

B-Engrossed House Bill 2003

Ordered by the House June 20
Including House Amendments dated April 11 and June 20

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

SUMMARY

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

Requires [*Oregon Department of Administrative Services*] **Housing and Community Services Department** with Department of Land Conservation and Development and [*Housing and Community Services Department*] **Oregon Department of Administrative Services** to develop methodology to conduct regional housing needs analysis and, for certain cities and Metro, to [*inventory*] **estimate** existing housing stock, [*and*] to establish housing shortage analysis **and to estimate needed housing units for next 20 years**. Requires **Housing and Community Services** Department to implement analyses and inventory by [*July*] **September 1, 2020**. Requires [*Oregon Department of Administrative Services*] **Housing and Community Services Department** and Department of Land Conservation and Development to report results to [*interim*] committee of Legislative Assembly by [*July 1, 2020*] **March 1, 2021**. Requires Department of Land Conservation and Development to report evaluation to [*interim*] committee of Legislative Assembly no later than [*January*] **March 1, 2021**.

Appropriates funds to Housing and Community Services Department for analyses.

Requires each city outside Metro with population greater than 10,000 to estimate its housing need and capacity no less than once every eight years and Metro and cities within Metro to estimate their housing need and capacity no less than every six years. Requires such local governments, within one year of determining estimated housing need, to adopt housing production strategy to meet estimated housing need.

Requires Land Conservation and Development Commission to identify cities that experience difficulties implementing housing production strategy. Appropriates moneys from General Fund to Department of Land Conservation and Development to assist cities with implementation of housing production strategy. Allows Department of Land Conservation and Development to seek enforcement order against cities not implementing housing production strategy.

Requires each city to complete Department of Land Conservation and Development housing survey 24 months before determining housing production strategy.

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

Requires local governments to amend local land use laws to comply with 2017 accessory dwelling unit laws by effective date of Act.

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

[*Assigns*] **Requires** local government [*burden of proving on appeal*] **to adopt findings supported by substantial evidence in support of** necessity of reduction in density or height in housing development application.

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

Prohibits professional disciplinary conduct against employees of Department of Consumer and Business Services who provide certain typical building plans and specifications.

Appropriates funds to **Department of Land Conservation and Development** [*Commission*] for **technical assistance to local governments in implementing Act** [*various rulemaking and implementation actions*].

Becomes operative on January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175, 227.500 and 455.062 and section 1, chapter 47, Oregon Laws 2018; and declaring an emergency.

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

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

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

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

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

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

8 (d) "Housing shortage" means the difference between the estimated housing units of
9 different affordability levels and housing types needed to accommodate the existing popu-
10 lation and the existing housing stock, measured in dwelling units.

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

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

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

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

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

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

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

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

26 (B) Demographic and population trends;

27 (C) Economic trends and cycles; and

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

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

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

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

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

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

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

40 (A) Very low income;

41 (B) Low income;

42 (C) Moderate income; or

43 (D) High income.

44 (4) No later than September 1, 2020, the Housing and Community Services Department,
45 in coordination with the Department of Land Conservation and Development and the Oregon

1 Department of Administrative Services, shall conduct for each region a regional housing
2 needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct
3 a housing shortage analysis and estimate the housing necessary to accommodate growth.

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

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

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

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

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

15 **SECTION 2.** (1) No later than March 1, 2021, the Housing and Community Services De-
16 partment, in consultation with the Department of Land Conservation and Development and
17 the Oregon Department of Administrative Services, shall submit a report, in the manner
18 provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that sum-
19 marizes the findings of the regional housing needs analysis, estimate of housing stock,
20 housing shortage analysis and estimate of housing necessary to accommodate growth con-
21 ducted under section 1 (4) of this 2019 Act.

22 (2) No later than March 1, 2021, the Department of Land Conservation and Development,
23 in consultation with the Oregon Department of Administrative Services and the Housing and
24 Community Services Department, shall submit a report, in the manner provided in ORS
25 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

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

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

32 (A) Cost and cost effectiveness;

33 (B) Reliability and accuracy;

34 (C) Repeatability; and

35 (D) Predictability;

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

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

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

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

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

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

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

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

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

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

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

16 (c) A date scheduled by the Land Conservation and Development Commission following
17 the allocation of housing capacity to the city by a metropolitan service district under ORS
18 197.299 (2)(d).

19 (2) A housing production strategy must include a list of specific actions, including the
20 adoption of measures and policies, that the city shall undertake to promote development
21 within the city to address a housing need identified under ORS 197.296 (6) for the most recent
22 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may include:

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

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

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

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

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

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

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

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

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

37 (A) The schedule for its adoption;

38 (B) The schedule for its implementation;

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

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

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

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

45 **SECTION 5.** (1) No later than 20 days after a city's adoption or amendment of a housing

1 production strategy under section 4 of this 2019 Act, a city shall submit the adopted strategy
2 or amended strategy to the Department of Land Conservation and Development.

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) Approve the housing production strategy;

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

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

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

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

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

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

35 (2) The criteria adopted by the commission under subsection (1) of this section may in-
36 clude the city's:

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

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

39 (c) Percentage of households identified as severely rent burdened as described in section
40 1, chapter 47, Oregon Laws 2018;

41 (d) Recent housing development;

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

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

1 (g) Other attributes that the commission considers relevant.

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

5 (a) Awarding available technical or financial resources;

6 (b) Providing enhanced review and oversight of the city's housing production strategy;

7 (c) Requiring a report and explanation if a city does not implement an action within the
8 approximate time frame scheduled within a housing production strategy;

9 (d) Entering into agreements with the city relating to the city's modification or imple-
10 mentation of its housing production strategy; or

11 (e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to
12 comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing
13 or urbanization.

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

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

21 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-
22 vice district regional framework plans and local government comprehensive plans for lands within
23 the urban growth boundary of a city that is located outside of a metropolitan service district and
24 has a population of 25,000 or more.

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

30 (2)(a) [*At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review*
31 *of the comprehensive plan or regional framework plan that concerns the urban growth boundary and*
32 *requires the application of a statewide planning goal relating to buildable lands for residential use,]*

33 A local government shall demonstrate that its comprehensive plan or regional framework plan pro-
34 vides sufficient buildable lands within the urban growth boundary established pursuant to statewide
35 planning goals to accommodate estimated housing needs for 20 years:

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

37 (B) As scheduled by the commission:

38 (i) At least once each eight years for local governments that are not within a metropol-
39 itan service district; or

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

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

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

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

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

4 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
5 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
6 and amount of land needed for each needed housing type for the next 20 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (C) Demographic and population trends;

33 (D) Economic trends and cycles; and

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

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

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

1 graph.

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

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

12 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
13 lations to include new measures that demonstrably increase the likelihood that residential develop-
14 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
15 expansion of the urban growth boundary. A local government or metropolitan service district that
16 takes this action shall monitor and record the level of development activity and development density
17 by housing type following the date of the adoption of the new measures; or

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

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

28 (8)(a) A local government outside a metropolitan service district that takes any actions under
29 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
30 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
31 197.314.

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

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

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

45 (b) Financial incentives for higher density housing;

- 1 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
- 2 in exchange for amenities and features provided by the developer;
- 3 (d) Removal or easing of approval standards or procedures;
- 4 (e) Minimum density ranges;
- 5 (f) Redevelopment and infill strategies;
- 6 (g) Authorization of housing types not previously allowed by the plan or regulations;
- 7 (h) Adoption of an average residential density standard; and
- 8 (i) Rezoning or redesignation of nonresidential land.

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

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

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

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

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

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

22 **(A) At periodic review pursuant to ORS 197.628 to 197.651;**

23 **(B) On a schedule established by the commission for cities with a population greater than**
24 **10,000, not to exceed once each eight years; or**

25 **(C) At any other legislative review of the comprehensive plan that requires the applica-**
26 **tion of a statewide planning goal relating to buildable lands for residential use.**

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

29 **SECTION 9.** ORS 197.299 is amended to read:

30 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
31 inventory, determination and analysis required under ORS 197.296 (3) not later than six years after
32 completion of the previous inventory, determination and analysis.

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

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

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

43 (d) The metropolitan service district shall consider and adopt new measures that the governing
44 body deems appropriate under ORS 197.296 (6)(b) **and shall allocate any housing capacity that is**
45 **not accommodated under this section to be accommodated by the application of ORS 197.296**

1 **(6)(b) by cities within the metropolitan service district with a population greater than**
2 **10,000.**

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

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

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

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

18 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
19 months after submission of a complete application by a large school district as defined in ORS
20 195.110.

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

25 (5) Three years after completing its most recent demonstration of sufficient buildable lands un-
26 der ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination
27 and analysis required as part of the demonstration for the purpose of considering an amendment to
28 the metropolitan service district's urban growth boundary, provided:

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

32 (b) The commission has acknowledged the rural reserve and urban reserve designations de-
33 scribed in paragraph (a) of this subsection;

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

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

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

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

43 (6)(a) If a metropolitan service district, after revising its most recent determination and analysis
44 pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary
45 is warranted, the metropolitan service district may take action to expand its urban growth boundary

1 in one or more locations to accommodate the proposed development, provided the urban growth
2 boundary expansion does not exceed a total of 1,000 acres.

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

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

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

9 **SECTION 10.** ORS 197.303 is amended to read:

10 197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, “needed housing” means all housing
11 on land zoned for residential use or mixed residential and commercial use that is determined to meet
12 the need shown for housing within an urban growth boundary at price ranges and rent levels that
13 are affordable to households within the county with a variety of incomes, including but not limited
14 to households with low incomes, very low incomes and extremely low incomes, as those terms are
15 defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
16 “Needed housing” includes the following housing types:

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

19 (b) Government assisted housing;

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

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

23 (e) Housing for farmworkers.

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

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

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

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

30 **SECTION 11.** ORS 197.319 is amended to read:

31 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
32 the person shall:

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

34 (b) Request:

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

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

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

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

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

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

7 **SECTION 12.** ORS 197.320 is amended to read:

8 197.320. The Land Conservation and Development Commission shall issue an order requiring a
9 local government, state agency or special district to take action necessary to bring its compre-
10 hensive plan, land use regulation, limited land use decisions or other land use decisions **or actions** into
11 compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regulations
12 **or housing production strategy** if the commission has good cause to believe:

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

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

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

21 (4) A state agency is not making satisfactory progress in carrying out its coordination agree-
22 ment or the requirements of ORS 197.180;

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

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

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

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

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

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

37 (11) A local government is not making satisfactory progress toward meeting its obligations un-
38 der ORS 195.065; [or]

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

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

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

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

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

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

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

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

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

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

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

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

27 (d) The governing body of the city shall return the completed survey form to the [*Housing and*
28 *Community Services Department and the*] Department of Land Conservation and Development [*within*
29 *60 days of receipt*] **at least 24 months prior to a deadline for completing a housing production**
30 **strategy under section 4 of this 2019 Act.**

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

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

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

42 (a) Residential units.

43 (b) Regulated affordable residential units.

44 (c) Multifamily residential units.

45 (d) Regulated affordable multifamily residential units.

1 (e) Single-family units.

2 (f) Regulated affordable single-family units.

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

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

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

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

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

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

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

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

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

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

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

35 **SECTION 17.** ORS 215.416 is amended to read:

36 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
37 an owner of land may apply in writing to such persons as the governing body designates, for a
38 permit, in the manner prescribed by the governing body. The governing body shall establish fees
39 charged for processing permits at an amount no more than the actual or average cost of providing
40 that service.

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

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

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

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

11 (B) This paragraph does not apply to:

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

13 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
14 197.307 (6).

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

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

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

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

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

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

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

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

33 (f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

20 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
21 nied by a brief statement that explains the criteria and standards considered relevant to the deci-
22 sion, states the facts relied upon in rendering the decision and explains the justification for the
23 decision based on the criteria, standards and facts set forth.

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

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

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

32 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
33 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
34 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
35 section may appeal the decision by filing a written appeal in the manner and within the time period
36 provided in the county’s land use regulations. A county may not establish an appeal period that is
37 less than 12 days from the date the written notice of decision required by this subsection was
38 mailed. The notice shall state that the decision will not become final until the period for filing a
39 local appeal has expired. The notice also shall state that a person who is mailed written notice of
40 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS
41 197.830.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (B) The date of the decision; and

35 (C) A description of the decision made.

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

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

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

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

45 **SECTION 18.** ORS 227.175 is amended to read:

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

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

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

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

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

21 (B) This paragraph does not apply to:

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

23 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
24 197.307 (6).

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

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

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

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

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

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

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

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

43 (f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (D) An appeal from a hearings officer's decision made without hearing under this subsection
45 shall be to the planning commission or governing body of the city. An appeal from such other person

1 as the governing body designates shall be to a hearings officer, the planning commission or the
2 governing body. In either case, the appeal shall be to a de novo hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) The date of the decision; and

37 (C) A description of the decision made.

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

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

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

45 (13) Notwithstanding other requirements of this section, limited land use decisions shall be

1 subject to the requirements set forth in ORS 197.195 and 197.828.

2 **SECTION 19.** ORS 215.441 is amended to read:

3 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
4 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
5 nances and regulations, a county shall allow the reasonable use of the real property for activities
6 customarily associated with the practices of the religious activity, including:

7 (a) Worship services.

8 (b) Religion classes.

9 (c) Weddings.

10 (d) Funerals.

11 (e) Meal programs.

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

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

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

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

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

23 (2) A county may:

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

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

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

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

40 **SECTION 20.** ORS 227.500 is amended to read:

41 227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
42 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
43 nances and regulations, a city shall allow the reasonable use of the real property for activities
44 customarily associated with the practices of the religious activity, including:

45 (a) Worship services.

1 (b) Religion classes.

2 (c) Weddings.

3 (d) Funerals.

4 (e) Meal programs.

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

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

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

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

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

16 (2) A city may:

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

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

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

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

33 **SECTION 21.** ORS 455.062 is amended to read:

34 455.062. (1) A Department of Consumer and Business Services employee acting within the scope
35 of that employment may provide typical plans and specifications:

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

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

42 **(2) A Department of Consumer and Business Services employee, who is licensed or reg-**
43 **istered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of**
44 **that employment and who is providing typical plans and specifications under subsection (1)**
45 **of this section, is not required to seal or sign the typical plans and specifications and is not**

1 **subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on**
2 **providing those typical plans and specifications.**

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

8 [(3)] This [section] **subsection** does not alter any applicable requirement under ORS 671.010 to
9 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

10 **SECTION 22. In addition to and not in lieu of any other appropriation, there is appro-**
11 **riated to the Department of Land Conservation and Development, for the biennium begin-**
12 **ning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical**
13 **assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the**
14 **amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and**
15 **227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this**
16 **2019 Act.**

17 **SECTION 23. In addition to and not in lieu of any other appropriation, there is appro-**
18 **riated to the Housing and Community Services Department, for the biennium beginning July**
19 **1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and**
20 **reporting that relate to a regional housing needs analysis described in section 1 of this 2019**
21 **Act.**

22 **SECTION 24. (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296,**
23 **197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections**
24 **8 to 13 of this 2019 Act become operative on January 1, 2020.**

25 **(2) The Land Conservation and Development Commission, the Department of Land Con-**
26 **servation and Development and the Housing and Community Services Department may take**
27 **any action before the operative date specified in subsection (1) of this section that is neces-**
28 **sary for the departments and the commission to exercise, on or after the operative date**
29 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**
30 **on the departments and the commission by sections 4 to 6 of this 2019 Act and the amend-**
31 **ments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws**
32 **2018, by sections 8 to 13 of this 2019 Act.**

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

36