

Enrolled House Bill 2003

Sponsored by Representative KOTEK; Representatives FAHEY, KENY-GUYER, WILDE

CHAPTER

AN ACT

Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175, 227.500 and 455.062 and section 1, chapter 47, Oregon Laws 2018, and section 3, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39); and declaring an emergency.

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

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

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

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

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

(d) “Housing shortage” means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate the existing population and the existing housing stock, measured in dwelling units.

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

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

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

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

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

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

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

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

(B) Demographic and population trends;

(C) Economic trends and cycles; and

(D) Equitable distribution of publicly supported housing within a region.

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

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

(d) An estimate of the number of housing units necessary to accommodate anticipated population growth over the next 20 years for each city and Metro.

(3) The methodologies for calculating the regional housing needs analysis, the estimate of existing housing stock, the housing shortage analysis and the estimate of housing necessary to accommodate growth that are developed under subsection (2) of this section must classify housing by:

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

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

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

(4) No later than September 1, 2020, the Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall conduct for each region a regional housing needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct a housing shortage analysis and estimate the housing necessary to accommodate growth.

(5) In developing the methodologies and conducting the analyses under this section, the Housing and Community Services Department may:

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

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

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

(d) Make changes to the regional boundaries in order to make regions more accurately align with shared employment, transportation or housing market dynamics.

SECTION 2. (1) No later than March 1, 2021, the Housing and Community Services Department, in consultation with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall submit a report, in the manner provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that summarizes the findings of the regional housing needs analysis, estimate of housing stock, housing shortage analysis and estimate of housing necessary to accommodate growth conducted under section 1 (4) of this 2019 Act.

(2) No later than March 1, 2021, the Department of Land Conservation and Development, in consultation with the Oregon Department of Administrative Services and the Housing and Community Services Department, shall submit a report, in the manner provided in ORS 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

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

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

(A) Cost and cost effectiveness;

(B) Reliability and accuracy;

(C) Repeatability; and

(D) Predictability;

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

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

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

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

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

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

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

SECTION 3. Sections 4 to 6 of this 2019 Act are added to and made a part of ORS 197.295 to 197.314.

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

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

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

(c) A date scheduled by the Land Conservation and Development Commission following the allocation of housing capacity to the city by a metropolitan service district under ORS 197.299 (2)(d).

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

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

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

(c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

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

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

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

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

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

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

(A) The schedule for its adoption;

(B) The schedule for its implementation;

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

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

(4) The housing production strategy must include within its index a copy of the city's most recently completed survey under section 1 (2), chapter 47, Oregon Laws 2018.

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in section 5 of this 2019 Act.

SECTION 5. (1) No later than 20 days after a city's adoption or amendment of a housing production strategy under section 4 of this 2019 Act, a city shall submit the adopted strategy or amended strategy to the Department of Land Conservation and Development.

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

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

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

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

(d) The information reviewed and considered under section 6 (2) of this 2019 Act.

(3) On the same day the city submits notice of the housing production strategy or amended strategy, the city shall provide a notice to persons that participated in the proceedings that led to the adoption of the strategy and requested notice in writing.

(4) Within 10 days of receipt of the submission under subsection (1) of this section, the department shall provide notice to persons described under ORS 197.615 (3).

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

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

(b) That comments on the strategy may be submitted to the department within 45 days after the department has received the submission; and

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

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

(a) Approve the housing production strategy;

(b) Approve the housing production strategy, subject to further review and actions under section 6 (2) of this 2019 Act; or

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

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

SECTION 6. (1) The Land Conservation and Development Commission, in consultation with the Housing and Community Services Department, shall adopt criteria for reviewing and identifying cities with a population greater than 10,000 that have not sufficiently:

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

(b) Implemented a housing production strategy adopted under section 4 of this 2019 Act.

(2) The criteria adopted by the commission under subsection (1) of this section may include the city's:

(a) Unmet housing need as described in ORS 197.296 (6);

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

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

(d) Recent housing development;

(e) Recent adoption of a housing production strategy under section 4 of this 2019 Act or adoption of actions pursuant to a housing production strategy;

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

(g) Other attributes that the commission considers relevant.

(3) The Department of Land Conservation and Development may review cities under the criteria adopted under subsection (2) of this section for the purposes of prioritizing actions by the department, including:

- (a) Awarding available technical or financial resources;
- (b) Providing enhanced review and oversight of the city's housing production strategy;
- (c) Requiring a report and explanation if a city does not implement an action within the approximate time frame scheduled within a housing production strategy;
- (d) Entering into agreements with the city relating to the city's modification or implementation of its housing production strategy; or
- (e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing or urbanization.

SECTION 7. No later than December 31, 2019, the Land Conservation and Development Commission shall adopt a schedule by which metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands. Dates in the schedule may not be earlier than two years following the commission's creation of rules implementing sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296 and 197.299 by sections 8 and 9 of this 2019 Act.

SECTION 8. ORS 197.296 is amended to read:

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

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

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

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

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

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

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

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

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

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

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

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

(A) Vacant lands planned or zoned for residential use;
(B) Partially vacant lands planned or zoned for residential use;
(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

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

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

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

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

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

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

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

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

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

(C) Demographic and population trends;

(D) Economic trends and cycles; and

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

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

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

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

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

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without

expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or

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

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

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

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

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

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

(b) Financial incentives for higher density housing;

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

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

(e) Minimum density ranges;

(f) Redevelopment and infill strategies;

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

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

(i) Rezoning or redesignation of nonresidential land.

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

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

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

(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and

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

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

- (A) At periodic review pursuant to ORS 197.628 to 197.651;
- (B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
- (C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

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

SECTION 8a. If House Bill 2001 becomes law, section 8 of this 2019 Act (amending ORS 197.296) is repealed and ORS 197.296, as amended by section 5, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:

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

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

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

- (A) At periodic review under ORS 197.628 to 197.651;
- (B) As scheduled by the commission:
 - (i) At least once each eight years for local governments that are not within a metropolitan service district; or
 - (ii) At least once each six years for a metropolitan service district; or
- (C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

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

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

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

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

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

- (A) Vacant lands planned or zoned for residential use;
- (B) Partially vacant lands planned or zoned for residential use;
- (C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and
- (D) Lands that may be used for residential infill or redevelopment.

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

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

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

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

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

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

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

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

(C) Market factors that may substantially impact future urban residential development; and

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

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

(c) A local government shall use data from a wider geographic area or use a time period longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

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

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

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are

zoned to allow no greater than the same authorized density level within the metropolitan service district.

(c) As used in this subsection, “authorized density level” has the meaning given that term in ORS 227.175.

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

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

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

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section, is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

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

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

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
- (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

- (c) The actions required under paragraph (b) of this subsection shall be undertaken:
- (A) At periodic review pursuant to ORS 197.628 to 197.651;
- (B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
- (C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

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

SECTION 9. ORS 197.299 is amended to read:

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

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

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

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

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

(e) **Cities to which housing capacity is allocated under paragraph (d) of this subsection shall take steps, at least once every six years as scheduled by the Land Conservation and Development Commission, to demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years as required by ORS 197.296 (6)(b).**

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

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

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

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

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

(5) Three years after completing its most recent demonstration of sufficient buildable lands under ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination

and analysis required as part of the demonstration for the purpose of considering an amendment to the metropolitan service district's urban growth boundary, provided:

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

(b) The commission has acknowledged the rural reserve and urban reserve designations described in paragraph (a) of this subsection;

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

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

(e) The location chosen for the proposed development is adjacent to the city proposing the development; and

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

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

(b) A metropolitan service district that expands its urban growth boundary under this subsection:

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

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

SECTION 10. ORS 197.303 is amended to read:

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

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

(b) Government assisted housing;

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

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

(e) Housing for farmworkers.

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

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

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

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

SECTION 10a. If House Bill 2001 becomes law, section 10 of this 2019 Act (amending ORS 197.303) is repealed and ORS 197.303, as amended by section 6, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:

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

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

(b) Government assisted housing;

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

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

(e) Housing for farmworkers.

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** and the projected future changes in these factors over a 20-year planning period:

(a) Household sizes;

(b) Household demographics [*in terms of age, gender, race or other established demographic category*];

(c) Household incomes;

(d) Vacancy rates; and

(e) Housing costs.

(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.

(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

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

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

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

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

SECTION 11. ORS 197.319 is amended to read:

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

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

(b) Request:

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

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

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

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

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

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

SECTION 12. ORS 197.320 is amended to read:

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

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

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

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

(4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the requirements of ORS 197.180;

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

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

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

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

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

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

(11) A local government is not making satisfactory progress toward meeting its obligations under ORS 195.065; [or]

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

(13) A city is not making satisfactory progress in taking actions listed in its housing production strategy under section 4 of this 2019 Act.

SECTION 13. Section 1, chapter 47, Oregon Laws 2018, is amended to read:

Sec. 1. (1) For purposes of this section:

(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) *[The Housing and Community Services Department, in collaboration with]* The Department of Land Conservation and Development, **in consultation with the Housing and Community Services Department**, shall develop a survey form on which the governing body of a city may provide specific information related to the affordability of housing within the city, including[, *but not limited to:*]

[*(A)*] the actions relating to land use and other related matters that the [*governing body*] **city** has taken to **encourage the development of needed housing**, increase the affordability of housing and reduce rent burdens for severely rent burdened households[; *and*].

[*(B)*] *The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.*

(c) *[If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened,]* The Department of Land Conservation and Development shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the [*Housing and Community Services Department and the*] Department of Land Conservation and Development [*within 60 days of receipt*] **at least 24 months prior to a deadline for completing a housing production strategy under section 4 of this 2019 Act.**

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family units.
- (f) Regulated affordable single-family units.

SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS chapter 197.

SECTION 15. (1) As used in this section, “public property” means all real property of the state, counties, cities, incorporated towns or villages, school districts, irrigation districts, drainage districts, ports, water districts, service districts, metropolitan service districts, housing authorities, public universities listed in ORS 352.002 or all other public or municipal corporations in this state.

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

(a) The real property is not inventoried as a park or open space as a protective measure pursuant to a statewide land use planning goal;

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

(c) The real property is zoned for residential development or adjacent to parcels zoned for residential development;

(d) The housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone of the land or the adjacent residential land described in paragraph (c) of this subsection;

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

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

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

SECTION 16. Notwithstanding ORS 197.646, a local government required to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, shall adopt land use regulations, or adopt amendments to its comprehensive plan, to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, no later than the effective date of this 2019 Act.

SECTION 17. ORS 215.416 is amended to read:

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

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

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

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

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

(B) This paragraph does not apply to:

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

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

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

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

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

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

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

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

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

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

(f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

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

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the deci-

sion, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 18. ORS 227.175 is amended to read:

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

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

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

(4)(a) A city may not approve an application unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

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

(B) This paragraph does not apply to:

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

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

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

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

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

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

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

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

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

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

(f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local ap-

peal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 19. ORS 215.441 is amended to read:

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

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.
- (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

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

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

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

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

(2) A county may:

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

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

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

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

SECTION 20. ORS 227.500 is amended to read:

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

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.
- (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

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

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

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

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

(2) A city may:

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

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

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

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

SECTION 21. ORS 455.062 is amended to read:

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

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

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

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

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

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

SECTION 21a. If Senate Bill 39 becomes law, ORS 455.062, as amended by section 2, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21 of this 2019 Act, is amended to read:

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

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

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

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical [plans] **drawings** and specifications under subsection (1) of this section, is not required to seal or sign the typical [plans] **drawings** and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical [plans] **drawings** and specifications.

(3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical drawings or specifications for structures of a type for which the provision of drawings or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the registration requirements of ORS 672.002 to 672.325. This subsection does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

SECTION 21b. If Senate Bill 39 becomes law, section 3, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), is amended to read:

Sec. 3. The amendments to ORS 455.062 and 672.060 by sections 1 and 2 [*of this 2019 Act*], **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21a of this 2019 Act** apply to work performed, and offers made, on or after the effective date of [*this 2019 Act*] **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39).**

SECTION 22. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and 227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this 2019 Act.

SECTION 23. In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and reporting that relate to a regional housing needs analysis described in section 1 of this 2019 Act.

SECTION 24. (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act become operative on January 1, 2020.

(2) The Land Conservation and Development Commission, the Department of Land Conservation and Development and the Housing and Community Services Department may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments and the commission to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the departments and the commission by sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act.

SECTION 25. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House June 26, 2019

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2019

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

.....
Bev Clarno, Secretary of State

House Bill 2003 Amendments Section by Section

(-4 and -5 Amendments)

The Dash 4 amendments replace sections 1-11 & 23-26, retain sections 12-13 & 18-22, and delete sections 14-17 of the House Bill 2003 as introduced. The Dash 5 amendments add a new section.

REGIONAL HOUSING NEEDS ANALYSIS STUDY (Section 1)

SECTION 1(1). Definitions: Defines key terms.

SECTION 1(2). Regional Housing Needs Analysis: Directs the Department of Administrative Services (DAS), in coordination with the Department of Land Conservation and Development (DLCD) and the Housing and Community Services Department (HCSD), to develop a regional housing needs analysis. The analysis shall identify the total of number of units needed to accommodate population growth in the region over the next 20 years and the shortage of existing units.

SECTION 1(3). Methodology Requirements: The methodologies for calculation regional housing needs analysis and the housing shortage analysis must classify housing by housing type (e.g., single-family housing, multifamily housing) and affordability as defined by the United States Department of Housing and Urban Development.

SECTION 1(4) & 1(5) Conducting Regional Housing Needs Analysis: Requires DAS, in coordination with DLCD and HCSD, to conduct a regional housing needs analysis for each region, inventory existing housing and estimate the housing shortage for each city and Metro by July 1, 2020. Allows DAS to consult with subject matter experts, including jurisdictions that have conducted regional housing needs analyses.

SECTION 1a. Report to Legislature: Requires DLCD, in consultation with DAS and HCSD, to submit a report to the Legislature evaluating the following:

- Whether a regional housing needs analysis and housing shortage analysis could appropriately allocate the housing shortage among cities or local governments in a region;
- How a regional housing needs analysis and shortage analysis compares to the existing assessments of housing need in Oregon in terms of cost and cost effectiveness, reliability and accuracy, repeatability, and predictability;
- Whether different boundaries would be more appropriate for defining regions based on data that could define a commuting, employment, or housing market;
- Whether the regional housing needs analysis, or an improved version, could serve as an acceptable methodology statewide for land use planning related to housing.

SECTION 2. Conforming Amendments

HOUSING PRODUCTION STRATEGY (Section 3-5)

SECTION 3. Housing Production Strategy: Requires each city with a population greater than 10,000 to develop and adopt a housing production strategy not later than one year after updating their housing needs analysis. Outlines the primary requirement of a housing production strategy, which is a list of specific actions that the city shall undertake to promote development within the city to address the housing shortage and meet the 20-year housing need. The actions may include: the reduction of financial and regulatory impediments, removing or easing approval standards or procedures for needed housing at higher densities or that is affordable, the creation of financial and regulatory incentives for development of needed housing, including incentives for needed housing at higher densities or that is affordable. In creating a housing production strategy, cities must review and consider socioeconomic and demographic characteristics of households, market conditions affecting the provision of needed housing, measures adopted by the city to promote the development of needed housing, and existing and expected barriers to development of needed housing. For each action in the housing production strategy, a city must include the schedule for its adoption, implementation and the expected magnitude on the development of needed housing. Clarifies that housing production strategies are not land use decisions and are not subject to appeal or review by the Land Use Board of Appeals (LUBA).

SECTION 4. State Review of Housing Production Strategies: Requires cities to submit their housing production strategy to DLCD for review. The Department shall, based on criteria adopted by the Land Conservation and Development Commission (LCDC), review each housing production strategy and approve, approve with further review, or remand the housing production strategy for further modification.

SECTION 5(1) and (2). Enhanced Oversight Criteria: Requires LCDC to adopt criteria to review and identify cities with a population greater than 10,000 that have not sufficiently achieved the production of needed housing in their jurisdiction, or implemented their housing production strategy. The criteria may include an assessment of the city's total unmet need, unmet need in proportion to the city's population, percentage of households that are severely rent burdened, recent housing development, adoption of actions in the housing production strategy, and recent or frequent identification by DLCD under the enhanced oversight section.

SECTION 5(3). Enhanced Oversight and Support: Allows the Department to review cities under the criteria adopted by LCDC for the purpose of providing enhanced support and regulatory oversight. The Department may award technical or financial resources, provide enhanced review and oversight of a city's housing production strategy, enter into agreements with the city to modify or implement its housing production strategy, or petition the commission to require the city to act in compliance with a statewide land use planning goal related to housing.

HOUSING NEEDS ANALYSIS SCHEDULE (Section 6-7)

SECTION 6. Housing Needs Analysis: Requires local jurisdictions outside of Metro with a population greater than 10,000 to update their housing needs analysis every eight years on a schedule adopted by LCDC. Requires Metro to update its housing needs analysis every six years on a schedule adopted by LCDC.

SECTION 7. LCDC Schedule: Requires LCDC to adopt a schedule by which Metro and local jurisdictions outside of Metro with a population greater than 10,000 shall update their housing needs analysis and demonstrate sufficient buildable lands. LCDC must adopt the schedule no later than Dec 31, 2019.

ALLOCATING HOUSING NEED WITHIN METRO (Section 8)

SECTION 8. Allocating Housing Need: Requires Metro to allocate housing need that is not being met to cities within the metropolitan service district that have a population greater than 10,000. Requires cities to take steps to demonstrate sufficient residential development within two years of the date of allocation.

CONFORMING AMENDMENT (Section 9)

SECTION 9. Needed Housing Definition: Expands the application of the “needed housing” definition to ORS 197.295 to 197.314. The definition was previously only linked to ORS 197.307.

ENHANCED ENFORCEMENT AUTHORITY (Section 10-11)

SECTION 10. Third Party Enforcement Order Requests: Adds “housing production strategy” to the list of actions that a person may request an enforcement order from LCDC about.

SECTION 11. LCDC Orders: LCDC is required to issue an order requiring a local government to take action to bring their comprehensive plan and land use regulations into compliance with statewide housing goals. This section adds unsatisfactory progress in implementing a housing production strategy to the list of reasons that LCDC shall issue an order.

AFFORDABLE HOUSING BY-RIGHT ON PUBLIC PROPERTY (Section 12-13)

SECTION 12. Conforming amendments: Adds Section 13 to ORS chapter 197.

SECTION 13. Affordable Housing By-Right: Makes affordable housing a by-right allowable use on public property if the property is not preserved as open space or parks, is located within the urban growth boundary (UGB), and is zoned for or surrounded by parcels zoned for residential development. At least 50 percent of the units must be affordable to households making equal to or less than 60 percent of median for a period of 60 years.

SECTION 14. DELETED

- Added Section 15 to 16 ORS 223.297 and 223.214.

SECTION 15. DELETED

- Would have allowed the Secretary of State to audit local government's methodology for calculation System Development Charges (SDCs).

SECTION 16. DELETED

- Would have required the Building Codes Division (BCD) of the Department of Consumer and Business Services to maintain records of SDC methodologies and proposed and adopted increases in SDCs. Would have required BCD to make the information publicly available by electronic records.

SECTION 17. DELETED

- Would have required each local government that imposes SDCs to deliver copies of their methodology, list of capitol improvements used to establish SDCs, and ordinances and resolutions adopted to increase an SDC after January 1, 2010.

BARRIERS TO HOUSING DEVELOPMENT (Section 18 to 22)

SECTION 18. Attorney Fees for Affordable Housing: Requires the Land Use Board of Appeals to award attorney fees to an applicant who is a prevailing party against a petitioner who appeals a local governments approval of a permit to partition, subdivide, or construct publicly supported.

SECTION 19. Reduction of Density: Current law prohibits local governments from requiring a reduction in density below what is authorized by local land use regulations as a condition of development unless for a health, safety, or habitability reason. A local jurisdiction may also require a reduction of density as a condition of development to comply with a protection measure adopted pursuant to a statewide land use planning goal. Section 19 of House Bill 2003 would require a county to prove that the reduction of density is necessary to resolve a health, safety, or habitability reason, or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

SECTION 20. Reduction of Density: Same as Section 19 but for cities.

SECTION 21. Affordable Housing on Religiously Owned Property: Current law allows real property associated with religious activity in counties to allow for the development of affordable housing by-right but defines affordable housing as a single building. Section 21 clarifies that the housing can be in a single building or multiple buildings.

SECTION 22. Affordable Housing on Religiously Owned Property: Same as Section 22 but for cities.

APPROPRIATIONS AND EFFECTIVE DATE (Section 23 to 26)

SECTION 23. Appropriation to LCDC: Appropriates money to LCDC to implement the provisions of the bill.

SECTION 24. Appropriation to Local Jurisdictions: Appropriates \$1.5 million to DLCD to provide technical assistance to local governments in implementing the housing production strategy requirements of the bill.

SECTION 25. Operative Date: Allows DAS, LCDC, DLCD, and HCSD to take action before the operative date to implement provisions of the bill.

SECTION 26. Emergency Clause: Declares emergency. Bill takes effect upon passage.

The Dash 5 amendments add a new section to House Bill 2003 as introduced.

SECTION 35. Employees Developing Typical Plans at DCBS: Exempts an employee of DCBD, who is a registered architect or engineer and is providing typical plans and specifications authorized under statute (ORS 455.062) within the scope of their employment from disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325. The typical plans and specifications authorized under ORS 455.062 include single-family dwellings and auxiliary structures.

House Bill 2003

Sponsored by Representative KOTEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Oregon Department of Administrative Services to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to inventory existing housing stock and to establish housing shortage analysis. Requires department to implement analyses and inventory every four years. Requires department to report findings to interim committees of Legislative Assembly no later than January 1, 2021.

Requires Metro, and each city with population greater than 10,000 or within Metro, to develop estimate of its housing need no less than once every eight years and, within 12 months of determining estimated housing need, to adopt housing strategy to meet estimated housing need.

Requires Land Conservation and Development Commission to annually identify 10 priority cities that experience difficulties implementing housing strategy. Appropriates moneys from General Fund to Department of Land Conservation and Development to assist 10 priority cities with implementation of housing strategy.

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

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

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

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

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

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

Becomes operative on January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to buildings; creating new provisions; amending ORS 195.145, 197.295, 197.296, 197.299, 197.302, 197.304, 197.313, 197.314, 197.522, 197.637, 197.732, 197.830, 215.416, 215.441, 223.304, 223.309, 227.175 and 227.500 and section 8, chapter 52, Oregon Laws 2016; repealing ORS 197.303; and prescribing an effective date.

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

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

(a) "City" means a city with a population within the city's urban growth boundary of greater than 5,000.

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

(i) "Regional median income" means the median income for households within the region as determined by the Oregon Department of Administrative Services based on area median income established by the United States Department of Housing and Urban Development.

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

(2) The Oregon Department of Administrative Services shall develop and periodically refine a methodology for calculating:

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

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

(B) Demographic and population trends; and

(C) Economic trends and cycles.

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

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

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

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

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

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

(4) On or before January 1, 2021, and every four years thereafter, the Oregon Department of Administrative Services shall conduct for each region a regional housing needs analysis and, for each city and Metro, shall inventory existing housing stock and establish a housing shortage analysis.

(5) In developing the methodologies and conducting the analyses under this section, the department may consult or contract with subject matter experts, cities and Metro, regional solutions centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted regional housing needs analyses. The department shall consider the most recent consolidated population forecast produced by the Portland State University Population Research Center in making any relevant calculation or forecast.

SECTION 2. Sections 3 to 7 of this 2019 Act are added to and made a part of ORS 197.295 to 197.314.

SECTION 3. (1)(a) No less than once every eight years, on a schedule established by the

Land Conservation and Development Commission or whenever required by ORS 197.296 (3)(a)(C), a metropolitan service district, and each city with a population greater than 10,000 or within a metropolitan service district, shall develop an estimate of its housing need for the next 20 years.

(b) The estimated housing need must classify housing based on the criteria identified in section 1 (3) of this 2019 Act and varying housing densities.

(2) A metropolitan service district or city shall determine its estimated housing need based on:

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

(b) Demographic and population trends;

(c) Economic trends and cycles; and

(d) The regional housing needs analysis methodology and the most recent regional housing needs analysis for the region conducted under section 1 of this 2019 Act.

SECTION 4. (1) Within 12 months of determining its estimated housing need under section 3 (2) of this 2019 Act, a metropolitan service district, or a city described in section 3 (1) of this 2019 Act, must adopt a housing strategy. A housing strategy is a list of actions, measures and policies the metropolitan service district or city plans to undertake that are calculated to demonstrably lead to greater residential development of needed housing at rates necessary to meet the estimated housing need.

(2) In establishing and undertaking actions, measures and policies under subsection (1) of this section, the metropolitan service district or city shall ensure that land zoned for needed housing is in locations appropriate for needed housing and is zoned at density ranges that are likely to be achieved by the housing market using the analysis conducted under section 1 of this 2019 Act. Actions, measures or policies may include:

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

(b) Financial or other incentives for developing needed housing and higher density housing;

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

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

(e) Minimum density ranges;

(f) Redevelopment and infill strategies;

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

(h) Adoption of an average residential density standard;

(i) Rezoning or redesignation of nonresidential land; or

(j) Plans for obtaining or using federal, state and regional subsidies and financing to support needed housing.

(3) The Land Conservation and Development Commission, in consultation with the Housing and Community Services Department, shall maintain a list of potential policies designed to encourage the development of each classification of needed housing.

SECTION 5. (1) Upon the determination of a metropolitan service district, or city described in ORS 197.296 (1), of its housing capacity under ORS 197.296 (3)(a)(B), if the housing capacity is less than the most recent estimate of housing need developed under section 3 (1) of this 2019 Act, a metropolitan service district or city shall:

(a) Amend its urban growth boundary to include sufficient buildable lands reasonably necessary to site needed housing and, in consultation with local school districts, to include sufficient land reasonably necessary to accommodate the siting of new public school facilities;

(b) Amend its comprehensive plan, regional framework plan, functional plan, land use regulations, or housing strategy adopted under section 4 of this 2019 Act, to demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate needed housing; or

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

(2) A city that is outside a metropolitan service district that takes any actions under subsection (1) of this section shall:

(a) Demonstrate that the city's comprehensive plan, land use regulations, and housing strategy adopted under section 4 of this 2019 Act, comply with goals and rules adopted by the Land Conservation and Development Commission and implement ORS 197.295 to 197.314;

(b) Determine the density and mix of housing types anticipated as a result of actions taken under subsection (1) of this section;

(c) Monitor and record the actual density and mix of housing types achieved; and

(d) Compare actual and anticipated density and mix and submit the comparison to the commission at the next periodic review or at the next legislative review of its urban growth boundary, whichever comes first.

SECTION 6. A city that is not described in ORS 197.296 (1) shall, at periodic review or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use, according to rules of the Land Conservation and Development Commission:

(1) Determine the estimated housing need within the jurisdiction for the next 20 years;

(2) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and

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

SECTION 7. (1) The Land Conservation and Development Commission shall annually identify no more than 10 priority housing cities that experience difficulties implementing the cities' housing strategy adopted under section 4 of this 2019 Act based on criteria developed by the commission and that consider:

(a) The magnitude of the estimated housing need of each city determined under section 3 (2) of this 2019 Act;

(b) The estimated housing need of each city as a proportion of the city's population;

(c) Recent housing development reported by each city;

(d) Recent actions taken by each city to implement its housing strategy; and

(e) How recently and how often the commission has previously designated a city as a priority housing city under this section.

(2) For the purposes of increasing the development of needed housing in a priority housing city, the Department of Land Conservation and Development may:

(a) Prioritize available technical or financial resources for the city;

(b) Provide enhanced review and oversight of the city's housing strategy;

(c) Enter into agreements with the city relating to the city's modification or implementation of its housing strategy; or

(d) Petition the commission to act under ORS 197.324 as necessary to require the city to amend its comprehensive plan or land use regulations to comply with the statewide land use planning goals related to housing and urbanization or ORS 197.295 to 197.314.

(3) No later than September 15 of each year, the department shall provide to the Legislative Assembly or an appropriate committee of the Legislative Assembly, in the manner provided under ORS 192.245, a report on the activities undertaken by the department under this section.

SECTION 8. ORS 197.296 is amended to read:

197.296. (1)(a) *[The provisions of subsections (2) to (9) of this section apply to]* **This section applies to a metropolitan service district and to cities that are within a metropolitan service district** *[regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has]* **or that have** a population of 25,000 or more.

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

(2) At periodic review *[pursuant to ORS 197.628 to 197.651]* or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a *[local government]* **a metropolitan service district or a city** shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate *[estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review]* **needed housing.**

(3)(a) In performing the duties under subsection (2) of this section, a *[local government]* **metropolitan service district or a city** shall:

[(a)] **(A)** Inventory the supply of buildable lands within the urban growth boundary; *[and]*

(B) Determine the housing capacity of the buildable lands; and

(C) Develop an estimate of housing need as described in section 3 (1) of this 2019 Act, unless needed housing has been developed within the previous two years.

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

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

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

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

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

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

(b) For the *[purpose of the inventory and determination of housing capacity described in subsection*

(3)(a) of this section] **purposes of paragraph (a)(A) and (B) of this subsection**, the [local government] **metropolitan service district or city** must demonstrate consideration of:

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

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the [local government] **district or city**; and

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

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

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

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

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

[(C) Demographic and population trends;]

[(D) Economic trends and cycles; and]

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

(b) A [local government] **metropolitan service district or a city** shall make the determination **of housing capacity** described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the [local government] **district or city** finds that the shorter time period will provide more accurate and reliable data related to housing capacity [and need]. The shorter time period may not be less than three years.

[(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.]

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

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

[(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion

1 of the urban growth boundary. A local government or metropolitan service district that takes this action
 2 shall monitor and record the level of development activity and development density by housing type
 3 following the date of the adoption of the new measures; or]

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

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

13 [(8)(a) A local government outside a metropolitan service district that takes any actions under
 14 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regu-
 15 lations comply with goals and rules adopted by the commission and implement ORS 197.295 to
 16 197.314.]

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

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

28 [(a) Increases in the permitted density on existing residential land;]

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

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

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

33 [(e) Minimum density ranges;]

34 [(f) Redevelopment and infill strategies;]

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

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

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

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

41 [(b) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the
 42 comprehensive plan that requires the application of a statewide planning goal relating to buildable
 43 lands for residential use, a city shall, according to rules of the commission:]

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

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

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

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

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

6 **SECTION 9.** ORS 197.295 is amended to read:

7 197.295. As used in ORS 197.295 to 197.314 and 197.475 to 197.490:

8 (1) "Buildable lands" means lands in urban and urbanizable areas that are suitable, available
9 and necessary for residential uses. *"Buildable lands" includes both* **or mixed residential and em-**
10 **ployment uses, including** vacant *[land]*, **partially vacant** and developed land likely to be **devel-**
11 **oped, redeveloped or used for residential infill.**

12 (2) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

13 (3) **"Needed housing" means the types and affordability levels of housing that a metro-**
14 **politan service district or a city must develop to meet its estimated housing need under**
15 **section 3 of this 2019 Act.**

16 *[(3)]* (4) "Government assisted housing" means housing that is financed in whole or part by ei-
17 ther a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing
18 that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers
19 provided by either a federal or state housing agency or a local housing authority.

20 *[(4)]* (5) "Manufactured homes" has the meaning given that term in ORS 446.003.

21 *[(5)]* (6) "Mobile home park" has the meaning given that term in ORS 446.003.

22 *[(6)]* (7) "Periodic review" means the process and procedures as set forth in ORS 197.628 to
23 197.651.

24 *[(7)]* (8) "Urban growth boundary" means an urban growth boundary included or referenced in
25 a comprehensive plan **or regional framework plan.**

26 **SECTION 10.** ORS 197.303 is repealed.

27 **SECTION 11.** No later than January 1, 2021, the Oregon Department of Administrative
28 Services shall submit a report detailing the findings described in section 1 (4) of this 2019
29 Act, in the manner provided in ORS 192.245, to the appropriate interim committees of the
30 Legislative Assembly.

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

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

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

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

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

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

44 (d) The housing complies with applicable land use regulations and meets the standards
45 and criteria for residential development for the underlying zone of the land or the sur-

1 rounding residential land described in paragraph (c) of this subsection;

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

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

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

12 **SECTION 14.** Sections 15 and 16 of this 2019 Act are added to and made a part of ORS
13 223.297 to 223.314.

14 **SECTION 15.** (1) The Secretary of State may audit a local government's:

15 (a) Methodology for calculating system development charges under ORS 223.301 and
16 223.304;

17 (b) Use of revenues from system development charges under ORS 223.302 and 223.307; and

18 (c) Modifications to the list of capital improvements the local government intends to fund
19 with system development charges and system development charges rates and to the public
20 process by which system development charges are modified under ORS 223.309.

21 (2) The Secretary of State may issue orders necessary to enjoin any violation of ORS
22 223.297 to 223.314, subject to a local government's right to request a contested case pro-
23 ceeding under ORS 183.413 to 183.470.

24 **SECTION 16.** (1) The Building Codes Division of the Department of Consumer and Busi-
25 ness Services shall maintain records for every local government of:

26 (a) The methodology used by the local government to calculate a system development
27 charge under ORS 223.304;

28 (b) Proposed and adopted ordinances or resolutions that would establish or increase a
29 system development charge under ORS 223.304; and

30 (c) Proposed and adopted ordinances or resolutions that would establish or modify a list
31 of capital improvements used to increase or establish a system development charge adopted
32 under ORS 223.309.

33 (2) The division shall make the information collected under this section publicly available,
34 which may include access by electronic records.

35 **SECTION 17.** (1) On or before January 1, 2021, each local government that imposes any
36 system development charge shall deliver to the Building Codes Division of the Department
37 of Consumer and Business Services copies of:

38 (a) The methodology used by the local government to calculate a system development
39 charge under ORS 223.304;

40 (b) The list of capital improvements used to establish a system development charge
41 adopted under ORS 223.309 (1);

42 (c) All ordinances or resolutions adopted on or after January 1, 2010, that established or
43 increased a system development charge under ORS 223.304; and

44 (d) All ordinances or resolutions adopted on or after January 1, 2010, that established or
45 modified a list of capital improvements to increase a system development charge adopted

under ORS 223.309.

(2) The division may agree to accept copies in an electronic format.

(3) The division may reimburse the local government its reasonable costs, including copying costs, of complying with this section.

SECTION 18. ORS 197.830 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (9) A notice of intent to appeal a land use decision or limited land use decision shall be filed
21 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of
22 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to
23 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is
24 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a
25 statement identifying when, how and to whom notice was provided under ORS 197.615 does not
26 render the notice defective. Copies of the notice of intent to appeal shall be served upon the local
27 government, special district or state agency and the applicant of record, if any, in the local gov-
28 ernment, special district or state agency proceeding. The notice shall be served and filed in the form
29 and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$200 and a
30 deposit for costs to be established by the board. If a petition for review is not filed with the board
31 as required in subsections (10) and (11) of this section, the filing fee and deposit shall be awarded
32 to the local government, special district or state agency as cost of preparation of the record.

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

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

45 (11) A petition for review of the land use decision or limited land use decision and supporting

1 brief shall be filed with the board as required by the board under subsection (13) of this section.

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

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

4 (b) The date of the decision.

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

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

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

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

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

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

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

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

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

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

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

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

43 (a) The number of reviews commenced, as described in subsection (1) of this section, the number
44 of reviews commenced for which a petition is filed under subsection (2) of this section and, in re-
45 lation to each of those numbers, the rate at which the reviews result in a decision of the board to

uphold, reverse or remand the land use decision or limited land use decision. The board shall track and report reviews under this paragraph in categories established by the board.

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

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

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

SECTION 19. ORS 215.416 is amended to read:

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

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

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

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

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

(B) This paragraph does not apply to:

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

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

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

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

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

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

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

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

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

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

(f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

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

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the deci-

1 sion, states the facts relied upon in rendering the decision and explains the justification for the
2 decision based on the criteria, standards and facts set forth.

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

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

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

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

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

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

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

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

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

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

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

45 (i) Within 100 feet of the property that is the subject of the notice when the subject property

1 is wholly or in part within an urban growth boundary;

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

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

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

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

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

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

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

13 (B) The date of the decision; and

14 (C) A description of the decision made.

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

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

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

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

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

25 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
26 hearings officer, or such other person as the city council designates, for a permit or zone change,
27 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
28 tablish fees charged for processing permits at an amount no more than the actual or average cost
29 of providing that service.

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

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

37 (4)(a) A city may not approve an application unless the proposed development of land would be
38 in compliance with the comprehensive plan for the city and other applicable land use regulation or
39 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215
40 or any city legislation.

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

45 (B) This paragraph does not apply to:

1 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or
 2 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
 3 197.307 (6).

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

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

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

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

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

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

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

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

21 (f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

43 (8) If an application would change the zone of property that includes all or part of a mobile
 44 home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give
 45 written notice by first class mail to each existing mailing address for tenants of the mobile home

1 or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first
2 hearing on the application. The governing body may require an applicant for such a zone change to
3 pay the costs of such notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (B) The date of the decision; and

15 (C) A description of the decision made.

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

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

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

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

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

26 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
27 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
28 nances and regulations, a county shall allow the reasonable use of the real property for activities
29 customarily associated with the practices of the religious activity, including:

30 (a) Worship services.

31 (b) Religion classes.

32 (c) Weddings.

33 (d) Funerals.

34 (e) Meal programs.

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

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

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

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

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

(2) A county may:

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

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

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

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

SECTION 22. ORS 227.500 is amended to read:

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

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

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

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

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

(2) A city may:

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

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

described in subsection (1) of this section.

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

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

SECTION 23. ORS 223.304 is amended to read:

223.304. (1)(a) Reimbursement fees must be established or modified by ordinance or resolution setting forth a methodology that is, when applicable, based on:

(A) Ratemaking principles employed to finance publicly owned capital improvements;

(B) Prior contributions by existing users;

(C) Gifts or grants from federal or state government or private persons;

(D) The value of unused capacity available to future system users or the cost of the existing facilities; and

(E) Other relevant factors identified by the local government imposing the fee.

(b) The methodology for establishing or modifying a reimbursement fee must:

(A) Promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.

(B) Be available for public inspection.

(2) Improvement fees must:

(a) Be established or modified by ordinance or resolution setting forth a methodology that is available for public inspection and demonstrates consideration of:

(A) The projected cost of the capital improvements identified in the plan and list adopted pursuant to ORS 223.309 that are needed to increase the capacity of the systems to which the fee is related; and

(B) The need for increased capacity in the system to which the fee is related that will be required to serve the demands placed on the system by future users.

(b) Be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(3) A local government may establish and impose a system development charge that is a combination of a reimbursement fee and an improvement fee, if the methodology demonstrates that the charge is not based on providing the same system capacity.

(4) The ordinance or resolution that establishes or modifies an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. A "qualified public improvement" means a capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

(a) Not located on or contiguous to property that is the subject of development approval; or

(b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(5)(a) The credit provided for in subsection (4) of this section is only for the improvement fee

1 charged for the type of improvement being constructed, and credit for qualified public improvements
 2 under subsection (4)(b) of this section may be granted only for the cost of that portion of such im-
 3 provement that exceeds the local government's minimum standard facility size or capacity needed
 4 to serve the particular development project or property. The applicant shall have the burden of
 5 demonstrating that a particular improvement qualifies for credit under subsection (4)(b) of this sec-
 6 tion.

7 (b) A local government may deny the credit provided for in subsection (4) of this section if the
 8 local government demonstrates:

9 (A) That the application does not meet the requirements of subsection (4) of this section; or

10 (B) By reference to the list adopted pursuant to ORS 223.309, that the improvement for which
 11 credit is sought was not included in the plan and list adopted pursuant to ORS 223.309.

12 (c) When the construction of a qualified public improvement gives rise to a credit amount
 13 greater than the improvement fee that would otherwise be levied against the project receiving de-
 14 velopment approval, the excess credit may be applied against improvement fees that accrue in sub-
 15 sequent phases of the original development project. This subsection does not prohibit a local
 16 government from providing a greater credit, or from establishing a system providing for the
 17 transferability of credits, or from providing a credit for a capital improvement not identified in the
 18 plan and list adopted pursuant to ORS 223.309, or from providing a share of the cost of such im-
 19 provement by other means, if a local government so chooses.

20 (d) Credits must be used in the time specified in the ordinance but not later than 10 years from
 21 the date the credit is given.

22 (6) Any local government that proposes to establish or modify a system development charge
 23 shall maintain a list of persons who have made a written request for notification prior to adoption
 24 or amendment of a methodology for any system development charge. **The local government may**
 25 **periodically delete names from the list, but at least 30 days prior to removing a name from**
 26 **the list shall notify the person whose name is to be deleted that a new written request for**
 27 **notification is required if the person wishes to remain on the notification list.**

28 (7)(a) **A local government must mail** written notice [*must be mailed*] to persons on the list
 29 **maintained under subsection (6) of this section and to the Building Codes Division of the**
 30 **Department of Consumer and Business Services** at least 90 days prior to the first hearing to
 31 establish or modify a system development charge, and the methodology supporting the system de-
 32 velopment charge must be available at least 60 days prior to the first hearing. The failure of a
 33 person on the list **and the division** to receive a notice that was mailed does not invalidate the
 34 action of the local government. [*The local government may periodically delete names from the list, but*
 35 *at least 30 days prior to removing a name from the list shall notify the person whose name is to be*
 36 *deleted that a new written request for notification is required if the person wishes to remain on the*
 37 *notification list.*]

38 (b) Legal action intended to contest the methodology used for calculating a system development
 39 charge may not be filed after 60 days following adoption or modification of the system development
 40 charge ordinance or resolution by the local government[.] **unless the ordinance or resolution, on**
 41 **its face, demonstrates that the ordinance or resolution does not comply with this section.**
 42 **Except as provided in section 15 of this 2019 Act,** a person [*shall*] **may** request [*judicial*] review
 43 of the methodology used for calculating a system development charge only as provided in ORS 34.010
 44 to 34.100.

45 (8) A change in the amount of a reimbursement fee or an improvement fee is not a modification

of the system development charge methodology if the change in amount is based on:

(a) A change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to ORS 223.309; or

(b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:

(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;

(B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and

(C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.

(9) A local government shall deliver a copy of an adopted ordinance or resolution establishing or modifying the methodology used for calculating a system development charge under this section to the Building Codes Division of the Department of Consumer and Business Services.

SECTION 24. ORS 223.309 is amended to read:

223.309. (1) Prior to the establishment of a system development charge by ordinance or resolution, a local government shall prepare a capital improvement plan, public facilities plan, master plan or comparable plan that includes a list of the capital improvements that the local government intends to fund, in whole or in part, with revenues from an improvement fee and the estimated cost, timing and percentage of costs eligible to be funded with revenues from the improvement fee for each improvement.

(2) A local government that has prepared a plan and the list described in subsection (1) of this section may modify the plan and list at any time. If a system development charge will be increased by a proposed modification of the list to include a capacity increasing capital improvement, as described in ORS 223.307 (2):

(a) The local government shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.304 (6) **and to the Building Codes Division of the Department of Consumer and Business Services.**

(b) The local government shall hold a public hearing if the local government receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption.

(c) Notwithstanding ORS 294.160, a public hearing is not required if the local government does not receive a written request for a hearing.

(d) The local government shall deliver a copy of an adopted ordinance or resolution modifying the list described in subsection (1) of this section to the division.

[(d)] (e) The decision of a local government to increase the system development charge by modifying the list may be [judicially] reviewed only as provided in ORS 34.010 to 34.100 **and section 15 of this 2019 Act.**

SECTION 25. ORS 195.145 is amended to read:

195.145. (1) To ensure that the supply of land available for urbanization is maintained:

(a) Local governments may cooperatively designate lands outside urban growth boundaries as urban reserves subject to ORS 197.610 to 197.625 and 197.626.

(b) Alternatively, a metropolitan service district established under ORS chapter 268 and a

1 county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652
 2 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph
 3 are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

4 (2)(a) The Land Conservation and Development Commission may require a local government to
 5 designate an urban reserve pursuant to subsection (1)(a) of this section during its periodic review
 6 in accordance with the conditions for periodic review under ORS 197.628.

7 (b) Notwithstanding paragraph (a) of this subsection, the commission may require a local gov-
 8 ernment to designate an urban reserve pursuant to subsection (1)(a) of this section outside of its
 9 periodic review if:

10 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-
 11 ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

12 (B) The local government has been required to designate an urban reserve by rule prior to No-
 13 vember 4, 1993.

14 (3) In carrying out subsections (1) and (2) of this section:

15 (a) Within an urban reserve, neither the commission nor any local government shall prohibit the
 16 siting on a legal parcel of a single family dwelling that would otherwise have been allowed under
 17 law existing prior to designation as an urban reserve.

18 (b) The commission shall provide to local governments a list of options, rather than prescribing
 19 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-
 20 serves.

21 (4) Urban reserves designated by a metropolitan service district and a county pursuant to sub-
 22 section (1)(b) of this section must be planned to accommodate population and employment growth for
 23 at least 20 years, and not more than 30 years, after the 20-year period for which the district has
 24 demonstrated a buildable land supply in the most recent inventory, determination and analysis per-
 25 formed under ORS [197.296] **197.295 to 197.314**.

26 (5) A district and a county shall base the designation of urban reserves under subsection (1)(b)
 27 of this section upon consideration of factors including, but not limited to, whether land proposed for
 28 designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

29 (a) Can be developed at urban densities in a way that makes efficient use of existing and future
 30 public infrastructure investments;

31 (b) Includes sufficient development capacity to support a healthy urban economy;

32 (c) Can be served by public schools and other urban-level public facilities and services efficiently
 33 and cost-effectively by appropriate and financially capable service providers;

34 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-
 35 priate service providers;

36 (e) Can be designed to preserve and enhance natural ecological systems; and

37 (f) Includes sufficient land suitable for a range of housing types.

38 (6) A county may take an exception under ORS 197.732 to a statewide land use planning goal
 39 to allow the establishment of a transportation facility in an area designated as urban reserve under
 40 subsection (1)(b) of this section.

41 (7) The commission shall adopt by goal or by rule a process and criteria for designating urban
 42 reserves pursuant to subsection (1)(b) of this section.

43 **SECTION 26.** ORS 197.299 is amended to read:

44 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
 45 inventory, determination and analysis required under ORS 197.296 (3) **and section 3 of this 2019**

1 **Act** not later than six years after completion of the previous inventory, determination and analysis.

2 (2)(a) The metropolitan service district shall take such action as necessary under [ORS 197.296
3 (6)(a)] **section 5 (1)(a) of this 2019 Act** to accommodate one-half of a 20-year buildable land supply
4 determined under ORS 197.296 [(3)] **(3)(a)(A)** within one year of completing the [analysis] **inventory**
5 **and determinations**.

6 (b) The metropolitan service district shall take all final action under [ORS 197.296 (6)(a)] **sec-**
7 **tion 5 (1)(a) of this 2019 Act** necessary to accommodate a 20-year buildable land supply determined
8 under ORS 197.296 [(3)] **(3)(a)(A)** within two years of completing the analysis.

9 (c) The metropolitan service district shall take action under [ORS 197.296 (6)(b)] **section 5 (1)(b)**
10 **of this 2019 Act**, within one year after the analysis required under [ORS 197.296 (3)(b)] **section 3**
11 **of this 2019 Act** is completed, to provide sufficient buildable land within the urban growth boundary
12 to accommodate the estimated housing [needs] **need** for 20 years from the time the actions are
13 completed. The metropolitan service district shall consider and adopt new measures that the gov-
14 erning body deems appropriate under [ORS 197.296 (6)(b)] **section 5 (1)(b) of this 2019 Act**.

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

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

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

25 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
26 months after submission of a complete application by a large school district as defined in ORS
27 195.110.

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

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

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

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

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

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

(e) The location chosen for the proposed development is adjacent to the city proposing the development; and

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

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

(b) A metropolitan service district that expands its urban growth boundary under this subsection:

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

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

SECTION 27. ORS 197.302 is amended to read:

197.302. (1) After gathering and compiling information on the performance measures as described in ORS 197.301 but prior to submitting the information to the Department of Land Conservation and Development, a metropolitan service district shall determine if actions taken under [ORS 197.296 (6)] **section 5 of this 2019 Act** have established the buildable land supply and housing densities necessary to accommodate **the** estimated housing [needs] **need** determined under [ORS 197.296 (3)] **section 3 of this 2019 Act**. If the metropolitan service district determines that the actions undertaken will not accommodate **the** estimated **housing** need, the district shall develop a corrective action plan, including a schedule for implementation. The **metropolitan service** district shall submit the plan to the department along with the report on performance measures required under ORS 197.301. Corrective action under this section may include amendment of the urban growth boundary, comprehensive plan, regional framework plan, functional plan or land use regulations [as described in ORS 197.296].

(2) Within two years of submitting a corrective action plan to the department, the metropolitan service district shall demonstrate by reference to the performance measures described in ORS 197.301 that implementation of the plan has resulted in the buildable land supply and housing density within the urban growth boundary necessary to accommodate the estimated housing [needs] **need** for each housing type as determined under [ORS 197.296 (3)] **section 3 of this 2019 Act**.

(3) The failure of the metropolitan service district to demonstrate the buildable land supply and housing density necessary to accommodate **the estimated** housing [needs] **need** as required under this section [and ORS 197.296] may be the basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335.

SECTION 28. ORS 197.304 is amended to read:

197.304. (1) Notwithstanding an intergovernmental agreement pursuant to ORS 190.003 to 190.130 or acknowledged comprehensive plan provisions to the contrary, a city within Lane County that has a population of 50,000 or more within its boundaries shall meet its obligation under ORS 197.295 to 197.314 separately from any other city within Lane County. The city shall, separately from any other city:

(a) Establish an urban growth boundary, consistent with the jurisdictional area of responsibility specified in the acknowledged comprehensive plan; and

(b) Demonstrate, as required by ORS 197.296, that its comprehensive plan provides sufficient buildable lands within an urban growth boundary established pursuant to statewide planning goals to accommodate **the** estimated housing *[needs]* **need** for 20 years.

(2) Except as provided in subsection (1) of this section, this section does not alter or affect an intergovernmental agreement pursuant to ORS 190.003 to 190.130 or acknowledged comprehensive plan provisions adopted by Lane County or local governments in Lane County.

SECTION 29. ORS 197.522 is amended to read:

197.522. (1) As used in this section:

(a) "Needed housing" has the meaning given that term in ORS *[197.303]* **197.295**.

(b) "Partition" has the meaning given that term in ORS 92.010.

(c) "Permit" means a permit as defined in ORS 215.402 and a permit as defined in ORS 227.160.

(d) "Subdivision" has the meaning given that term in ORS 92.010.

(2) A local government shall approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land for needed housing that is consistent with the comprehensive plan and applicable land use regulations.

(3) If an application is inconsistent with the comprehensive plan and applicable land use regulations, the local government, prior to making a final decision on the application, shall allow the applicant to offer an amendment or to propose conditions of approval that would make the application consistent with the plan and applicable regulations. If an applicant seeks to amend the application or propose conditions of approval:

(a) A county may extend the time limitation under ORS 215.427 for final action by the governing body of a county on an application for needed housing and may set forth a new time limitation for final action on the consideration of future amendments or proposals.

(b) A city may extend the time limitation under ORS 227.178 for final action by the governing body of a city on an application for needed housing and may set forth a new time limitation for final action on the consideration of future amendments or proposals.

(4) A local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.

SECTION 30. ORS 197.637 is amended to read:

197.637. (1) Upon request of the Department of Land Conservation and Development, the Housing and Community Services Department shall review the *[inventory and analysis of housing, and measures taken to address the housing need, required of certain local governments under ORS 197.296]* **measures taken to address needed housing under ORS 197.296 by a metropolitan service district or a city described in ORS 197.296 (1).** The review shall address the likely effect of **the housing strategy adopted under section 4 of this 2019 Act and** measures developed *[by a local government under ORS 197.296 (6) or (7)]* **under section 5 of this 2019 Act** on the adequacy of the supply of buildable land and opportunities to satisfy *[needs identified under ORS 197.296 (3)]* **the estimated housing need determined under section 3 of this 2019 Act.**

(2) The Land Conservation and Development Commission and the Director of the Department of Land Conservation and Development shall consider the review and any recommendations of the Housing and Community Services Department when determining whether a *[local government]* **metropolitan service district or a city** has complied with the statewide land use planning goals and the requirements of ORS *[197.296]* **197.295 to 197.314.**

SECTION 31. ORS 197.732 is amended to read:

197.732. (1) As used in this section:

(a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(b) "Exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(A) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(B) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(C) Complies with standards under subsection (2) of this section.

(2) A local government may adopt an exception to a goal if:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (2)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (2) of this section.

(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The Land Use Board of Appeals or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (2) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons that sets forth the basis for the determination that the standards of subsection (2) of this section have or have not been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of “needed housing” *[authorized by ORS 197.303]* in **ORS 197.295**.

(8) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

SECTION 32. ORS 197.313 is amended to read:

197.313. *[Nothing in ORS 197.312 or in the amendments to ORS 197.295, 197.303, 197.307 by sections 1, 2 and 3, chapter 795, Oregon Laws 1983, shall]* **ORS 197.295 to 197.314 may not** be construed to require a city or county to contribute to the financing, administration or sponsorship of government assisted housing.

SECTION 33. ORS 197.314 is amended to read:

197.314. (1) Notwithstanding ORS *[197.296, 197.298, 197.299, 197.301, 197.302, 197.303, 197.307, 197.312 and 197.313]* **197.295 to 197.314**, within urban growth boundaries each city and county shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses to allow for siting of manufactured homes as defined in ORS 446.003. A local government may only subject the siting of a manufactured home allowed under this section to regulation as set forth in ORS 197.307 (8).

(2) Cities and counties shall adopt and amend comprehensive plans and land use regulations under subsection (1) of this section according to the provisions of ORS 197.610 to 197.651.

(3) Subsection (1) of this section does not apply to any area designated in an acknowledged comprehensive plan or land use regulation as a historic district or residential land immediately adjacent to a historic landmark.

(4) Manufactured homes on individual lots zoned for single-family residential use in subsection (1) of this section shall be in addition to manufactured homes on lots within designated manufactured dwelling subdivisions.

(5) Within any residential zone inside an urban growth boundary where a manufactured dwelling park is otherwise allowed, a city or county shall not adopt, by charter or ordinance, a minimum lot size for a manufactured dwelling park that is larger than one acre.

(6) A city or county may adopt the following standards for the approval of manufactured homes located in manufactured dwelling parks that are smaller than three acres:

(a) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(b) The manufactured home shall have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or that is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(7) This section shall not be construed as abrogating a recorded restrictive covenant.

SECTION 34. Section 8, chapter 52, Oregon Laws 2016, is amended to read:

Sec. 8. (1) The local government of a pilot project site selected by the Land Conservation and Development Commission under section 4, *[of this 2016 Act]* **chapter 52, Oregon Laws 2016**, may not plan or zone the site to allow a use or mix of uses not authorized under sections 2 to 9, *[of this 2016 Act]* **chapter 52, Oregon Laws 2016**, unless the local government withdraws the pilot project site from the urban growth boundary and rezones the site pursuant to law, statewide land use planning goals and land use regulations implementing the goals that regulate allowable uses of land

1 outside urban growth boundaries.

2 (2) A local government may not use sections 2 to 9, *[of this 2016 Act]* **chapter 52, Oregon Laws**
3 **2016**, to bring high-value farmland, as determined by the commission, within its urban growth
4 boundary.

5 (3) The inclusion of pilot project sites dedicated to affordable housing within an urban growth
6 boundary pursuant to sections 2 to 9, *[of this 2016 Act]* **chapter 52, Oregon Laws 2016**, does not
7 authorize a local government to convert buildable lands within the urban growth boundary that are
8 planned for needed housing, as defined in ORS *[197.303]* **197.295**, to other uses.

9 (4) Notwithstanding ORS 197.309 (2), for a pilot project site selected under section 4, *[of this*
10 *2016 Act]* **chapter 52, Oregon Laws 2016**, and affordable housing developed on a selected pilot
11 project site, a local government may take any action described in ORS 197.309 that has the effect
12 of establishing the sales price for a housing unit or residential building lot or parcel, or that re-
13 quires a housing unit or residential building lot or parcel to be designated for sale to a particular
14 class or group of purchasers.

15 (5) Sections 2 to 9, *[of this 2016 Act]* **chapter 52, Oregon Laws 2016**, do not constitute a stat-
16 utory contract. A pilot project site selected under section 4, *[of this 2016 Act]* **chapter 52, Oregon**
17 **Laws 2016**, and affordable housing developed on a selected pilot project site remain subject to new
18 or additional regulatory requirements authorized by law, statewide land use planning goals and land
19 use regulations implementing the goals.

20 (6) As used in this section, “lot” and “parcel” have the meanings given those terms in ORS
21 92.010.

22 **SECTION 35.** In addition to and not in lieu of any other appropriation, there is appro-
23 priated, for the biennium beginning July 1, 2019, out of the General Fund:

24 (1) To the Department of Consumer and Business Services, the amount of \$_____, to
25 take actions authorized or required under sections 15 and 16 of this 2019 Act.

26 (2) To the Department of Land Conservation and Development, the amount of \$_____,
27 to take actions authorized or required under section 7 of this 2019 Act.

28 **SECTION 36.** (1) Sections 1, 3 to 7, 11, 13 and 15 to 17 of this 2019 Act, the amendments
29 to ORS 195.145, 197.295, 197.296, 197.299, 197.302, 197.304, 197.313, 197.314, 197.522, 197.637,
30 197.732, 197.830, 215.416, 215.441, 223.304, 223.309, 227.175 and 227.500 and section 8, chapter 52,
31 Oregon Laws 2016, by sections 8, 9 and 18 to 34 of this 2019 Act and the repeal of ORS 197.303
32 by section 10 of this 2019 Act become operative on January 1, 2020.

33 (2) The Secretary of State, Oregon Department of Administrative Services, the Land
34 Conservation and Development Commission and the Department of Land Conservation and
35 Development may take any action before the operative date specified in subsection (1) of this
36 section necessary to exercise, on or after the operative date specified in subsection (1) of this
37 section, the duties required under this 2019 Act.

38 **SECTION 37.** This 2019 Act takes effect on the 91st day after the date on which the 2019
39 regular session of the Eightieth Legislative Assembly adjourns sine die.

A-Engrossed House Bill 2003

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

Sponsored by Representative KOTEK; Representative KENY-GUYER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

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

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

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

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

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

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

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

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

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

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

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

Becomes operative on January 1, 2020.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Demographic and population trends; and

(C) Economic trends and cycles.

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

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

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

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

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

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

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

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

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

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

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

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

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

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

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

25 (A) Cost and cost effectiveness;

26 (B) Reliability and accuracy;

27 (C) Repeatability; and

28 (D) Predictability;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The schedule for its adoption;

(B) The schedule for its implementation;

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

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

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

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

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

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

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

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

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

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

amended strategy, the city shall provide a notice to persons that participated in the proceedings that led to the adoption of the strategy and requested notice in writing.

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

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

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

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

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

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

(a) Approve the housing production strategy;

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

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

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

SECTION 5. (1) The Land Conservation and Development Commission shall adopt criteria for reviewing and identifying cities with a population greater than 10,000 that have not sufficiently:

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

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

(2) The criteria adopted by the commission under subsection (1) of this section may include the city's:

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

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

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

(d) Recent housing development;

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

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

(g) Other attributes that the commission considers relevant.

(3) The department may periodically review cities under the criteria adopted under subsection (2) of this section for the purposes of prioritizing actions by the department, including:

(a) Awarding available technical or financial resources;

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

(c) Entering into agreements with the city relating to the city's modification or implementation of its housing production strategy; or

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

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

SECTION 6. ORS 197.296 is amended to read:

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

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

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

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

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Demographic and population trends;

(D) Economic trends and cycles; and

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

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

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

commodate the estimated housing needs determined under this subsection; and

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

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

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

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

(C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

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

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

SECTION 8. ORS 197.299 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “Needed housing” includes the following housing types:

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

4 (b) Government assisted housing;

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

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

8 (e) Housing for farmworkers.

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

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

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

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

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

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

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

19 (b) Request:

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

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

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

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

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

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

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

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

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

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

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

(4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the requirements of ORS 197.180;

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

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

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

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

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

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

(11) A local government is not making satisfactory progress toward meeting its obligations under ORS 195.065; [or]

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

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

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

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

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

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

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

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

(d) The housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone of the land or the surrounding residential land described in paragraph (c) of this subsection;

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

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

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

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

13 **SECTION 18.** ORS 197.830 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ceiving the motion.

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

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

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

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

(b) The date of the decision.

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

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

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

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

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

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

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

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

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

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

1 Publications Account established by ORS 197.832.

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

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

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

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

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

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

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

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

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

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

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

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

43 (B) This paragraph does not apply to:

44 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

45 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS

1 197.307 (6).

2 (c) A county may not [*reduce the density of*] **condition** an application for a housing development
3 **on a reduction in density** if:

4 (A) The density applied for is at or below the authorized density level under the local land use
5 regulations; and

6 (B) At least 75 percent of the floor area applied for is reserved for housing.

7 (d) A county may not [*reduce the height of*] **condition** an application for a housing development
8 **on a reduction in height** if:

9 (A) The height applied for is at or below the authorized height level under the local land use
10 regulations;

11 (B) At least 75 percent of the floor area applied for is reserved for housing; and

12 (C) Reducing the height has the effect of reducing the authorized density level under local land
13 use regulations.

14 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may [*reduce the density*
15 *or height of*] **condition** an application for a housing development **on a reduction in density or**
16 **height only** if the reduction is necessary to resolve a health, safety or habitability issue or to
17 comply with a protective measure adopted pursuant to a statewide land use planning goal.
18 **Notwithstanding ORS 197.350, the county has the burden of proving the necessity of the re-**
19 **duction.**

20 (f) As used in this subsection:

21 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
22 maximum floor area ratio that is permitted under local land use regulations.

23 (B) "Authorized height level" means the maximum height of a structure that is permitted under
24 local land use regulations.

25 (C) "Habitability" means being in compliance with the applicable provisions of the state building
26 code under ORS chapter 455 and the rules adopted thereunder.

27 (5) Hearings under this section shall be held only after notice to the applicant and also notice
28 to other persons as otherwise provided by law and shall otherwise be conducted in conformance
29 with the provisions of ORS 197.763.

30 (6) Notice of a public hearing on an application submitted under this section shall be provided
31 to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport"
32 if:

33 (a) The name and address of the airport owner has been provided by the Oregon Department
34 of Aviation to the county planning authority; and

35 (b) The property subject to the land use hearing is:

36 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
37 Department of Aviation to be a "visual airport"; or

38 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
39 Department of Aviation to be an "instrument airport."

40 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing
41 need not be provided as set forth in subsection (6) of this section if the zoning permit would only
42 allow a structure less than 35 feet in height and the property is located outside the runway "ap-
43 proach surface" as defined by the Oregon Department of Aviation.

44 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which
45 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county

1 and which shall relate approval or denial of a permit application to the zoning ordinance and com-
2 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-
3 dinance and comprehensive plan for the county as a whole.

4 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide
5 only clear and objective standards, the standards must be clear and objective on the face of the
6 ordinance.

7 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
8 nied by a brief statement that explains the criteria and standards considered relevant to the deci-
9 sion, states the facts relied upon in rendering the decision and explains the justification for the
10 decision based on the criteria, standards and facts set forth.

11 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

12 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-
13 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
14 nated person gives notice of the decision and provides an opportunity for any person who is
15 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
16 to file an appeal.

17 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
18 of this subsection.

19 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
20 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
21 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
22 section may appeal the decision by filing a written appeal in the manner and within the time period
23 provided in the county's land use regulations. A county may not establish an appeal period that is
24 less than 12 days from the date the written notice of decision required by this subsection was
25 mailed. The notice shall state that the decision will not become final until the period for filing a
26 local appeal has expired. The notice also shall state that a person who is mailed written notice of
27 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS
28 197.830.

29 (D) An appeal from a hearings officer's decision made without hearing under this subsection
30 shall be to the planning commission or governing body of the county. An appeal from such other
31 person as the governing body designates shall be to a hearings officer, the planning commission or
32 the governing body. In either case, the appeal shall be to a de novo hearing.

33 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
34 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
35 of Appeals. At the de novo hearing:

36 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
37 ments and evidence as they would have had in a hearing under subsection (3) of this section before
38 the decision;

39 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
40 in a notice of appeal; and

41 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
42 accepted at the hearing.

43 (b) If a local government provides only a notice of the opportunity to request a hearing, the
44 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
45 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,

1 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
2 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
3 by neighborhood or community organizations recognized by the governing body and whose bounda-
4 ries include the site.

5 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
6 plicant and to the owners of record of property on the most recent property tax assessment roll
7 where such property is located:

8 (i) Within 100 feet of the property that is the subject of the notice when the subject property
9 is wholly or in part within an urban growth boundary;

10 (ii) Within 250 feet of the property that is the subject of the notice when the subject property
11 is outside an urban growth boundary and not within a farm or forest zone; or

12 (iii) Within 750 feet of the property that is the subject of the notice when the subject property
13 is within a farm or forest zone.

14 (B) Notice shall also be provided to any neighborhood or community organization recognized by
15 the governing body and whose boundaries include the site.

16 (C) At the discretion of the applicant, the local government also shall provide notice to the
17 Department of Land Conservation and Development.

18 (12) A decision described in ORS 215.402 (4)(b) shall:

19 (a) Be entered in a registry available to the public setting forth:

20 (A) The street address or other easily understood geographic reference to the subject property;

21 (B) The date of the decision; and

22 (C) A description of the decision made.

23 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
24 limited land use decision.

25 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

26 (13) At the option of the applicant, the local government shall provide notice of the decision
27 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal
28 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
29 of appeal rights.

30 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-
31 ject to the requirements set forth in ORS 197.195 and 197.828.

32 **SECTION 20.** ORS 227.175 is amended to read:

33 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
34 hearings officer, or such other person as the city council designates, for a permit or zone change,
35 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
36 tablish fees charged for processing permits at an amount no more than the actual or average cost
37 of providing that service.

38 (2) The governing body of the city shall establish a consolidated procedure by which an appli-
39 cant may apply at one time for all permits or zone changes needed for a development project. The
40 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-
41 idated procedure shall be available for use at the option of the applicant no later than the time of
42 the first periodic review of the comprehensive plan and land use regulations.

43 (3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least
44 one public hearing on the application.

45 (4)(a) A city may not approve an application unless the proposed development of land would be

in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including *[but not limited to]* clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not *[reduce the density of]* **condition** an application for a housing development **on a reduction in density** if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not *[reduce the height of]* **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may *[reduce the density or height of]* **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the city has the burden of proving the necessity of the reduction.**

(f) As used in this subsection:

(A) “Authorized density level” means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) “Authorized height level” means the maximum height of a structure that is permitted under local land use regulations.

(C) “Habitability” means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport” if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon

Department of Aviation to be an “instrument airport.”

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway “approach surface” as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city’s land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer’s decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing

shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 21. ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that [is] **are** detached from

the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* a building or any residential unit contained in *[the]* a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 22. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that *[is]* **are** detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets

the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* a building or any residential unit contained in *[the]* a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 23. ORS 455.062 is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

(a) For structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical plans and specifications under subsection (1) of this section, is not required to seal or sign the typical plans and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical plans and specifications.

[(2)] (3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical plans and specifications for structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325.

[(3)] This *[section]* **subsection** does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

SECTION 24. In addition to and not in lieu of any other appropriation, there is appropriated to the Land Conservation and Development Commission, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$_____, to make rules or take any other actions necessary to implement sections 1a, 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175

1 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

2 **SECTION 25.** In addition to and not in lieu of any other appropriation, there is appro-
3 priated to the Department of Land Conservation and Development, for the biennium begin-
4 ning July 1, 2019, out of the General Fund, the amount of \$1,500,000, to provide technical
5 assistance to local governments to implement sections 3 to 5 and 13 of this 2019 Act and the
6 amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175
7 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

8 **SECTION 26.** (1) Sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS
9 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062
10 by sections 6, 8 to 11 and 18 to 23 of this 2019 Act become operative on January 1, 2020.

11 (2) The Oregon Department of Administrative Services, the Land Conservation and De-
12 velopment Commission, the Department of Land Conservation and Development and the
13 Housing and Community Services Department may take any action before the operative date
14 specified in subsection (1) of this section that is necessary for the departments and the
15 commission to exercise, on or after the operative date specified in subsection (1) of this
16 section, all of the duties, functions and powers conferred on the departments and the com-
17 mission by sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296,
18 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062 by
19 sections 6, 8 to 11 and 18 to 23 this 2019 Act.

20 **SECTION 27.** This 2019 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
22 on its passage.
23

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2003

By JOINT COMMITTEE ON WAYS AND MEANS

June 20

On page 1 of the printed A-engrossed bill, line 3, delete “197.830,” and after “455.062” insert “and section 1, chapter 47, Oregon Laws 2018”.

Delete pages 2 and 3 and insert:

“SECTION 1. (1) As used in this section:

“(a) ‘Area median income’ means the median income for households established by the United States Department of Housing and Urban Development.

“(b) ‘Existing housing stock’ means housing, by affordability level and type, actually constructed in a city or Metro.

“(c) ‘High income’ means above 120 percent of the area median income.

“(d) ‘Housing shortage’ means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate the existing population and the existing housing stock, measured in dwelling units.

“(e) ‘Low income’ means income above 50 percent and at or below 80 percent of the area median income.

“(f) ‘Metro’ means a metropolitan service district organized under ORS chapter 268.

“(g) ‘Moderate income’ means income above 80 percent and at or below 120 percent of the area median income.

“(h) ‘Region’ has the meaning given that term in ORS 284.752.

“(i) ‘Very low income’ means income at or below 50 percent of the area median income.

“(2) The Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall develop a methodology for calculating:

“(a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:

“(A) Trends in density and in the average mix of housing types of urban residential development;

“(B) Demographic and population trends;

“(C) Economic trends and cycles; and

“(D) Equitable distribution of publicly supported housing within a region.

“(b) An estimate of existing housing stock of each city and Metro.

“(c) A housing shortage analysis for each city and Metro.

“(d) An estimate of the number of housing units necessary to accommodate anticipated population growth over the next 20 years for each city and Metro.

“(3) The methodologies for calculating the regional housing needs analysis, the estimate

1 of existing housing stock, the housing shortage analysis and the estimate of housing neces-
2 sary to accommodate growth that are developed under subsection (2) of this section must
3 classify housing by:

4 “(a) Housing type, including attached and detached single-family housing, multifamily
5 housing and manufactured dwellings or mobile homes; and

6 “(b) Affordability, by housing that is affordable to households with:

7 “(A) Very low income;

8 “(B) Low income;

9 “(C) Moderate income; or

10 “(D) High income.

11 “(4) No later than September 1, 2020, the Housing and Community Services Department,
12 in coordination with the Department of Land Conservation and Development and the Oregon
13 Department of Administrative Services, shall conduct for each region a regional housing
14 needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct
15 a housing shortage analysis and estimate the housing necessary to accommodate growth.

16 “(5) In developing the methodologies and conducting the analyses under this section, the
17 Housing and Community Services Department may:

18 “(a) Consult or contract with subject matter experts, cities and Metro, regional solutions
19 centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted
20 regional housing needs analyses.

21 “(b) Consider the most recent consolidated population forecast produced by the Portland
22 State University Population Research Center in making any relevant calculation or forecast.

23 “(c) Consider any other relevant existing analyses, data and other information collected
24 or produced by state agencies or public entities.

25 “(d) Make changes to the regional boundaries in order to make regions more accurately
26 align with shared employment, transportation or housing market dynamics.

27 “SECTION 2. (1) No later than March 1, 2021, the Housing and Community Services De-
28 partment, in consultation with the Department of Land Conservation and Development and
29 the Oregon Department of Administrative Services, shall submit a report, in the manner
30 provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that sum-
31 marizes the findings of the regional housing needs analysis, estimate of housing stock,
32 housing shortage analysis and estimate of housing necessary to accommodate growth con-
33 ducted under section 1 (4) of this 2019 Act.

34 “(2) No later than March 1, 2021, the Department of Land Conservation and Development,
35 in consultation with the Oregon Department of Administrative Services and the Housing and
36 Community Services Department, shall submit a report, in the manner provided in ORS
37 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

38 “(a) Whether a regional housing needs analysis and housing shortage analysis described
39 in section 1 of this 2019 Act could appropriately allocate among the cities or local govern-
40 ments in a region the housing shortage described;

41 “(b) How a regional housing needs analysis and housing shortage analysis may compare
42 to existing assessments of housing need and capacity conducted by local governments under
43 ORS 197.296 (3) and (10) in terms of:

44 “(A) Cost and cost effectiveness;

45 “(B) Reliability and accuracy;

1 **“(C) Repeatability; and**

2 **“(D) Predictability;**

3 **“(c) How a regional housing needs analysis and housing shortage analysis may relate to**
4 **statewide planning goals related to housing and any rules and policies adopted pursuant to**
5 **these goals and ORS 197.295 to 197.314;**

6 **“(d) Whether different boundaries would be more appropriate for defining regions within**
7 **the regional housing needs analysis based on:**

8 **“(A) Relevance of data in appropriately defining a commuting, employment or housing**
9 **market; or**

10 **“(B) Ease or cost of collecting or analyzing data;**

11 **“(e) Other ways in which the regional housing needs analysis or housing shortage anal-**
12 **ysis could be improved; and**

13 **“(f) Whether the regional housing needs analysis, or an improved version, could serve**
14 **as an acceptable methodology statewide for land use planning relating to housing.**

15 **“(3) In preparing the report required under subsection (2) of this section, the Department**
16 **of Land Conservation and Development may consult or contract with other state agencies,**
17 **subject matter experts, private firms, local governments, regional solutions centers de-**
18 **scribed in ORS 284.754 (2) and other jurisdictions that have created or conducted regional**
19 **housing needs analyses.”.**

20 On page 4, line 1, delete “2” and insert “3” and delete “3 to 5” and insert “4 to 6”.

21 In line 3, delete “3” and insert “4”.

22 Delete lines 9 and 10 and insert:

23 **“(c) A date scheduled by the Land Conservation and Development Commission following the al-**
24 **location of housing capacity to the city by a metropolitan service district under ORS 197.299**
25 **(2)(d).”.**

26 In line 13, delete “shortage” and insert “need”.

27 In line 18, delete “and”.

28 In line 20, delete the period and insert “; and

29 **“(c) The development of a plan to access resources available at local, regional, state and na-**
30 **tional levels to increase the availability and affordability of needed housing.”.**

31 Delete lines 32 through 35 and insert:

32 **“(4) The housing production strategy must include within its index a copy of the city’s most**
33 **recently completed survey under section 1 (2), chapter 47, Oregon Laws 2018.**

34 **“(5) The adoption of a housing production strategy is not a land use decision and is not subject**
35 **to appeal or review except as provided in section 5 of this 2019 Act.”.**

36 In line 36, delete “4” and insert “5”.

37 In line 37, delete “3” and insert “4”.

38 In line 44, delete “5” and insert “6”.

39 On page 5, line 3, delete “five” and insert “10”.

40 In line 8, delete “90” and insert “45”.

41 In line 12, delete “5” and insert “6”.

42 In line 16, delete “5” and insert “6”.

43 In line 21, delete “5” and insert “6” and after “Commission” insert “, in consultation with the

44 Housing and Community Services Department,”.

45 In line 25, delete “3” and insert “4”.

1 In line 28, delete "Total".

2 In line 33, delete "3" and insert "4".

3 In line 38, after "department" insert "of Land Conservation and Development" and delete "pe-

4 riodically".

5 After line 42, insert:

6 "(c) Requiring a report and explanation if a city does not implement an action within the ap-

7 proximate time frame scheduled within a housing production strategy;"

8 In line 43, delete "(c)" and insert "(d)".

9 In line 45, delete "(d)" and insert "(e)".

10 On page 6, after line 2, insert:

11 **"SECTION 7. No later than December 31, 2019, the Land Conservation and Development**

12 **Commission shall adopt a schedule by which metropolitan service districts and cities de-**

13 **scribed in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands.**

14 **Dates in the schedule may not be earlier than two years following the commission's creation**

15 **of rules implementing sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296**

16 **and 197.299 by sections 8 and 9 of this 2019 Act."**

17 In line 3, delete "6" and insert "8".

18 On page 8, lines 28 through 36, restore the bracketed material and delete the boldfaced material.

19 On page 9, delete lines 12 through 15.

20 In line 16, delete "8" and insert "9".

21 Delete lines 35 through 37 and insert:

22 "(e) Cities to which housing capacity is allocated under paragraph (d) of this subsection shall

23 take steps, at least once every six years as scheduled by the Land Conservation and Development

24 Commission, to demonstrably increase the likelihood that residential development will occur at

25 densities sufficient to accommodate housing needs for the next 20 years as required by ORS 197.296

26 (6)(b)."

27 In line 38, delete "Land Conservation and Development".

28 On page 10, line 39, delete "9" and insert "10".

29 On page 11, line 15, delete "10" and insert "11".

30 In line 37, delete "11" and insert "12".

31 On page 12, line 29, delete "3" and insert "4".

32 After line 29, insert:

33 **"SECTION 13.** Section 1, chapter 47, Oregon Laws 2018, is amended to read:

34 **"Sec. 1. (1) For purposes of this section:**

35 **"(a) A household is severely rent burdened if the household spends more than 50 percent of the**

36 **income of the household on gross rent for housing.**

37 **"(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs**

38 **with the land and that requires affordability for an established income level for a defined period of**

39 **time.**

40 **"(c) A single-family unit may be rented or owned by a household and includes single-family**

41 **homes, duplexes, townhomes, row homes and mobile homes.**

42 **"(2)(a) The Housing and Community Services Department shall annually provide to the govern-**

43 **ing body of each city in this state with a population greater than 10,000 the most current data**

44 **available from the United States Census Bureau, or any other source the department considers at**

45 **least as reliable, showing the percentage of renter households in the city that are severely rent**

1 burdened.

2 “(b) [*The Housing and Community Services Department, in collaboration with*] The Department
3 of Land Conservation and Development, **in consultation with the Housing and Community Ser-**
4 **vices Department**, shall develop a survey form on which the governing body of a city may provide
5 specific information related to the affordability of housing within the city, including[, *but not limited*
6 *to:*]

7 “[(A)] the actions relating to land use and other related matters that the [*governing body*] **city**
8 has taken to **encourage the development of needed housing**, increase the affordability of housing
9 and reduce rent burdens for severely rent burdened households[; *and*].

10 “[(B) *The additional actions the governing body intends to take to reduce rent burdens for severely*
11 *rent burdened households.*]

12 “(c) [*If the Housing and Community Services Department determines that at least 25 percent of the*
13 *renter households in a city are severely rent burdened,*] The Department **of Land Conservation and**
14 **Development** shall provide the governing body of the city with the survey form developed pursuant
15 to paragraph (b) of this subsection.

16 “(d) The governing body of the city shall return the completed survey form to the [*Housing and*
17 *Community Services Department and the*] Department of Land Conservation and Development [*within*
18 *60 days of receipt*] **at least 24 months prior to a deadline for completing a housing production**
19 **strategy under section 4 of this 2019 Act.**

20 “(3)(a) In any year in which the governing body of a city is informed under this section that at
21 least 25 percent of the renter households in the city are severely rent burdened, the governing body
22 shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens
23 within the city, the barriers to reducing rent burdens and possible solutions.

24 “(b) The Housing and Community Services Department may adopt rules governing the conduct
25 of the public meeting required under this subsection.

26 “(4) No later than February 1 of each year, the governing body of each city in this state with
27 a population greater than 10,000 shall submit to the Department of Land Conservation and Devel-
28 opment a report for the immediately preceding calendar year setting forth separately for each of the
29 following categories the total number of units that were permitted and the total number that were
30 produced:

31 “(a) Residential units.

32 “(b) Regulated affordable residential units.

33 “(c) Multifamily residential units.

34 “(d) Regulated affordable multifamily residential units.

35 “(e) Single-family units.

36 “(f) Regulated affordable single-family units.”.

37 In line 30, delete “12” and insert “14” and delete “13” and insert “15”.

38 In line 31, delete “13” and insert “15”.

39 In line 37, delete “shall” and insert “may”.

40 Delete line 39 and insert:

41 “(a) The real property is not inventoried as a park or open space as a protective measure pur-
42 suant to a statewide land use planning goal;”.

43 In line 41, delete “surrounded by” and insert “adjacent to”.

44 In line 44, delete “sur-”.

45 In line 45, delete “rounding” and insert “adjacent”.

On page 13, delete lines 11 through 45 and delete pages 14 and 15.

On page 16, delete lines 1 through 21 and insert:

“SECTION 16. Notwithstanding ORS 197.646, a local government required to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, shall adopt land use regulations, or adopt amendments to its comprehensive plan, to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, no later than the effective date of this 2019 Act.”.

In line 22, delete “19” and insert “17”.

On page 17, line 18, delete “has the burden of proving” and insert “must adopt findings supported by substantial evidence demonstrating”.

On page 19, line 32, delete “20” and insert “18”.

On page 20, line 28, delete “has the burden of proving” and insert “must adopt findings supported by substantial evidence demonstrating”.

On page 22, line 33, delete “21” and insert “19”.

On page 23, line 26, delete “22” and insert “20”.

On page 24, line 19, delete “23” and insert “21”.

Delete lines 41 through 45.

On page 25, delete lines 1 through 19 and insert:

“SECTION 22. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and 227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this 2019 Act.

“SECTION 23. In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and reporting that relate to a regional housing needs analysis described in section 1 of this 2019 Act.

“SECTION 24. (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act become operative on January 1, 2020.

“(2) The Land Conservation and Development Commission, the Department of Land Conservation and Development and the Housing and Community Services Department may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments and the commission to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the departments and the commission by sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act.”.

In line 20, delete “27” and insert “25”.

B-Engrossed House Bill 2003

Ordered by the House June 20
Including House Amendments dated April 11 and June 20

Sponsored by Representative KOTEK; Representatives FAHEY, KENY-GUYER, WILDE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires [*Oregon Department of Administrative Services*] **Housing and Community Services Department** with Department of Land Conservation and Development and [*Housing and Community Services Department*] **Oregon Department of Administrative Services** to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to [*inventory*] **estimate** existing housing stock, [*and*] to establish housing shortage analysis **and to estimate needed housing units for next 20 years**. Requires **Housing and Community Services Department** to implement analyses and inventory by [*July*] **September 1, 2020**. Requires [*Oregon Department of Administrative Services*] **Housing and Community Services Department** and Department of Land Conservation and Development to report results to [*interim*] committee of Legislative Assembly by [*July 1, 2020*] **March 1, 2021**. Requires Department of Land Conservation and Development to report evaluation to [*interim*] committee of Legislative Assembly no later than [*January*] **March 1, 2021**.

Appropriates funds to Housing and Community Services Department for analyses.

Requires each city outside Metro with population greater than 10,000 to estimate its housing need and capacity no less than once every eight years and Metro and cities within Metro to estimate their housing need and capacity no less than every six years. Requires such local governments, within one year of determining estimated housing need, to adopt housing production strategy to meet estimated housing need.

Requires Land Conservation and Development Commission to identify cities that experience difficulties implementing housing production strategy. Appropriates moneys from General Fund to Department of Land Conservation and Development to assist cities with implementation of housing production strategy. Allows Department of Land Conservation and Development to seek enforcement order against cities not implementing housing production strategy.

Requires each city to complete Department of Land Conservation and Development housing survey 24 months before determining housing production strategy.

Allows development or rezoning of public property in urban growth boundary for affordable housing if compatible with surrounding zoning.

Requires local governments to amend local land use laws to comply with 2017 accessory dwelling unit laws by effective date of Act.

[*Awards attorney fees to prevailing intervening developers of affordable housing in Land Use Board of Appeals decisions.*]

[*Assigns*] **Requires** local government [*burden of proving on appeal*] **to adopt findings supported by substantial evidence in support of** necessity of reduction in density or height in housing development application.

Allows nonresidential places of worship to develop multiple affordable dwellings on land where nonresidential place of worship is allowed use.

Prohibits professional disciplinary conduct against employees of Department of Consumer and Business Services who provide certain typical building plans and specifications.

Appropriates funds to **Department of Land Conservation and Development** [*Commission*] for **technical assistance to local governments in implementing Act** [*various rulemaking and implementation actions*].

Becomes operative on January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175, 227.500 and 455.062 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **Be It Enacted by the People of the State of Oregon:**

2 **SECTION 1. (1) As used in this section:**

3 (a) "Area median income" means the median income for households established by the
4 United States Department of Housing and Urban Development.

5 (b) "Existing housing stock" means housing, by affordability level and type, actually
6 constructed in a city or Metro.

7 (c) "High income" means above 120 percent of the area median income.

8 (d) "Housing shortage" means the difference between the estimated housing units of
9 different affordability levels and housing types needed to accommodate the existing popu-
10 lation and the existing housing stock, measured in dwelling units.

11 (e) "Low income" means income above 50 percent and at or below 80 percent of the area
12 median income.

13 (f) "Metro" means a metropolitan service district organized under ORS chapter 268.

14 (g) "Moderate income" means income above 80 percent and at or below 120 percent of the
15 area median income.

16 (h) "Region" has the meaning given that term in ORS 284.752.

17 (i) "Very low income" means income at or below 50 percent of the area median income.

18 (2) The Housing and Community Services Department, in coordination with the Depart-
19 ment of Land Conservation and Development and the Oregon Department of Administrative
20 Services, shall develop a methodology for calculating:

21 (a) A regional housing needs analysis that identifies the total number of housing units
22 necessary to accommodate anticipated populations in a region over the next 20 years based
23 on:

24 (A) Trends in density and in the average mix of housing types of urban residential de-
25 velopment;

26 (B) Demographic and population trends;

27 (C) Economic trends and cycles; and

28 (D) Equitable distribution of publicly supported housing within a region.

29 (b) An estimate of existing housing stock of each city and Metro.

30 (c) A housing shortage analysis for each city and Metro.

31 (d) An estimate of the number of housing units necessary to accommodate anticipated
32 population growth over the next 20 years for each city and Metro.

33 (3) The methodologies for calculating the regional housing needs analysis, the estimate
34 of existing housing stock, the housing shortage analysis and the estimate of housing neces-
35 sary to accommodate growth that are developed under subsection (2) of this section must
36 classify housing by:

37 (a) Housing type, including attached and detached single-family housing, multifamily
38 housing and manufactured dwellings or mobile homes; and

39 (b) Affordability, by housing that is affordable to households with:

40 (A) Very low income;

41 (B) Low income;

42 (C) Moderate income; or

43 (D) High income.

44 (4) No later than September 1, 2020, the Housing and Community Services Department,
45 in coordination with the Department of Land Conservation and Development and the Oregon

1 Department of Administrative Services, shall conduct for each region a regional housing
2 needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct
3 a housing shortage analysis and estimate the housing necessary to accommodate growth.

4 (5) In developing the methodologies and conducting the analyses under this section, the
5 Housing and Community Services Department may:

6 (a) Consult or contract with subject matter experts, cities and Metro, regional solutions
7 centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted
8 regional housing needs analyses.

9 (b) Consider the most recent consolidated population forecast produced by the Portland
10 State University Population Research Center in making any relevant calculation or forecast.

11 (c) Consider any other relevant existing analyses, data and other information collected
12 or produced by state agencies or public entities.

13 (d) Make changes to the regional boundaries in order to make regions more accurately
14 align with shared employment, transportation or housing market dynamics.

15 **SECTION 2.** (1) No later than March 1, 2021, the Housing and Community Services De-
16 partment, in consultation with the Department of Land Conservation and Development and
17 the Oregon Department of Administrative Services, shall submit a report, in the manner
18 provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that sum-
19 marizes the findings of the regional housing needs analysis, estimate of housing stock,
20 housing shortage analysis and estimate of housing necessary to accommodate growth con-
21 ducted under section 1 (4) of this 2019 Act.

22 (2) No later than March 1, 2021, the Department of Land Conservation and Development,
23 in consultation with the Oregon Department of Administrative Services and the Housing and
24 Community Services Department, shall submit a report, in the manner provided in ORS
25 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

26 (a) Whether a regional housing needs analysis and housing shortage analysis described
27 in section 1 of this 2019 Act could appropriately allocate among the cities or local govern-
28 ments in a region the housing shortage described;

29 (b) How a regional housing needs analysis and housing shortage analysis may compare
30 to existing assessments of housing need and capacity conducted by local governments under
31 ORS 197.296 (3) and (10) in terms of:

32 (A) Cost and cost effectiveness;

33 (B) Reliability and accuracy;

34 (C) Repeatability; and

35 (D) Predictability;

36 (c) How a regional housing needs analysis and housing shortage analysis may relate to
37 statewide planning goals related to housing and any rules and policies adopted pursuant to
38 these goals and ORS 197.295 to 197.314;

39 (d) Whether different boundaries would be more appropriate for defining regions within
40 the regional housing needs analysis based on:

41 (A) Relevance of data in appropriately defining a commuting, employment or housing
42 market; or

43 (B) Ease or cost of collecting or analyzing data;

44 (e) Other ways in which the regional housing needs analysis or housing shortage analysis
45 could be improved; and

(f) Whether the regional housing needs analysis, or an improved version, could serve as an acceptable methodology statewide for land use planning relating to housing.

(3) In preparing the report required under subsection (2) of this section, the Department of Land Conservation and Development may consult or contract with other state agencies, subject matter experts, private firms, local governments, regional solutions centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted regional housing needs analyses.

SECTION 3. Sections 4 to 6 of this 2019 Act are added to and made a part of ORS 197.295 to 197.314.

SECTION 4. (1) A city with a population greater than 10,000 shall develop and adopt a housing production strategy under this section no later than one year after:

(a) The city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a);

(b) The city's deadline for completing a housing capacity analysis under ORS 197.296 (10)(b); or

(c) A date scheduled by the Land Conservation and Development Commission following the allocation of housing capacity to the city by a metropolitan service district under ORS 197.299 (2)(d).

(2) A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6) for the most recent 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may include:

(a) The reduction of financial and regulatory impediments to developing needed housing, including removing or easing approval standards or procedures for needed housing at higher densities or that is affordable;

(b) The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable; and

(c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

(3) In creating a housing production strategy, a city shall review and consider:

(a) Socioeconomic and demographic characteristics of households living in existing needed housing;

(b) Market conditions affecting the provision of needed housing;

(c) Measures already adopted by the city to promote the development of needed housing; and

(d) Existing and expected barriers to the development of needed housing; and

(e) For each action the city includes in its housing production strategy:

(A) The schedule for its adoption;

(B) The schedule for its implementation;

(C) Its expected magnitude of impact on the development of needed housing; and

(D) The time frame over which it is expected to impact needed housing.

(4) The housing production strategy must include within its index a copy of the city's most recently completed survey under section 1 (2), chapter 47, Oregon Laws 2018.

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in section 5 of this 2019 Act.

SECTION 5. (1) No later than 20 days after a city's adoption or amendment of a housing

1 production strategy under section 4 of this 2019 Act, a city shall submit the adopted strategy
2 or amended strategy to the Department of Land Conservation and Development.

3 (2) The submission under subsection (1) of this section must include copies of:

4 (a) The signed decision adopting the housing production strategy or amended strategy;

5 (b) The text of the housing production strategy clearly indicating any amendments to the
6 most recent strategy submitted under this section;

7 (c) A brief narrative summary of the housing production strategy; and

8 (d) The information reviewed and considered under section 6 (2) of this 2019 Act.

9 (3) On the same day the city submits notice of the housing production strategy or
10 amended strategy, the city shall provide a notice to persons that participated in the pro-
11 ceedings that led to the adoption of the strategy and requested notice in writing.

12 (4) Within 10 days of receipt of the submission under subsection (1) of this section, the
13 department shall provide notice to persons described under ORS 197.615 (3).

14 (5) The notices given under subsections (3) and (4) of this section must state:

15 (a) How and where materials described in subsection (2) of this section may be freely
16 obtained;

17 (b) That comments on the strategy may be submitted to the department within 45 days
18 after the department has received the submission; and

19 (c) That there is no further right of appeal.

20 (6) Based upon criteria adopted by the Land Conservation and Development Commission,
21 including any criteria adopted under section 6 (2) of this 2019 Act, the department shall,
22 within 120 days after receiving the submission under subsection (1) of this section:

23 (a) Approve the housing production strategy;

24 (b) Approve the housing production strategy, subject to further review and actions under
25 section 6 (2) of this 2019 Act; or

26 (c) Remand the housing production strategy for further modification as identified by the
27 department.

28 (7) A determination by the department under subsection (6) of this section is not a land
29 use decision and is final and not subject to appeal.

30 **SECTION 6.** (1) The Land Conservation and Development Commission, in consultation
31 with the Housing and Community Services Department, shall adopt criteria for reviewing and
32 identifying cities with a population greater than 10,000 that have not sufficiently:

33 (a) Achieved production of needed housing within their jurisdiction; or

34 (b) Implemented a housing production strategy adopted under section 4 of this 2019 Act.

35 (2) The criteria adopted by the commission under subsection (1) of this section may in-
36 clude the city's:

37 (a) Unmet housing need as described in ORS 197.296 (6);

38 (b) Unmet housing need in proportion to the city's population;

39 (c) Percentage of households identified as severely rent burdened as described in section
40 1, chapter 47, Oregon Laws 2018;

41 (d) Recent housing development;

42 (e) Recent adoption of a housing production strategy under section 4 of this 2019 Act or
43 adoption of actions pursuant to a housing production strategy;

44 (f) Recent or frequent previous identification by the Department of Land Conservation
45 and Development under this section; or

(g) Other attributes that the commission considers relevant.

(3) The Department of Land Conservation and Development may review cities under the criteria adopted under subsection (2) of this section for the purposes of prioritizing actions by the department, including:

(a) Awarding available technical or financial resources;

(b) Providing enhanced review and oversight of the city's housing production strategy;

(c) Requiring a report and explanation if a city does not implement an action within the approximate time frame scheduled within a housing production strategy;

(d) Entering into agreements with the city relating to the city's modification or implementation of its housing production strategy; or

(e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing or urbanization.

SECTION 7. No later than December 31, 2019, the Land Conservation and Development Commission shall adopt a schedule by which metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands. Dates in the schedule may not be earlier than two years following the commission's creation of rules implementing sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296 and 197.299 by sections 8 and 9 of this 2019 Act.

SECTION 8. ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2)(a) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use,]*

A local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

(A) At periodic review under ORS 197.628 to 197.651;

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

(ii) At least once each six years for a metropolitan service district; or

(C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

(b) The 20-year period shall commence on the date initially scheduled for completion of the *[periodic or legislative]* review under paragraph (a) of this subsection.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review *[or]* **under subsection (2)(a)(B) of this section** *[five years, whichever is greater]*. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this para-

1 graph.

2 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
3 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
4 shall take one or more of the following actions to accommodate the additional housing need:

5 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
6 housing needs for the next 20 years. As part of this process, the local government shall consider the
7 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
8 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
9 need and inclusion of lands for new public school facilities shall be a coordinated process between
10 the affected public school districts and the local government that has the authority to approve the
11 urban growth boundary;

12 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
13 lations to include new measures that demonstrably increase the likelihood that residential develop-
14 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
15 expansion of the urban growth boundary. A local government or metropolitan service district that
16 takes this action shall monitor and record the level of development activity and development density
17 by housing type following the date of the adoption of the new measures; or

18 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

19 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government
20 shall determine the overall average density and overall mix of housing types at which residential
21 development of needed housing types must occur in order to meet housing needs over the next 20
22 years. If that density is greater than the actual density of development determined under subsection
23 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
24 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
25 adopt measures that demonstrably increase the likelihood that residential development will occur
26 at the housing types and density and at the mix of housing types required to meet housing needs
27 over the next 20 years.

28 (8)(a) A local government outside a metropolitan service district that takes any actions under
29 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
30 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
31 197.314.

32 (b) The local government shall determine the density and mix of housing types anticipated as a
33 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
34 tual density and mix of housing types achieved. The local government shall compare actual and
35 anticipated density and mix. The local government shall submit its comparison to the commission
36 at the next *[periodic review or at the next legislative]* review of its urban growth boundary[, *whichever*
37 *comes first*] **under subsection (2)(a) of this section.**

38 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
39 tion demonstrably increase the likelihood of higher density residential development, the local gov-
40 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
41 for the housing types identified under subsection (3) of this section and is zoned at density ranges
42 that are likely to be achieved by the housing market using the analysis in subsection (3) of this
43 section. Actions or measures, or both, may include but are not limited to:

44 (a) Increases in the permitted density on existing residential land;

45 (b) Financial incentives for higher density housing;

(c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;

(d) Removal or easing of approval standards or procedures;

(e) Minimum density ranges;

(f) Redevelopment and infill strategies;

(g) Authorization of housing types not previously allowed by the plan or regulations;

(h) Adoption of an average residential density standard; and

(i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use,]* **As required under paragraph (c) of this subsection,** a city shall, according to rules of the commission:

(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and

(C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

(c) The actions required under paragraph (b) of this subsection shall be undertaken:

(A) At periodic review pursuant to ORS 197.628 to 197.651;

(B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or

(C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

[(c)] (d) For the purpose of the inventory described in this subsection, "buildable lands" includes those lands described in subsection (4)(a) of this section.

SECTION 9. ORS 197.299 is amended to read:

197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the inventory, determination and analysis required under ORS 197.296 (3) not later than six years after completion of the previous inventory, determination and analysis.

(2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the analysis.

(b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two years of completing the analysis.

(c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land within the urban growth boundary to accommodate the estimated housing needs for 20 years from the time the actions are completed.

(d) The metropolitan service district shall consider and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b) and shall allocate any housing capacity that is not accommodated under this section to be accommodated by the application of ORS 197.296

(6)(b) by cities within the metropolitan service district with a population greater than 10,000.

(e) Cities to which housing capacity is allocated under paragraph (d) of this subsection shall take steps, at least once every six years as scheduled by the Land Conservation and Development Commission, to demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years as required by ORS 197.296 (6)(b).

(3) The [*Land Conservation and Development*] commission may grant an extension to the time limits of subsection (2) of this section if the Director of the Department of Land Conservation and Development determines that the metropolitan service district has provided good cause for failing to meet the time limits.

(4)(a) The metropolitan service district shall establish a process to expand the urban growth boundary to accommodate a need for land for a public school that cannot reasonably be accommodated within the existing urban growth boundary. The metropolitan service district shall design the process to:

(A) Accommodate a need that must be accommodated between periodic analyses of urban growth boundary capacity required by subsection (1) of this section; and

(B) Provide for a final decision on a proposal to expand the urban growth boundary within four months after submission of a complete application by a large school district as defined in ORS 195.110.

(b) At the request of a large school district, the metropolitan service district shall assist the large school district to identify school sites required by the school facility planning process described in ORS 195.110. A need for a public school is a specific type of identified land need under ORS 197.298 (3).

(5) Three years after completing its most recent demonstration of sufficient buildable lands under ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination and analysis required as part of the demonstration for the purpose of considering an amendment to the metropolitan service district's urban growth boundary, provided:

(a) The metropolitan service district has entered into an intergovernmental agreement and has designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county located within the district;

(b) The commission has acknowledged the rural reserve and urban reserve designations described in paragraph (a) of this subsection;

(c) One or more cities within the metropolitan service district have proposed a development that would require expansion of the urban growth boundary;

(d) The city or cities proposing the development have provided evidence to the metropolitan service district that the proposed development would provide additional needed housing to the needed housing included in the most recent determination and analysis;

(e) The location chosen for the proposed development is adjacent to the city proposing the development; and

(f) The location chosen for the proposed development is located within an area designated and acknowledged as an urban reserve.

(6)(a) If a metropolitan service district, after revising its most recent determination and analysis pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary is warranted, the metropolitan service district may take action to expand its urban growth boundary

1 in one or more locations to accommodate the proposed development, provided the urban growth
2 boundary expansion does not exceed a total of 1,000 acres.

3 (b) A metropolitan service district that expands its urban growth boundary under this sub-
4 section:

5 (A) Must adopt the urban growth boundary expansion not more than four years after completing
6 its most recent demonstration of sufficient buildable lands under ORS 197.296; and

7 (B) Is exempt from the boundary location requirements described in the statewide land use
8 planning goals relating to urbanization.

9 **SECTION 10.** ORS 197.303 is amended to read:

10 197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, “needed housing” means all housing
11 on land zoned for residential use or mixed residential and commercial use that is determined to meet
12 the need shown for housing within an urban growth boundary at price ranges and rent levels that
13 are affordable to households within the county with a variety of incomes, including but not limited
14 to households with low incomes, very low incomes and extremely low incomes, as those terms are
15 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
16 “Needed housing” includes the following housing types:

17 (a) Attached and detached single-family housing and multiple family housing for both owner and
18 renter occupancy;

19 (b) Government assisted housing;

20 (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

21 (d) Manufactured homes on individual lots planned and zoned for single-family residential use
22 that are in addition to lots within designated manufactured dwelling subdivisions; and

23 (e) Housing for farmworkers.

24 (2) Subsection (1)(a) and (d) of this section does not apply to:

25 (a) A city with a population of less than 2,500.

26 (b) A county with a population of less than 15,000.

27 (3) A local government may take an exception under ORS 197.732 to the definition of “needed
28 housing” in subsection (1) of this section in the same manner that an exception may be taken under
29 the goals.

30 **SECTION 11.** ORS 197.319 is amended to read:

31 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
32 the person shall:

33 (a) Present the reasons, in writing, for such an order to the affected local government; and

34 (b) Request:

35 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
36 or urban service agreement or decision-making process which is the basis for the order; or

37 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
38 cial district agreement, **housing production strategy** or decision-making process that is the basis
39 for the order.

40 (2)(a) The local government or special district shall issue a written response to the request
41 within 60 days of the date the request is mailed to the local government or special district.

42 (b) The requestor and the local government or special district may enter into mediation to re-
43 solve issues in the request. The Department of Land Conservation and Development shall provide
44 mediation services when jointly requested by the local government or special district and the
45 requestor.

(c) If the local government or special district does not act in a manner which the requestor believes is adequate to address the issues raised in the request within the time period provided in paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Development Commission under ORS 197.324.

(3) A metropolitan service district may request an enforcement order under ORS 197.320 (12) without first complying with subsections (1) and (2) of this section.

SECTION 12. ORS 197.320 is amended to read:

197.320. The Land Conservation and Development Commission shall issue an order requiring a local government, state agency or special district to take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions **or actions** into compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regulations **or housing production strategy** if the commission has good cause to believe:

(1) A comprehensive plan or land use regulation adopted by a local government not on a compliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(2) A plan, program, rule or regulation affecting land use adopted by a state agency or special district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(3) A local government is not making satisfactory progress toward performance of its compliance schedule;

(4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the requirements of ORS 197.180;

(5) A local government has no comprehensive plan or land use regulation and is not on a compliance schedule directed to developing the plan or regulation;

(6) A local government has engaged in a pattern or practice of decision making that violates an acknowledged comprehensive plan or land use regulation. In making its determination under this subsection, the commission shall determine whether there is evidence in the record to support the decisions made. The commission shall not judge the issue solely upon adequacy of the findings in support of the decisions;

(7) A local government has failed to comply with a commission order entered under ORS 197.644;

(8) A special district has engaged in a pattern or practice of decision-making that violates an acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

(9) A special district is not making satisfactory progress toward performance of its obligations under ORS chapters 195 and 197;

(10) A local government's approval standards, special conditions on approval of specific development proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

(11) A local government is not making satisfactory progress toward meeting its obligations under ORS 195.065; [or]

(12) A local government within the jurisdiction of a metropolitan service district has failed to make changes to the comprehensive plan or land use regulations to comply with the regional framework plan of the district or has engaged in a pattern or practice of decision-making that violates a requirement of the regional framework plan[.]; **or**

(13) A city is not making satisfactory progress in taking actions listed in its housing production strategy under section 4 of this 2019 Act.

SECTION 13. Section 1, chapter 47, Oregon Laws 2018, is amended to read:

Sec. 1. (1) For purposes of this section:

(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) [*The Housing and Community Services Department, in collaboration with*] The Department of Land Conservation and Development, **in consultation with the Housing and Community Services Department**, shall develop a survey form on which the governing body of a city may provide specific information related to the affordability of housing within the city, including[, *but not limited to:*]

[(A)] the actions relating to land use and other related matters that the [*governing body*] **city** has taken to **encourage the development of needed housing**, increase the affordability of housing and reduce rent burdens for severely rent burdened households[; *and*].

[(B) *The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.*]

(c) [*If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened,*] The Department **of Land Conservation and Development** shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the [*Housing and Community Services Department and the*] Department of Land Conservation and Development [*within 60 days of receipt*] **at least 24 months prior to a deadline for completing a housing production strategy under section 4 of this 2019 Act.**

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

(a) Residential units.

(b) Regulated affordable residential units.

(c) Multifamily residential units.

(d) Regulated affordable multifamily residential units.

(e) Single-family units.

(f) Regulated affordable single-family units.

SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS chapter 197.

SECTION 15. (1) As used in this section, “public property” means all real property of the state, counties, cities, incorporated towns or villages, school districts, irrigation districts, drainage districts, ports, water districts, service districts, metropolitan service districts, housing authorities, public universities listed in ORS 352.002 or all other public or municipal corporations in this state.

(2) Notwithstanding any land use regulation, comprehensive plan, or statewide land use planning goal, a local government may allow the development of housing on public property provided:

(a) The real property is not inventoried as a park or open space as a protective measure pursuant to a statewide land use planning goal;

(b) The real property is located within the urban growth boundary;

(c) The real property is zoned for residential development or adjacent to parcels zoned for residential development;

(d) The housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone of the land or the adjacent residential land described in paragraph (c) of this subsection;

(e) At least 50 percent of the residential units provided under this section is affordable to households with incomes equal to or less than 60 percent of the area median income, as defined in ORS 456.270; and

(f) The affordability of the residential units described in paragraph (e) of this subsection is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, held by the local government or the Housing and Community Services Department and with a duration of no less than 60 years.

(3) Notwithstanding any statewide land use planning goal, a local government may amend its comprehensive plan and land use regulations to allow public property to be used for the purposes described in subsection (2) of this section.

SECTION 16. Notwithstanding ORS 197.646, a local government required to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, shall adopt land use regulations, or adopt amendments to its comprehensive plan, to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, no later than the effective date of this 2019 Act.

SECTION 17. ORS 215.416 is amended to read:

215.416. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A county may not approve an application if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A county may not *[reduce the density of]* **condition** an application for a housing development **on a reduction in density** if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not *[reduce the height of]* **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may *[reduce the density or height of]* **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the county must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:

1 (a) The name and address of the airport owner has been provided by the Oregon Department
2 of Aviation to the county planning authority; and

3 (b) The property subject to the land use hearing is:

4 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
5 Department of Aviation to be a "visual airport"; or

6 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
7 Department of Aviation to be an "instrument airport."

8 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing
9 need not be provided as set forth in subsection (6) of this section if the zoning permit would only
10 allow a structure less than 35 feet in height and the property is located outside the runway "ap-
11 proach surface" as defined by the Oregon Department of Aviation.

12 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which
13 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county
14 and which shall relate approval or denial of a permit application to the zoning ordinance and com-
15 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-
16 dinance and comprehensive plan for the county as a whole.

17 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide
18 only clear and objective standards, the standards must be clear and objective on the face of the
19 ordinance.

20 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
21 nied by a brief statement that explains the criteria and standards considered relevant to the deci-
22 sion, states the facts relied upon in rendering the decision and explains the justification for the
23 decision based on the criteria, standards and facts set forth.

24 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

25 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-
26 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
27 nated person gives notice of the decision and provides an opportunity for any person who is
28 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
29 to file an appeal.

30 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
31 of this subsection.

32 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
33 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
34 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
35 section may appeal the decision by filing a written appeal in the manner and within the time period
36 provided in the county's land use regulations. A county may not establish an appeal period that is
37 less than 12 days from the date the written notice of decision required by this subsection was
38 mailed. The notice shall state that the decision will not become final until the period for filing a
39 local appeal has expired. The notice also shall state that a person who is mailed written notice of
40 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS
41 197.830.

42 (D) An appeal from a hearings officer's decision made without hearing under this subsection
43 shall be to the planning commission or governing body of the county. An appeal from such other
44 person as the governing body designates shall be to a hearings officer, the planning commission or
45 the governing body. In either case, the appeal shall be to a de novo hearing.

1 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
2 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
3 of Appeals. At the de novo hearing:

4 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
5 ments and evidence as they would have had in a hearing under subsection (3) of this section before
6 the decision;

7 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
8 in a notice of appeal; and

9 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
10 accepted at the hearing.

11 (b) If a local government provides only a notice of the opportunity to request a hearing, the
12 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
13 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
14 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
15 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
16 by neighborhood or community organizations recognized by the governing body and whose bounda-
17 ries include the site.

18 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
19 plicant and to the owners of record of property on the most recent property tax assessment roll
20 where such property is located:

21 (i) Within 100 feet of the property that is the subject of the notice when the subject property
22 is wholly or in part within an urban growth boundary;

23 (ii) Within 250 feet of the property that is the subject of the notice when the subject property
24 is outside an urban growth boundary and not within a farm or forest zone; or

25 (iii) Within 750 feet of the property that is the subject of the notice when the subject property
26 is within a farm or forest zone.

27 (B) Notice shall also be provided to any neighborhood or community organization recognized by
28 the governing body and whose boundaries include the site.

29 (C) At the discretion of the applicant, the local government also shall provide notice to the
30 Department of Land Conservation and Development.

31 (12) A decision described in ORS 215.402 (4)(b) shall:

32 (a) Be entered in a registry available to the public setting forth:

33 (A) The street address or other easily understood geographic reference to the subject property;

34 (B) The date of the decision; and

35 (C) A description of the decision made.

36 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
37 limited land use decision.

38 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

39 (13) At the option of the applicant, the local government shall provide notice of the decision
40 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal
41 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
42 of appeal rights.

43 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-
44 ject to the requirements set forth in ORS 197.195 and 197.828.

45 **SECTION 18.** ORS 227.175 is amended to read:

227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A city may not approve an application unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including *[but not limited to]* clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not *[reduce the density of]* **condition** an application for a housing development **on a reduction in density** if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not *[reduce the height of]* **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may *[reduce the density or height of]* **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the city must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

1 (B) "Authorized height level" means the maximum height of a structure that is permitted under
2 local land use regulations.

3 (C) "Habitability" means being in compliance with the applicable provisions of the state building
4 code under ORS chapter 455 and the rules adopted thereunder.

5 (5) Hearings under this section may be held only after notice to the applicant and other inter-
6 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

7 (6) Notice of a public hearing on a zone use application shall be provided to the owner of an
8 airport, defined by the Oregon Department of Aviation as a "public use airport" if:

9 (a) The name and address of the airport owner has been provided by the Oregon Department
10 of Aviation to the city planning authority; and

11 (b) The property subject to the zone use hearing is:

12 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
13 Department of Aviation to be a "visual airport"; or

14 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
15 Department of Aviation to be an "instrument airport."

16 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing
17 need only be provided as set forth in subsection (6) of this section if the permit or zone change
18 would only allow a structure less than 35 feet in height and the property is located outside of the
19 runway "approach surface" as defined by the Oregon Department of Aviation.

20 (8) If an application would change the zone of property that includes all or part of a mobile
21 home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give
22 written notice by first class mail to each existing mailing address for tenants of the mobile home
23 or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first
24 hearing on the application. The governing body may require an applicant for such a zone change to
25 pay the costs of such notice.

26 (9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not
27 invalidate any zone change.

28 (10)(a)(A) The hearings officer or such other person as the governing body designates may ap-
29 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
30 nated person gives notice of the decision and provides an opportunity for any person who is
31 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
32 to file an appeal.

33 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
34 of this subsection.

35 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
36 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
37 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
38 section may appeal the decision by filing a written appeal in the manner and within the time period
39 provided in the city's land use regulations. A city may not establish an appeal period that is less
40 than 12 days from the date the written notice of decision required by this subsection was mailed.
41 The notice shall state that the decision will not become final until the period for filing a local appeal
42 has expired. The notice also shall state that a person who is mailed written notice of the decision
43 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

44 (D) An appeal from a hearings officer's decision made without hearing under this subsection
45 shall be to the planning commission or governing body of the city. An appeal from such other person

1 as the governing body designates shall be to a hearings officer, the planning commission or the
2 governing body. In either case, the appeal shall be to a de novo hearing.

3 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
4 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
5 of Appeals. At the de novo hearing:

6 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
7 ments and evidence as they would have had in a hearing under subsection (3) of this section before
8 the decision;

9 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
10 in a notice of appeal; and

11 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
12 accepted at the hearing.

13 (b) If a local government provides only a notice of the opportunity to request a hearing, the
14 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
15 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
16 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
17 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
18 by neighborhood or community organizations recognized by the governing body and whose bounda-
19 ries include the site.

20 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
21 plicant and to the owners of record of property on the most recent property tax assessment roll
22 where such property is located:

23 (i) Within 100 feet of the property that is the subject of the notice when the subject property
24 is wholly or in part within an urban growth boundary;

25 (ii) Within 250 feet of the property that is the subject of the notice when the subject property
26 is outside an urban growth boundary and not within a farm or forest zone; or

27 (iii) Within 750 feet of the property that is the subject of the notice when the subject property
28 is within a farm or forest zone.

29 (B) Notice shall also be provided to any neighborhood or community organization recognized by
30 the governing body and whose boundaries include the site.

31 (C) At the discretion of the applicant, the local government also shall provide notice to the
32 Department of Land Conservation and Development.

33 (11) A decision described in ORS 227.160 (2)(b) shall:

34 (a) Be entered in a registry available to the public setting forth:

35 (A) The street address or other easily understood geographic reference to the subject property;

36 (B) The date of the decision; and

37 (C) A description of the decision made.

38 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
39 limited land use decision.

40 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

41 (12) At the option of the applicant, the local government shall provide notice of the decision
42 described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal
43 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
44 of appeal rights.

45 (13) Notwithstanding other requirements of this section, limited land use decisions shall be

subject to the requirements set forth in ORS 197.195 and 197.828.

SECTION 19. ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that *[is]* **are** detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* **a** building or any residential unit contained in *[the]* **a** building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 20. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that *[is]* **are** detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* **a** building or any residential unit contained in *[the]* **a** building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 21. ORS 455.062 is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

(a) For structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical plans and specifications under subsection (1) of this section, is not required to seal or sign the typical plans and specifications and is not

1 **subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on**
 2 **providing those typical plans and specifications.**

3 [(2)] (3) A building official or inspector, as those terms are defined in ORS 455.715, when acting
 4 within the scope of direct employment by a municipality, may provide typical plans and specifica-
 5 tions for structures of a type for which the provision of plans or specifications is exempted under
 6 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from
 7 the application of ORS 672.002 to 672.325.

8 [(3)] This [section] **subsection** does not alter any applicable requirement under ORS 671.010 to
 9 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

10 **SECTION 22. In addition to and not in lieu of any other appropriation, there is appro-**
 11 **priated to the Department of Land Conservation and Development, for the biennium begin-**
 12 **ning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical**
 13 **assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the**
 14 **amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and**
 15 **227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this**
 16 **2019 Act.**

17 **SECTION 23. In addition to and not in lieu of any other appropriation, there is appro-**
 18 **priated to the Housing and Community Services Department, for the biennium beginning July**
 19 **1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and**
 20 **reporting that relate to a regional housing needs analysis described in section 1 of this 2019**
 21 **Act.**

22 **SECTION 24. (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296,**
 23 **197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections**
 24 **8 to 13 of this 2019 Act become operative on January 1, 2020.**

25 **(2) The Land Conservation and Development Commission, the Department of Land Con-**
 26 **servation and Development and the Housing and Community Services Department may take**
 27 **any action before the operative date specified in subsection (1) of this section that is neces-**
 28 **sary for the departments and the commission to exercise, on or after the operative date**
 29 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**
 30 **on the departments and the commission by sections 4 to 6 of this 2019 Act and the amend-**
 31 **ments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws**
 32 **2018, by sections 8 to 13 of this 2019 Act.**

33 **SECTION 25. This 2019 Act being necessary for the immediate preservation of the public**
 34 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
 35 **on its passage.**

HOUSE AMENDMENTS TO B-ENGROSSED HOUSE BILL 2003 (INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)

By JOINT COMMITTEE ON WAYS AND MEANS

June 26

1 On page 1 of the printed B-engrossed bill, line 4, after “2018” insert “, and section 3, chapter
2 97, Oregon Laws 2019 (Enrolled Senate Bill 39)”.

3 On page 9, after line 28, insert:

4 **“SECTION 8a. If House Bill 2001 becomes law, section 8 of this 2019 Act (amending ORS**
5 **197.296) is repealed and ORS 197.296, as amended by section 5, chapter _____, Oregon Laws**
6 **2019 (Enrolled House Bill 2001), is amended to read:**

7 “197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan
8 service district regional framework plans and local government comprehensive plans for lands
9 within the urban growth boundary of a city that is located outside of a metropolitan service district
10 and has a population of 25,000 or more.

11 “(b) The Land Conservation and Development Commission may establish a set of factors under
12 which additional cities are subject to the provisions of this section. In establishing the set of factors
13 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
14 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
15 more or to a metropolitan service district.

16 “(2)(a) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review*
17 *of the comprehensive plan or regional framework plan that concerns the urban growth boundary and*
18 *requires the application of a statewide planning goal relating to buildable lands for residential use,]*
19 A local government shall demonstrate that its comprehensive plan or regional framework plan pro-
20 vides sufficient buildable lands within the urban growth boundary established pursuant to statewide
21 planning goals to accommodate estimated housing needs for 20 years:

22 **“(A) At periodic review under ORS 197.628 to 197.651;**

23 **“(B) As scheduled by the commission:**

24 **“(i) At least once each eight years for local governments that are not within a metro-**
25 **politan service district; or**

26 **“(ii) At least once each six years for a metropolitan service district; or**

27 **“(C) At any other legislative review of the comprehensive plan or regional framework**
28 **plan that concerns the urban growth boundary and requires the application of a statewide**
29 **planning goal relating to buildable lands for residential use.**

30 **“(b) The 20-year period shall commence on the date initially scheduled for completion of the**
31 **[periodic or legislative] review under paragraph (a) of this subsection.**

32 **“(3) In performing the duties under subsection (2) of this section, a local government shall:**

33 **“(a) Inventory the supply of buildable lands within the urban growth boundary and determine**
34 **the housing capacity of the buildable lands; and**

1 “(b) Conduct an analysis of existing and projected housing need by type and density range, in
2 accordance with all factors under ORS 197.303 and statewide planning goals and rules relating to
3 housing, to determine the number of units and amount of land needed for each needed housing type
4 for the next 20 years.

5 “(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, ‘buildable
6 lands’ includes:

7 “(A) Vacant lands planned or zoned for residential use;

8 “(B) Partially vacant lands planned or zoned for residential use;

9 “(C) Lands that may be used for a mix of residential and employment uses under the existing
10 planning or zoning; and

11 “(D) Lands that may be used for residential infill or redevelopment.

12 “(b) For the purpose of the inventory and determination of housing capacity described in sub-
13 section (3)(a) of this section, the local government must demonstrate consideration of:

14 “(A) The extent that residential development is prohibited or restricted by local regulation and
15 ordinance, state law and rule or federal statute and regulation;

16 “(B) A written long term contract or easement for radio, telecommunications or electrical fa-
17 cilities, if the written contract or easement is provided to the local government; and

18 “(C) The presence of a single family dwelling or other structure on a lot or parcel.

19 “(c) Except for land that may be used for residential infill or redevelopment, a local government
20 shall create a map or document that may be used to verify and identify specific lots or parcels that
21 have been determined to be buildable lands.

22 “(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
23 housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land
24 within the urban growth boundary that has been collected since the last review [*or six years,*
25 *whichever is greater*] **under subsection (2)(a)(B) of this section.** The data shall include:

26 “(A) The number, density and average mix of housing types of urban residential development
27 that have actually occurred;

28 “(B) Trends in density and average mix of housing types of urban residential development;

29 “(C) Market factors that may substantially impact future urban residential development; and

30 “(D) The number, density and average mix of housing types that have occurred on the buildable
31 lands described in subsection (4)(a) of this section.

32 “(b) A local government shall make the determination described in paragraph (a) of this sub-
33 section using a shorter time period than the time period described in paragraph (a) of this subsection
34 if the local government finds that the shorter time period will provide more accurate and reliable
35 data related to housing capacity. The shorter time period may not be less than three years.

36 “(c) A local government shall use data from a wider geographic area or use a time period longer
37 than the time period described in paragraph (a) of this subsection if the analysis of a wider ge-
38 ographic area or the use of a longer time period will provide more accurate, complete and reliable
39 data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a)
40 of this subsection. The local government must clearly describe the geographic area, time frame and
41 source of data used in a determination performed under this paragraph.

42 “(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
43 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
44 shall take one or both of the following actions to accommodate the additional housing need:

45 “(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate

1 housing needs for the next 20 years. As part of this process, the local government shall consider the
2 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
3 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
4 need and inclusion of lands for new public school facilities shall be a coordinated process between
5 the affected public school districts and the local government that has the authority to approve the
6 urban growth boundary.

7 “(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
8 lations to include new measures that demonstrably increase the likelihood that residential develop-
9 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
10 expansion of the urban growth boundary. A local government or metropolitan service district that
11 takes this action shall adopt findings regarding the density expectations assumed to result from
12 measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data
13 in subsection (5)(a) of this section. The density expectations may not project an increase in resi-
14 dential capacity above achieved density by more than three percent without quantifiable validation
15 of such departures. For a local government located outside of a metropolitan service district, a
16 quantifiable validation must demonstrate that the assumed housing capacity has been achieved in
17 areas that are zoned to allow no greater than the same authorized density level within the local
18 jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable
19 validation must demonstrate that the assumed housing capacity has been achieved in areas that are
20 zoned to allow no greater than the same authorized density level within the metropolitan service
21 district.

22 “(c) As used in this subsection, ‘authorized density level’ has the meaning given that term in
23 ORS 227.175.

24 “(7) Using the housing need analysis conducted under subsection (3)(b) of this section, the local
25 government shall determine the overall average density and overall mix of housing types at which
26 residential development of needed housing types must occur in order to meet housing needs over the
27 next 20 years. If that density is greater than the actual density of development determined under
28 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types
29 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
30 review, shall adopt measures that demonstrably increase the likelihood that residential development
31 will occur at the housing types and density and at the mix of housing types required to meet housing
32 needs over the next 20 years.

33 “(8)(a) A local government outside a metropolitan service district that takes any actions under
34 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
35 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
36 197.314.

37 “(b) A local government shall determine the density and mix of housing types anticipated as a
38 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
39 tual density and mix of housing types achieved following the adoption of these actions. The local
40 government shall compare actual and anticipated density and mix. The local government shall sub-
41 mit its comparison to the commission at the next *[periodic review or at the next legislative]* review
42 of its urban growth boundary[, *whichever comes first*] **under subsection (2)(a) of this section.**

43 “(9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
44 tion demonstrably increase the likelihood of higher density residential development, the local gov-
45 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate

1 for the housing types identified under subsection (3) of this section, is zoned at density ranges that
2 are likely to be achieved by the housing market using the analysis in subsection (3) of this section
3 and is in areas where sufficient urban services are planned to enable the higher density development
4 to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

5 “(a) Increases in the permitted density on existing residential land;

6 “(b) Financial incentives for higher density housing;

7 “(c) Provisions permitting additional density beyond that generally allowed in the zoning district
8 in exchange for amenities and features provided by the developer;

9 “(d) Removal or easing of approval standards or procedures;

10 “(e) Minimum density ranges;

11 “(f) Redevelopment and infill strategies;

12 “(g) Authorization of housing types not previously allowed by the plan or regulations;

13 “(h) Adoption of an average residential density standard; and

14 “(i) Rezoning or redesignation of nonresidential land.

15 “(10)(a) The provisions of this subsection apply to local government comprehensive plans for
16 lands within the urban growth boundary of a city that is located outside of a metropolitan service
17 district and has a population of less than 25,000.

18 “(b) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of*
19 *the comprehensive plan that requires the application of a statewide planning goal relating to buildable*
20 *lands for residential use,]* **As required under paragraph (c) of this subsection**, a city shall, ac-
21 cording to rules of the commission:

22 “(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

23 “(B) Inventory the supply of buildable lands available within the urban growth boundary to ac-
24 commodate the estimated housing needs determined under this subsection; and

25 “(C) Adopt measures necessary to accommodate the estimated housing needs determined under
26 this subsection.

27 “(c) **The actions required under paragraph (b) of this subsection shall be undertaken:**

28 “(A) **At periodic review pursuant to ORS 197.628 to 197.651;**

29 “(B) **On a schedule established by the commission for cities with a population greater**
30 **than 10,000, not to exceed once each eight years; or**

31 “(C) **At any other legislative review of the comprehensive plan that requires the appli-**
32 **cation of a statewide planning goal relating to buildable lands for residential use.**

33 “[*(c)*] (d) For the purpose of the inventory described in this subsection, ‘buildable lands’ includes
34 those lands described in subsection (4)(a) of this section.”.

35 On page 11, after line 29, insert:

36 “**SECTION 10a. If House Bill 2001 becomes law, section 10 of this 2019 Act (amending ORS**
37 **197.303) is repealed and ORS 197.303, as amended by section 6, chapter _____, Oregon Laws**
38 **2019 (Enrolled House Bill 2001), is amended to read:**

39 “197.303. (1) As used in ORS 197.295 to 197.314, ‘needed housing’ means all housing on land
40 zoned for residential use or mixed residential and commercial use that is determined to meet the
41 need shown for housing within an urban growth boundary at price ranges and rent levels that are
42 affordable to households within the county with a variety of incomes, including but not limited to
43 households with low incomes, very low incomes and extremely low incomes, as those terms are de-
44 fined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
45 ‘Needed housing’ includes the following housing types:

1 “(a) Attached and detached single-family housing and multiple family housing for both owner and
2 renter occupancy;

3 “(b) Government assisted housing;

4 “(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

5 “(d) Manufactured homes on individual lots planned and zoned for single-family residential use
6 that are in addition to lots within designated manufactured dwelling subdivisions; and

7 “(e) Housing for farmworkers.

8 “(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local
9 government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall
10 consider and adopt findings related to changes in each of the following factors since the last [*peri-*
11 *odic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** and
12 the projected future changes in these factors over a 20-year planning period:

13 “(a) Household sizes;

14 “(b) Household demographics [*in terms of age, gender, race or other established demographic cat-*
15 *egory*];

16 “(c) Household incomes;

17 “(d) Vacancy rates; and

18 “(e) Housing costs.

19 “(3) A local government shall make the estimate described in subsection (2) of this section using
20 a shorter time period than since the last [*periodic or legislative review or six years, whichever is*
21 *greater,*] **review under ORS 197.296 (2)(a)(B)** if the local government finds that the shorter time
22 period will provide more accurate and reliable data related to housing need. The shorter time period
23 may not be less than three years.

24 “(4) A local government shall use data from a wider geographic area or use a time period longer
25 than the time period described in subsection (2) of this section if the analysis of a wider geographic
26 area or the use of a longer time period will provide more accurate, complete and reliable data re-
27 lating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this
28 section. The local government must clearly describe the geographic area, time frame and source of
29 data used in an estimate performed under this subsection.

30 “(5) Subsection (1)(a) and (d) of this section does not apply to:

31 “(a) A city with a population of less than 2,500.

32 “(b) A county with a population of less than 15,000.

33 “(6) A local government may take an exception under ORS 197.732 to the definition of ‘needed
34 housing’ in subsection (1) of this section in the same manner that an exception may be taken under
35 the goals.”.

36 On page 23, after line 9, insert:

37 “**SECTION 21a.** If Senate Bill 39 becomes law, ORS 455.062, as amended by section 2, chapter
38 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21 of this 2019 Act, is amended to read:

39 “455.062. (1) A Department of Consumer and Business Services employee acting within the scope
40 of that employment may provide typical drawings and specifications:

41 “(a) For structures of a type for which the provision of drawings or specifications is exempted
42 under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060
43 from the registration requirements of ORS 672.002 to 672.325; and

44 “(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are
45 metal or wood frame Use and Occupancy Classification Group U structures under the structural

1 specialty code.

2 “(2) A Department of Consumer and Business Services employee, who is licensed or registered
3 under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employ-
4 ment and who is providing typical [*plans*] **drawings** and specifications under subsection (1) of this
5 section, is not required to seal or sign the typical [*plans*] **drawings** and specifications and is not
6 subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing
7 those typical [*plans*] **drawings** and specifications.

8 “(3) A building official or inspector, as those terms are defined in ORS 455.715, when acting
9 within the scope of direct employment by a municipality, may provide typical drawings or specifi-
10 cations for structures of a type for which the provision of drawings or specifications is exempted
11 under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060
12 from the registration requirements of ORS 672.002 to 672.325. This subsection does not alter any
13 applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and
14 seals for a set of plans for a structure.

15 “**SECTION 21b.** If Senate Bill 39 becomes law, section 3, chapter 97, Oregon Laws 2019 (En-
16 rolled Senate Bill 39), is amended to read:

17 “**Sec. 3.** The amendments to ORS 455.062 and 672.060 by sections 1 and 2 [*of this 2019 Act*],
18 **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21a of this 2019 Act** apply
19 to work performed, and offers made, on or after the effective date of [*this 2019 Act*] **chapter 97,**
20 **Oregon Laws 2019 (Enrolled Senate Bill 39).**”.

(Including Amendments to Resolve Conflicts)

C-Engrossed House Bill 2003

Ordered by the House June 26
Including House Amendments dated April 11 and June 20 and June 26

Sponsored by Representative KOTEK; Representatives FAHEY, KENY-GUYER, WILDE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Housing and Community Services Department with Department of Land Conservation and Development and Oregon Department of Administrative Services to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to estimate existing housing stock, to establish housing shortage analysis and to estimate needed housing units for next 20 years. Requires Housing and Community Services Department to implement analyses and inventory by September 1, 2020. Requires Housing and Community Services Department and Department of Land Conservation and Development to report results to committee of Legislative Assembly by March 1, 2021. Requires Department of Land Conservation and Development to report evaluation to committee of Legislative Assembly no later than March 1, 2021.

Appropriates funds to Housing and Community Services Department for analyses.

Requires each city outside Metro with population greater than 10,000 to estimate its housing need and capacity no less than once every eight years and Metro and cities within Metro to estimate their housing need and capacity no less than every six years. Requires such local governments, within one year of determining estimated housing need, to adopt housing production strategy to meet estimated housing need.

Requires Land Conservation and Development Commission to identify cities that experience difficulties implementing housing production strategy. Appropriates moneys from General Fund to Department of Land Conservation and Development to assist cities with implementation of housing production strategy. Allows Department of Land Conservation and Development to seek enforcement order against cities not implementing housing production strategy.

Requires each city to complete Department of Land Conservation and Development housing survey 24 months before determining housing production strategy.

Allows development or rezoning of public property in urban growth boundary for affordable housing if compatible with surrounding zoning.

Requires local governments to amend local land use laws to comply with 2017 accessory dwelling unit laws by effective date of Act.

Requires local government to adopt findings supported by substantial evidence in support of necessity of reduction in density or height in housing development application.

Allows nonresidential places of worship to develop multiple affordable dwellings on land where nonresidential place of worship is allowed use.

Prohibits professional disciplinary conduct against employees of Department of Consumer and Business Services who provide certain typical building plans and specifications.

Appropriates funds to Department of Land Conservation and Development for technical assistance to local governments in implementing Act.

Becomes operative on January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175, 227.500 and 455.062 and section 1, chapter 47, Oregon Laws 2018, and section 3, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39); and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

(a) "Area median income" means the median income for households established by the United States Department of Housing and Urban Development.

(b) "Existing housing stock" means housing, by affordability level and type, actually constructed in a city or Metro.

(c) "High income" means above 120 percent of the area median income.

(d) "Housing shortage" means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate the existing population and the existing housing stock, measured in dwelling units.

(e) "Low income" means income above 50 percent and at or below 80 percent of the area median income.

(f) "Metro" means a metropolitan service district organized under ORS chapter 268.

(g) "Moderate income" means income above 80 percent and at or below 120 percent of the area median income.

(h) "Region" has the meaning given that term in ORS 284.752.

(i) "Very low income" means income at or below 50 percent of the area median income.

(2) The Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall develop a methodology for calculating:

(a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:

(A) Trends in density and in the average mix of housing types of urban residential development;

(B) Demographic and population trends;

(C) Economic trends and cycles; and

(D) Equitable distribution of publicly supported housing within a region.

(b) An estimate of existing housing stock of each city and Metro.

(c) A housing shortage analysis for each city and Metro.

(d) An estimate of the number of housing units necessary to accommodate anticipated population growth over the next 20 years for each city and Metro.

(3) The methodologies for calculating the regional housing needs analysis, the estimate of existing housing stock, the housing shortage analysis and the estimate of housing necessary to accommodate growth that are developed under subsection (2) of this section must classify housing by:

(a) Housing type, including attached and detached single-family housing, multifamily housing and manufactured dwellings or mobile homes; and

(b) Affordability, by housing that is affordable to households with:

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

(4) No later than September 1, 2020, the Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall conduct for each region a regional housing needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct

1 a housing shortage analysis and estimate the housing necessary to accommodate growth.

2 (5) In developing the methodologies and conducting the analyses under this section, the
3 Housing and Community Services Department may:

4 (a) Consult or contract with subject matter experts, cities and Metro, regional solutions
5 centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted
6 regional housing needs analyses.

7 (b) Consider the most recent consolidated population forecast produced by the Portland
8 State University Population Research Center in making any relevant calculation or forecast.

9 (c) Consider any other relevant existing analyses, data and other information collected
10 or produced by state agencies or public entities.

11 (d) Make changes to the regional boundaries in order to make regions more accurately
12 align with shared employment, transportation or housing market dynamics.

13 **SECTION 2.** (1) No later than March 1, 2021, the Housing and Community Services De-
14 partment, in consultation with the Department of Land Conservation and Development and
15 the Oregon Department of Administrative Services, shall submit a report, in the manner
16 provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that sum-
17 marizes the findings of the regional housing needs analysis, estimate of housing stock,
18 housing shortage analysis and estimate of housing necessary to accommodate growth con-
19 ducted under section 1 (4) of this 2019 Act.

20 (2) No later than March 1, 2021, the Department of Land Conservation and Development,
21 in consultation with the Oregon Department of Administrative Services and the Housing and
22 Community Services Department, shall submit a report, in the manner provided in ORS
23 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

24 (a) Whether a regional housing needs analysis and housing shortage analysis described
25 in section 1 of this 2019 Act could appropriately allocate among the cities or local govern-
26 ments in a region the housing shortage described;

27 (b) How a regional housing needs analysis and housing shortage analysis may compare
28 to existing assessments of housing need and capacity conducted by local governments under
29 ORS 197.296 (3) and (10) in terms of:

30 (A) Cost and cost effectiveness;

31 (B) Reliability and accuracy;

32 (C) Repeatability; and

33 (D) Predictability;

34 (c) How a regional housing needs analysis and housing shortage analysis may relate to
35 statewide planning goals related to housing and any rules and policies adopted pursuant to
36 these goals and ORS 197.295 to 197.314;

37 (d) Whether different boundaries would be more appropriate for defining regions within
38 the regional housing needs analysis based on:

39 (A) Relevance of data in appropriately defining a commuting, employment or housing
40 market; or

41 (B) Ease or cost of collecting or analyzing data;

42 (e) Other ways in which the regional housing needs analysis or housing shortage analysis
43 could be improved; and

44 (f) Whether the regional housing needs analysis, or an improved version, could serve as
45 an acceptable methodology statewide for land use planning relating to housing.

(3) In preparing the report required under subsection (2) of this section, the Department of Land Conservation and Development may consult or contract with other state agencies, subject matter experts, private firms, local governments, regional solutions centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted regional housing needs analyses.

SECTION 3. Sections 4 to 6 of this 2019 Act are added to and made a part of ORS 197.295 to 197.314.

SECTION 4. (1) A city with a population greater than 10,000 shall develop and adopt a housing production strategy under this section no later than one year after:

(a) The city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a);

(b) The city's deadline for completing a housing capacity analysis under ORS 197.296 (10)(b); or

(c) A date scheduled by the Land Conservation and Development Commission following the allocation of housing capacity to the city by a metropolitan service district under ORS 197.299 (2)(d).

(2) A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6) for the most recent 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may include:

(a) The reduction of financial and regulatory impediments to developing needed housing, including removing or easing approval standards or procedures for needed housing at higher densities or that is affordable;

(b) The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable; and

(c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

(3) In creating a housing production strategy, a city shall review and consider:

(a) Socioeconomic and demographic characteristics of households living in existing needed housing;

(b) Market conditions affecting the provision of needed housing;

(c) Measures already adopted by the city to promote the development of needed housing;

(d) Existing and expected barriers to the development of needed housing; and

(e) For each action the city includes in its housing production strategy:

(A) The schedule for its adoption;

(B) The schedule for its implementation;

(C) Its expected magnitude of impact on the development of needed housing; and

(D) The time frame over which it is expected to impact needed housing.

(4) The housing production strategy must include within its index a copy of the city's most recently completed survey under section 1 (2), chapter 47, Oregon Laws 2018.

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in section 5 of this 2019 Act.

SECTION 5. (1) No later than 20 days after a city's adoption or amendment of a housing production strategy under section 4 of this 2019 Act, a city shall submit the adopted strategy or amended strategy to the Department of Land Conservation and Development.

(2) The submission under subsection (1) of this section must include copies of:

(a) The signed decision adopting the housing production strategy or amended strategy;

(b) The text of the housing production strategy clearly indicating any amendments to the most recent strategy submitted under this section;

(c) A brief narrative summary of the housing production strategy; and

(d) The information reviewed and considered under section 6 (2) of this 2019 Act.

(3) On the same day the city submits notice of the housing production strategy or amended strategy, the city shall provide a notice to persons that participated in the proceedings that led to the adoption of the strategy and requested notice in writing.

(4) Within 10 days of receipt of the submission under subsection (1) of this section, the department shall provide notice to persons described under ORS 197.615 (3).

(5) The notices given under subsections (3) and (4) of this section must state:

(a) How and where materials described in subsection (2) of this section may be freely obtained;

(b) That comments on the strategy may be submitted to the department within 45 days after the department has received the submission; and

(c) That there is no further right of appeal.

(6) Based upon criteria adopted by the Land Conservation and Development Commission, including any criteria adopted under section 6 (2) of this 2019 Act, the department shall, within 120 days after receiving the submission under subsection (1) of this section:

(a) Approve the housing production strategy;

(b) Approve the housing production strategy, subject to further review and actions under section 6 (2) of this 2019 Act; or

(c) Remand the housing production strategy for further modification as identified by the department.

(7) A determination by the department under subsection (6) of this section is not a land use decision and is final and not subject to appeal.

SECTION 6. (1) The Land Conservation and Development Commission, in consultation with the Housing and Community Services Department, shall adopt criteria for reviewing and identifying cities with a population greater than 10,000 that have not sufficiently:

(a) Achieved production of needed housing within their jurisdiction; or

(b) Implemented a housing production strategy adopted under section 4 of this 2019 Act.

(2) The criteria adopted by the commission under subsection (1) of this section may include the city's:

(a) Unmet housing need as described in ORS 197.296 (6);

(b) Unmet housing need in proportion to the city's population;

(c) Percentage of households identified as severely rent burdened as described in section 1, chapter 47, Oregon Laws 2018;

(d) Recent housing development;

(e) Recent adoption of a housing production strategy under section 4 of this 2019 Act or adoption of actions pursuant to a housing production strategy;

(f) Recent or frequent previous identification by the Department of Land Conservation and Development under this section; or

(g) Other attributes that the commission considers relevant.

(3) The Department of Land Conservation and Development may review cities under the

criteria adopted under subsection (2) of this section for the purposes of prioritizing actions by the department, including:

- (a) Awarding available technical or financial resources;
- (b) Providing enhanced review and oversight of the city's housing production strategy;
- (c) Requiring a report and explanation if a city does not implement an action within the approximate time frame scheduled within a housing production strategy;
- (d) Entering into agreements with the city relating to the city's modification or implementation of its housing production strategy; or
- (e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing or urbanization.

SECTION 7. No later than December 31, 2019, the Land Conservation and Development Commission shall adopt a schedule by which metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands. Dates in the schedule may not be earlier than two years following the commission's creation of rules implementing sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296 and 197.299 by sections 8 and 9 of this 2019 Act.

SECTION 8. ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2)(a) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use,]* A local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

(A) At periodic review under ORS 197.628 to 197.651;

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

(ii) At least once each six years for a metropolitan service district; or

(C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

(b) The 20-year period shall commence on the date initially scheduled for completion of the *[periodic or legislative]* review **under paragraph (a) of this subsection.**

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the

1 housing capacity of the buildable lands; and

2 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
3 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
4 and amount of land needed for each needed housing type for the next 20 years.

5 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable
6 lands” includes:

7 (A) Vacant lands planned or zoned for residential use;

8 (B) Partially vacant lands planned or zoned for residential use;

9 (C) Lands that may be used for a mix of residential and employment uses under the existing
10 planning or zoning; and

11 (D) Lands that may be used for residential infill or redevelopment.

12 (b) For the purpose of the inventory and determination of housing capacity described in sub-
13 section (3)(a) of this section, the local government must demonstrate consideration of:

14 (A) The extent that residential development is prohibited or restricted by local regulation and
15 ordinance, state law and rule or federal statute and regulation;

16 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
17 ties, if the written contract or easement is provided to the local government; and

18 (C) The presence of a single family dwelling or other structure on a lot or parcel.

19 (c) Except for land that may be used for residential infill or redevelopment, a local government
20 shall create a map or document that may be used to verify and identify specific lots or parcels that
21 have been determined to be buildable lands.

22 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
23 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
24 to land within the urban growth boundary that has been collected since the last *[periodic]* review
25 **[or] under subsection (2)(a)(B) of this section** *[five years, whichever is greater]*. The data shall
26 include:

27 (A) The number, density and average mix of housing types of urban residential development that
28 have actually occurred;

29 (B) Trends in density and average mix of housing types of urban residential development;

30 (C) Demographic and population trends;

31 (D) Economic trends and cycles; and

32 (E) The number, density and average mix of housing types that have occurred on the buildable
33 lands described in subsection (4)(a) of this section.

34 (b) A local government shall make the determination described in paragraph (a) of this sub-
35 section using a shorter time period than the time period described in paragraph (a) of this subsection
36 if the local government finds that the shorter time period will provide more accurate and reliable
37 data related to housing capacity and need. The shorter time period may not be less than three years.

38 (c) A local government shall use data from a wider geographic area or use a time period for
39 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
40 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
41 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
42 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
43 geographic area, time frame and source of data used in a determination performed under this para-
44 graph.

45 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than

1 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
2 shall take one or more of the following actions to accommodate the additional housing need:

3 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
4 housing needs for the next 20 years. As part of this process, the local government shall consider the
5 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
6 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
7 need and inclusion of lands for new public school facilities shall be a coordinated process between
8 the affected public school districts and the local government that has the authority to approve the
9 urban growth boundary;

10 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
11 lations to include new measures that demonstrably increase the likelihood that residential develop-
12 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
13 expansion of the urban growth boundary. A local government or metropolitan service district that
14 takes this action shall monitor and record the level of development activity and development density
15 by housing type following the date of the adoption of the new measures; or

16 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

17 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government
18 shall determine the overall average density and overall mix of housing types at which residential
19 development of needed housing types must occur in order to meet housing needs over the next 20
20 years. If that density is greater than the actual density of development determined under subsection
21 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
22 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
23 adopt measures that demonstrably increase the likelihood that residential development will occur
24 at the housing types and density and at the mix of housing types required to meet housing needs
25 over the next 20 years.

26 (8)(a) A local government outside a metropolitan service district that takes any actions under
27 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
28 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
29 197.314.

30 (b) The local government shall determine the density and mix of housing types anticipated as a
31 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
32 tual density and mix of housing types achieved. The local government shall compare actual and
33 anticipated density and mix. The local government shall submit its comparison to the commission
34 at the next [*periodic review or at the next legislative*] review of its urban growth boundary[, *whichever*
35 *comes first*] **under subsection (2)(a) of this section.**

36 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
37 tion demonstrably increase the likelihood of higher density residential development, the local gov-
38 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
39 for the housing types identified under subsection (3) of this section and is zoned at density ranges
40 that are likely to be achieved by the housing market using the analysis in subsection (3) of this
41 section. Actions or measures, or both, may include but are not limited to:

42 (a) Increases in the permitted density on existing residential land;

43 (b) Financial incentives for higher density housing;

44 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
45 in exchange for amenities and features provided by the developer;

- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use,]* **As required under paragraph (c) of this subsection,** a city shall, according to rules of the commission:

(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and

(C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

(c) The actions required under paragraph (b) of this subsection shall be undertaken:

(A) At periodic review pursuant to ORS 197.628 to 197.651;

(B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or

(C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

[(c)] (d) For the purpose of the inventory described in this subsection, “buildable lands” includes those lands described in subsection (4)(a) of this section.

SECTION 8a. If House Bill 2001 becomes law, section 8 of this 2019 Act (amending ORS 197.296) is repealed and ORS 197.296, as amended by section 5, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2)(a) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use,]* A local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

(A) At periodic review under ORS 197.628 to 197.651;

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

(ii) At least once each six years for a metropolitan service district; or

(C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

(b) The 20-year period shall commence on the date initially scheduled for completion of the [periodic or legislative] review **under paragraph (a) of this subsection.**

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last review [or six years, whichever is greater] **under subsection (2)(a)(B) of this section.** The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Market factors that may substantially impact future urban residential development; and

(D) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection

1 if the local government finds that the shorter time period will provide more accurate and reliable
2 data related to housing capacity. The shorter time period may not be less than three years.

3 (c) A local government shall use data from a wider geographic area or use a time period longer
4 than the time period described in paragraph (a) of this subsection if the analysis of a wider ge-
5 ographic area or the use of a longer time period will provide more accurate, complete and reliable
6 data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a)
7 of this subsection. The local government must clearly describe the geographic area, time frame and
8 source of data used in a determination performed under this paragraph.

9 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
10 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
11 shall take one or both of the following actions to accommodate the additional housing need:

12 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
13 housing needs for the next 20 years. As part of this process, the local government shall consider the
14 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
15 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
16 need and inclusion of lands for new public school facilities shall be a coordinated process between
17 the affected public school districts and the local government that has the authority to approve the
18 urban growth boundary.

19 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
20 lations to include new measures that demonstrably increase the likelihood that residential develop-
21 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
22 expansion of the urban growth boundary. A local government or metropolitan service district that
23 takes this action shall adopt findings regarding the density expectations assumed to result from
24 measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data
25 in subsection (5)(a) of this section. The density expectations may not project an increase in resi-
26 dential capacity above achieved density by more than three percent without quantifiable validation
27 of such departures. For a local government located outside of a metropolitan service district, a
28 quantifiable validation must demonstrate that the assumed housing capacity has been achieved in
29 areas that are zoned to allow no greater than the same authorized density level within the local
30 jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable
31 validation must demonstrate that the assumed housing capacity has been achieved in areas that are
32 zoned to allow no greater than the same authorized density level within the metropolitan service
33 district.

34 (c) As used in this subsection, "authorized density level" has the meaning given that term in
35 ORS 227.175.

36 (7) Using the housing need analysis conducted under subsection (3)(b) of this section, the local
37 government shall determine the overall average density and overall mix of housing types at which
38 residential development of needed housing types must occur in order to meet housing needs over the
39 next 20 years. If that density is greater than the actual density of development determined under
40 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types
41 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
42 review, shall adopt measures that demonstrably increase the likelihood that residential development
43 will occur at the housing types and density and at the mix of housing types required to meet housing
44 needs over the next 20 years.

45 (8)(a) A local government outside a metropolitan service district that takes any actions under

1 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
 2 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
 3 197.314.

4 (b) A local government shall determine the density and mix of housing types anticipated as a
 5 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
 6 tual density and mix of housing types achieved following the adoption of these actions. The local
 7 government shall compare actual and anticipated density and mix. The local government shall sub-
 8 mit its comparison to the commission at the next *[periodic review or at the next legislative]* review
 9 of its urban growth boundary[, *whichever comes first*] **under subsection (2)(a) of this section.**

10 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
 11 tion demonstrably increase the likelihood of higher density residential development, the local gov-
 12 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
 13 for the housing types identified under subsection (3) of this section, is zoned at density ranges that
 14 are likely to be achieved by the housing market using the analysis in subsection (3) of this section
 15 and is in areas where sufficient urban services are planned to enable the higher density development
 16 to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

17 (a) Increases in the permitted density on existing residential land;

18 (b) Financial incentives for higher density housing;

19 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
 20 in exchange for amenities and features provided by the developer;

21 (d) Removal or easing of approval standards or procedures;

22 (e) Minimum density ranges;

23 (f) Redevelopment and infill strategies;

24 (g) Authorization of housing types not previously allowed by the plan or regulations;

25 (h) Adoption of an average residential density standard; and

26 (i) Rezoning or redesignation of nonresidential land.

27 (10)(a) The provisions of this subsection apply to local government comprehensive plans for
 28 lands within the urban growth boundary of a city that is located outside of a metropolitan service
 29 district and has a population of less than 25,000.

30 (b) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the*
 31 *comprehensive plan that requires the application of a statewide planning goal relating to buildable*
 32 *lands for residential use,]* **As required under paragraph (c) of this subsection,** a city shall, ac-
 33 cording to rules of the commission:

34 (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

35 (B) Inventory the supply of buildable lands available within the urban growth boundary to ac-
 36 commodate the estimated housing needs determined under this subsection; and

37 (C) Adopt measures necessary to accommodate the estimated housing needs determined under
 38 this subsection.

39 **(c) The actions required under paragraph (b) of this subsection shall be undertaken:**

40 **(A) At periodic review pursuant to ORS 197.628 to 197.651;**

41 **(B) On a schedule established by the commission for cities with a population greater than**
 42 **10,000, not to exceed once each eight years; or**

43 **(C) At any other legislative review of the comprehensive plan that requires the applica-**
 44 **tion of a statewide planning goal relating to buildable lands for residential use.**

45 *[(c)]* **(d)** For the purpose of the inventory described in this subsection, “buildable lands” includes

those lands described in subsection (4)(a) of this section.

SECTION 9. ORS 197.299 is amended to read:

197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the inventory, determination and analysis required under ORS 197.296 (3) not later than six years after completion of the previous inventory, determination and analysis.

(2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the analysis.

(b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two years of completing the analysis.

(c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land within the urban growth boundary to accommodate the estimated housing needs for 20 years from the time the actions are completed.

(d) The metropolitan service district shall consider and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b) **and shall allocate any housing capacity that is not accommodated under this section to be accommodated by the application of ORS 197.296 (6)(b) by cities within the metropolitan service district with a population greater than 10,000.**

(e) Cities to which housing capacity is allocated under paragraph (d) of this subsection shall take steps, at least once every six years as scheduled by the Land Conservation and Development Commission, to demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years as required by ORS 197.296 (6)(b).

(3) The [*Land Conservation and Development*] commission may grant an extension to the time limits of subsection (2) of this section if the Director of the Department of Land Conservation and Development determines that the metropolitan service district has provided good cause for failing to meet the time limits.

(4)(a) The metropolitan service district shall establish a process to expand the urban growth boundary to accommodate a need for land for a public school that cannot reasonably be accommodated within the existing urban growth boundary. The metropolitan service district shall design the process to:

(A) Accommodate a need that must be accommodated between periodic analyses of urban growth boundary capacity required by subsection (1) of this section; and

(B) Provide for a final decision on a proposal to expand the urban growth boundary within four months after submission of a complete application by a large school district as defined in ORS 195.110.

(b) At the request of a large school district, the metropolitan service district shall assist the large school district to identify school sites required by the school facility planning process described in ORS 195.110. A need for a public school is a specific type of identified land need under ORS 197.298 (3).

(5) Three years after completing its most recent demonstration of sufficient buildable lands under ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination and analysis required as part of the demonstration for the purpose of considering an amendment to

1 the metropolitan service district's urban growth boundary, provided:

2 (a) The metropolitan service district has entered into an intergovernmental agreement and has
3 designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county lo-
4 cated within the district;

5 (b) The commission has acknowledged the rural reserve and urban reserve designations de-
6 scribed in paragraph (a) of this subsection;

7 (c) One or more cities within the metropolitan service district have proposed a development that
8 would require expansion of the urban growth boundary;

9 (d) The city or cities proposing the development have provided evidence to the metropolitan
10 service district that the proposed development would provide additional needed housing to the
11 needed housing included in the most recent determination and analysis;

12 (e) The location chosen for the proposed development is adjacent to the city proposing the de-
13 velopment; and

14 (f) The location chosen for the proposed development is located within an area designated and
15 acknowledged as an urban reserve.

16 (6)(a) If a metropolitan service district, after revising its most recent determination and analysis
17 pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary
18 is warranted, the metropolitan service district may take action to expand its urban growth boundary
19 in one or more locations to accommodate the proposed development, provided the urban growth
20 boundary expansion does not exceed a total of 1,000 acres.

21 (b) A metropolitan service district that expands its urban growth boundary under this sub-
22 section:

23 (A) Must adopt the urban growth boundary expansion not more than four years after completing
24 its most recent demonstration of sufficient buildable lands under ORS 197.296; and

25 (B) Is exempt from the boundary location requirements described in the statewide land use
26 planning goals relating to urbanization.

27 **SECTION 10.** ORS 197.303 is amended to read:

28 197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, "needed housing" means all housing
29 on land zoned for residential use or mixed residential and commercial use that is determined to meet
30 the need shown for housing within an urban growth boundary at price ranges and rent levels that
31 are affordable to households within the county with a variety of incomes, including but not limited
32 to households with low incomes, very low incomes and extremely low incomes, as those terms are
33 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
34 "Needed housing" includes the following housing types:

35 (a) Attached and detached single-family housing and multiple family housing for both owner and
36 renter occupancy;

37 (b) Government assisted housing;

38 (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

39 (d) Manufactured homes on individual lots planned and zoned for single-family residential use
40 that are in addition to lots within designated manufactured dwelling subdivisions; and

41 (e) Housing for farmworkers.

42 (2) Subsection (1)(a) and (d) of this section does not apply to:

43 (a) A city with a population of less than 2,500.

44 (b) A county with a population of less than 15,000.

45 (3) A local government may take an exception under ORS 197.732 to the definition of "needed

housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

SECTION 10a. If House Bill 2001 becomes law, section 10 of this 2019 Act (amending ORS 197.303) is repealed and ORS 197.303, as amended by section 6, chapter _____, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:

197.303. (1) As used in ORS 197.295 to 197.314, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** and the projected future changes in these factors over a 20-year planning period:

(a) Household sizes;

(b) Household demographics [*in terms of age, gender, race or other established demographic category*];

(c) Household incomes;

(d) Vacancy rates; and

(e) Housing costs.

(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.

(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

(5) Subsection (1)(a) and (d) of this section does not apply to:

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(6) A local government may take an exception under ORS 197.732 to the definition of “needed

housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

SECTION 11. ORS 197.319 is amended to read:

197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320, the person shall:

(a) Present the reasons, in writing, for such an order to the affected local government; and

(b) Request:

(A) Revisions to the local comprehensive plan, land use regulations, special district cooperative or urban service agreement or decision-making process which is the basis for the order; or

(B) That an action be taken regarding the local comprehensive plan, land use regulations, special district agreement, **housing production strategy** or decision-making process that is the basis for the order.

(2)(a) The local government or special district shall issue a written response to the request within 60 days of the date the request is mailed to the local government or special district.

(b) The requestor and the local government or special district may enter into mediation to resolve issues in the request. The Department of Land Conservation and Development shall provide mediation services when jointly requested by the local government or special district and the requestor.

(c) If the local government or special district does not act in a manner which the requestor believes is adequate to address the issues raised in the request within the time period provided in paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Development Commission under ORS 197.324.

(3) A metropolitan service district may request an enforcement order under ORS 197.320 (12) without first complying with subsections (1) and (2) of this section.

SECTION 12. ORS 197.320 is amended to read:

197.320. The Land Conservation and Development Commission shall issue an order requiring a local government, state agency or special district to take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions **or actions** into compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regulations **or housing production strategy** if the commission has good cause to believe:

(1) A comprehensive plan or land use regulation adopted by a local government not on a compliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(2) A plan, program, rule or regulation affecting land use adopted by a state agency or special district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(3) A local government is not making satisfactory progress toward performance of its compliance schedule;

(4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the requirements of ORS 197.180;

(5) A local government has no comprehensive plan or land use regulation and is not on a compliance schedule directed to developing the plan or regulation;

(6) A local government has engaged in a pattern or practice of decision making that violates an acknowledged comprehensive plan or land use regulation. In making its determination under this subsection, the commission shall determine whether there is evidence in the record to support the

1 decisions made. The commission shall not judge the issue solely upon adequacy of the findings in
2 support of the decisions;

3 (7) A local government has failed to comply with a commission order entered under ORS 197.644;

4 (8) A special district has engaged in a pattern or practice of decision-making that violates an
5 acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

6 (9) A special district is not making satisfactory progress toward performance of its obligations
7 under ORS chapters 195 and 197;

8 (10) A local government's approval standards, special conditions on approval of specific devel-
9 opment proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

10 (11) A local government is not making satisfactory progress toward meeting its obligations un-
11 der ORS 195.065; *[or]*

12 (12) A local government within the jurisdiction of a metropolitan service district has failed to
13 make changes to the comprehensive plan or land use regulations to comply with the regional
14 framework plan of the district or has engaged in a pattern or practice of decision-making that vio-
15 lates a requirement of the regional framework plan[.]; **or**

16 (13) **A city is not making satisfactory progress in taking actions listed in its housing**
17 **production strategy under section 4 of this 2019 Act.**

18 **SECTION 13.** Section 1, chapter 47, Oregon Laws 2018, is amended to read:

19 **Sec. 1.** (1) For purposes of this section:

20 (a) A household is severely rent burdened if the household spends more than 50 percent of the
21 income of the household on gross rent for housing.

22 (b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs
23 with the land and that requires affordability for an established income level for a defined period of
24 time.

25 (c) A single-family unit may be rented or owned by a household and includes single-family homes,
26 duplexes, townhomes, row homes and mobile homes.

27 (2)(a) The Housing and Community Services Department shall annually provide to the governing
28 body of each city in this state with a population greater than 10,000 the most current data available
29 from the United States Census Bureau, or any other source the department considers at least as
30 reliable, showing the percentage of renter households in the city that are severely rent burdened.

31 (b) *[The Housing and Community Services Department, in collaboration with]* The Department of
32 Land Conservation and Development, **in consultation with the Housing and Community Services**
33 **Department**, shall develop a survey form on which the governing body of a city may provide spe-
34 cific information related to the affordability of housing within the city, including[, *but not limited*
35 *to:*]

36 *[(A)]* the actions relating to land use and other related matters that the *[governing body]* **city**
37 has taken to **encourage the development of needed housing**, increase the affordability of housing
38 and reduce rent burdens for severely rent burdened households[; *and*].

39 *[(B)]* *The additional actions the governing body intends to take to reduce rent burdens for severely*
40 *rent burdened households.]*

41 (c) *[If the Housing and Community Services Department determines that at least 25 percent of the*
42 *renter households in a city are severely rent burdened,]* The Department **of Land Conservation and**
43 **Development** shall provide the governing body of the city with the survey form developed pursuant
44 to paragraph (b) of this subsection.

45 (d) The governing body of the city shall return the completed survey form to the *[Housing and*

1 *Community Services Department and the*] Department of Land Conservation and Development [*within*
 2 *60 days of receipt*] **at least 24 months prior to a deadline for completing a housing production**
 3 **strategy under section 4 of this 2019 Act.**

4 (3)(a) In any year in which the governing body of a city is informed under this section that at
 5 least 25 percent of the renter households in the city are severely rent burdened, the governing body
 6 shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens
 7 within the city, the barriers to reducing rent burdens and possible solutions.

8 (b) The Housing and Community Services Department may adopt rules governing the conduct
 9 of the public meeting required under this subsection.

10 (4) No later than February 1 of each year, the governing body of each city in this state with a
 11 population greater than 10,000 shall submit to the Department of Land Conservation and Develop-
 12 ment a report for the immediately preceding calendar year setting forth separately for each of the
 13 following categories the total number of units that were permitted and the total number that were
 14 produced:

15 (a) Residential units.

16 (b) Regulated affordable residential units.

17 (c) Multifamily residential units.

18 (d) Regulated affordable multifamily residential units.

19 (e) Single-family units.

20 (f) Regulated affordable single-family units.

21 **SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS chapter 197.**

22 **SECTION 15. (1) As used in this section, “public property” means all real property of the**
 23 **state, counties, cities, incorporated towns or villages, school districts, irrigation districts,**
 24 **drainage districts, ports, water districts, service districts, metropolitan service districts,**
 25 **housing authorities, public universities listed in ORS 352.002 or all other public or municipal**
 26 **corporations in this state.**

27 **(2) Notwithstanding any land use regulation, comprehensive plan, or statewide land use**
 28 **planning goal, a local government may allow the development of housing on public property**
 29 **provided:**

30 **(a) The real property is not inventoried as a park or open space as a protective measure**
 31 **pursuant to a statewide land use planning goal;**

32 **(b) The real property is located within the urban growth boundary;**

33 **(c) The real property is zoned for residential development or adjacent to parcels zoned**
 34 **for residential development;**

35 **(d) The housing complies with applicable land use regulations and meets the standards**
 36 **and criteria for residential development for the underlying zone of the land or the adjacent**
 37 **residential land described in paragraph (c) of this subsection;**

38 **(e) At least 50 percent of the residential units provided under this section is affordable**
 39 **to households with incomes equal to or less than 60 percent of the area median income, as**
 40 **defined in ORS 456.270; and**

41 **(f) The affordability of the residential units described in paragraph (e) of this subsection**
 42 **is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, held by**
 43 **the local government or the Housing and Community Services Department and with a dura-**
 44 **tion of no less than 60 years.**

45 **(3) Notwithstanding any statewide land use planning goal, a local government may amend**

1 its comprehensive plan and land use regulations to allow public property to be used for the
2 purposes described in subsection (2) of this section.

3 **SECTION 16.** Notwithstanding ORS 197.646, a local government required to comply with
4 the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, shall adopt land
5 use regulations, or adopt amendments to its comprehensive plan, to comply with the
6 amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, no later than the
7 effective date of this 2019 Act.

8 **SECTION 17.** ORS 215.416 is amended to read:

9 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
10 an owner of land may apply in writing to such persons as the governing body designates, for a
11 permit, in the manner prescribed by the governing body. The governing body shall establish fees
12 charged for processing permits at an amount no more than the actual or average cost of providing
13 that service.

14 (2) The governing body shall establish a consolidated procedure by which an applicant may ap-
15 ply at one time for all permits or zone changes needed for a development project. The consolidated
16 procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated proce-
17 dure shall be available for use at the option of the applicant no later than the time of the first pe-
18 riodic review of the comprehensive plan and land use regulations.

19 (3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least
20 one public hearing on the application.

21 (4)(a) A county may not approve an application if the proposed use of land is found to be in
22 conflict with the comprehensive plan of the county and other applicable land use regulation or or-
23 dinance provisions. The approval may include such conditions as are authorized by statute or county
24 legislation.

25 (b)(A) A county may not deny an application for a housing development located within the urban
26 growth boundary if the development complies with clear and objective standards, including but not
27 limited to clear and objective design standards contained in the county comprehensive plan or land
28 use regulations.

29 (B) This paragraph does not apply to:

30 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

31 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
32 197.307 (6).

33 (c) A county may not [*reduce the density of*] **condition** an application for a housing development
34 **on a reduction in density** if:

35 (A) The density applied for is at or below the authorized density level under the local land use
36 regulations; and

37 (B) At least 75 percent of the floor area applied for is reserved for housing.

38 (d) A county may not [*reduce the height of*] **condition** an application for a housing development
39 **on a reduction in height** if:

40 (A) The height applied for is at or below the authorized height level under the local land use
41 regulations;

42 (B) At least 75 percent of the floor area applied for is reserved for housing; and

43 (C) Reducing the height has the effect of reducing the authorized density level under local land
44 use regulations.

45 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may [*reduce the density*

1 *or height of]* **condition** an application for a housing development **on a reduction in density or**
 2 **height only** if the reduction is necessary to resolve a health, safety or habitability issue or to
 3 comply with a protective measure adopted pursuant to a statewide land use planning goal.
 4 **Notwithstanding ORS 197.350, the county must adopt findings supported by substantial evi-**
 5 **dence demonstrating the necessity of the reduction.**

6 (f) As used in this subsection:

7 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
 8 maximum floor area ratio that is permitted under local land use regulations.

9 (B) "Authorized height level" means the maximum height of a structure that is permitted under
 10 local land use regulations.

11 (C) "Habitability" means being in compliance with the applicable provisions of the state building
 12 code under ORS chapter 455 and the rules adopted thereunder.

13 (5) Hearings under this section shall be held only after notice to the applicant and also notice
 14 to other persons as otherwise provided by law and shall otherwise be conducted in conformance
 15 with the provisions of ORS 197.763.

16 (6) Notice of a public hearing on an application submitted under this section shall be provided
 17 to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport"
 18 if:

19 (a) The name and address of the airport owner has been provided by the Oregon Department
 20 of Aviation to the county planning authority; and

21 (b) The property subject to the land use hearing is:

22 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
 23 Department of Aviation to be a "visual airport"; or

24 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
 25 Department of Aviation to be an "instrument airport."

26 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing
 27 need not be provided as set forth in subsection (6) of this section if the zoning permit would only
 28 allow a structure less than 35 feet in height and the property is located outside the runway "ap-
 29 proach surface" as defined by the Oregon Department of Aviation.

30 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which
 31 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county
 32 and which shall relate approval or denial of a permit application to the zoning ordinance and com-
 33 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-
 34 dinance and comprehensive plan for the county as a whole.

35 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide
 36 only clear and objective standards, the standards must be clear and objective on the face of the
 37 ordinance.

38 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
 39 nied by a brief statement that explains the criteria and standards considered relevant to the deci-
 40 sion, states the facts relied upon in rendering the decision and explains the justification for the
 41 decision based on the criteria, standards and facts set forth.

42 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

43 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-
 44 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
 45 nated person gives notice of the decision and provides an opportunity for any person who is

1 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
2 to file an appeal.

3 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
4 of this subsection.

5 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
6 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
7 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
8 section may appeal the decision by filing a written appeal in the manner and within the time period
9 provided in the county's land use regulations. A county may not establish an appeal period that is
10 less than 12 days from the date the written notice of decision required by this subsection was
11 mailed. The notice shall state that the decision will not become final until the period for filing a
12 local appeal has expired. The notice also shall state that a person who is mailed written notice of
13 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS
14 197.830.

15 (D) An appeal from a hearings officer's decision made without hearing under this subsection
16 shall be to the planning commission or governing body of the county. An appeal from such other
17 person as the governing body designates shall be to a hearings officer, the planning commission or
18 the governing body. In either case, the appeal shall be to a de novo hearing.

19 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
20 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
21 of Appeals. At the de novo hearing:

22 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
23 ments and evidence as they would have had in a hearing under subsection (3) of this section before
24 the decision;

25 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
26 in a notice of appeal; and

27 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
28 accepted at the hearing.

29 (b) If a local government provides only a notice of the opportunity to request a hearing, the
30 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
31 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
32 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
33 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
34 by neighborhood or community organizations recognized by the governing body and whose bounda-
35 ries include the site.

36 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
37 plicant and to the owners of record of property on the most recent property tax assessment roll
38 where such property is located:

39 (i) Within 100 feet of the property that is the subject of the notice when the subject property
40 is wholly or in part within an urban growth boundary;

41 (ii) Within 250 feet of the property that is the subject of the notice when the subject property
42 is outside an urban growth boundary and not within a farm or forest zone; or

43 (iii) Within 750 feet of the property that is the subject of the notice when the subject property
44 is within a farm or forest zone.

45 (B) Notice shall also be provided to any neighborhood or community organization recognized by

1 the governing body and whose boundaries include the site.

2 (C) At the discretion of the applicant, the local government also shall provide notice to the
3 Department of Land Conservation and Development.

4 (12) A decision described in ORS 215.402 (4)(b) shall:

5 (a) Be entered in a registry available to the public setting forth:

6 (A) The street address or other easily understood geographic reference to the subject property;

7 (B) The date of the decision; and

8 (C) A description of the decision made.

9 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
10 limited land use decision.

11 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

12 (13) At the option of the applicant, the local government shall provide notice of the decision
13 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal
14 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
15 of appeal rights.

16 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-
17 ject to the requirements set forth in ORS 197.195 and 197.828.

18 **SECTION 18.** ORS 227.175 is amended to read:

19 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
20 hearings officer, or such other person as the city council designates, for a permit or zone change,
21 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
22 tablish fees charged for processing permits at an amount no more than the actual or average cost
23 of providing that service.

24 (2) The governing body of the city shall establish a consolidated procedure by which an appli-
25 cant may apply at one time for all permits or zone changes needed for a development project. The
26 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-
27 idated procedure shall be available for use at the option of the applicant no later than the time of
28 the first periodic review of the comprehensive plan and land use regulations.

29 (3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least
30 one public hearing on the application.

31 (4)(a) A city may not approve an application unless the proposed development of land would be
32 in compliance with the comprehensive plan for the city and other applicable land use regulation or
33 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215
34 or any city legislation.

35 (b)(A) A city may not deny an application for a housing development located within the urban
36 growth boundary if the development complies with clear and objective standards, including [*but not*
37 *limited to*] clear and objective design standards contained in the city comprehensive plan or land
38 use regulations.

39 (B) This paragraph does not apply to:

40 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

41 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
42 197.307 (6).

43 (c) A city may not [*reduce the density of*] **condition** an application for a housing development
44 **on a reduction in density** if:

45 (A) The density applied for is at or below the authorized density level under the local land use

regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not [*reduce the height of*] **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may [*reduce the density or height of*] **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the city must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

1 (10)(a)(A) The hearings officer or such other person as the governing body designates may ap-
2 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
3 nated person gives notice of the decision and provides an opportunity for any person who is
4 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
5 to file an appeal.

6 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
7 of this subsection.

8 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
9 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
10 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
11 section may appeal the decision by filing a written appeal in the manner and within the time period
12 provided in the city's land use regulations. A city may not establish an appeal period that is less
13 than 12 days from the date the written notice of decision required by this subsection was mailed.
14 The notice shall state that the decision will not become final until the period for filing a local appeal
15 has expired. The notice also shall state that a person who is mailed written notice of the decision
16 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

17 (D) An appeal from a hearings officer's decision made without hearing under this subsection
18 shall be to the planning commission or governing body of the city. An appeal from such other person
19 as the governing body designates shall be to a hearings officer, the planning commission or the
20 governing body. In either case, the appeal shall be to a de novo hearing.

21 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
22 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
23 of Appeals. At the de novo hearing:

24 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
25 ments and evidence as they would have had in a hearing under subsection (3) of this section before
26 the decision;

27 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
28 in a notice of appeal; and

29 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
30 accepted at the hearing.

31 (b) If a local government provides only a notice of the opportunity to request a hearing, the
32 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
33 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
34 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
35 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
36 by neighborhood or community organizations recognized by the governing body and whose bounda-
37 ries include the site.

38 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
39 plicant and to the owners of record of property on the most recent property tax assessment roll
40 where such property is located:

41 (i) Within 100 feet of the property that is the subject of the notice when the subject property
42 is wholly or in part within an urban growth boundary;

43 (ii) Within 250 feet of the property that is the subject of the notice when the subject property
44 is outside an urban growth boundary and not within a farm or forest zone; or

45 (iii) Within 750 feet of the property that is the subject of the notice when the subject property

1 is within a farm or forest zone.

2 (B) Notice shall also be provided to any neighborhood or community organization recognized by
3 the governing body and whose boundaries include the site.

4 (C) At the discretion of the applicant, the local government also shall provide notice to the
5 Department of Land Conservation and Development.

6 (11) A decision described in ORS 227.160 (2)(b) shall:

7 (a) Be entered in a registry available to the public setting forth:

8 (A) The street address or other easily understood geographic reference to the subject property;

9 (B) The date of the decision; and

10 (C) A description of the decision made.

11 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
12 limited land use decision.

13 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

14 (12) At the option of the applicant, the local government shall provide notice of the decision
15 described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal
16 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
17 of appeal rights.

18 (13) Notwithstanding other requirements of this section, limited land use decisions shall be
19 subject to the requirements set forth in ORS 197.195 and 197.828.

20 **SECTION 19.** ORS 215.441 is amended to read:

21 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
22 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
23 nances and regulations, a county shall allow the reasonable use of the real property for activities
24 customarily associated with the practices of the religious activity, including:

25 (a) Worship services.

26 (b) Religion classes.

27 (c) Weddings.

28 (d) Funerals.

29 (e) Meal programs.

30 (f) Child care, but not including private or parochial school education for prekindergarten
31 through grade 12 or higher education.

32 (g) Providing housing or space for housing in a building **or buildings** that *[is]* **are** detached from
33 the place of worship, provided:

34 (A) At least 50 percent of the residential units provided under this paragraph are affordable to
35 households with incomes equal to or less than 60 percent of the median family income for the county
36 in which the real property is located;

37 (B) The real property is in an area zoned for residential use that is located within the urban
38 growth boundary; and

39 (C) The housing or space for housing complies with applicable land use regulations and meets
40 the standards and criteria for residential development for the underlying zone.

41 (2) A county may:

42 (a) Subject real property described in subsection (1) of this section to reasonable regulations,
43 including site review or design review, concerning the physical characteristics of the uses author-
44 ized under subsection (1) of this section; or

45 (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1)

of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* a building or any residential unit contained in *[the]* a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 20. ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that *[is]* **are** detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be sub-

ject to a covenant appurtenant that restricts the owner and each successive owner of *[the]* a building or any residential unit contained in *[the]* a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

SECTION 21. ORS 455.062 is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

(a) For structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical plans and specifications under subsection (1) of this section, is not required to seal or sign the typical plans and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical plans and specifications.

[(2)] **(3)** A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical plans and specifications for structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325.

[(3)] This *[section]* **subsection** does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

SECTION 21a. If Senate Bill 39 becomes law, ORS 455.062, as amended by section 2, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21 of this 2019 Act, is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical drawings and specifications:

(a) For structures of a type for which the provision of drawings or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the registration requirements of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical *[plans]* drawings and specifications under subsection (1) of this section, is not required to seal or sign the typical *[plans]* drawings and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical *[plans]* drawings and specifications.

(3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical drawings or speci-

1 cations for structures of a type for which the provision of drawings or specifications is exempted
 2 under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060
 3 from the registration requirements of ORS 672.002 to 672.325. This subsection does not alter any
 4 applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and
 5 seals for a set of plans for a structure.

6 **SECTION 21b.** If Senate Bill 39 becomes law, section 3, chapter 97, Oregon Laws 2019 (Enrolled
 7 Senate Bill 39), is amended to read:

8 **Sec. 3.** The amendments to ORS 455.062 and 672.060 by sections 1 and 2 [*of this 2019 Act*],
 9 **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21a of this 2019 Act** apply
 10 to work performed, and offers made, on or after the effective date of [*this 2019 Act*] **chapter 97,**
 11 **Oregon Laws 2019 (Enrolled Senate Bill 39).**

12 **SECTION 22.** In addition to and not in lieu of any other appropriation, there is appro-
 13 priated to the Department of Land Conservation and Development, for the biennium begin-
 14 ning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical
 15 assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the
 16 amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and
 17 227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this
 18 2019 Act.

19 **SECTION 23.** In addition to and not in lieu of any other appropriation, there is appro-
 20 priated to the Housing and Community Services Department, for the biennium beginning July
 21 1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and
 22 reporting that relate to a regional housing needs analysis described in section 1 of this 2019
 23 Act.

24 **SECTION 24.** (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296,
 25 197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections
 26 8 to 13 of this 2019 Act become operative on January 1, 2020.

27 (2) The Land Conservation and Development Commission, the Department of Land Con-
 28 servation and Development and the Housing and Community Services Department may take
 29 any action before the operative date specified in subsection (1) of this section that is neces-
 30 sary for the departments and the commission to exercise, on or after the operative date
 31 specified in subsection (1) of this section, all of the duties, functions and powers conferred
 32 on the departments and the commission by sections 4 to 6 of this 2019 Act and the amend-
 33 ments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws
 34 2018, by sections 8 to 13 of this 2019 Act.

35 **SECTION 25.** This 2019 Act being necessary for the immediate preservation of the public
 36 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
 37 on its passage.

HOUSE AMENDMENTS TO HOUSE BILL 2003

By COMMITTEE ON AGRICULTURE AND LAND USE

April 11

On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and lines 3 through 5 and insert “197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062; and declaring an emergency.”.

Delete lines 7 through 15 and delete pages 2 through 7.

On page 8, delete lines 1 through 30 and insert:

“SECTION 1. (1) As used in this section:

“(a) ‘Area median income’ means the median income for households established by the United States Department of Housing and Urban Development.

“(b) ‘Existing housing stock’ means housing, by affordability level and type, actually constructed in a city or Metro.

“(c) ‘High income’ means above 120 percent of the area median income.

“(d) ‘Housing shortage’ means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate population changes over the next 20 years, and the existing housing stock, measured in dwelling units.

“(e) ‘Low income’ means income above 50 percent and at or below 80 percent of the area median income.

“(f) ‘Metro’ means a metropolitan service district organized under ORS chapter 268.

“(g) ‘Moderate income’ means income above 80 percent and at or below 120 percent of the area median income.

“(h) ‘Region’ has the meaning given that term in ORS 284.752.

“(i) ‘Very low income’ means income at or below 50 percent of the area median income.

“(2) The Oregon Department of Administrative Services, in coordination with the Department of Land Conservation and Development and the Housing and Community Services Department, shall develop a methodology for calculating:

“(a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:

“(A) Trends in density and in the average mix of housing types of urban residential development;

“(B) Demographic and population trends; and

“(C) Economic trends and cycles.

“(b) An inventory of existing housing stock of each city and Metro.

“(c) A housing shortage analysis for each city and Metro.

“(3) The methodologies for calculating the regional housing needs analysis, the inventory of existing housing stock and the housing shortage analysis developed under subsection (2)

1 of this section must classify housing by:

2 “(a) Housing type, including attached and detached single-family housing, multifamily
3 housing and manufactured dwellings or mobile homes; and

4 “(b) Affordability, by housing that is affordable to households with:

5 “(A) Very low income;

6 “(B) Low income;

7 “(C) Moderate income; or

8 “(D) High income.

9 “(4) On or before July 1, 2020, the Oregon Department of Administrative Services, in co-
10 ordination with the Department of Land Conservation and Development and the Housing and
11 Community Services Department, shall conduct for each region a regional housing needs
12 analysis and, for each city and Metro, shall inventory existing housing stock and establish a
13 housing shortage analysis.

14 “(5) In developing the methodologies and conducting the analyses under this section, the
15 Oregon Department of Administrative Services may:

16 “(a) Consult or contract with subject matter experts, cities and Metro, regional solutions
17 centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted
18 regional housing needs analyses;

19 “(b) Consider the most recent consolidated population forecast produced by the Portland
20 State University Population Research Center in making any relevant calculation or forecast;
21 and

22 “(c) Consider any other relevant existing analyses, data and other information collected
23 or produced by state agencies or public entities.

24 “SECTION 1a. (1) No later than July 1, 2020, the Oregon Department of Administrative
25 Services and the Department of Land Conservation and Development shall submit a report,
26 in the manner provided in ORS 192.245 to an appropriate interim committee of the Legislative
27 Assembly, that summarizes the findings of the regional housing needs analysis, inventory
28 of housing stock and housing shortage analysis conducted under section 1 (4) of this 2019
29 Act.

30 “(2) No later than January 31, 2021, the Department of Land Conservation and Develop-
31 ment, in consultation with Oregon Department of Administrative Services and the Housing
32 and Community Services Department, shall submit a report, in the manner provided in ORS
33 192.245, to the Legislative Assembly that evaluates:

34 “(a) Whether a regional housing needs analysis and housing shortage analysis described
35 in section 1 of this 2019 Act could appropriately allocate the housing shortage described
36 among the cities or local governments in a region;

37 “(b) How a regional housing needs analysis and housing shortage analysis may compare
38 to existing assessments of housing need and capacity conducted by local governments under
39 ORS 197.296 (3) and (10) in terms of:

40 “(A) Cost and cost effectiveness;

41 “(B) Reliability and accuracy;

42 “(C) Repeatability; and

43 “(D) Predictability;

44 “(c) How a regional housing needs analysis and housing shortage analysis may relate to
45 statewide planning goals related to housing and any rules and policies adopted pursuant to

1 these goals and ORS 197.295 to 197.314;

2 “(d) Whether different boundaries would be more appropriate for defining regions within
3 the regional housing needs analysis based on:

4 “(A) Relevance of data in appropriately defining a commuting, employment or housing
5 market; or

6 “(B) Ease or cost of collecting or analyzing data;

7 “(e) Other ways in which the regional housing needs analysis or housing shortage anal-
8 ysis could be improved; and

9 “(f) Whether the regional housing needs analysis, or an improved version, could serve
10 as an acceptable methodology statewide for land use planning relating to housing.

11 “(3) In preparing the report required under subsection (2) of this section, the Department
12 of Land Conservation and Development may consult or contract with other state agencies,
13 subject matter experts, private firms, local governments, regional solutions centers de-
14 scribed in ORS 284.754 (2) and other jurisdictions that have created or conducted regional
15 housing needs analyses.

16 “SECTION 2. Sections 3 to 5 of this 2019 Act are added to and made a part of ORS 197.295
17 to 197.314.

18 “SECTION 3. (1) A city with a population greater than 10,000 shall develop and adopt a
19 housing production strategy under this section no later than one year after:

20 “(a) The city’s deadline for completing a housing capacity analysis under ORS 197.296
21 (2)(a);

22 “(b) The city’s deadline for completing a housing capacity analysis under ORS 197.296
23 (10)(b); or

24 “(c) The date that housing capacity was allocated to the city by a metropolitan service
25 district under ORS 197.299 (2)(d).

26 “(2) A housing production strategy must include a list of specific actions, including the
27 adoption of measures and policies, that the city shall undertake to promote development
28 within the city to address a housing shortage identified under ORS 197.296 (6) for the most
29 recent 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may in-
30 clude:

31 “(a) The reduction of financial and regulatory impediments to developing needed housing,
32 including removing or easing approval standards or procedures for needed housing at higher
33 densities or that is affordable; and

34 “(b) The creation of financial and regulatory incentives for development of needed hous-
35 ing, including creating incentives for needed housing at higher densities or that is affordable.

36 “(3) In creating a housing production strategy, a city shall review and consider:

37 “(a) Socioeconomic and demographic characteristics of households living in existing
38 needed housing;

39 “(b) Market conditions affecting the provision of needed housing;

40 “(c) Measures already adopted by the city to promote the development of needed housing;

41 “(d) Existing and expected barriers to the development of needed housing; and

42 “(e) For each action the city includes in its housing production strategy:

43 “(A) The schedule for its adoption;

44 “(B) The schedule for its implementation;

45 “(C) Its expected magnitude of impact on the development of needed housing; and

1 “(D) The time frame over which it is expected to impact needed housing.

2 “(4) A housing production strategy may not contain proposed changes to a comprehensive
3 plan or land use regulation. The adoption of a housing production strategy is not a land use
4 decision and is not subject to appeal or review except as provided in section 4 of this 2019
5 Act.

6 “**SECTION 4.** (1) No later than 20 days after a city’s adoption or amendment of a housing
7 production strategy under section 3 of this 2019 Act, a city shall submit the adopted strategy
8 or amended strategy to the Department of Land Conservation and Development.

9 “(2) The submission under subsection (1) of this section must include copies of:

10 “(a) The signed decision adopting the housing production strategy or amended strategy;

11 “(b) The text of the housing production strategy clearly indicating any amendments to
12 the most recent strategy submitted under this section;

13 “(c) A brief narrative summary of the housing production strategy; and

14 “(d) The information reviewed and considered under section 5 (2) of this 2019 Act.

15 “(3) On the same day the city submits notice of the housing production strategy or
16 amended strategy, the city shall provide a notice to persons that participated in the pro-
17 ceedings that led to the adoption of the strategy and requested notice in writing.

18 “(4) Within five days of receipt of the submission under subsection (1) of this section, the
19 department shall provide notice to persons described under ORS 197.615 (3).

20 “(5) The notices given under subsections (3) and (4) of this section must state:

21 “(a) How and where materials described in subsection (2) of this section may be freely
22 obtained;

23 “(b) That comments on the strategy may be submitted to the department within 90 days
24 after the department has received the submission; and

25 “(c) That there is no further right of appeal.

26 “(6) Based upon criteria adopted by the Land Conservation and Development Commission,
27 including any criteria adopted under section 5 (2) of this 2019 Act, the department shall,
28 within 120 days after receiving the submission under subsection (1) of this section:

29 “(a) Approve the housing production strategy;

30 “(b) Approve the housing production strategy, subject to further review and actions un-
31 der section 5 (2) of this 2019 Act; or

32 “(c) Remand the housing production strategy for further modification as identified by the
33 department.

34 “(7) A determination by the department under subsection (6) of this section is not a land
35 use decision and is final and not subject to appeal.

36 “**SECTION 5.** (1) The Land Conservation and Development Commission shall adopt crite-
37 ria for reviewing and identifying cities with a population greater than 10,000 that have not
38 sufficiently:

39 “(a) Achieved production of needed housing within their jurisdiction; or

40 “(b) Implemented a housing production strategy adopted under section 3 of this 2019 Act.

41 “(2) The criteria adopted by the commission under subsection (1) of this section may in-
42 clude the city’s:

43 “(a) Total unmet housing need as described in ORS 197.296 (6);

44 “(b) Unmet housing need in proportion to the city’s population;

45 “(c) Percentage of households identified as severely rent burdened as described in section

1 **1, chapter 47, Oregon Laws 2018;**

2 **“(d) Recent housing development;**

3 **“(e) Recent adoption of a housing production strategy under section 3 of this 2019 Act**
4 **or adoption of actions pursuant to a housing production strategy;**

5 **“(f) Recent or frequent previous identification by the Department of Land Conservation**
6 **and Development under this section; or**

7 **“(g) Other attributes that the commission considers relevant.**

8 **“(3) The department may periodically review cities under the criteria adopted under**
9 **subsection (2) of this section for the purposes of prioritizing actions by the department, in-**
10 **cluding:**

11 **“(a) Awarding available technical or financial resources;**

12 **“(b) Providing enhanced review and oversight of the city’s housing production strategy;**

13 **“(c) Entering into agreements with the city relating to the city’s modification or imple-**
14 **mentation of its housing production strategy; or**

15 **“(d) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city**
16 **to comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing**
17 **or urbanization.**

18 **“SECTION 6.** ORS 197.296 is amended to read:

19 **“197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan**
20 **service district regional framework plans and local government comprehensive plans for lands**
21 **within the urban growth boundary of a city that is located outside of a metropolitan service district**
22 **and has a population of 25,000 or more.**

23 **“(b) The Land Conservation and Development Commission may establish a set of factors under**
24 **which additional cities are subject to the provisions of this section. In establishing the set of factors**
25 **required under this paragraph, the commission shall consider the size of the city, the rate of popu-**
26 **lation growth of the city or the proximity of the city to another city with a population of 25,000 or**
27 **more or to a metropolitan service district.**

28 **“(2)(a) [At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review**
29 **of the comprehensive plan or regional framework plan that concerns the urban growth boundary and**
30 **requires the application of a statewide planning goal relating to buildable lands for residential use,]**

31 **A local government shall demonstrate that its comprehensive plan or regional framework plan pro-**
32 **vides sufficient buildable lands within the urban growth boundary established pursuant to statewide**
33 **planning goals to accommodate estimated housing needs for 20 years:**

34 **“(A) At periodic review under ORS 197.628 to 197.651;**

35 **“(B) As scheduled by the commission:**

36 **“(i) At least once each eight years for local governments that are not within a metro-**
37 **politan service district; or**

38 **“(ii) At least once each six years for a metropolitan service district; or**

39 **“(C) At any other legislative review of the comprehensive plan or regional framework**
40 **plan that concerns the urban growth boundary and requires the application of a statewide**
41 **planning goal relating to buildable lands for residential use.**

42 **“(b) The 20-year period shall commence on the date initially scheduled for completion of the**
43 **[periodic or legislative] review under paragraph (a) of this subsection.**

44 **“(3) In performing the duties under subsection (2) of this section, a local government shall:**

45 **“(a) Inventory the supply of buildable lands within the urban growth boundary and determine**

1 the housing capacity of the buildable lands; and

2 “(b) Conduct an analysis of housing need by type and density range, in accordance with ORS
3 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
4 and amount of land needed for each needed housing type for the next 20 years.

5 “(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, ‘buildable
6 lands’ includes:

7 “(A) Vacant lands planned or zoned for residential use;

8 “(B) Partially vacant lands planned or zoned for residential use;

9 “(C) Lands that may be used for a mix of residential and employment uses under the existing
10 planning or zoning; and

11 “(D) Lands that may be used for residential infill or redevelopment.

12 “(b) For the purpose of the inventory and determination of housing capacity described in sub-
13 section (3)(a) of this section, the local government must demonstrate consideration of:

14 “(A) The extent that residential development is prohibited or restricted by local regulation and
15 ordinance, state law and rule or federal statute and regulation;

16 “(B) A written long term contract or easement for radio, telecommunications or electrical fa-
17 cilities, if the written contract or easement is provided to the local government; and

18 “(C) The presence of a single family dwelling or other structure on a lot or parcel.

19 “(c) Except for land that may be used for residential infill or redevelopment, a local government
20 shall create a map or document that may be used to verify and identify specific lots or parcels that
21 have been determined to be buildable lands.

22 “(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
23 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
24 to land within the urban growth boundary that has been collected since the last *[periodic]* review
25 **[or] under subsection (2)(a)(B) of this section** *[five years, whichever is greater]*. The data shall
26 include:

27 “(A) The number, density and average mix of housing types of urban residential development
28 that have actually occurred;

29 “(B) Trends in density and average mix of housing types of urban residential development;

30 “(C) Demographic and population trends;

31 “(D) Economic trends and cycles; and

32 “(E) The number, density and average mix of housing types that have occurred on the buildable
33 lands described in subsection (4)(a) of this section.

34 “(b) A local government shall make the determination described in paragraph (a) of this sub-
35 section using a shorter time period than the time period described in paragraph (a) of this subsection
36 if the local government finds that the shorter time period will provide more accurate and reliable
37 data related to housing capacity and need. The shorter time period may not be less than three years.

38 “(c) A local government shall use data from a wider geographic area or use a time period for
39 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
40 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
41 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
42 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
43 geographic area, time frame and source of data used in a determination performed under this para-
44 graph.

45 “(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than

1 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
2 shall take one or more of the following actions to accommodate the additional housing need:

3 “(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
4 housing needs for the next 20 years. As part of this process, the local government shall consider the
5 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
6 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
7 need and inclusion of lands for new public school facilities shall be a coordinated process between
8 the affected public school districts and the local government that has the authority to approve the
9 urban growth boundary;

10 “(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
11 lations to include new measures that demonstrably increase the likelihood that residential develop-
12 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
13 expansion of the urban growth boundary. A local government or metropolitan service district that
14 takes this action shall monitor and record the level of development activity and development density
15 by housing type following the date of the adoption of the new measures; or

16 “(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

17 “(7) Using the analysis conducted under subsection (3)(b) of this section, the local government
18 shall determine the overall average density and overall mix of housing types at which residential
19 development of needed housing types must occur in order to meet housing needs over the next 20
20 years. If that density is greater than the actual density of development determined under subsection
21 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
22 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
23 adopt measures that demonstrably increase the likelihood that residential development will occur
24 at the housing types and density and at the mix of housing types required to meet housing needs
25 over the next 20 years.

26 “(8)(a) A local government outside a metropolitan service district that takes any actions under
27 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
28 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
29 197.314.

30 “(b) The local government shall determine the density and mix of housing types anticipated as
31 a result of actions taken under subsections (6) and (7) of this section and monitor and record the
32 actual density and mix of housing types achieved. The local government shall compare actual and
33 anticipated density and mix. The local government shall submit its comparison to the commission
34 at the next [*periodic review or at the next legislative*] review of its urban growth boundary[, *whichever*
35 *comes first*] **under subsection (2)(a) of this section.**

36 “(9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
37 tion demonstrably increase the likelihood of higher density residential development, the local gov-
38 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
39 for the housing types identified under subsection (3) of this section and is zoned at density ranges
40 that are likely to be achieved by the housing market using the analysis in subsection (3) of this
41 section. Actions or measures, or both, may include but are not limited to:

42 “(a) Increases in the permitted density on existing residential land;

43 “[*(b) Financial incentives for higher density housing;*]

44 “[*(c) Provisions permitting additional density beyond that generally allowed in the zoning district*
45 *in exchange for amenities and features provided by the developer;*]

1 “[(d) Removal or easing of approval standards or procedures;]

2 “[(e)] (b) Minimum density ranges;

3 “[(f)] (c) Redevelopment and infill strategies;

4 “[(g)] (d) Authorization of housing types not previously allowed by the plan or regulations;

5 “[(h)] (e) Adoption of an average residential density standard; and

6 “[(i)] (f) Rezoning or redesignation of nonresidential land.

7 “(10)(a) The provisions of this subsection apply to local government comprehensive plans for
8 lands within the urban growth boundary of a city that is located outside of a metropolitan service
9 district and has a population of less than 25,000.

10 “(b) [At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
11 the comprehensive plan that requires the application of a statewide planning goal relating to buildable
12 lands for residential use,] **As required under paragraph (c) of this subsection**, a city shall, ac-
13 cording to rules of the commission:

14 “(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

15 “(B) Inventory the supply of buildable lands available within the urban growth boundary to ac-
16 commodate the estimated housing needs determined under this subsection; and

17 “(C) Adopt measures necessary to accommodate the estimated housing needs determined under
18 this subsection.

19 “(c) **The actions required under paragraph (b) of this subsection shall be undertaken:**

20 “(A) **At periodic review pursuant to ORS 197.628 to 197.651;**

21 “(B) **On a schedule established by the commission for cities with a population greater**
22 **than 10,000, not to exceed once each eight years; or**

23 “(C) **At any other legislative review of the comprehensive plan that requires the appli-**
24 **cation of a statewide planning goal relating to buildable lands for residential use.**

25 “[(c)] (d) For the purpose of the inventory described in this subsection, ‘buildable lands’ includes
26 those lands described in subsection (4)(a) of this section.

27 “**SECTION 7. On or before December 31, 2019, the Land Conservation and Development**
28 **Commission shall adopt a schedule by which metropolitan service districts and local govern-**
29 **ments described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable**
30 **lands.**

31 “**SECTION 8.** ORS 197.299 is amended to read:

32 “197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
33 inventory, determination and analysis required under ORS 197.296 (3) not later than six years after
34 completion of the previous inventory, determination and analysis.

35 “(2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296
36 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3)
37 within one year of completing the analysis.

38 “(b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-
39 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two
40 years of completing the analysis.

41 “(c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
42 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
43 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
44 the time the actions are completed.

45 “(d) The metropolitan service district shall consider and adopt new measures that the governing

1 body deems appropriate under ORS 197.296 (6)(b) **and shall allocate any housing capacity that is**
2 **not accommodated under this section to be accommodated by the application of ORS 197.296**
3 **(6)(b) by cities within the metropolitan service district with a population greater than**
4 **10,000.**

5 “(e) **Cities to which housing capacity is allocated under paragraph (d) of this subsection**
6 **shall take steps described in ORS 197.296 (6)(b) to demonstrate sufficient residential devel-**
7 **opment as required by ORS 197.296 (6)(b) within two years after the date of allocation.**

8 “(3) The Land Conservation and Development Commission may grant an extension to the time
9 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
10 Development determines that the metropolitan service district has provided good cause for failing
11 to meet the time limits.

12 “(4)(a) The metropolitan service district shall establish a process to expand the urban growth
13 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
14 dated within the existing urban growth boundary. The metropolitan service district shall design the
15 process to:

16 “(A) Accommodate a need that must be accommodated between periodic analyses of urban
17 growth boundary capacity required by subsection (1) of this section; and

18 “(B) Provide for a final decision on a proposal to expand the urban growth boundary within four
19 months after submission of a complete application by a large school district as defined in ORS
20 195.110.

21 “(b) At the request of a large school district, the metropolitan service district shall assist the
22 large school district to identify school sites required by the school facility planning process de-
23 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
24 ORS 197.298 (3).

25 “(5) Three years after completing its most recent demonstration of sufficient buildable lands
26 under ORS 197.296, a metropolitan service district may, on a single occasion, revise the determi-
27 nation and analysis required as part of the demonstration for the purpose of considering an amend-
28 ment to the metropolitan service district’s urban growth boundary, provided:

29 “(a) The metropolitan service district has entered into an intergovernmental agreement and has
30 designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county lo-
31 cated within the district;

32 “(b) The commission has acknowledged the rural reserve and urban reserve designations de-
33 scribed in paragraph (a) of this subsection;

34 “(c) One or more cities within the metropolitan service district have proposed a development
35 that would require expansion of the urban growth boundary;

36 “(d) The city or cities proposing the development have provided evidence to the metropolitan
37 service district that the proposed development would provide additional needed housing to the
38 needed housing included in the most recent determination and analysis;

39 “(e) The location chosen for the proposed development is adjacent to the city proposing the de-
40 velopment; and

41 “(f) The location chosen for the proposed development is located within an area designated and
42 acknowledged as an urban reserve.

43 “(6)(a) If a metropolitan service district, after revising its most recent determination and analy-
44 sis pursuant to subsection (5) of this section, concludes that an expansion of its urban growth
45 boundary is warranted, the metropolitan service district may take action to expand its urban growth

1 boundary in one or more locations to accommodate the proposed development, provided the urban
2 growth boundary expansion does not exceed a total of 1,000 acres.

3 “(b) A metropolitan service district that expands its urban growth boundary under this sub-
4 section:

5 “(A) Must adopt the urban growth boundary expansion not more than four years after complet-
6 ing its most recent demonstration of sufficient buildable lands under ORS 197.296; and

7 “(B) Is exempt from the boundary location requirements described in the statewide land use
8 planning goals relating to urbanization.

9 “**SECTION 9.** ORS 197.303 is amended to read:

10 “197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, ‘needed housing’ means all housing
11 on land zoned for residential use or mixed residential and commercial use that is determined to meet
12 the need shown for housing within an urban growth boundary at price ranges and rent levels that
13 are affordable to households within the county with a variety of incomes, including but not limited
14 to households with low incomes, very low incomes and extremely low incomes, as those terms are
15 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
16 ‘Needed housing’ includes the following housing types:

17 “(a) Attached and detached single-family housing and multiple family housing for both owner and
18 renter occupancy;

19 “(b) Government assisted housing;

20 “(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

21 “(d) Manufactured homes on individual lots planned and zoned for single-family residential use
22 that are in addition to lots within designated manufactured dwelling subdivisions; and

23 “(e) Housing for farmworkers.

24 “(2) Subsection (1)(a) and (d) of this section does not apply to:

25 “(a) A city with a population of less than 2,500.

26 “(b) A county with a population of less than 15,000.

27 “(3) A local government may take an exception under ORS 197.732 to the definition of ‘needed
28 housing’ in subsection (1) of this section in the same manner that an exception may be taken under
29 the goals.

30 “**SECTION 10.** ORS 197.319 is amended to read:

31 “197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
32 the person shall:

33 “(a) Present the reasons, in writing, for such an order to the affected local government; and

34 “(b) Request:

35 “(A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
36 or urban service agreement or decision-making process which is the basis for the order; or

37 “(B) That an action be taken regarding the local comprehensive plan, land use regulations,
38 special district agreement, **housing production strategy** or decision-making process that is the
39 basis for the order.

40 “(2)(a) The local government or special district shall issue a written response to the request
41 within 60 days of the date the request is mailed to the local government or special district.

42 “(b) The requestor and the local government or special district may enter into mediation to re-
43 solve issues in the request. The Department of Land Conservation and Development shall provide
44 mediation services when jointly requested by the local government or special district and the
45 requestor.

1 “(c) If the local government or special district does not act in a manner which the requestor
2 believes is adequate to address the issues raised in the request within the time period provided in
3 paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Devel-
4 opment Commission under ORS 197.324.

5 “(3) A metropolitan service district may request an enforcement order under ORS 197.320 (12)
6 without first complying with subsections (1) and (2) of this section.

7 **“SECTION 11.** ORS 197.320 is amended to read:

8 “197.320. The Land Conservation and Development Commission shall issue an order requiring
9 a local government, state agency or special district to take action necessary to bring its compre-
10 hensive plan, land use regulation, limited land use decisions or other land use decisions **or actions**
11 into compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regu-
12 lations **or housing production strategy** if the commission has good cause to believe:

13 “(1) A comprehensive plan or land use regulation adopted by a local government not on a com-
14 pliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for
15 such compliance;

16 “(2) A plan, program, rule or regulation affecting land use adopted by a state agency or special
17 district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such
18 compliance;

19 “(3) A local government is not making satisfactory progress toward performance of its compli-
20 ance schedule;

21 “(4) A state agency is not making satisfactory progress in carrying out its coordination agree-
22 ment or the requirements of ORS 197.180;

23 “(5) A local government has no comprehensive plan or land use regulation and is not on a
24 compliance schedule directed to developing the plan or regulation;

25 “(6) A local government has engaged in a pattern or practice of decision making that violates
26 an acknowledged comprehensive plan or land use regulation. In making its determination under this
27 subsection, the commission shall determine whether there is evidence in the record to support the
28 decisions made. The commission shall not judge the issue solely upon adequacy of the findings in
29 support of the decisions;

30 “(7) A local government has failed to comply with a commission order entered under ORS
31 197.644;

32 “(8) A special district has engaged in a pattern or practice of decision-making that violates an
33 acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

34 “(9) A special district is not making satisfactory progress toward performance of its obligations
35 under ORS chapters 195 and 197;

36 “(10) A local government’s approval standards, special conditions on approval of specific devel-
37 opment proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

38 “(11) A local government is not making satisfactory progress toward meeting its obligations
39 under ORS 195.065; [or]

40 “(12) A local government within the jurisdiction of a metropolitan service district has failed to
41 make changes to the comprehensive plan or land use regulations to comply with the regional
42 framework plan of the district or has engaged in a pattern or practice of decision-making that vio-
43 lates a requirement of the regional framework plan[.]; **or**

44 **“(13) A city is not making satisfactory progress in taking actions listed in its housing**
45 **production strategy under section 3 of this 2019 Act.”.**

On page 9, delete lines 12 through 45.

On page 10, delete lines 1 through 4 and insert:

“NOTE: Sections 14 through 17 were deleted by amendment. Subsequent sections were not re-numbered.”.

On page 21, delete lines 11 through 45 and delete pages 22 through 30 and insert:

“SECTION 23. ORS 455.062 is amended to read:

“455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

“(a) For structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325; and

“(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

“(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical plans and specifications under subsection (1) of this section, is not required to seal or sign the typical plans and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical plans and specifications.

“[(2)] (3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical plans and specifications for structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325.

“[(3)] This [section] subsection does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

“SECTION 24. In addition to and not in lieu of any other appropriation, there is appropriated to the Land Conservation and Development Commission, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$_____, to make rules or take any other actions necessary to implement sections 1a, 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

“SECTION 25. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$1,500,000, to provide technical assistance to local governments to implement sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175 and 227.500 by sections 6, 8 to 11 and 18 to 22 of this 2019 Act.

“SECTION 26. (1) Sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062 by sections 6, 8 to 11 and 18 to 23 of this 2019 Act become operative on January 1, 2020.

“(2) The Oregon Department of Administrative Services, the Land Conservation and Development Commission, the Department of Land Conservation and Development and the Housing and Community Services Department may take any action before the operative date

1 specified in subsection (1) of this section that is necessary for the departments and the
2 commission to exercise, on or after the operative date specified in subsection (1) of this
3 section, all of the duties, functions and powers conferred on the departments and the com-
4 mission by sections 3 to 5 and 13 of this 2019 Act and the amendments to ORS 197.296,
5 197.299, 197.303, 197.319, 197.320, 197.830, 215.416, 215.441, 227.175, 227.500 and 455.062 by
6 sections 6, 8 to 11 and 18 to 23 this 2019 Act.

7 “SECTION 27. This 2019 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
9 on its passage.”.
