

Enrolled House Bill 2003

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

CHAPTER

AN ACT

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

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

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

- (a) "Area median income" means the median income for households established by the United States Department of Housing and Urban Development.
 - (b) "Existing housing stock" means housing, by affordability level and type, actually constructed in a city or Metro.
 - (c) "High income" means above 120 percent of the area median income.
 - (d) "Housing shortage" means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate the existing population and the existing housing stock, measured in dwelling units.
 - (e) "Low income" means income above 50 percent and at or below 80 percent of the area median income.
 - (f) "Metro" means a metropolitan service district organized under ORS chapter 268.
 - (g) "Moderate income" means income above 80 percent and at or below 120 percent of the area median income.
 - (h) "Region" has the meaning given that term in ORS 284.752.
 - (i) "Very low income" means income at or below 50 percent of the area median income.
- (2) The Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall develop a methodology for calculating:
- (a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:
 - (A) Trends in density and in the average mix of housing types of urban residential development;
 - (B) Demographic and population trends;
 - (C) Economic trends and cycles; and
 - (D) Equitable distribution of publicly supported housing within a region.
 - (b) An estimate of existing housing stock of each city and Metro.
 - (c) A housing shortage analysis for each city and Metro.

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

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

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

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

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

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

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

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

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

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

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

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

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

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

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

(A) Cost and cost effectiveness;

(B) Reliability and accuracy;

(C) Repeatability; and

(D) Predictability;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The schedule for its adoption;

(B) The schedule for its implementation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Approve the housing production strategy;

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

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

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

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

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

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

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

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

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

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

(d) Recent housing development;

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

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

(g) Other attributes that the commission considers relevant.

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

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

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

SECTION 8. ORS 197.296 is amended to read:

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

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

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

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

(B) As scheduled by the commission:

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

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

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

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

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

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

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

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

- (A) Vacant lands planned or zoned for residential use;
 - (B) Partially vacant lands planned or zoned for residential use;
 - (C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and
 - (D) Lands that may be used for residential infill or redevelopment.
- (b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:
- (A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;
 - (B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and
 - (C) The presence of a single family dwelling or other structure on a lot or parcel.
- (c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.
- (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review *[or]* **under subsection (2)(a)(B) of this section [five years, whichever is greater]**. The data shall include:
- (A) The number, density and average mix of housing types of urban residential development that have actually occurred;
 - (B) Trends in density and average mix of housing types of urban residential development;
 - (C) Demographic and population trends;
 - (D) Economic trends and cycles; and
- (E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.
- (b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.
- (c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.
- (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need:
- (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary;
 - (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without

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

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

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

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

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

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

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

(b) Financial incentives for higher density housing;

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

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

(e) Minimum density ranges;

(f) Redevelopment and infill strategies;

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

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

(i) Rezoning or redesignation of nonresidential land.

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

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

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

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

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

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

- (A) At periodic review pursuant to ORS 197.628 to 197.651;
 - (B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
 - (C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.
- [(c)] (d) For the purpose of the inventory described in this subsection, "buildable lands" includes those lands described in subsection (4)(a) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

- (A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;
 - (B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and
 - (C) The presence of a single family dwelling or other structure on a lot or parcel.
- (c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.
- (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last review [*or six years, whichever is greater*] under subsection (2)(a)(B) of this section. The data shall include:
- (A) The number, density and average mix of housing types of urban residential development that have actually occurred;
 - (B) Trends in density and average mix of housing types of urban residential development;
 - (C) Market factors that may substantially impact future urban residential development; and
 - (D) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.
- (b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity. The shorter time period may not be less than three years.
- (c) A local government shall use data from a wider geographic area or use a time period longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.
- (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or both of the following actions to accommodate the additional housing need:
- (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary.
 - (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are

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

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

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

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

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

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

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

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

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

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

- (c) The actions required under paragraph (b) of this subsection shall be undertaken:
 - (A) At periodic review pursuant to ORS 197.628 to 197.651;
 - (B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
 - (C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.
- [(c)] (d) For the purpose of the inventory described in this subsection, "buildable lands" includes those lands described in subsection (4)(a) of this section.

SECTION 9. ORS 197.299 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 10. ORS 197.303 is amended to read:

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

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

(b) Government assisted housing;

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

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

(e) Housing for farmworkers.

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

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

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

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

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

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

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
- (e) Housing for farmworkers.

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

- (a) Household sizes;
- (b) Household demographics [*in terms of age, gender, race or other established demographic category*];
- (c) Household incomes;
- (d) Vacancy rates; and
- (e) Housing costs.

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

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

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

- (a) A city with a population of less than 2,500.
- (b) A county with a population of less than 15,000.

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

SECTION 11. ORS 197.319 is amended to read:

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

- (a) Present the reasons, in writing, for such an order to the affected local government; and
- (b) Request:
 - (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative or urban service agreement or decision-making process which is the basis for the order; or
 - (B) That an action be taken regarding the local comprehensive plan, land use regulations, special district agreement, **housing production strategy** or decision-making process that is the basis for the order.

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

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

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

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

SECTION 12. ORS 197.320 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The real property is not inventoried as a park or open space as a protective measure pursuant to a statewide land use planning goal;
- (b) The real property is located within the urban growth boundary;
- (c) The real property is zoned for residential development or adjacent to parcels zoned for residential development;
- (d) The housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone of the land or the adjacent residential land described in paragraph (c) of this subsection;
- (e) At least 50 percent of the residential units provided under this section is affordable to households with incomes equal to or less than 60 percent of the area median income, as defined in ORS 456.270; and
- (f) The affordability of the residential units described in paragraph (e) of this subsection is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, held by the local government or the Housing and Community Services Department and with a duration of no less than 60 years.

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

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

SECTION 17. ORS 215.416 is amended to read:

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

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

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

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

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

(B) This paragraph does not apply to:

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

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

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

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

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

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

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

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

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

(f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 18. ORS 227.175 is amended to read:

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

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

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

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

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

(B) This paragraph does not apply to:

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

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

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

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

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

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

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

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

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

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

(f) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 19. ORS 215.441 is amended to read:

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

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.

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

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

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

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

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

(2) A county may:

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

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

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

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

SECTION 20. ORS 227.500 is amended to read:

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

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.

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

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

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

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

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

(2) A city may:

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

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

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

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

SECTION 21. ORS 455.062 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed by House June 26, 2019

Received by Governor:

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

Approved:

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

.....

Kate Brown, Governor

Passed by Senate June 30, 2019

Filed in Office of Secretary of State:

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

Bev Clarno, Secretary of State