

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3414**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest  
2 of the line and line 3 and insert “amending ORS 183.471, 197.843 and 455.770;  
3 and declaring an emergency.”.

4 Delete lines 5 through 26 and delete pages 2 through 7 and insert:

5 **“SECTION 1. Sections 2 to 4 of this 2023 Act are added to and made**  
6 **a part of ORS 197.286 to 197.314.**

7 **“SECTION 2. (1) As used in sections 2 to 4 of this 2023 Act:**

8 **“(a) ‘Adjustment’ means a deviation from an existing land use**  
9 **regulation;**

10 **“(b) ‘Adjustment’ does not include:**

11 **“(A) A request to allow a use of property not otherwise permissible**  
12 **under applicable zoning requirements;**

13 **“(B) Deviations from land use regulations or requirements related**  
14 **to accessibility, affordability, fire ingress or egress or statewide land**  
15 **use planning goals relating to natural resources, natural hazards,**  
16 **Willamette River Greenway, estuarine resources, coastal shorelands,**  
17 **beaches and dunes or ocean resources;**

18 **“(C) A complete waiver of land use regulations; or**

19 **“(D) Deviations to requirements of building codes, federal or state**  
20 **water quality requirements or requirements of any other federal, state**  
21 **or local law that is not a land use regulation.**

1       **“(2) This section applies only if all of the following conditions are**  
2 **met:**

3       **“(a) Applications are for a building permit or a quasi-judicial, lim-**  
4 **ited or ministerial land use decision;**

5       **“(b) Development is on lands zoned for residential or mixed-use**  
6 **residential uses;**

7       **“(c) Development is within an urban growth boundary, not includ-**  
8 **ing lands that have not been annexed by a city; and**

9       **“(d) Development is of net new housing units, including single-**  
10 **family or multifamily, mixed-use residential, manufactured dwelling**  
11 **parks, accessory dwelling units or middle housing as defined in ORS**  
12 **197.758.**

13       **“(3) A local government may not approve more than 10 distinct**  
14 **adjustments under this section. Each development standard described**  
15 **in subsection (4) of this section and each design standard described in**  
16 **subsection (5) of this section is considered a distinct adjustment. Ad-**  
17 **justments meeting the criteria under this section shall be granted by**  
18 **a local government and may be resolved through an existing or new**  
19 **administrative process of the local government that allows for flexi-**  
20 **bility in addressing development or design standards for residential**  
21 **development.**

22       **“(4) A local government shall grant an adjustment to the following**  
23 **development standards:**

24       **“(a) Side and rear setbacks and step backs, provided that the set-**  
25 **backs still comply with utility siting requirements;**

26       **“(b) The amount of landscaped area, common area or open space**  
27 **area, for a reduction of up to 25 percent, provided that stormwater**  
28 **management requirements and tree codes are met and that there is**  
29 **no impact to tree canopy requirements or ground or surface water**  
30 **resources;**

1       “(c) **Parking minimums;**

2       “(d) **Minimum or maximum lot sizes, for up to a 10 percent adjust-**  
3 **ment;**

4       “(e) **Minimum or maximum lot widths and depths, for up to a 10**  
5 **percent adjustment;**

6       “(f) **Requirements for bicycle parking that establish:**

7       “(A) **The minimum number of spaces, provided that there is at least**  
8 **one-half space per residential unit; or**

9       “(B) **The location of the spaces, provided that secure, covered bi-**  
10 **cycle parking spaces are within or adjacent to the residential devel-**  
11 **opment;**

12       “(g) **Minimum or maximum building lot coverage requirements:**

13       “(A) **For up to a 15 percent adjustment, for accessory dwelling units**  
14 **with a single-family detached house; or**

15       “(B) **For up to a 20 percent adjustment, for multifamily, mixed-use**  
16 **residential and middle housing;**

17       “(h) **Unit density maximums, up to an amount necessary to account**  
18 **for other adjustments under this section;**

19       “(i) **Building height maximums, in addition to existing applicable**  
20 **height bonuses, except for single-family detached houses or where de-**  
21 **nial of the variance is necessary to address a fire, life or safety issue,**  
22 **for an increase of the greater of:**

23       “(A) **One story; or**

24       “(B) **A 20 percent increase to base zone height with rounding con-**  
25 **sistent with methodology outlined in city code, if any; and**

26       “(j) **Prohibitions, on the ground floor of a mixed-use building,**  
27 **against:**

28       “(A) **Residential uses except for one face of the building that faces**  
29 **the street and is within 20 feet of the street; and**

30       “(B) **Nonresidential active uses that support the residential uses of**

1 the building, including lobbies, day care, passenger loading, commu-  
2 nity rooms, exercise facilities, offices, activity spaces or live-work  
3 spaces, except for active uses in specifically and clearly defined mixed  
4 use areas or commercial corridors designated by local governments.

5 “(5) A local government shall grant an adjustment to design stan-  
6 dards that regulate:

7 “(a) Facade materials, articulation, color or pattern;

8 “(b) Roof forms and materials;

9 “(c) Entry and garage door materials and patterns;

10 “(d) Garage door orientation, except when the building is adjacent  
11 to or across from a school or public park;

12 “(e) Window material and design;

13 “(f) Window size or total window area, for up to a 30 percent ad-  
14 justment;

15 “(g) Building orientation requirements, not including transit street  
16 orientation requirements;

17 “(h) Building height transition requirements, for up to a 50 percent  
18 adjustment from the base zone, except where necessary to address a  
19 fire, life or safety issue; or

20 “(i) Balconies, porches, recesses and offsets.

21 “(6) To qualify for an adjustment under this section, the applicant  
22 must state in the application for adjustment that at least one of the  
23 following criteria apply:

24 “(a) The adjustment will enable development of housing that would  
25 not otherwise be feasible due to cost or delay resulting from the un-  
26 adjusted land use regulations;

27 “(b) The adjustment will enable development of housing that re-  
28 duces the sale or rental prices per residential unit;

29 “(c) The adjustment will increase the number of housing units  
30 within the application;

1       “(d) All of the units in the application are subject to an affordable  
2 housing covenant making them affordable to moderate income house-  
3 holds as described in ORS 456.270 to 456.295 for a minimum of 30 years;  
4 or

5       “(e) At least 20 percent of the units in the application are subject  
6 to an affordable housing covenant making them affordable to low in-  
7 come households as described in ORS 456.270 to 456.295 for a minimum  
8 of 60 years.

9       “SECTION 3. (1) Notwithstanding ORS 197.015 (10)(b), a decision on  
10 an application for an adjustment under section 2 of this 2023 Act is a  
11 land use decision for the purposes of ORS chapter 197.

12       “(2)(a) Within 30 days after receiving a complete application under  
13 section 2 of this 2023 Act, the local government shall inform the ap-  
14 plicant whether the local government believes that the adjustments  
15 requested by the application satisfy the criteria under section 2 of this  
16 2023 Act.

17       “(b) If a local government informs the applicant that any adjust-  
18 ments do not satisfy such criteria, the applicant is allowed 30 days to  
19 submit additional evidence for evaluation under this subsection.

20       “(c) A decision by a local government under this subsection is not  
21 a land use decision.

22       “(3) Unless an appeal is filed before a final decision under sub-  
23 section (6) of this section, an application for an adjustment under  
24 section 2 of this 2023 Act must receive a final decision on or before the  
25 development application decision and within the timelines imposed by  
26 ORS 197.311, 215.416 and 227.175.

27       “(4) A denial of an application for an adjustment under section 2  
28 of this 2023 Act must be in a brief written statement that explains the  
29 criteria and standards considered relevant to the decision, states the  
30 facts relied upon in rendering the decision and explains the justifica-

1 tion for the decision based on the criteria, standards and facts set  
2 forth. If the denial of an application for an adjustment is made sepa-  
3 rately from any other related application, the decision does not require  
4 notice under ORS 197.195 or 197.797.

5 “(5) Only the applicant or the Housing Accountability and Pro-  
6 duction Office established under section 7 of this 2023 Act may appeal  
7 a land use decision made under section 2 of this 2023 Act.

8 “(6) In lieu of any other appeal process, an applicant may elect to  
9 appeal a land use decision made under section 2 of this 2023 Act to the  
10 Land Use Board of Appeals under an expedited appellate process that,  
11 notwithstanding ORS 197.825 (2)(a) or 197.830 to 197.845, is subject to  
12 the following process:

13 “(a) The petition for appeal may be made only once from any deci-  
14 sion, including a decision other than a final decision, made by a local  
15 government’s governing body, planning commission, hearings body,  
16 hearings officer, planning director or any other local government staff  
17 or body entitled to make a binding decision.

18 “(b) The appeal serves to waive any unexhausted right of appeal  
19 prescribed by the local government, including a right as described in  
20 ORS 215.422 and 227.180.

21 “(c) The caption of the petition must request review under this  
22 subsection.

23 “(d) The board may, by order, require that issues on appeal under  
24 this subsection be bifurcated, and decided separately, from any other  
25 related application.

26 “(e) The issues on appeal must be argued without oral argument  
27 on an expedited petition and briefing schedule established by an order  
28 of the board.

29 “(f) All issues on appeal must be decided by a final order of the  
30 board made before the latter of:

1       “(A) 60 days after the receipt of the notice of appeal; or

2       “(B) 40 days after the transmittal of the record.

3       “(7) During an appeal taken under subsection (6) of this section any  
4 other related application or its appeal is stayed and any deadline of a  
5 local government with respect to the decision under ORS 197.311,  
6 215.416 or 227.175 is tolled.

7       “(8) As used in this section, ‘other related application’ means a land  
8 use decision, if any exists, for which the developer has requested an  
9 approval of an adjustment under section 2 of this 2023 Act.

10       “SECTION 4. (1) A city required to provide a report under section  
11 37 (1), chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), shall  
12 include as part of that report information reasonably requested from  
13 the Department of Land Conservation and Development on residential  
14 development produced through approvals of adjustments granted un-  
15 der section 2 of this 2023 Act. The department may not develop a sep-  
16 arate process for collecting this data or otherwise place an undue  
17 burden on local governments.

18       “(2) On or before September 15 of each even-numbered year, the  
19 department shall provide a report to an interim committee of the  
20 Legislative Assembly related to housing in the manner provided in  
21 ORS 192.245 on the data collected under subsection (1) of this section.  
22 The committee shall invite the League of Oregon Cities to provide  
23 feedback on the report and the efficacy of section 2 of this 2023 Act.

24       “SECTION 5. Sections 2 to 4 of this 2023 Act are repealed on Janu-  
25 ary 2, 2032.

26       “SECTION 6. As used in sections 6 to 9 of this 2023 Act, ‘housing  
27 law’ means ORS 92.010 to 92.192, 92.830 to 92.845, 197.286 to 197.314,  
28 197.360 to 197.380, 197.475 to 197.490, 197.505 to 197.540, 197.660 to 197.670,  
29 197.748, 197.758, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150,  
30 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185

1 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467  
2 and section 2 of this 2023 Act and administrative rules implementing  
3 those laws, to the extent that the law or rule imposes a mandatory  
4 duty on a local government or its agent and the application of the law  
5 or rule relates to residential development or pertains to a permit for  
6 a residential use or division of land for residential purposes.

7 **“SECTION 7. (1) The Department of Land Conservation and Devel-**  
8 **opment and the Department of Consumer and Business Services shall**  
9 **enter into an interagency agreement to establish and administer the**  
10 **Housing Accountability and Production Office.**

11 **“(2) The Housing Accountability and Production Office shall:**

12 **“(a) Provide technical assistance to local jurisdictions to:**

13 **“(A) Comply with housing laws;**

14 **“(B) Reduce permitting and land use barriers to housing production;**  
15 **and**

16 **“(C) Support reliable and effective implementation of local proce-**  
17 **dures and standards relating to the approval of residential develop-**  
18 **ment projects;**

19 **“(b) Serve as a resource for housing developers experiencing per-**  
20 **mitting and land use barriers related to housing production, through**  
21 **activities that include responding to requests for technical assistance**  
22 **regarding housing laws;**

23 **“(c) Investigate and respond to complaints of violations of housing**  
24 **laws under section 8 of this 2023 Act; and**

25 **“(d) Mediate active disputes relating to housing laws between a lo-**  
26 **cal government and residential developer, including mediation under**  
27 **ORS 197.860.**

28 **“(3) The Land Conservation and Development Commission and the**  
29 **Department of Consumer and Business Services may jointly or sepa-**  
30 **rately adopt, amend or repeal rules for:**



1       “(a) Carrying out the respective responsibilities of the departments  
2 and the office under sections 6 to 9 of this 2023 Act; and

3       “(b) Establishing model codes, procedures and practices by which  
4 local governments may comply with housing laws.

5       “(4) The office shall prioritize assisting jurisdictions voluntarily  
6 undertaking changes to come into compliance with housing laws.

7       “SECTION 8. (1) The Housing Accountability and Production Office  
8 established under section 7 of this 2023 Act shall establish a form or  
9 format through which the office receives allegations of local  
10 governments’ violations of housing laws. For complaints that relate  
11 to a specific development project, the office may receive complaints  
12 only from the residential developer of the project. For complaints not  
13 related to a specific development project, the office may receive com-  
14 plaints from any person, including the Department of Land Conserva-  
15 tion and Development or the Department of Consumer and Business  
16 Services.

17       “(2)(a) Except as provided in paragraph (b) of this subsection, the  
18 office shall investigate suspected violations of housing laws or vio-  
19 lations credibly alleged under subsection (1) of this section.

20       “(b) If, at any time, a complainant has filed a notice of appeal with  
21 the Land Use Board of Appeals or has initiated private litigation re-  
22 garding any aspect of the application decision that was alleged to have  
23 been the subject of the housing law violation, the office’s continuing  
24 involvement may only consist of:

25       “(A) Providing agency briefs, including briefs under ORS 197.830 (8),  
26 to the board or the court;

27       “(B) Providing technical assistance to the local government unre-  
28 lated to the resolution of the specific complaint; or

29       “(C) Providing mediation at the request of the local government and  
30 complainant, including under ORS 197.860.

1       **“(3) If the office has a reasonable basis to conclude that a violation**  
2 **has been or is likely to be committed, the office shall deliver written**  
3 **warning notice to the local government specifying the violation and**  
4 **any authority under this section that the office intends to invoke if**  
5 **the violation continues or is not remedied. The notice may include**  
6 **an invitation to address the suspected violation through mediation,**  
7 **the execution of a voluntary compliance agreement or the adoption**  
8 **of suitable models developed by the office under section 7 (3)(b) of this**  
9 **2023 Act. The office shall prioritize technical assistance funding to lo-**  
10 **cal governments that agree to comply with housing laws under this**  
11 **subsection. A determination by the office is not a legislative or judicial**  
12 **decision.**

13       **“(4) No earlier than 60 days after a warning notice is delivered un-**  
14 **der subsection (3) of this section, the office may take the following**  
15 **actions:**

16       **“(a) Initiate a request for an enforcement order of the Land Con-**  
17 **servation and Development Commission by providing a notice of re-**  
18 **quest under section 9 (2) of this 2023 Act.**

19       **“(b) Seek a court order against a local government as described**  
20 **under ORS 455.160 (3) without being adversely affected or serving the**  
21 **demand as described in ORS 455.160 (2).**

22       **“(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and**  
23 **seek review of a matter under ORS 197.090 (2)(a) that pertains to**  
24 **housing laws without the notice or consent of the commission. No less**  
25 **than once every two years, the office shall report to the commission**  
26 **on the matters in which the office participated under this paragraph.**

27       **“(d) Except regarding matters under the exclusive jurisdiction of**  
28 **the Land Use Board of Appeals, apply to any circuit court for an order**  
29 **compelling compliance with any housing law. If the court finds that**  
30 **the defendant is not complying with a housing law, the court may**

1 grant an injunction requiring compliance.

2 “(5) The office may not, in the name of the office, exercise the au-  
3 thority of the Department of Land Conservation and Development  
4 under ORS 197.293.

5 “(6) The office shall send notice to any complainant under sub-  
6 section (1) of this section when the office:

7 “(a) Takes any action under subsection (3) or (4) of this section; or

8 “(b) Has determined that it will not take further actions or make  
9 further investigations.

10 “(7) The actions authorized of the office under this section are in  
11 addition to and may be exercised in conjunction with any other in-  
12 vestigative or enforcement authority that may be exercised by the  
13 Department of Land Conservation and Development, the Land Con-  
14 servation and Development Commission or the Department of Con-  
15 sumer and Business Services.

16 “(8) Nothing in this section:

17 “(a) Amends the jurisdiction of the Land Use Board of Appeals or  
18 of a circuit court;

19 “(b) Creates a new cause of action; or

20 “(c) Tolls or extends the statute of limitations for any claim or  
21 deadline for any appeal or other action.

22 **“SECTION 9. (1) Under section 8 (4)(a) of this 2023 Act, the Housing**  
23 **Accountability and Production Office may request an enforcement or-**  
24 **der that a local government take action necessary to bring its com-**  
25 **prehensive plan, land use regulation, limited land use decisions or**  
26 **other land use decisions or actions into compliance with a housing**  
27 **law, except for a housing law that pertains to building codes or the**  
28 **administration of building codes. Except as otherwise provided in this**  
29 **section, a request for an enforcement order by the office is subject to**  
30 **the applicable provisions of ORS 197.335 and ORS chapter 183 and is**

1 not subject to ORS 197.319, 197.324 or 197.328.

2 “(2) The office shall make a request for an enforcement order under  
3 this section through a notice to the local government that states the  
4 grounds for initiation and summarizes the procedures for the  
5 enforcement order proceeding along with a copy of the notice to the  
6 Land Conservation and Development Commission. A decision of the  
7 office to initiate an enforcement order is final and is not subject to  
8 appeal.

9 “(3) After receiving notice of an enforcement order request under  
10 subsection (2) of this section, the affected local government shall in-  
11 clude the following disclosure in any subsequent notice of a land use  
12 decision that could be affected by the enforcement order:

13 “ \_\_\_\_\_  
14 NOTICE: The Housing and Accountability and Production Office has  
15 found good cause for an enforcement proceeding against  
16 \_\_\_\_\_ (name of local government). An enforcement order  
17 may be adopted that could limit, prohibit or require the application  
18 of specified criteria to any action authorized by this decision but not  
19 applied for until after the adoption of the enforcement order. Future  
20 applications for building permits or time extensions may be affected.

21 “ \_\_\_\_\_  
22 “(4) Within 14 days following receipt by the commission of the no-  
23 tice under subsection (2) of this section, the Director of the Depart-  
24 ment of Land Conservation and Development shall assign the  
25 enforcement order proceedings to a hearings officer who is:

26 “(a) An administrative law judge assigned under ORS 183.635; or  
27 “(b) A hearings officer randomly selected from a pool of officers  
28 appointed by the commission to review proceedings initiated under  
29 this section.

30 “(5) The hearings officer shall schedule a contested case hearing

1 within 60 days of the delivery of the notice to the commission under  
2 subsection (2) of this section.

3 “(6) The hearings officer shall prepare a proposed enforcement or-  
4 der, including recommended findings and conclusions of law. A pro-  
5 posed enforcement order may require the local government to adopt  
6 models that have been developed by the office under section 7 (3)(b)  
7 of this 2023 Act that are suitable to address the basis for the proposed  
8 enforcement order. The hearings officer must issue and serve the  
9 proposed enforcement order on the office and all parties to the hearing  
10 within 30 days of the date the record closed.

11 “(7)(a) The proposed enforcement order becomes a final order of the  
12 commission 14 days after service on the office and all parties to the  
13 hearing, unless the office or a party to the hearing appeals the pro-  
14 posed enforcement order to the commission prior to the proposed  
15 enforcement order becoming final.

16 “(b) If the proposed enforcement order is appealed, the commission  
17 shall consider the matter at:

18 “(A) Its next regularly scheduled meeting; or

19 “(B) If the appeal is made 45 or fewer days prior to the next regu-  
20 larly scheduled meeting, at the following regularly scheduled meeting  
21 or a special meeting held earlier.

22 “(8) The commission shall affirm, affirm with modifications or re-  
23 verse the proposed enforcement order. The commission shall issue a  
24 final order no later than 30 days after the meeting at which it con-  
25 sidered the matter.

26 “(9) The commission may adopt rules administering this section,  
27 including rules related to standing, preserving issues for commission  
28 review or other provisions concerning the commission’s scope and  
29 standard for review of proposed enforcement orders under this section.

30 **SECTION 10.** Sections 8 and 9 of this 2023 Act apply only to vio-

1 **lations of housing laws occurring on or after April 1, 2024.**

2 **“SECTION 11. On or before September 15, 2024, the Housing Ac-**  
3 **countability and Production Office established under section 7 of this**  
4 **2023 Act shall:**

5 **“(1) Contract with an organization possessing relevant expertise to**  
6 **produce a report identifying improvements in the local building plan**  
7 **approval, land use, zoning and permitting processes, including but not**  
8 **limited to plan approval timelines, process efficiency, local best prac-**  
9 **tices and other ways to accelerate and improve the efficiency of the**  
10 **development process for construction, with a focus on increasing**  
11 **housing production; and**

12 **“(2) Provide the report under subsection (1) of this section to an**  
13 **appropriate interim committee of the Legislative Assembly in the**  
14 **manner provided in ORS 192.245.**

15 **“SECTION 12. ORS 183.471 is amended to read:**

16 **“183.471. (1) When an agency issues a final order in a contested case, the**  
17 **agency shall maintain the final order in a digital format that:**

18 **“(a) Identifies the final order by the date it was issued;**

19 **“(b) Is suitable for indexing and searching; and**

20 **“(c) Preserves the textual attributes of the document, including the man-**  
21 **ner in which the document is paginated and any boldfaced, italicized or**  
22 **underlined writing in the document.**

23 **“(2) The Oregon State Bar may request that an agency provide the Oregon**  
24 **State Bar, or its designee, with electronic copies of final orders issued by the**  
25 **agency in contested cases. The request must be in writing. No later than 30**  
26 **days after receiving the request, the agency, subject to ORS 192.338, 192.345**  
27 **and 192.355, shall provide the Oregon State Bar, or its designee, with an**  
28 **electronic copy of all final orders identified in the request.**

29 **“(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the**  
30 **first two requests submitted under this section in a calendar year. For any**

1 subsequent request, an agency may impose a fee in accordance with ORS  
2 192.324 to reimburse the agency for the actual costs of complying with the  
3 request.

4 “(4) For purposes of this section, a final order entered in a contested case  
5 by an administrative law judge under ORS 183.625 (3) is a final order issued  
6 by the agency that authorized the administrative law judge to conduct the  
7 hearing.

8 “(5) This section does not apply to final orders by default issued under  
9 ORS 183.417 (3) or to final orders issued in contested cases by:

10 “(a) The Department of Revenue;

11 “(b) The State Board of Parole and Post-Prison Supervision;

12 “(c) The Department of Corrections;

13 “(d) The Employment Relations Board;

14 “(e) The Public Utility Commission of Oregon;

15 “(f) The Oregon Health Authority;

16 “(g) The Land Conservation and Development Commission, **except for**  
17 **enforcement orders under section 9 of this 2023 Act;**

18 “(h) The Land Use Board of Appeals;

19 “(i) The Division of Child Support of the Department of Justice;

20 “(j) The Department of Transportation, if the final order relates to the  
21 suspension, revocation or cancellation of identification cards, vehicle regis-  
22 trations, vehicle titles or driving privileges or to the assessment of taxes or  
23 stipulated settlements in the regulation of vehicle related businesses;

24 “(k) The Employment Department or the Employment Appeals Board, if  
25 the final order relates to benefits as defined in ORS 657.010;

26 “(L) The Employment Department, if the final order relates to an assess-  
27 ment of unemployment tax for which a hearing was not held; or

28 “(m) The Department of Human Services, if the final order was not re-  
29 lated to licensing or certification.

30 **“SECTION 13.** ORS 455.770 is amended to read:

1 “455.770. (1) In addition to any other authority and power granted to the  
2 Director of the Department of Consumer and Business Services under ORS  
3 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945,  
4 479.995 and 480.510 to 480.670 and *[this chapter and]* ORS chapters 447, **455**,  
5 460 and 693 **and sections 6 to 9 of this 2023 Act**, with respect to munici-  
6 palities, building officials and inspectors, if the director has reason to believe  
7 that there is a failure to enforce or a violation of any provision of the state  
8 building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,  
9 479.510 to 479.945, 479.995 or 480.510 to 480.670 *[or this chapter]* or ORS  
10 chapter 447, **455**, 460 or 693 or any rule adopted under those statutes, the  
11 director may:

12 “(a) Examine building code activities of the municipality;

13 “(b) Take sworn testimony; and

14 “(c) With the authorization of the Office of the Attorney General,  
15 subpoena persons and records to obtain testimony on official actions that  
16 were taken or omitted or to obtain documents otherwise subject to public  
17 inspection under ORS 192.311 to 192.478.

18 “(2) The investigative authority authorized in subsection (1) of this sec-  
19 tion covers the violation or omission by a municipality related to enforce-  
20 ment of codes or administrative rules, certification of inspectors or financial  
21 transactions dealing with permit fees and surcharges under any of the fol-  
22 lowing circumstances when:

23 “(a) The duties are clearly established by law, rule or agreement;

24 “(b) The duty involves procedures for which the means and methods are  
25 clearly established by law, rule or agreement; or

26 “(c) The duty is described by clear performance standards.

27 “(3) Prior to starting an investigation under subsection (1) of this section,  
28 the director shall notify the municipality in writing setting forth the  
29 allegation and the rules or statutes pertaining to the allegation and give the  
30 municipality 30 days to respond to the allegation. If the municipality does



1 not satisfy the director’s concerns, the director may then commence an in-  
2 vestigation.

3 “(4) If the Department of Consumer and Business Services or the director  
4 directs corrective action, the following shall be done:

5 “(a) The corrective action shall be in writing and served on the building  
6 official and the chief executive officers of all municipalities affected;

7 “(b) The corrective action shall identify the facts and law relied upon for  
8 the required action; and

9 “(c) A reasonable time shall be provided to the municipality for compli-  
10 ance.

11 “(5) The director may revoke any authority of the municipality to ad-  
12 minister any part of the state building code or ORS 446.003 to 446.200, 446.225  
13 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670  
14 [or *this chapter*] or ORS chapter 447, **455**, 460 or 693 or any rule adopted  
15 under those statutes if the director determines after a hearing conducted  
16 under ORS 183.413 to 183.497 that:

17 “(a) All of the requirements of this section and ORS 455.775 and 455.895  
18 were met; and

19 “(b) The municipality did not comply with the corrective action required.

20 **“SECTION 14. Sections 15 to 22 of this 2023 Act are added to and  
21 made a part of ORS 197.286 to 197.314.**

22 **“SECTION 15. As used in sections 15 to 22 of this 2023 Act:**

23 **“(1) ‘Net residential acre’ means an acre of residentially designated  
24 buildable land, not including nondevelopable rights of way for streets,  
25 roads or utilities.**

26 **“(2) ‘Site’ means a lot or parcel or contiguous lots or parcels, or  
27 both, with or without common ownership.**

28 **“SECTION 16. (1) Notwithstanding any other provision of ORS  
29 197.286 to 197.314, a city outside of Metro may adopt an amendment to  
30 the city’s urban growth boundary to include a site if:**

1       “(a) The site is adjacent to the existing urban growth boundary of  
2 the city or is separated from the existing urban growth boundary by  
3 only a street or road;

4       “(b) The site is:

5       “(A) Designated as an urban reserve under ORS 195.137 to 195.145,  
6 including sites whose designations are adopted under ORS 197.652 to  
7 197.658;

8       “(B) Designated as nonresource land; or

9       “(C) Subject to an acknowledged exception to a statewide land use  
10 planning goal relating to farmland or forest land;

11       “(c) The city has not previously adopted an urban growth boundary  
12 amendment under sections 15 to 22 of this 2023 Act;

13       “(d) The city has adopted a conceptual plan for the site that satis-  
14 fies the requirements of section 18 of this 2023 Act; and

15       “(e) The total acreage of the site:

16       “(A) For a city with a population of 25,000 or greater, does not ex-  
17 ceed 150 net residential acres; or

18       “(B) For a city with a population of less than 25,000, does not exceed  
19 75 net residential acres.

20       “(2) The adoption of an amendment to an urban growth boundary  
21 under this section does not require county approval.

22       “SECTION 17. (1) A city within Metro may petition Metro to include  
23 a site within the urban growth boundary that satisfies the require-  
24 ments of section 16 (1) of this 2023 Act and that is designated as an  
25 urban reserve.

26       “(2) Within 120 days of receiving a petition, Metro shall determine  
27 whether the petition substantially complies with the provisions of  
28 section 18 of this 2023 Act. If Metro determines that a petition does  
29 not substantially comply with the provisions of section 18 of this 2023  
30 Act, Metro shall:

1       “(a) Notify the city of any deficiencies in the petition, specifying  
2 sufficient detail to allow the city to remedy any deficiency in a sub-  
3 sequent resubmittal; and

4       “(b) Allow the city to amend its conceptual plan and resubmit it  
5 as a petition to Metro under this section.

6       “(3) If Metro determines that a petition does comply with section  
7 18 of this 2023 Act, notwithstanding any other provision of ORS 197.286  
8 to 197.314, Metro shall adopt amendments to its urban growth bound-  
9 ary to include the site in the petition, provided the amendment does  
10 not result in more than 600 total net residential acres added under this  
11 subsection.

12       “(4) If the net residential acres included in approved petitions re-  
13 ceived on or before July 1, 2024, total less than 600 net residential  
14 acres, Metro shall adopt amendments to its urban growth boundary  
15 under subsection (3) of this section:

16       “(a) On or before November 1, 2024, for petitions received on or be-  
17 fore July 1, 2024; or

18       “(b) Within 120 days following the receipt of a petition received af-  
19 ter July 1, 2024, in the order in which the petitions are received.

20       “(5) If the net residential acres included in approved petitions re-  
21 ceived on or before July 1, 2024, total 600 or more net residential acres,  
22 on or before January 1, 2026, Metro shall adopt amendments to its  
23 urban growth boundary under subsection (3) of this section to include  
24 the sites in those petitions that Metro determines will:

25       “(a) Best comply with the provisions of section 18 of this 2023 Act;  
26 and

27       “(b) Maximize the development of needed housing.

28       “(6) Metro may not conduct a hearing to review or select petitions  
29 or adopt amendments to its urban growth boundary under this section.

30       “SECTION 18. (1) As used in this section:

1       “(a) ‘Affordable units’ means residential units described in sub-  
2 section (3)(f)(A) or (4) of this section.

3       “(b) ‘Market rate units’ means residential units other than afford-  
4 able units.

5       “(2) Prior to adopting an urban growth boundary amendment under  
6 section 16 of this 2023 Act or petitioning Metro under section 17 of this  
7 2023 Act, a city must adopt a conceptual plan for the site as an  
8 amendment to its comprehensive plan.

9       “(3) The conceptual plan must:

10       “(a) Establish the total net residential acres within the site and  
11 must require for those residential areas:

12       “(A) A diversity of housing types and sizes, including middle hous-  
13 ing as defined in ORS 197.758; and

14       “(B)(i) For a city within Metro, an average density of at least 15  
15 dwelling units per net residential acre;

16       “(ii) For cities within Baker, Clatsop, Coos, Crook, Curry, Gilliam,  
17 Grant, Harney, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow,  
18 Sherman, Tillamook, Umatilla, Union, Wallowa and Wheeler Counties  
19 and the cities of Dunes City, Florence and Reedsport, an average  
20 density of at least four dwelling units per net residential acre, whether  
21 for affordable units, market rate units or both; or

22       “(iii) For all other cities, an average density of at least eight  
23 dwelling units per net residential acre, whether for affordable units,  
24 market rate units or both;

25       “(b) Designate within the site:

26       “(A) Recreation and open space lands; and

27       “(B) Lands for commercial uses, either separate or as a mixed use,  
28 that:

29       “(i) Primarily serve the immediate surrounding housing;

30       “(ii) Provide goods and services at a smaller scale than provided on

1 typical lands zoned for commercial use; and

2 “(iii) Are provided at the minimum amount necessary to support  
3 and integrate viable commercial and residential uses;

4 “(c) If the city has a population of 5,000 or greater, include a  
5 transportation network for the site that provides diverse transporta-  
6 tion options, including walking, bicycling and transit use if public  
7 transit services are available, along with both sufficient internal con-  
8 nections and connections to areas within the existing urban growth  
9 boundary of the city;

10 “(d) Ensure that any area within the site will either retain its des-  
11 ignation or otherwise be protected if the area is designated for pro-  
12 tection in an acknowledged comprehensive plan pursuant to a  
13 statewide land use planning goal relating to:

14 “(A) Open spaces, scenic and historic areas or natural resources;

15 “(B) Areas subject to natural hazards;

16 “(C) The Willamette River Greenway;

17 “(D) Estuarine resources;

18 “(E) Coast shorelands; or

19 “(F) Beaches and dunes;

20 “(e) Ensure that the site will be served with all necessary urban  
21 services as defined in ORS 195.065, which may be facilitated through  
22 a binding agreement among the city, each owner within the site and  
23 any other necessary public or private utility provider, local govern-  
24 ment or district, as defined in ORS 195.060, or combination of local  
25 governments and districts; and

26 “(f) Include requirements that ensure that:

27 “(A) At least 30 percent of the residential units are subject to  
28 affordability restrictions, including but not limited to affordable  
29 housing covenants, as described in ORS 456.270 to 456.295, that require  
30 for a period of not less than 60 years that the units be:

1       “(i) Available for rent, with or without government assistance, by  
2 households with an income of 80 percent or less of the area median  
3 income as defined in ORS 456.270; or

4       “(ii) Available for purchase, with or without government assistance,  
5 by households with an income of 130 percent or less of the area median  
6 income;

7       “(B) The construction of all affordable units has commenced before  
8 the city issues certificates of occupancy to the last 15 percent of mar-  
9 ket rate units;

10       “(C) All common areas and amenities are equally available to resi-  
11 dents of affordable units and of market rate units; and

12       “(D) Necessary restrictions to ensure the development of affordable  
13 units are recorded under ORS 456.280 (1)(b) before building permits are  
14 issued for any property within the site.

15       “(4) A city may require greater affordability requirements for resi-  
16 dential units than are required under subsection (3)(f)(A) of this sec-  
17 tion, provided that the city significantly and proportionally offsets  
18 development costs related to:

19       “(a) Permits or fees;

20       “(b) System development charges;

21       “(c) Property taxes; or

22       “(d) Land acquisition and predevelopment costs.

23       “SECTION 19. (1) Before adopting a conceptual plan under section  
24 18 of this 2023 Act, a city shall:

25       “(a) Review a petition filed by a property owner or group of property  
26 owners proposing an urban growth boundary amendment under  
27 sections 15 to 22 of this 2023 Act.

28       “(b) Provide opportunities for public participation, including, at  
29 least:

30       “(A) One public comment period;

1       **“(B)(i) One meeting of the city’s planning commission where public**  
2 **testimony is considered;**

3       **“(ii) One meeting of the city’s council where public testimony is**  
4 **considered; or**

5       **“(iii) One public open house; and**

6       **“(C) Notice on the city’s website or published in a paper of record**  
7 **at least 14 days before:**

8       **“(i) A meeting under subparagraph (B) of this paragraph; and**

9       **“(ii) The beginning of a comment period under subparagraph (A)**  
10 **of this paragraph.**

11       **“(c) Consult with, request necessary information from and provide**  
12 **the opportunity for written comment from:**

13       **“(A) The owners of each lot or parcel within the site;**

14       **“(B) If the city does not currently exercise land use jurisdiction**  
15 **over the entire site, the governing body of each county with land use**  
16 **jurisdiction over the site;**

17       **“(C) Any special district that provides urban services to the site;**  
18 **and**

19       **“(D) Any public or private utility that provides utilities to the site.**

20       **“(2) The petition under subsection (1)(a) of this section must:**

21       **“(a) Be in writing in a form and format as required by the city;**

22       **“(b) Specify the lots or parcels that are the subject of the petition;**  
23 **and**

24       **“(c) Be signed by all owners of lots or parcels included within the**  
25 **petition, including a consent to annexation if the property is added to**  
26 **the urban growth boundary.**

27       **“(3) If the city has received approval for the amendment to the pe-**  
28 **tition from all property owners of such lands, in writing in a form and**  
29 **format specified by the city, a city may adopt a conceptual plan for**  
30 **all or a portion of the lands contained within a petition filed under**

1 subsection (1)(a) of this section.

2 “(4) A conceptual plan must include findings identifying reasons for  
3 inclusion of lands within the conceptual plan and reasons why any  
4 lands for which a petition was submitted were not included within the  
5 conceptual plan.

6 **“SECTION 20. (1) Within 21 days after the adoption of an amend-  
7 ment to an urban growth boundary and the adoption or amendment  
8 of a conceptual plan under sections 15 to 22 of this 2023 Act, one of the  
9 following shall submit the conceptual plan and amendment to the  
10 Department of Land Conservation and Development for review:**

11 **“(a) The city, for an amendment under section 16 of this 2023 Act;  
12 or**

13 **“(b) Metro, for an amendment under section 17 of this 2023 Act.**

14 **“(2) Within 60 days after receiving a submittal under subsection (1)  
15 of this section, the department shall:**

16 **“(a) Review the submittal for compliance with the provisions of  
17 sections 15 to 22 of this 2023 Act.**

18 **“(b)(A) If the submittal substantially complies with the provisions  
19 of sections 15 to 22 of this 2023 Act, issue an order approving the sub-  
20 mittal; or**

21 **“(B) If the submittal does not substantially comply with the pro-  
22 visions of sections 15 to 22 of this 2023 Act, issue an order remanding  
23 the submittal to the city or to Metro with a specific determination of  
24 any deficiencies in the submittal and with sufficient detail to identify  
25 a specific remedy for any deficiency in a subsequent resubmittal.**

26 **“(3) If a conceptual plan is remanded to Metro under subsection  
27 (2)(b) of this section:**

28 **“(a) The department shall notify the city; and**

29 **“(b) The city may amend its conceptual plan and resubmit a peti-  
30 tion to Metro under section 17 of this 2023 Act.**



1       “(4) **Judicial review of the department’s order:**

2       “(a) **Must be as a review of orders other than a contested case under**  
3 **to ORS 183.484; and**

4       “(b) **May be initiated only by the city or an owner of a proposed site.**

5       “**SECTION 21. A city for which an amendment was made to an ur-**  
6 **ban growth boundary under section 16 or 17 of this 2023 Act and ap-**  
7 **proved under section 20 of this 2023 Act shall submit a report**  
8 **describing the status of development within the included area to the**  
9 **Department of Land Conservation and Development every two years**  
10 **until:**

11       “(1) **January 2, 2033; or**

12       “(2) **The city determines that development consistent with the ac-**  
13 **knowledged conceptual plan is deemed complete.**

14       “**SECTION 22. Notwithstanding ORS 197.626, an action by a local**  
15 **government under sections 15 to 22 of this 2023 Act is not a land use**  
16 **decision as defined in ORS 197.015.**

17       “**SECTION 23. Sections 15 to 22 of this 2023 Act are repealed on**  
18 **January 2, 2033.**

19       “**SECTION 24. ORS 197.843 is amended to read:**

20       “197.843. (1) The Land Use Board of Appeals shall award attorney fees to  
21 [*an applicant whose application is only for the development of affordable*  
22 *housing, as defined in ORS 197.308, or publicly supported housing, as defined*  
23 *in ORS 456.250]* **a person whose application includes the development**  
24 **of needed housing, as defined in section 23, chapter 13, Oregon Laws**  
25 **2023 (Enrolled House Bill 2001), and any local government that ap-**  
26 **proved a quasi-judicial land use decision, if the board affirms a quasi-**  
27 **judicial land use decision approving the application or reverses a**  
28 **quasi-judicial land use decision denying the application.**

29       “(2) A [*party who was*] **person** awarded attorney fees under this section  
30 or ORS 197.850 shall repay the fees plus any interest from the time of the

1 judgment if the property upon which the fees are based is developed for a  
2 use other than [*affordable*] **the proposed** housing.

3 “(3) As used in this section[:],

4 “[*(a) ‘Applicant’ includes:*]

5 “[*(A) An applicant with a funding reservation agreement with a public  
6 funder for the purpose of developing publicly supported housing;*]

7 “[*(B) A housing authority, as defined in ORS 456.005;*]

8 “[*(C) A qualified housing sponsor, as defined in ORS 456.548;*]

9 “[*(D) A religious nonprofit corporation;*]

10 “[*(E) A public benefit nonprofit corporation whose primary purpose is the  
11 development of affordable housing; and*]

12 “[*(F) A local government that approved the application of an applicant de-  
13 scribed in this paragraph.*]

14 “[*(b)*] ‘attorney fees’ includes prelitigation legal expenses, including pre-  
15 paring the application and supporting the application in local land use  
16 hearings or proceedings.

17 **“SECTION 25. The amendments to ORS 197.843 by section 24 of this  
18 2023 Act apply to decisions for which a notice of intent to appeal under  
19 ORS 197.830 is filed on or after January 1, 2024.**

20 **“SECTION 26. (1) Sections 2 to 4, 6 and 7 of this 2023 Act and the  
21 amendments to ORS 197.843 and 455.770 by sections 13 and 24 of this  
22 2023 Act become operative on January 1, 2024.**

23 **“(2) Sections 8 and 9 of this 2023 Act become operative on April 1,  
24 2024.**

25 **“(3) The Department of Land Conservation and Development and  
26 the Department of Consumer and Business Services may take any  
27 action before the operative dates specified in subsections (1) and (2)  
28 of this section that is necessary for the departments to exercise, on  
29 and after the operative dates specified in subsections (1) and (2) of this  
30 section, all of the duties, functions and powers conferred on the de-**

1 **partments by sections 2 to 4 and 6 to 9 of this 2023 Act and the**  
2 **amendments to ORS 197.843 and 455.770 by sections 13 and 24 of this**  
3 **2023 Act.**

4 **“SECTION 27.** Section 6 of this 2023 Act is amended to read:

5 **“Sec. 6.** As used in sections 6 to 9 of this 2023 Act, ‘housing law’ means  
6 ORS 92.010 to 92.192, 92.830 to 92.845, 197.286 to 197.314, 197.360 to 197.380,  
7 197.475 to 197.490, 197.505 to 197.540, 197.660 to 197.670, 197.748, 197.758,  
8 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156,  
9 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202  
10 to 455.208, 455.210, 455.220, 455.465 and 455.467 [*and section 2 of this 2023*  
11 *Act*] and administrative rules implementing those laws, to the extent that the  
12 law or rule creates a mandatory duty on a local government or its agent and  
13 the application of the law or rule relates to residential development or per-  
14 tains to a permit for a residential use or division of land for residential  
15 purposes.

16 **“SECTION 28.** The amendments to section 6 of this 2023 Act by  
17 **section 27 of this 2023 Act become operative on January 1, 2032.**

18 **“SECTION 29.** In addition to and not in lieu of any other appropri-  
19 **ation, there is appropriated to the Department of Land Conservation**  
20 **and Development, for the biennium beginning July 1, 2023, out of the**  
21 **General Fund:**

22 **“(1) The amount of \$\_\_\_\_\_ to perform the duties of the Housing**  
23 **Accountability and Production Office under sections 6 to 9 of this 2023**  
24 **Act.**

25 **“(2) The amount of \$10,000,000 to provide:**

26 **“(a) Programs or documents relating to education, guidance or best**  
27 **practices for local governments regarding compliance with state**  
28 **housing laws, as defined in section 6 of this 2023 Act;**

29 **“(b) Grants to local governments or nonprofit organizations to de-**  
30 **velop programs or documents under paragraph (a) of this section;**

1       “(c) Before April 1, 2024, technical assistance and grants to local  
2 governments that proactively acknowledge the need to update the lo-  
3 cal implementation of land use regulations and building code enforce-  
4 ment to comply with housing laws; and

5       “(d) On and after April 1, 2024, technical assistance and grants to  
6 assist local governments with:

7       “(A) The implementation of voluntary compliance agreements as  
8 described in section 8 (3) of this 2023 Act; or

9       “(B) Updates to land use regulations needed to comply with changes  
10 to Land Conservation and Development Commission rules or the legal  
11 interpretations of land use laws or rules, if those changes relate to  
12 housing.

13       “SECTION 30. This 2023 Act being necessary for the immediate  
14 preservation of the public peace, health and safety, an emergency is  
15 declared to exist, and this 2023 Act takes effect July 1, 2023.”.

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