

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

1
2 Relating to buildings; creating new provisions; amending ORS 195.145, 197.295, 197.296, 197.299,
3 197.302, 197.304, 197.313, 197.314, 197.522, 197.637, 197.732, 197.830, 215.416, 215.441, 223.304,
4 223.309, 227.175 and 227.500 and section 8, chapter 52, Oregon Laws 2016; repealing ORS 197.303;
5 and prescribing an effective date.

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

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

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

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

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

13 (d) "Housing shortage" means the difference between the estimated housing units of
14 different affordability levels and housing types needed to accommodate population changes
15 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.

1 (e) "Low income" means income above 50 percent and at or below 80 percent of the re-
2 gional median income.

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

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

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

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

10 (j) "Very low income" means income at or below 50 percent of the regional median in-
11 come.

12 (2) The Oregon Department of Administrative Services shall develop and periodically re-
13 fine a methodology for calculating:

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

17 (A) Trends in density and in the average mix of housing types of urban residential de-
18 velopment;

19 (B) Demographic and population trends; and

20 (C) Economic trends and cycles.

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

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

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

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

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

29 (A) Very low income;

30 (B) Low income;

31 (C) Moderate income; or

32 (D) High income.

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

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

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

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

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

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

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

9 (a) Trends in density and in the average mix of housing types of urban residential de-
10 velopment;

11 (b) Demographic and population trends;

12 (c) Economic trends and cycles; and

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

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

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

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

27 (b) Financial or other incentives for developing needed housing and higher density hous-
28 ing;

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

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

32 (e) Minimum density ranges;

33 (f) Redevelopment and infill strategies;

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

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

36 (i) Rezoning or redesignation of nonresidential land; or

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

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

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

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

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

9 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this sub-
10 section.

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

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

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

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

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

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

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

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

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

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

35 (a) The magnitude of the estimated housing need of each city determined under section
36 3 (2) of this 2019 Act;

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

38 (c) Recent housing development reported by each city;

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

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

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

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

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

1 (c) Enter into agreements with the city relating to the city’s modification or implemen-
 2 tation of its housing strategy; or

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

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

10 **SECTION 8.** ORS 197.296 is amended to read:

11 197.296. (1)(a) *[The provisions of subsections (2) to (9) of this section apply to]* **This section ap-**
 12 **plies to a metropolitan service district and to cities that are within a metropolitan service**
 13 **district** *[regional framework plans and local government comprehensive plans for lands within the ur-*
 14 *ban growth boundary of a city that is located outside of a metropolitan service district and has]* **or**
 15 **that have** a population of 25,000 or more.

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

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

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

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

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

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

35 *[(b) Conduct an analysis of housing need by type and density range, in accordance with ORS*
 36 *197.303 and statewide planning goals and rules relating to housing, to determine the number of units*
 37 *and amount of land needed for each needed housing type for the next 20 years.]*

38 *[(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable*
 39 *lands” includes:]*

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

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

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

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

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

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

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

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

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

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

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

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

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

18 [(C) Demographic and population trends;]

19 [(D) Economic trends and cycles; and]

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

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

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

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

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

43 [(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
44 lations to include new measures that demonstrably increase the likelihood that residential development
45 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

1 **under ORS 223.309.**

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

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

5 **SECTION 18.** ORS 197.830 is amended to read:

6 197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to
7 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-
8 peals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (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

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

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

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

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

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

15 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
 16 an owner of land may apply in writing to such persons as the governing body designates, for a
 17 permit, in the manner prescribed by the governing body. The governing body shall establish fees
 18 charged for processing permits at an amount no more than the actual or average cost of providing
 19 that service.

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

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

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

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

35 (B) This paragraph does not apply to:

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

37 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
 38 197.307 (6).

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

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

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

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

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

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

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

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

12 (f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

44 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
45 nied 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.

1 (2) A county may:

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

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

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

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

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

19 227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
20 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
21 nances and regulations, a city shall allow the reasonable use of the real property for activities
22 customarily associated with the practices of the religious activity, including:

23 (a) Worship services.

24 (b) Religion classes.

25 (c) Weddings.

26 (d) Funerals.

27 (e) Meal programs.

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

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

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

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

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

39 (2) A city may:

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

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

1 described in subsection (1) of this section.

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

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

11 **SECTION 23.** ORS 223.304 is amended to read:

12 223.304. (1)(a) Reimbursement fees must be established or modified by ordinance or resolution
 13 setting forth a methodology that is, when applicable, based on:

- 14 (A) Ratemaking principles employed to finance publicly owned capital improvements;
- 15 (B) Prior contributions by existing users;
- 16 (C) Gifts or grants from federal or state government or private persons;
- 17 (D) The value of unused capacity available to future system users or the cost of the existing
 18 facilities; and
- 19 (E) Other relevant factors identified by the local government imposing the fee.

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

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

23 (B) Be available for public inspection.

24 (2) Improvement fees must:

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

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

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

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

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

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

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

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

45 (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

1 of the system development charge methodology if the change in amount is based on:

2 (a) A change in the cost of materials, labor or real property applied to projects or project ca-
 3 pacity as set forth on the list adopted pursuant to ORS 223.309; or

4 (b) The periodic application of one or more specific cost indexes or other periodic data sources.
 5 A specific cost index or periodic data source must be:

6 (A) A relevant measurement of the average change in prices or costs over an identified time
 7 period for materials, labor, real property or a combination of the three;

8 (B) Published by a recognized organization or agency that produces the index or data source for
 9 reasons that are independent of the system development charge methodology; and

10 (C) Incorporated as part of the established methodology or identified and adopted in a separate
 11 ordinance, resolution or order.

12 **(9) A local government shall deliver a copy of an adopted ordinance or resolution estab-**
 13 **lishing or modifying the methodology used for calculating a system development charge un-**
 14 **der this section to the Building Codes Division of the Department of Consumer and Business**
 15 **Services.**

16 **SECTION 24.** ORS 223.309 is amended to read:

17 223.309. (1) Prior to the establishment of a system development charge by ordinance or resol-
 18 ution, a local government shall prepare a capital improvement plan, public facilities plan, master
 19 plan or comparable plan that includes a list of the capital improvements that the local government
 20 intends to fund, in whole or in part, with revenues from an improvement fee and the estimated cost,
 21 timing and percentage of costs eligible to be funded with revenues from the improvement fee for
 22 each improvement.

23 (2) A local government that has prepared a plan and the list described in subsection (1) of this
 24 section may modify the plan and list at any time. If a system development charge will be increased
 25 by a proposed modification of the list to include a capacity increasing capital improvement, as de-
 26 scribed in ORS 223.307 (2):

27 (a) The local government shall provide, at least 30 days prior to the adoption of the modification,
 28 notice of the proposed modification to the persons who have requested written notice under ORS
 29 223.304 (6) **and to the Building Codes Division of the Department of Consumer and Business**
 30 **Services.**

31 (b) The local government shall hold a public hearing if the local government receives a written
 32 request for a hearing on the proposed modification within seven days of the date the proposed
 33 modification is scheduled for adoption.

34 (c) Notwithstanding ORS 294.160, a public hearing is not required if the local government does
 35 not receive a written request for a hearing.

36 **(d) The local government shall deliver a copy of an adopted ordinance or resolution**
 37 **modifying the list described in subsection (1) of this section to the division.**

38 [(d)] (e) The decision of a local government to increase the system development charge by
 39 modifying the list may be [judicially] reviewed only as provided in ORS 34.010 to 34.100 **and section**
 40 **15 of this 2019 Act.**

41 **SECTION 25.** ORS 195.145 is amended to read:

42 195.145. (1) To ensure that the supply of land available for urbanization is maintained:

43 (a) Local governments may cooperatively designate lands outside urban growth boundaries as
 44 urban reserves subject to ORS 197.610 to 197.625 and 197.626.

45 (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;

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

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

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

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

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

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

16 **SECTION 27.** ORS 197.302 is amended to read:

17 197.302. (1) After gathering and compiling information on the performance measures as described
18 in ORS 197.301 but prior to submitting the information to the Department of Land Conservation and
19 Development, a metropolitan service district shall determine if actions taken under [*ORS 197.296*
20 (6)] **section 5 of this 2019 Act** have established the buildable land supply and housing densities
21 necessary to accommodate **the** estimated housing [*needs*] **need** determined under [*ORS 197.296 (3)*]
22 **section 3 of this 2019 Act**. If the metropolitan service district determines that the actions under-
23 taken will not accommodate **the** estimated **housing** need, the district shall develop a corrective
24 action plan, including a schedule for implementation. The **metropolitan service** district shall submit
25 the plan to the department along with the report on performance measures required under ORS
26 197.301. Corrective action under this section may include amendment of the urban growth boundary,
27 comprehensive plan, regional framework plan, functional plan or land use regulations [*as described*
28 *in ORS 197.296*].

29 (2) Within two years of submitting a corrective action plan to the department, the metropolitan
30 service district shall demonstrate by reference to the performance measures described in ORS
31 197.301 that implementation of the plan has resulted in the buildable land supply and housing den-
32 sity within the urban growth boundary necessary to accommodate the estimated housing [*needs*]
33 **need** for each housing type as determined under [*ORS 197.296 (3)*] **section 3 of this 2019 Act**.

34 (3) The failure of the metropolitan service district to demonstrate the buildable land supply and
35 housing density necessary to accommodate **the estimated** housing [*needs*] **need** as required under
36 this section [*and ORS 197.296*] may be the basis for initiation of enforcement action pursuant to ORS
37 197.319 to 197.335.

38 **SECTION 28.** ORS 197.304 is amended to read:

39 197.304. (1) Notwithstanding an intergovernmental agreement pursuant to ORS 190.003 to
40 190.130 or acknowledged comprehensive plan provisions to the contrary, a city within Lane County
41 that has a population of 50,000 or more within its boundaries shall meet its obligation under ORS
42 197.295 to 197.314 separately from any other city within Lane County. The city shall, separately
43 from any other city:

44 (a) Establish an urban growth boundary, (a) consistent with the jurisdictional area of responsibility
45 specified in the acknowledged comprehensive plan; and

1 (b) Demonstrate, as required by ORS 197.296, that its comprehensive plan provides sufficient
 2 buildable lands within an urban growth boundary established pursuant to statewide planning goals
 3 to accommodate **the** estimated housing [*needs*] **need** for 20 years.

4 (2) Except as provided in subsection (1) of this section, this section does not alter or affect an
 5 intergovernmental agreement pursuant to ORS 190.003 to 190.130 or acknowledged comprehensive
 6 plan provisions adopted by Lane County or local governments in Lane County.

7 **SECTION 29.** ORS 197.522 is amended to read:

8 197.522. (1) As used in this section:

9 (a) “Needed housing” has the meaning given that term in ORS [*197.303*] **197.295**.

10 (b) “Partition” has the meaning given that term in ORS 92.010.

11 (c) “Permit” means a permit as defined in ORS 215.402 and a permit as defined in ORS 227.160.

12 (d) “Subdivision” has the meaning given that term in ORS 92.010.

13 (2) A local government shall approve an application for a permit, authorization or other ap-
 14 proval necessary for the subdivision or partitioning of, or construction on, any land for needed
 15 housing that is consistent with the comprehensive plan and applicable land use regulations.

16 (3) If an application is inconsistent with the comprehensive plan and applicable land use regu-
 17 lations, the local government, prior to making a final decision on the application, shall allow the
 18 applicant to offer an amendment or to propose conditions of approval that would make the applica-
 19 tion consistent with the plan and applicable regulations. If an applicant seeks to amend the appli-
 20 cation or propose conditions of approval:

21 (a) A county may extend the time limitation under ORS 215.427 for final action by the governing
 22 body of a county on an application for needed housing and may set forth a new time limitation for
 23 final action on the consideration of future amendments or proposals.

24 (b) A city may extend the time limitation under ORS 227.178 for final action by the governing
 25 body of a city on an application for needed housing and may set forth a new time limitation for final
 26 action on the consideration of future amendments or proposals.

27 (4) A local government shall deny an application that is inconsistent with the comprehensive
 28 plan and applicable land use regulations and that cannot be made consistent through amendments
 29 to the application or the imposition of reasonable conditions of approval.

30 **SECTION 30.** ORS 197.637 is amended to read:

31 197.637. (1) Upon request of the Department of Land Conservation and Development, the Hous-
 32 ing and Community Services Department shall review the [*inventory and analysis of housing, and*
 33 *measures taken to address the housing need, required of certain local governments under ORS*
 34 *197.296*] **measures taken to address needed housing under ORS 197.296 by a metropolitan**
 35 **service district or a city described in ORS 197.296 (1).** The review shall address the likely effect
 36 of **the housing strategy adopted under section 4 of this 2019 Act and** measures developed [*by*
 37 *a local government under ORS 197.296 (6) or (7)*] **under section 5 of this 2019 Act** on the adequacy
 38 of the supply of buildable land and opportunities to satisfy [*needs identified under ORS 197.296 (3)*]
 39 **the estimated housing need determined under section 3 of this 2019 Act.**

40 (2) The Land Conservation and Development Commission and the Director of the Department
 41 of Land Conservation and Development shall consider the review and any recommendations of the
 42 Housing and Community Services Department when determining whether a [*local government*] **met-**
 43 **ropolitan service district or a city** has complied with the statewide land use planning goals and
 44 the requirements of ORS [*197.296*] **197.295 to 197.314.**

45 **SECTION 31.** ORS 197.732 is amended to read:

1 197.732. (1) As used in this section:

2 (a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts
3 of any type with adjacent uses.

4 (b) "Exception" means a comprehensive plan provision, including an amendment to an acknowl-
5 edged comprehensive plan, that:

6 (A) Is applicable to specific properties or situations and does not establish a planning or zoning
7 policy of general applicability;

8 (B) Does not comply with some or all goal requirements applicable to the subject properties or
9 situations; and

10 (C) Complies with standards under subsection (2) of this section.

11 (2) A local government may adopt an exception to a goal if:

12 (a) The land subject to the exception is physically developed to the extent that it is no longer
13 available for uses allowed by the applicable goal;

14 (b) The land subject to the exception is irrevocably committed as described by Land Conserva-
15 tion and Development Commission rule to uses not allowed by the applicable goal because existing
16 adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;
17 or

18 (c) The following standards are met:

19 (A) Reasons justify why the state policy embodied in the applicable goals should not apply;

20 (B) Areas that do not require a new exception cannot reasonably accommodate the use;

21 (C) The long term environmental, economic, social and energy consequences resulting from the
22 use at the proposed site with measures designed to reduce adverse impacts are not significantly
23 more adverse than would typically result from the same proposal being located in areas requiring
24 a goal exception other than the proposed site; and

25 (D) The proposed uses are compatible with other adjacent uses or will be so rendered through
26 measures designed to reduce adverse impacts.

27 (3) The commission shall adopt rules establishing:

28 (a) That an exception may be adopted to allow a use authorized by a statewide planning goal
29 that cannot comply with the approval standards for that type of use;

30 (b) Under what circumstances particular reasons may or may not be used to justify an exception
31 under subsection (2)(c)(A) of this section; and

32 (c) Which uses allowed by the applicable goal must be found impracticable under subsection (2)
33 of this section.

34 (4) A local government approving or denying a proposed exception shall set forth findings of fact
35 and a statement of reasons that demonstrate that the standards of subsection (2) of this section have
36 or have not been met.

37 (5) Each notice of a public hearing on a proposed exception shall specifically note that a goal
38 exception is proposed and shall summarize the issues in an understandable manner.

39 (6) Upon review of a decision approving or denying an exception:

40 (a) The Land Use Board of Appeals or the commission shall be bound by any finding of fact for
41 which there is substantial evidence in the record of the local government proceedings resulting in
42 approval or denial of the exception;

43 (b) The board upon petition, or the commission, shall determine whether the local government's
44 findings and reasons demonstrate that the standards of subsection (2) of this section have or have
45 not been met; and

1 (c) The board or commission shall adopt a clear statement of reasons that sets forth the basis
2 for the determination that the standards of subsection (2) of this section have or have not been met.

3 (7) The commission shall by rule establish the standards required to justify an exception to the
4 definition of “needed housing” [*authorized by ORS 197.303*] **in ORS 197.295.**

5 (8) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement
6 Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

7 **SECTION 32.** ORS 197.313 is amended to read:

8 197.313. [*Nothing in ORS 197.312 or in the amendments to ORS 197.295, 197.303, 197.307 by*
9 *sections 1, 2 and 3, chapter 795, Oregon Laws 1983, shall*] **ORS 197.295 to 197.314 may not** be con-
10 strued to require a city or county to contribute to the financing, administration or sponsorship of
11 government assisted housing.

12 **SECTION 33.** ORS 197.314 is amended to read:

13 197.314. (1) Notwithstanding ORS [*197.296, 197.298, 197.299, 197.301, 197.302, 197.303, 197.307,*
14 *197.312 and 197.313*] **197.295 to 197.314**, within urban growth boundaries each city and county shall
15 amend its comprehensive plan and land use regulations for all land zoned for single-family residen-
16 tial uses to allow for siting of manufactured homes as defined in ORS 446.003. A local government
17 may only subject the siting of a manufactured home allowed under this section to regulation as set
18 forth in ORS 197.307 (8).

19 (2) Cities and counties shall adopt and amend comprehensive plans and land use regulations
20 under subsection (1) of this section according to the provisions of ORS 197.610 to 197.651.

21 (3) Subsection (1) of this section does not apply to any area designated in an acknowledged
22 comprehensive plan or land use regulation as a historic district or residential land immediately ad-
23 jacent to a historic landmark.

24 (4) Manufactured homes on individual lots zoned for single-family residential use in subsection
25 (1) of this section shall be in addition to manufactured homes on lots within designated manufac-
26 tured dwelling subdivisions.

27 (5) Within any residential zone inside an urban growth boundary where a manufactured dwelling
28 park is otherwise allowed, a city or county shall not adopt, by charter or ordinance, a minimum lot
29 size for a manufactured dwelling park that is larger than one acre.

30 (6) A city or county may adopt the following standards for the approval of manufactured homes
31 located in manufactured dwelling parks that are smaller than three acres:

32 (a) The manufactured home shall have a pitched roof, except that no standard shall require a
33 slope of greater than a nominal three feet in height for each 12 feet in width.

34 (b) The manufactured home shall have exterior siding and roofing that, in color, material and
35 appearance, is similar to the exterior siding and roofing material commonly used on residential
36 dwellings within the community or that is comparable to the predominant materials used on sur-
37 rounding dwellings as determined by the local permit approval authority.

38 (7) This section shall not be construed as abrogating a recorded restrictive covenant.

39 **SECTION 34.** Section 8, chapter 52, Oregon Laws 2016, is amended to read:

40 **Sec. 8.** (1) The local government of a pilot project site selected by the Land Conservation and
41 Development Commission under section 4, [*of this 2016 Act*] **chapter 52, Oregon Laws 2016**, may
42 not plan or zone the site to allow a use or mix of uses not authorized under sections 2 to 9, [*of this*
43 *2016 Act*] **chapter 52, Oregon Laws 2016**, unless the local government withdraws the pilot project
44 site from the urban growth boundary and rezones the site pursuant to law, statewide land use
45 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 appropri-**
 23 **ated, 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.**

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