under ORS chapter 197 or 197A, for an application that is re-**  
3 **viewed as an expedited land division based on the request of the ap-**  
4 **plicant:**

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

6       **“(2) A local government:**

7       **“[(b)] (a) Shall** make a decision to approve or deny the application within  
8 63 days of receiving a completed application **as described in ORS 215.246**  
9 **or 227.178**, based on whether *[it]* **the application** satisfies the substantive  
10 requirements of the applicable land use regulations. An approval may include  
11 conditions to ensure that the application meets the applicable land use reg-  
12 ulations. *[For applications subject to this section, the local government:]*

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

15       **“[(B)] (c) Shall** issue a written determination of compliance or noncom-  
16 pliance with applicable land use regulations that includes a summary state-  
17 ment explaining the determination. The summary statement may be in any  
18 form reasonably intended to communicate the local government’s basis for  
19 the determination. **The determination must include an explanation of**  
20 **the applicant’s right to appeal the determination under ORS 197.830 to**  
21 **197.855.**

22       **“[(c) Provide notice of the decision to the applicant and to those who re-**  
23 **ceived notice under subsection (2) of this section within 63 days of the date of**  
24 **a completed application. The notice of decision shall include:]**

25       **“[(A) The summary statement described in paragraph (b)(B) of this sub-**  
26 **section; and]**

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

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

30       **“(e) May assess an application fee calculated to recover the esti-**

1 mated full cost of processing an application based on the estimated  
2 average cost of such applications. Within one year of establishing a  
3 fee under this section, the city or county shall review and revise the  
4 fee, if necessary, to reflect actual experience in processing expedited  
5 land decisions.

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

8  
9 **“RULEMAKING**

10  
11 **“SECTION 22. (1) On or before January 1, 2028, the Land Conser-**  
12 **vation and Development Commission shall adopt rules that must in-**  
13 **clude:**

14 **“(a) Prohibiting or restricting siting and design standards that**  
15 **prevent or discourage, or have the effect of preventing or discourag-**  
16 **ing, the siting of middle housing that is manufactured, site-built or**  
17 **prefabricated;**

18 **“(b) Establishing parameters on unreasonable cost or delay for sit-**  
19 **ing and design standards for accessory dwelling units and single room**  
20 **occupancies under standards allowed under ORS 197A.425 and 197A.430;**

21 **“(c) Regulating cottage clusters for the purposes of incentivizing**  
22 **the provision of smaller, less expensive housing, shared community**  
23 **amenities and other public benefits and including regulations that**  
24 **implement the term ‘small footprint or floor area’ as used within the**  
25 **definition of cottage clusters in ORS 197A.420;**

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

28 **“(e) Amending permissible discretionary criteria applied by local**  
29 **government in evaluating housing under ORS 197A.400 (3);**

30 **“(f) Developing model system development charges for residential**

1 development types for optional adoption or incorporation by local  
2 governments; and

3 “(g) Establishing procedures to estimate the reasonable zoned  
4 housing capacity of an area as part of an inventory of buildable lands  
5 or housing capacity under ORS 197A.270, 197A.280 and 197A.350.

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

7 “(a) Emphasize improving the efficiency of the development process  
8 with a focus on increasing housing production, availability and  
9 affordability, especially that of middle housing, accessory dwelling  
10 units and single room occupancies.

11 “(b) To the extent practicable, implement recommendations in the  
12 reports produced under section 5 (1) to (3), chapter 110, Oregon Laws  
13 2024.

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

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

17 “(e) Provide a report on or before July 1, 2028, to the interim com-  
18 mittees of the Legislative Assembly relating to land use, in the man-  
19 ner provided in ORS 192.245, on the feasibility and advisability of  
20 providing safe harbor protections for cities that use the commission’s  
21 model system development charges under subsection (1)(f) of this sec-  
22 tion or otherwise incentivizing the use of the models.”.

23 On page 27, delete lines 36 through 45.

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

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

27 On page 30, delete lines 31 through 45.

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

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

30 “197.830. (1) Review of land use decisions or limited land use decisions

1 under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent  
2 to appeal with the Land Use Board of Appeals.

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

5 “(a) Filed a notice of intent to appeal the decision as provided in sub-  
6 section (1) of this section; and

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

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

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

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

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

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

25 “(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or  
26 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may  
27 appeal the decision to the board under this section within 21 days after the  
28 expiration of the period for filing a local appeal of the decision established  
29 by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

30 “(c) A person who receives notice of a decision made without a hearing



1 under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board  
2 under this section within 21 days of receiving actual notice of the nature of  
3 the decision, if the notice of the decision did not reasonably describe the  
4 nature of the decision.

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

9 “(5) If a local government makes a limited land use decision which is  
10 different from the proposal described in the notice to such a degree that the  
11 notice of the proposed action did not reasonably describe the local  
12 government’s final actions, a person adversely affected by the decision may  
13 appeal 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  
16 the decision where no notice is required.

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

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

21 “(b) May not exceed 10 years after the date of the decision if notice of a  
22 hearing or an administrative decision made pursuant to ORS 197.195 or  
23 197.797 is required but has not been provided.

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

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

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

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

5       “(c) Failure to comply with the deadline or to pay the filing fee set forth  
6 in paragraph (a) of this subsection shall result in denial of a motion to in-  
7 tervene.

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

12       “(9) A notice of intent to appeal a land use decision or limited land use  
13 decision shall be filed not later than 21 days after the date the decision  
14 sought to be reviewed becomes final. A notice of intent to appeal plan and  
15 land use regulation amendments processed pursuant to ORS 197.610 to  
16 197.625 shall be filed not later than 21 days after notice of the decision  
17 sought to be reviewed is mailed or otherwise submitted to parties entitled  
18 to notice under ORS 197.615. Failure to include a statement identifying when,  
19 how and to whom notice was provided under ORS 197.615 does not render the  
20 notice defective. Copies of the notice of intent to appeal shall be served upon  
21 the local government, special district or state agency and the applicant of  
22 record, if any, in the local government, special district or state agency pro-  
23 ceeding. The notice shall be served and filed in the form and manner pre-  
24 scribed by rule of the board and shall be accompanied by a filing fee of \$300.  
25 If a petition for review is not filed with the board as required in subsections  
26 (10) and (11) of this section, the board shall award the filing fee to the local  
27 government, special district or state agency.

28       “(10)(a) Within 21 days after service of the notice of intent to appeal, the  
29 local government, special district or state agency shall transmit to the board  
30 the original or a certified copy of the entire record of the proceeding under

1 review. By stipulation of all parties to the review proceeding the record may  
2 be shortened. The board may require or permit subsequent corrections to the  
3 record; however, the board shall issue an order on a motion objecting to the  
4 record within 60 days of receiving the motion. If the board denies a  
5 petitioner's objection to the record, the board may establish a new deadline  
6 for the petition for review to be filed that may not be less than 14 days from  
7 the later of the original deadline for the brief or the date of denial of the  
8 petitioner's record objection.

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

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

19       “(12) The petition shall include a copy of the decision sought to be re-  
20 viewed 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 pe-  
25 titions and briefs and for oral argument.

26       “(b) The local government or state agency may withdraw its decision for  
27 purposes of reconsideration 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

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

4       “(c) If a local government or state agency withdraws an order for pur-  
5 poses of reconsideration, it shall, within such time as the board may allow,  
6 affirm, modify or reverse its decision. If the petitioner is dissatisfied with the  
7 local government or agency action after withdrawal for purposes of recon-  
8 sideration, the petitioner may refile the notice of intent and the review shall  
9 proceed upon the revised order. An amended notice of intent is not required  
10 if the local government or state agency, on reconsideration, affirms the order  
11 or modifies the order with only minor changes.

12       “(14) The board shall issue a final order within 77 days after the date of  
13 transmittal of the record. If the order is not issued within 77 days the ap-  
14 plicant may apply in Marion County or the circuit court of the county where  
15 the application was filed for a writ of mandamus to compel the board to issue  
16 a final order.

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

18       “(a) May, in its discretion, award costs to the prevailing party including  
19 the cost of preparation of the record if the prevailing party is the local  
20 government, special district or state agency whose decision is under review.

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

25       “(c) Shall award costs and attorney fees to a party as provided in ORS  
26 197.843.

27       “(16) Orders issued under this section may be enforced in appropriate ju-  
28 dicial proceedings.

29       “(17)(a) The board shall provide for the publication of its orders that are  
30 of general public interest in the form it deems best adapted for public con-

1 venience. The publications shall constitute the official reports of the board.

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

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

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

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

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

18 “(c) A list of respondents, the number of reviews involving each respond-  
19 ent and the rate at which reviews involving the respondent have resulted in  
20 decisions of the board to uphold, reverse or remand the land use decision or  
21 limited land use decision. Additionally, when a respondent is the local gov-  
22 ernment that made the land use decision or limited land use decision, the  
23 board shall track whether the local government appears before the board.

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

27 On page 40, after line 37, insert:

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

30 “227.175. (1) When required or authorized by a city, an owner of land may

1 apply in writing to the hearings officer, or such other person as the city  
2 council designates, for a permit or zone change, upon such forms and in such  
3 a manner as the city council prescribes. The governing body shall establish  
4 fees charged for processing permits at an amount no more than the actual  
5 or average cost of providing that service.

6 “(2) The governing body of the city shall establish a consolidated proce-  
7 dure by which an applicant may apply at one time for all permits or zone  
8 changes needed for a development project. The consolidated procedure is  
9 subject to the time limitations set out in ORS 227.178. The consolidated  
10 procedure shall be available for use at the option of the applicant no later  
11 than the time of the first periodic review of the comprehensive plan and land  
12 use regulations.

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

15 “(4)(a) A city may not approve an application unless the proposed devel-  
16 opment of land would be in compliance with the comprehensive plan for the  
17 city and other applicable land use regulation or ordinance provisions, in-  
18 cluding an ordinance described in ORS 197A.400 [(1)(c)] **(1)(b)(C)**. The ap-  
19 proval may include such conditions as are authorized by ORS 227.215 or any  
20 city legislation.

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

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

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

28 “(ii) Applications or permits reviewed under an alternative approval pro-  
29 cess adopted under ORS 197A.400 (3).

30 “(c) A city may not condition an application for a housing development

1 on a reduction in density if:

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

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

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

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

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

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

14 “(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may  
15 condition an application for a housing development on a reduction in density  
16 or height only if the reduction is necessary to resolve a health, safety or  
17 habitability issue or to comply with a protective measure adopted pursuant  
18 to a statewide land use planning goal. Notwithstanding ORS 197.350, the city  
19 must adopt findings supported by substantial evidence demonstrating the  
20 necessity of the reduction.

21 “(f) As used in this subsection:

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

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

27 “(C) ‘Habitability’ means being in compliance with the applicable pro-  
28 visions of the state building code under ORS chapter 455 and the rules  
29 adopted thereunder.

30 “(5) Hearings under this section may be held only after notice to the ap-

1 plicant and other interested persons and shall otherwise be conducted in  
2 conformance with the provisions of ORS 197.797.

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

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

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

9 “(A) Within 5,000 feet of the side or end of a runway of an airport de-  
10 termined by the Oregon Department of Aviation to be a ‘visual airport’; or

11 “(B) Within 10,000 feet of the side or end of the runway of an airport  
12 determined by the Oregon Department of Aviation to be an ‘instrument air-  
13 port.’

14 “(7) Notwithstanding the provisions of subsection (6) of this section, no-  
15 tice of a zone use hearing need only be provided as set forth in subsection  
16 (6) of this section if the permit or zone change would only allow a structure  
17 less than 35 feet in height and the property is located outside of the runway  
18 ‘approach surface’ as defined by the Oregon Department of Aviation.

19 “(8) If an application would change the zone of property that includes all  
20 or part of a mobile home or manufactured dwelling park as defined in ORS  
21 446.003, the governing body shall give written notice by first class mail to  
22 each existing mailing address for tenants of the mobile home or manufac-  
23 tured dwelling park at least 20 days but not more than 40 days before the  
24 date of the first hearing on the application. The governing body may require  
25 an applicant for such a zone change to pay the costs of such notice.

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

28 “(10)(a)(A) The hearings officer or such other person as the governing  
29 body designates may approve or deny an application for a permit without a  
30 hearing if the hearings officer or other designated person gives notice of the



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

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

6 “(C) Notice under this subsection shall comply with ORS 197.797 (3)(a),  
7 (c), (g) and (h) and shall describe the nature of the decision. In addition, the  
8 notice shall state that any person who is adversely affected or aggrieved or  
9 who is entitled to written notice under paragraph (c) of this subsection may  
10 appeal the decision by filing a written appeal in the manner and within the  
11 time period provided in the city’s land use regulations. A city may not es-  
12 tablish an appeal period that is less than 12 days from the date the written  
13 notice of decision required by this subsection was mailed. The notice shall  
14 state that the decision will not become final until the period for filing a local  
15 appeal has expired. The notice also shall state that a person who is mailed  
16 written notice of the decision cannot appeal the decision directly to the Land  
17 Use Board of Appeals under ORS 197.830.

18 “(D) An appeal from a hearings officer’s decision made without hearing  
19 under this subsection shall be to the planning commission or governing body  
20 of the city. An appeal from such other person as the governing body desig-  
21 nates shall be to a hearings officer, the planning commission or the govern-  
22 ing body. In either case, the appeal shall be to a de novo hearing.

23 “(E) The de novo hearing required by subparagraph (D) of this paragraph  
24 shall be the initial evidentiary hearing required under ORS 197.797 as the  
25 basis for an appeal to the Land Use Board of Appeals. At the de novo hear-  
26 ing:

27 “(i) The applicant and other parties shall have the same opportunity to  
28 present testimony, arguments and evidence as they would have had in a  
29 hearing under subsection (3) of this section before the decision;

30 “(ii) The presentation of testimony, arguments and evidence may not be

1 limited to issues raised in a notice of appeal; and

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

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

13 “(c)(A) Notice of a decision under paragraph (a) of this subsection shall  
14 be provided to the applicant and to the owners of record of property on the  
15 most recent property tax assessment roll where such property is located:

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

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

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

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

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

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

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

30 “(A) The street address or other easily understood geographic reference

1 to the subject property;

2 “(B) The date of the decision; and

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

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

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

7 “(12) At the option of the applicant, the local government shall provide  
8 notice of the decision described in ORS 227.160 (2)(b) in the manner required  
9 by ORS 197.797 (2), in which case an appeal to the board shall be filed within  
10 21 days of the decision. The notice shall include an explanation of appeal  
11 rights.

12 “(13) Notwithstanding other requirements of this section, limited land use  
13 decisions are subject to the requirements set forth in ORS 197.195 and  
14 197.828.

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

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