

HB 2138-5
(LC 333)
4/1/25 (RLM/ps)

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO
HOUSE BILL 2138**

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

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

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

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

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

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

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

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

“[(c) ‘Middle housing’ means:]

“[(A) Duplexes;]

1 “[(B) *Triplexes*;]

2 “[(C) *Quadplexes*;]

3 “[(D) *Cottage clusters*; and]

4 “[(E) *Townhouses*.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *velopment.]*

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

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

9 “(A) **One single-unit dwelling;**

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

11 “(C) **One duplex.**

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

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

18 “(5) **Local governments:**

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

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

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

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

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

1 **development charge or fee-in-lieu variance charge or a development**
2 **requirement specific to the lot or parcel or its frontage.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “[*(a) Not within a city;*]

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

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

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

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

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

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

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

27 “**(a) Not within a city;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 than December 31, 2020.

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

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

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

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

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

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

17 Delete lines 28 through 45.

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

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

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

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

26 “(b) Current housing underproduction;

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

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

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

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

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

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

7 “(b) The forecasted regional job growth;

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

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

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

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

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

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

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

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

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

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

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

1 **“SINGLE ROOM OCCUPANCIES**

2
3 **“SECTION 6.** ORS 197A.430 is amended to read:

4 “197A.430. (1) As used in this section, ‘single room occupancy’ means a
5 residential development with no fewer than four attached **or detached** units
6 that are independently rented and lockable and provide living and sleeping
7 space for the exclusive use of an occupant, but require that the occupant
8 share sanitary or food preparation facilities with other units in the occu-
9 pancy.

10 “(2) Within an urban growth boundary, each local government shall allow
11 the development of a single room occupancy:

12 “(a) With up to six units on each lot or parcel zoned to allow for the
13 development of a detached [*single-family*] **single-unit** dwelling; and

14 “[(b) *With the number of units consistent with the density standards of a*
15 *lot or parcel zoned to allow for the development of residential dwellings with*
16 *five or more units.*]

17 “(b) **With up to three times the number of units allowed by the**
18 **maximum density standards of a lot or parcel on which is allowed**
19 **multiunit housing with five or more dwelling units.**

20 “(3)(a) **For a single room occupancy, a local government may not**
21 **require more parking for every three single room occupancy units**
22 **than the local government requires for:**

23 “(A) **A single detached dwelling, if the single room occupancy de-**
24 **velopment has six or fewer units; or**

25 “(B) **A dwelling unit in a multiunit housing development, if the**
26 **single room occupancy development has more than six units.**

27 “(b) **This subsection does not apply to a single room occupancy used**
28 **as a residential care facility as defined in ORS 443.400.**

29
30 **“PROMOTING HOUSING DENSITY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 **“(A) An urban growth boundary;**

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

14 **“(C) Nonresource land; or**

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

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

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

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

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

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

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

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

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

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

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

12 “(c) Establish approval procedures.

13
14 **“EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS**

15
16 **“SECTION 14.** ORS 92.031, as amended by section 10, chapter 102, Oregon
17 Laws 2024, is amended to read:

18 “92.031. (1) As used in this section, ‘middle housing land division’ means
19 a partition or subdivision of a lot or parcel on which the development of
20 middle housing is allowed under ORS 197A.420 (2) or (3) **or section 3 of this**
21 **2025 Act.**

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

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

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

29 **“(b) A proposal for development of middle housing that is in com-**
30 **pliance or must comply with the Oregon residential specialty code and**

1 **land use regulations under ORS 197A.420 (5) that are applicable to the**
2 **original lot or parcel and which may consist of:**

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

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

6 **“(C) Retained or rehabilitated existing units allowed under ORS**
7 **197A.420 (4), if any;**

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

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

10 **“(B) Pedestrian access from each dwelling unit to a private or public**
11 **road;**

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

13 **“(D) Any dedicated driveways or parking; and**

14 **“(E) Any dedicated common area;**

15 **“(d) Exactly one dwelling unit on each resulting lot or parcel, except**
16 **for:**

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

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

21 **“(e) Evidence demonstrating how buildings or structures on a resulting**
22 **lot or parcel will comply with applicable building codes provisions relating**
23 **to new property lines and, notwithstanding the creation of new lots or par-**
24 **cels, how structures or buildings located on the newly created lots or parcels**
25 **will comply with the Oregon residential specialty code.**

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

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

30 **“(b) Require that a notation appear on the final plat indicating that the**

1 approval was given under this section.

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

4 “(a) Shall apply the procedures [*under ORS 197.360 to 197.380*] **applicable**
5 **to an expedited land division under ORS 197.365, if requested by the**
6 **applicant and without regard to the criteria in ORS 197.360 (1).**

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

10 “(c) May not subject an application to approval criteria except as pro-
11 vided in this section, including that a lot or parcel require driveways, vehicle
12 access, parking or minimum or maximum street frontage.

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

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

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

23 “(g) **May require separate water and wastewater utilities for each**
24 **dwelling unit.**

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

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

30 “[*(6) Notwithstanding ORS 197A.425 (1), a city or county is not required*”

1 *to allow an accessory dwelling unit on a lot or parcel resulting from a middle*
2 *housing land division.]*

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

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

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

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

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

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

20 “(8) The tentative approval of a middle housing land division is void if
21 and only if a final subdivision or partition plat is not approved within three
22 years of the tentative approval. Nothing in this section *[or ORS 197.360 to*
23 *197.380]* prohibits a city or county from requiring a final plat before issuing
24 building permits.”.

25 On page 11, after line 43, insert:

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

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

30 On page 17, delete lines 38 through 45 and delete pages 18 and 19 and

1 insert:

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

3 *“197.365. [Unless the applicant requests to use the procedure set forth in a*
4 *comprehensive plan and land use regulations, a local government shall use the*
5 *following procedure for an expedited land division, as described in ORS*
6 *197.360, or a middle housing land division under ORS 92.031:]*

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

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

18 *“[(2) The local government shall provide written notice of the receipt of the*
19 *completed application for a land division to any state agency, local government*
20 *or special district responsible for providing public facilities or services to the*
21 *development and to owners of property within 100 feet of the entire contiguous*
22 *site for which the application is made. The notification list shall be compiled*
23 *from the most recent property tax assessment roll. For purposes of appeal to*
24 *the referee under ORS 197.375, this requirement shall be deemed met when the*
25 *local government can provide an affidavit or other certification that such notice*
26 *was given. Notice shall also be provided to any neighborhood or community*
27 *planning organization recognized by the governing body and whose boundaries*
28 *include the site.]*

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

30 *“[(a) State:]*

1 “[A] *The deadline for submitting written comments;*]

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

4 “[C] *That issues must be raised with sufficient specificity to enable the*
5 *local government to respond to the issue.]*

6 “[b] *Set forth, by commonly used citation, the applicable criteria for the*
7 *decision.]*

8 “[c] *Set forth the street address or other easily understood geographical*
9 *reference to the subject property.]*

10 “[d] *State the place, date and time that comments are due.]*

11 “[e] *State a time and place where copies of all evidence submitted by the*
12 *applicant will be available for review.]*

13 “[f] *Include the name and telephone number of a local government contact*
14 *person.]*

15 “[g] *Briefly summarize the local decision-making process for the land di-*
16 *vision decision being made.]*

17 “[4] *After notice under subsections (2) and (3) of this section, the local*
18 *government shall:]*

19 “[a] *Provide a 14-day period for submission of written comments prior to*
20 *the decision.]*

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

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

26 **“(2) A local government:**

27 **“[(b)] (a) Shall** make a decision to approve or deny the application within
28 63 days of receiving a completed application **as described in ORS 215.246**
29 **or 227.178**, based on whether [it] **the application** satisfies the substantive
30 requirements of the applicable land use regulations. An approval may include

1 conditions to ensure that the application meets the applicable land use reg-
2 ulations. *[For applications subject to this section, the local government:]*

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

5 “[B)] **(c)** Shall issue a written determination of compliance or noncom-
6 pliance with applicable land use regulations that includes a summary state-
7 ment explaining the determination. The summary statement may be in any
8 form reasonably intended to communicate the local government’s basis for
9 the determination. **The determination must include an explanation of**
10 **the applicant’s right to appeal the determination under ORS 197.830 to**
11 **197.855.**

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

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

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

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

20 **“(e) May assess an application fee calculated to recover the esti-**
21 **mated full cost of processing an application based on the estimated**
22 **average cost of such applications. Within one year of establishing a**
23 **fee under this section, the city or county shall review and revise the**
24 **fee, if necessary, to reflect actual experience in processing expedited**
25 **land decisions.**

26 **“(3) Only the applicant may appeal an expedited land division made**
27 **under this section.**

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

1 **“RULEMAKING**

2
3 **“SECTION 22. (1) On or before January 1, 2028, the Land Conser-**
4 **vation and Development Commission shall adopt rules that must in-**
5 **clude:**

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

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

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

18 **“(d) Amending siting and design parameters for middle housing**
19 **types;**

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

22 **“(f) Developing model system development charges for residential**
23 **development types for optional adoption or incorporation by local**
24 **governments; and**

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

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

29 **“(a) Emphasize improving the efficiency of the development process**
30 **with a focus on increasing housing production, availability and**

1 affordability, especially that of middle housing, accessory dwelling
2 units and single room occupancies.

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

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

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

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

15 On page 27, delete lines 36 through 45.

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

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

19 On page 30, delete lines 31 through 45.

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

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

22 “197.830. (1) Review of land use decisions or limited land use decisions
23 under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent
24 to appeal with the Land Use Board of Appeals.

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

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

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

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

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

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

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

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

17 “(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or
18 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may
19 appeal the decision to the board under this section within 21 days after the
20 expiration of the period for filing a local appeal of the decision established
21 by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

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

27 “(d) Except as provided in paragraph (c) of this subsection, a person who
28 receives notice of a decision made without a hearing under ORS **197.365 (2)**,
29 215.416 (11) or 227.175 (10) may not appeal the decision to the board under
30 this section.

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

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

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

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

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

13 “(b) May not exceed 10 years after the date of the decision if notice of a
14 hearing or an administrative decision made pursuant to ORS 197.195 or
15 197.797 is required but has not been provided.

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

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

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

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

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

30 “(8) If a state agency whose order, rule, ruling, policy or other action is

1 at issue is not a party to the proceeding, it may file a brief with the board
2 as if it were a party. The brief shall be due on the same date the respondent's
3 brief is due and shall be accompanied by a filing fee of \$100.

4 “(9) A notice of intent to appeal a land use decision or limited land use
5 decision shall be filed not later than 21 days after the date the decision
6 sought to be reviewed becomes final. A notice of intent to appeal plan and
7 land use regulation amendments processed pursuant to ORS 197.610 to
8 197.625 shall be filed not later than 21 days after notice of the decision
9 sought to be reviewed is mailed or otherwise submitted to parties entitled
10 to notice under ORS 197.615. Failure to include a statement identifying when,
11 how and to whom notice was provided under ORS 197.615 does not render the
12 notice defective. Copies of the notice of intent to appeal shall be served upon
13 the local government, special district or state agency and the applicant of
14 record, if any, in the local government, special district or state agency pro-
15 ceeding. The notice shall be served and filed in the form and manner pre-
16 scribed by rule of the board and shall be accompanied by a filing fee of \$300.
17 If a petition for review is not filed with the board as required in subsections
18 (10) and (11) of this section, the board shall award the filing fee to the local
19 government, special district or state agency.

20 “(10)(a) Within 21 days after service of the notice of intent to appeal, the
21 local government, special district or state agency shall transmit to the board
22 the original or a certified copy of the entire record of the proceeding under
23 review. By stipulation of all parties to the review proceeding the record may
24 be shortened. The board may require or permit subsequent corrections to the
25 record; however, the board shall issue an order on a motion objecting to the
26 record within 60 days of receiving the motion. If the board denies a
27 petitioner's objection to the record, the board may establish a new deadline
28 for the petition for review to be filed that may not be less than 14 days from
29 the later of the original deadline for the brief or the date of denial of the
30 petitioner's record objection.

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

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

11 “(12) The petition shall include a copy of the decision sought to be re-
12 viewed and shall state:

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

14 “(b) The date of the decision.

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

16 “(13)(a) The board shall adopt rules establishing deadlines for filing pe-
17 titions and briefs and for oral argument.

18 “(b) The local government or state agency may withdraw its decision for
19 purposes of reconsideration at any time:

20 “(A) Subsequent to the filing of a notice of intent; and

21 “(B) Prior to:

22 “(i) The date set for filing the record; or

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

26 “(c) If a local government or state agency withdraws an order for pur-
27 poses of reconsideration, it shall, within such time as the board may allow,
28 affirm, modify or reverse its decision. If the petitioner is dissatisfied with the
29 local government or agency action after withdrawal for purposes of recon-
30 sideration, the petitioner may refile the notice of intent and the review shall

1 proceed upon the revised order. An amended notice of intent is not required
2 if the local government or state agency, on reconsideration, affirms the order
3 or modifies the order with only minor changes.

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

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

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

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

17 “(c) Shall award costs and attorney fees to a party as provided in ORS
18 197.843.

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

21 “(17)(a) The board shall provide for the publication of its orders that are
22 of general public interest in the form it deems best adapted for public con-
23 venience. The publications shall constitute the official reports of the board.

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

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

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

30 “(a) The number of reviews commenced, as described in subsection (1) of

1 this section, the number of reviews commenced for which a petition is filed
2 under subsection (2) of this section and, in relation to each of those numbers,
3 the rate at which the reviews result in a decision of the board to uphold,
4 reverse or remand the land use decision or limited land use decision. The
5 board shall track and report reviews under this paragraph in categories es-
6 tablished by the board.

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

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

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

19 On page 40, after line 37, insert:

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

22 “227.175. (1) When required or authorized by a city, an owner of land may
23 apply in writing to the hearings officer, or such other person as the city
24 council designates, for a permit or zone change, upon such forms and in such
25 a manner as the city council prescribes. The governing body shall establish
26 fees charged for processing permits at an amount no more than the actual
27 or average cost of providing that service.

28 “(2) The governing body of the city shall establish a consolidated proce-
29 dure by which an applicant may apply at one time for all permits or zone
30 changes needed for a development project. The consolidated procedure is

1 subject to the time limitations set out in ORS 227.178. The consolidated
2 procedure shall be available for use at the option of the applicant no later
3 than the time of the first periodic review of the comprehensive plan and land
4 use regulations.

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

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

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

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

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

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

22 “(c) A city may not condition an application for a housing development
23 on a reduction in density if:

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

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

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

30 “(A) The height applied for is at or below the authorized height level

1 under the local land use regulations;

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

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

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

13 “(f) As used in this subsection:

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

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

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

22 “(5) Hearings under this section may be held only after notice to the ap-
23 plicant and other interested persons and shall otherwise be conducted in
24 conformance with the provisions of ORS 197.797.

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

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

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

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

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

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

11 “(8) If an application would change the zone of property that includes all
12 or part of a mobile home or manufactured dwelling park as defined in ORS
13 446.003, the governing body shall give written notice by first class mail to
14 each existing mailing address for tenants of the mobile home or manufac-
15 tured dwelling park at least 20 days but not more than 40 days before the
16 date of the first hearing on the application. The governing body may require
17 an applicant for such a zone change to pay the costs of such notice.

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

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

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

28 “(C) Notice under this subsection shall comply with ORS 197.797 (3)(a),
29 (c), (g) and (h) and shall describe the nature of the decision. In addition, the
30 notice shall state that any person who is adversely affected or aggrieved or

1 who is entitled to written notice under paragraph (c) of this subsection may
2 appeal the decision by filing a written appeal in the manner and within the
3 time period provided in the city's land use regulations. A city may not es-
4 tablish an appeal period that is less than 12 days from the date the written
5 notice of decision required by this subsection was mailed. The notice shall
6 state that the decision will not become final until the period for filing a local
7 appeal has expired. The notice also shall state that a person who is mailed
8 written notice of the decision cannot appeal the decision directly to the Land
9 Use Board of Appeals under ORS 197.830.

10 “(D) An appeal from a hearings officer's decision made without hearing
11 under this subsection shall be to the planning commission or governing body
12 of the city. An appeal from such other person as the governing body desig-
13 nates shall be to a hearings officer, the planning commission or the govern-
14 ing body. In either case, the appeal shall be to a de novo hearing.

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

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

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

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

26 “(b) If a local government provides only a notice of the opportunity to
27 request a hearing, the local government may charge a fee for the initial
28 hearing. The maximum fee for an initial hearing shall be the cost to the local
29 government of preparing for and conducting the appeal, or \$250, whichever
30 is less. If an appellant prevails at the hearing or upon subsequent appeal, the

1 fee for the initial hearing shall be refunded. The fee allowed in this para-
2 graph does not apply to appeals made by neighborhood or community or-
3 ganizations recognized by the governing body and whose boundaries include
4 the site.

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

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

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

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

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

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

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

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

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

24 “(B) The date of the decision; and

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

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

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

29 “(12) At the option of the applicant, the local government shall provide
30 notice of the decision described in ORS 227.160 (2)(b) in the manner required

1 by ORS 197.797 (2), in which case an appeal to the board shall be filed within
2 21 days of the decision. The notice shall include an explanation of appeal
3 rights.

4 “(13) Notwithstanding other requirements of this section, limited land use
5 decisions are subject to the requirements set forth in ORS 197.195 and
6 197.828.

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

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