



Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

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July 15, 2026

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director
Ethan Stuckmayer, AICP, Housing Division Manager
Becky Coutinho, AICP, Housing Planner



Subject: **Agenda Item 2, July 29, 2026, LCDC Meeting**

Middle Housing Oregon Homes Rulemaking: House Bills 2138 and 2258

I. Agenda Item Summary

Department of Land Conservation and Development (DLCD or department) staff ask that the Land Conservation and Development Commission (LCDC or commission) hold a public hearing on new proposed Oregon Administrative Rules (OAR) for the Oregon Homes Program and amendments to existing OARs for Middle Housing in Medium and Large Cities. As background, staff will provide a summary of DLCD's proposed final draft rules. Staff propose the new rules as division 47 in OAR chapter 660. This rulemaking also includes definitional and conforming updates to OAR Chapter 660-046, Middle Housing in Medium and Large Cities.

This rulemaking is required by two bills passed by the Oregon Legislature in 2025 - House Bills 2138 and 2258 (HB 2138 and HB 2258). This combined rulemaking effort is known as Middle Housing Oregon Homes (MHOR Homes) Rulemaking Phase 1. Staff also summarize high level themes of the feedback received to date from the Rulemaking Advisory Committee (RAC). The commission schedule calls for consideration and adoption of final rules at the commission's meeting in August.

a. Purpose

Department staff ask that the commission consider DLCD's proposed rules and public testimony, and provide direction to staff on the proposed draft rules. The purpose of the proposed rules is to create the Oregon Homes program and provide definitions/clarity updates for cities to implement HB 2138.

b. Objective

Commissioners receive an overview of the proposed draft rules for the Oregon Homes Program as the requirement for HB 2258 and definition updates to division 46, per HB 2138. During this meeting, commissioners will hold a public hearing on the proposed rules. Staff will summarize

written comments received by the public comment deadline of August 2 for the commission's August meeting and scheduled adoption.

For further information about this report, please contact Ethan Stuckmayer, Housing Division Manager, at 503-302-0937 or ethan.stuckmayer@dlcd.oregon.gov.

II. Background

The legislature passed two bills that directed the department to conduct rulemaking in the 2025-2027 biennium - HB 2258 (codified in ORS 197A.408) and HB 2138 (codified in ORS 197A.420). See below for a short summary of each bill. Staff have included the full text of each bill as Attachments A and B.

a. HB 2258

HB 2258 establishes a program, referred to as "Oregon Homes." This program will provide a suite of housing developments that must be permitted by local governments on eligible lots based on building code and land use standards established by the state. This program is intended to significantly reduce the time and variability of the permitting and review processes for common residential developments on low barrier sites. DLCD and the Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS) are directed to coordinate on rulemaking to implement this program. Under this bill, the commission has a legislative deadline of January 1, 2027, to adopt rules. Staff are working to complete and propose rules for adoption at the commission's August 2026 meeting.

Oregon statute and DLCD rules establish qualifying lots and the state established land use and building code standards for Oregon Homes developments.

In practice, after state rules are adopted, the Oregon Homes program enables a developer to determine if they have an Oregon lot and if their land use and building plans meet the state established standards. If so, a developer submits their Oregon Homes plans to the local government. The local government reviews for lot and development eligibility based on the state standards, and issues approvals if state standards are met. A local government does not need to change code or their existing review process, and can apply local public facilities standards and traffic impact analysis.

The housing types that qualify as an Oregon Home are identified in HB 2258 Section 2(4). Statute states [bracketed language added to clarify statutory references]:

- A. *Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;*
- B. *Types with a buildable area of:*
 - a. *Not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, duplex, triplex, quadplex, or townhome*
 - b. *An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling.*
- C. *A multiunit dwelling with more than six and fewer than 12 units*

- D. Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel;*
- E. Housing types whose building plan have been approved by the [Building Codes Division as directed in HB 2258]*

HB 2258 Section 2(3) outlines the base criteria of what constitutes an Oregon Homes Lot. Oregon Homes Lots are [bracketed language added to clarify statutory references]:

- A. Lawfully established units of land,*
- B. Within an urban growth boundary,*
- C. Zoned to allow residential use,*
- D. At least 1,500 square feet,*
- E. Not larger than 20,000 square feet, and*
- F. Not covered by slopes averaging more than 15 percent*
- G. Not within an area identified in an inventory or map that is part of the local government's comprehensive plan as:
 - a. Environmentally sensitive or containing significant natural resources;*
 - b. Open space or scenic areas; or*
 - c. Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas; and**
- H. Vacant, including a lot or parcel:
 - a. Created by a lawful division of land, regardless of when the division occurred*
 - b. On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use*
 - c. For which residential units were demolished more than five years prior*
 - d. For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction approved by [Building Codes Division as directed in HB 2258]**

Analysis of Monmouth and Eugene reveal a small number of eligible tax lots that have been vacant for more than five years, roughly 50 and 250 respectively. The analysis includes inputting all lot eligibility criteria into known and State collected Geographic Information Systems data, except for H(d) because those criteria are dependent upon the number of units demolished and built under a given proposal. Due to these specific lot eligibility requirements, the anticipated proportion of lots eligible for Oregon Homes is very small – less than 2 percent in a 10,000-population city and less than 0.5 percent in a large city for development proposals on lots that have been vacant for at least five years. This analysis does not include development proposals on lots for which residential units were demolished within the previous five years and where more units were proposed than were demolished. The analysis also does not include all potential environmental constraints that could exclude some lots from eligibility.

HB 2258 Section 5, states that the commission may adopt Oregon Administrative Rules related to five elements of the state-provided land use standards regulating the Oregon Homes Program [bracketed language added to clarify statutory references]:

- A. *Processes that the local governments may apply to the development, except for public facilities or traffic impact analysis processes, which the local government may establish and implement.*
- B. *Applicable design standards and the scope of the design review, which may include requiring the approval of the use of any material, design or method of construction that is approved under the applicable building code or approved by [Building Codes Division as directed in HB 2258]*
- C. *Allowable variations or adjustments, or variation or adjustment types, from the specific approval. A local government is not required to grant a request for adjustment under [SB 1537 Mandatory Adjustments] to development authorized under this section except as specified by the commission.*
- D. *Limits on land use, including establishing appropriate minimum or maximum setbacks, parking requirements, floor-to-area ratios or minimum dwelling units per acre.*
- E. *Standards for tree removal, replacement or planting. The standards for tree removal must include:*
 - a. *Prohibiting the removal of heritage trees or trees with a [Diameter at Breast Height] of 20 inches or more.*
 - b. *Requiring the replacement of or replanting on or adjacent to the developed lot or parcel for every removed tree that is:*
 - i. *Locally designated as a protected species;*
 - ii. *Not deemed unhealthy by a certified arborist; and*
 - iii. *Has a [Diameter at Breast Height] of 12 inches or more.*

b. HB 2138

HB 2138 is intended to support easier production of middle housing, both prefabricated and site built, and other housing types such as accessory dwelling units and single-room occupancies, in cities across the state. The bill directs LCDC to adopt rules to operationalize these refinements by January 1, 2028. The majority of rulemaking implementing HB 2138 will take place as part of phase 2 of the MHOR Homes rulemaking, starting in earnest in August 2026. Phase 1 rulemaking will include conforming updates to the definitions of middle housing types in OAR 660-046. The bill also directs the commission to adopt a model system development charge (SDC) methodology, which is optional for cities to utilize. The department must provide a report to the legislature by July 1, 2028 outlining ways to incentivize the use of the model methodology.

III. Rulemaking Effort

The commission initiated rulemaking on these topics at its October 2025 LCDC meeting. A rulemaking charge guides and directs staff and the advisory committees in recommending rules that fulfill legislative and commission intent. LCDC approved the following charge, shown in italics:

Members of the Rules Advisory Committee (RAC) shall provide guidance to agency staff to analyze, draft, and recommend Oregon Administrative Rules (OARs) that faithfully

implement the legislative intent and direction outlined in HB 2138 and HB 2258. RAC members are charged to work with agency staff to recommend rules for Land Conservation and Development Commission consideration that:

- i. Implement the principles identified in ORS 197A.025.*
- ii. Emphasize improving the efficiency of the development process and removing barriers that undermine production feasibility with a focus on increasing housing production, affordability, and choice, especially to incentivize and encourage the development of middle housing, apartments, accessory dwelling units, single room occupancies, manufactured dwellings, and prefabricated dwellings.*
- iii. Establish clear criteria that incentivize and encourage the development of Oregon Homes in cities throughout the state.*

a. Rulemaking Advisory Committee

A Rulemaking Advisory Committee (RAC) comprised of different interests and perspectives is assisting department staff in the development of the proposed rules for both HB 2258 and portions of HB 2138. Chair Allan Lazo serves as the commission liaison for the MHOR phase 1 rulemaking.

Staff held six meetings with the RAC between February 2026 and July 2026. Staff also held meetings with the local government representatives of the RAC in May 2026 and held drop-in sessions for RAC members between meetings. This RAC process included DLCD staff creating prerecorded presentations to prepare RAC members for meeting discussions. These recordings and summaries of the RAC meetings are available on the department's [rulemaking webpage](#).

1. Rulemaking Advisory Committee Discussions

Individual RAC member and written comments received to date are included as attachment E. RAC member discussions are broken out by theme below.

i. Siting and Design Standards

Comment: RAC members stressed that standards should be simple and lean towards supporting efficient development. At the same time, local government representatives on the RAC raised concerns about statewide standards that may not be suitable in a wide variety of cities, suggesting that rules include different sets of standards based on local government population size.

Response: The legislative policy intent for Oregon Homes developments was for the use of state established land use and building code standards, with local standards only for public facilities and traffic impact analyses. Therefore, the decision was made to retain one set of standards agnostic of local government size to meet the legislative intent of creating a statewide set of standards.

Comment: RAC members raised questions about emergency fire turnaround requirements, trash access, and at what point in the review process these and other facilities related standards

would be evaluated. Several members suggested these issues are best handled at the local level.

Response: The proposed rules address this issue by expressly giving local governments the authority to administer their existing public facilities and traffic impact analyses as part of the review of Oregon Homes development applications.

Comment: RAC members recognized tension between standardized, replicable designs and development standards with geographic and community differences across the state. For example, most RAC members did not raise significant issues about proposed five foot side yard setbacks, but some RAC members shared that, in their development experience, the front and rear may need to be increased to accommodate common right-of-way and future utility access easements, especially in areas where future infrastructure development is likely.

Response: The proposed rules include a provision that setback must be 5 feet on all sides or be the distance required by proposed or existing utility easements.

Comment: Some RAC members proposed establishing different siting and design standards for each building type.

Response: State staff maintain that building-type-specific siting standards for Oregon Homes Lots would depart from the legislation's purpose. In early versions of the rules shared with the RAC, the department proposed utilizing the standards currently adopted as part of the residential model codes adopted by commission in December 2025 as baselines standards for Oregon Homes in Division 47. For example, the requirement for window glazing as defined in the model code would not allow for a pre-approved structure, as it would require a discretionary review by the local government's building department.

ii. Local Government Review

Comment: RAC members are largely in agreement about limiting review of Oregon Homes applications to a ministerial or Type I review at the local level.

Response: The proposed Rules allow for a completeness check up to a Type I review. Local review of an Oregon Home development application is not intended to be cumbersome and should reflect a typical application completeness check before proceeding to engineering, public facilities, and traffic impact reviews. OARs expressly allow local governments to apply their public facilities and traffic impact analysis to Oregon Homes development. Following RAC discussions, the addition of expressly allowing local governments to apply their existing final engineering plans was made. A local government may not create unique and specific review procedures solely for Oregon Homes.

Comment: Another topic raised by RAC members was the role of public notice and comment.

Response: The proposed rules are aligned with recent changes to state statute regarding notice and public comment for housing projects and therefore do not allow public notice for a potential Oregon Homes project. This will help ensure a fast review time to meet the goal of increasing housing production.

iii. Programmatic Interpretation

The proposed rules implement a state interpretation that applicants can access the Oregon Homes Program in three ways: 1) by proposing development of a state provided Permit Ready Plan developed by Oregon Building Codes Division, 2) proposing development of a building approved through the Master Plan Program administered by the Oregon Building Code Division, or 3) proposing development of a qualifying Oregon Home housing type for building plan review at the local level.

Comment: Multiple RAC members needed clarification for how the local review process option is operationalized. Local city and county representatives expressed concern with the State's interpretation of the legislation. These members reflected that the bill uses the word "may," and the rules are not obligated to address all items that are options in the bill. Several city and county representatives suggested the rules include language allowing local governments to apply existing local processes and standards, without creating a separate discretionary process.

Response: The statute and proposed rules can be applied directly without local governments needing to update code and are administered through current land use and building plan review processes.

b. Rules Description

The proposed draft rules create a new division of Oregon Administrative Rules (OAR) Chapter 660, Division 47, specifically for the Oregon Homes Program. Division 47 proposed rules include the following sections: purpose, definitions, local government review process, design standards, siting standards, and tree standards. This rulemaking also revises definitions within division 46 in Oregon Administrative Rule Chapter 660.

1. Purpose

The Oregon Homes program establishes criteria for preapproved lots and parcels will be paired with preapproved building types. This program is intended to significantly reduce the time and variability of the permitting and review processes for common residential developments on low barrier sites.

2. Definitions

The definitions include specific terms in the section to provide clarity to provisions throughout the rest of the division.

3. Local Government Review

Although the Oregon Homes program develops a uniform set of state standards, local governments remain responsible for reviewing and approving development on an Oregon Homes Lot. The proposed draft rules outline the review process and clarify that local governments may not impose development standards such as siting, design, or tree standards outside of what is explicitly provided in Division 47. HB 2258 does allow local governments to review an Oregon Homes application and apply their locally administered public facilities

standards, final engineering master plans as well as any requirements resulting from a traffic impact analysis.

To ensure the fastest timeline for approval, local governments may only review Oregon Homes up to a ministerial review. The burden of proof to demonstrate application completeness is placed on the applicant to shorten the local government staff time required for the review. This rule section also outlines the process for application denial.

Initial versions of rules included a separate variances section. The current proposed draft rules now incorporate the allowance for variances and adjustments directly within other sections of the division. While the intention of the Oregon Homes program is to create standards to be applied across the State, statute allows for rules to include consideration of circumstances to account for the real variety and diversity of lots that may be suitable for Oregon Homes development but for slight deviations from approval criteria. The policy intent for these variances is avoid introducing discretion into any approval process that might result in inconsistent application in different communities. This is operationalized in the proposed rules by allowing a blanket 10 percent deviation allowance to certain siting and design standards. The department feels this keeps local reviews clear, objective, and measurable.

4. Design Standards.

The proposed design standards include requirements for entry orientation to the street, placement of garages and drives, and waste storage facilities. These standards apply to all Oregon Homes Lots, regardless of local government size or building type. The proposed design standards aim to provide flexibility without placing overly restrictive limits on development. They also aim to balance local design requirements with a consistent set of state standards.

5. Siting Standards.

The proposed draft siting standards incorporate components of OAR 660-046 Middle Housing and the recently adopted residential Model Code in an effort to maintain some consistency across various statewide housing requirements. Draft siting standards for an Oregon Homes Lot include at least a five-foot setback on all sides of the building, minimum density requirements of the applicable local government, and the inclusion of usable outdoor areas. The siting standards were drafted with the intent to keep development feasible, accelerate review timelines, and support high-quality results.

6. Tree Standards

Language within HB 2258 outlines the mitigation activities required when Oregon Homes development results in impacts to trees. The proposed rules do not add any additional tree removal requirements beyond those outlined in HB 2258. The list of trees that require mitigation if removed similarly is also unchanged from statute text. The proposed final draft rules do however add an additional option for local governments to allow a builder to pay a fee in lieu of mitigation.

7. Division 46 Definitions

MHOR rulemaking phase 1 also includes updates to definitions as required by HB 2138. These conforming updates include:

- Changing the term “family” to “unit” when referring to a residential units (from HB 2347, 2025),
- Updating the applicability of the middle housing requirements to include urban unincorporated lands within counties,
- Updating definitions for duplexes, triplexes, and quadplexes to mandate large cities to allow detached or attached plexes, and
- Updating the definition of zoned for residential use to conform with the latest language in ORS 197A.420, which clarifies applicability of these regulations to cities and unincorporated urban lands, including that the land is within an urban growth boundary, zoned or designated for single-unit residential use, and has access to urban services.

Phase 1 also includes the update to the definition for cottage clusters, both specifying that attached subgroupings up to four units are allowed, and defining the term “small footprint or floor area”. HB 2138 directs the commission to specifically adopt rules related to:

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

Proposed final draft rules include an average unit size of 1,400 square feet, to be calculated excluding porches and garages.

IV. Recommended Action

In addition to the public hearing, staff are requesting feedback from the commission on the proposed rules during this meeting. Written public comments are accepted by emailing Housing.DLCD@dlcd.oregon.gov until 11:55 p.m. on August 2, 2026. Staff will include and summarize all public comments received throughout the public comment period for the commission’s August meeting packet.

V. Attachments

- a. HB 2258
- b. HB 2138
- c. Notice of Proposed Rulemaking Including Statement of Need and Fiscal, Housing, and Racial Equity Impact Statements filed with the Secretary of State
- d. Link to prerecorded prep materials and RAC videos:
<https://www.youtube.com/watch?v=wiGwaWCxSBk&list=PLtwNVSlq2TZgjPZ4vTnkSClrfZOuC7dHf>
- e. RAC 6 Meeting Materials and Public Comments Received to Date

83rd OREGON LEGISLATIVE ASSEMBLY--2025 Regular Session

Enrolled
House Bill 2258

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Housing and Homelessness)

CHAPTER

AN ACT

Relating to housing; and declaring an emergency.

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

SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 2. (1) The definitions in ORS 197A.420 apply to this section.

(2) The Land Conservation and Development Commission may adopt rules requiring local governments to issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of specified residential development types on certain lots or parcels under specified conditions.

(3) A rule issued under this section may only pertain to lots or parcels that are:

(a) Lawfully established units of land;

(b) Within an urban growth boundary;

(c) Zoned to allow residential use;

(d) At least 1,500 square feet;

(e) Not larger than 20,000 square feet;

(f) Not covered by slopes averaging more than 15 percent;

(g) Not within an area identified in an inventory or map that is part of the local government's comprehensive plan as:

(A) Environmentally sensitive or containing significant natural resources;

(B) Open space or scenic areas; or

(C) Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas; and

(h) Vacant, including a lot or parcel:

(A) Created by any lawful division of land, regardless of when the division occurred.

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.

(C) For which residential units were demolished more than five years prior.

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under section 5 of this 2025 Act.

(4) The residential development types that may be approved under this section may only include:

(a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing.

- (b) Types with a buildable area of:
 - (A) A size of not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, duplex, triplex, quadplex or townhouse.
 - (B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling.
 - (c) A multiunit dwelling with more than six and fewer than 12 units.
 - (d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.
 - (e) Housing types whose building plans have been approved under section 5 of this 2025 Act.
- (5) The commission may specify for the approved residential development types allowed under this section:
 - (a) Processes that the local governments may apply to the development, except for public facilities or traffic impact analysis processes, which the local government may establish and implement.
 - (b) Applicable design standards and the scope of the design review, which may include requiring the approval of the use of any material, design or method of construction that is approved under the applicable building code or approved under section 5 of this 2025 Act.
 - (c) Allowable variations or adjustments, or variation or adjustment types, from the specific approval. A local government is not required to grant a request for adjustment under sections 38 to 41, chapter 110, Oregon Laws 2024, to development authorized under this section except as specified by the commission.
 - (d) Limits on land use, including establishing appropriate minimum or maximum setbacks, parking requirements, floor-to-area ratios or minimum dwelling units per acre.
 - (e) Standards for tree removal, replacement or planting. The standards for tree removal must include:
 - (A) Prohibiting the removal of heritage trees or trees with a DBH, as defined in ORS 90.100, of 20 inches or more.
 - (B) Requiring the replacement of or replanting on or adjacent to the developed lot or parcel for every removed tree that is:
 - (i) Locally designated as a protected species;
 - (ii) Not deemed unhealthy by a certified arborist; and
 - (iii) Has a DBH of 12 inches or more.
- (6) In adopting rules under this section, the commission shall coordinate with the review of building construction plans by the Department of Consumer and Business Services under section 5 of this 2025 Act.

SECTION 3. The Land Conservation and Development Commission shall adopt initial rules implementing section 2 of this 2025 Act on or before January 1, 2027.

SECTION 4. Section 5 of this 2025 Act is added to and made a part of ORS chapter 455.

SECTION 5. (1) The Department of Consumer and Business Services may designate a process by which an applicant for a building permit for a residential structure of a type described in section 2 (4)(a) to (c) of this 2025 Act may receive building construction plan approval from the municipality, including through the use of:

- (a) Typical drawings and specifications created by the department under ORS 455.062.
- (b) Review of plans and specifications approved by the department under ORS 455.685. Plans and specifications submitted under this paragraph will remain proprietary unless the submitter requests otherwise.

(2) In implementing this section the department may coordinate with approvals of land use plans by the Land Conservation and Development Commission under section 2 of this 2025 Act.

SECTION 6. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter __,

Oregon Laws 2025 (Enrolled Senate Bill 5528), for the biennium beginning July 1, 2025, for the planning program, is increased by \$631,806 for rulemaking activities.

SECTION 7. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect on its passage.

Passed by House June 18, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate June 23, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State

83rd OREGON LEGISLATIVE ASSEMBLY--2025 Regular Session

Enrolled
House Bill 2138

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Office of the Governor)

CHAPTER

AN ACT

Relating to land use; creating new provisions; amending ORS 34.020, 34.102, 92.031, 92.044, 92.325, 93.277, 94.776, 184.453, 184.633, 197.015, 197.090, 197.200, 197.245, 197.360, 197.365, 197.724, 197.794, 197.796, 197.825, 197.830, 197A.015, 197A.400, 197A.420, 197A.430, 197A.465, 197A.470, 215.402, 215.416, 215.427, 215.429, 223.299, 227.160, 227.173, 227.175, 227.178, 227.179, 227.184, 421.649 and 476.394 and sections 3 and 4, chapter 639, Oregon Laws 2019, and section 1, chapter 110, Oregon Laws 2024; repealing ORS 92.377, 197.370, 197.375, 197.380, 197.726 and 197.727; and declaring an emergency.

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

MIDDLE HOUSING

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

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

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

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

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

[(c) “Middle housing” means:]

[(A) Duplexes;]

[(B) Triplexes;]

[(C) Quadplexes;]

[(D) Cottage clusters; and]

[(E) Townhouses.]

(c) “Cottage cluster” means a grouping of dwelling units:

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

(B) That have a common courtyard; and

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

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

(e)(A) **“Middle housing”** means housing that consists of duplexes, triplexes, quadplexes, cottage clusters or townhouses.

(B) **“Middle housing”** includes dwelling units that are:

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

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

(f) **“Middle housing land division”** has the meaning given that term in ORS 92.031.

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

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

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

(j) **“Zoned for residential use”** means land that:

(A) **Is within an urban growth boundary;**

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

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

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

(E) **Is incorporated or urban unincorporated land.**

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

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

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

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

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

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

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

[(C) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS 195.065; or]

[(D) Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development.]

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

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

(A) **One single-unit dwelling;**

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

(C) **One duplex.**

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

(c) **Existing units on the lot or parcel may be separated from the new units by a middle housing land division and are considered a single unit for the purposes of such division.**

(5) **Local governments:**

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

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

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

(A) Require a traffic impact analysis; or

(B) Attribute an exaction other than a generally applicable system development charge or fee-in-lieu variance charge or a development requirement specific to the lot or parcel or its frontage.

(b) This subsection does not apply to:

(A) Developments of townhouses or cottage clusters with more than twelve units.

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

[(6)] **(7) This section does not prohibit local governments from permitting:**

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

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

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

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

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

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

(b) “Affordable unit” means a unit of housing that is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, that:

(A) Makes the unit available to purchase for a maximum sales price and requires that the unit be purchased by a household with an income below 120 percent of median income, with both the maximum price and income threshold as published per region on an annual basis by the division of the Oregon Department of Administrative Services that serves as office of economic analysis; and

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

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

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

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

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

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

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

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

197A.015. As used in this chapter:

(1) “Allocated housing need” means the housing need allocated to a city under ORS 184.453 (2) as segmented by income level under ORS 184.453 (4).

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

(3) “City” and “city with a population of 10,000 or greater” includes, regardless of size:

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

(b) A county with respect to its jurisdiction over Metro urban unincorporated lands.

(4) “Development-ready lands” means buildable lands that are likely to support the production of housing during the period of their housing production target under ORS 184.455 (1) because the lands are:

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

(b) Readily served through adjacent public facilities or identified for the near-term provision of public facilities through an adopted capital improvement plan; and

(c) Not encumbered by any applicable local, state or federal protective regulations or have appropriate entitlements to prepare the land for development.

(5) “Government assisted housing” means housing that is financed in whole or part by either a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(6) “Housing capacity” means the number of needed housing units that can be developed on buildable lands within the 20-year planning period based on the land’s comprehensive plan designation and capacity for housing development and redevelopment.

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

(8) “Manufactured dwelling,” “manufactured dwelling park,” “manufactured home” and “mobile home park” have the meanings given those terms in ORS 446.003.

(9) “Metro urban unincorporated lands” means *[lands]* **urban unincorporated lands** within the Metro urban growth boundary. *[that are identified by the county as:]*

[(a) Not within a city;]

[(b) Zoned for urban development;]

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

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

[(e) Not zoned with a designation that maintains the land’s potential for future urbanization.]

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

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

(12) “Urban unincorporated lands” means lands within an urban growth boundary that are identified by the county as:

(a) Not within a city;

(b) Zoned for urban development;

(c) Within the boundaries of a sanitary district or sanitary authority formed under ORS chapter 450 or a district formed for the purposes of sewage works under ORS chapter 451;

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

(e) Not zoned with a designation that maintains the land's potential for future urbanization.

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

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

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

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

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

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

(e) **Except as provided in paragraph (f) of this subsection, January 1, 2027, for cities to conform with section 3 of this 2025 Act or the amendments to ORS 197A.420 by section 1 of this 2025 Act; or**

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

(2) The Land Conservation and Development Commission, with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall develop a model middle housing ordinance no later than December 31, 2020.

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

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

(a) Waiving or deferring system development charges;

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

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

SECTION 5. Section 4, chapter 639, Oregon Laws 2019, as amended by section 22, chapter 223, Oregon Laws 2023, is amended to read:

Sec. 4. (1) The Department of Land Conservation and Development may grant to a local government that is subject to ORS [197.758] **197A.420** an extension of the time allowed to adopt land use regulations or amend its comprehensive plan under section 3, chapter 639, Oregon Laws 2019.

(2) An extension under this section may be applied only to specific areas where the local government has identified water, sewer, storm drainage or transportation services that are significantly deficient and for which the local government has established a plan of actions that will remedy the deficiency in those services that is approved by the department. The extension may not extend beyond the date that the local government intends to correct the deficiency under the plan.

(3) In areas where the extension under this section does not apply, the local government shall apply its own land use regulations consistent with section 3 (1), chapter 639, Oregon Laws 2019, or the model ordinance developed under section 3 (2), chapter 639, Oregon Laws 2019.

(4) A request for an extension by a local government must be filed with the department no later than:

(a) December 31, 2020, for a city subject to ORS 197.758 (3) (2021 Edition), **as in effect on January 1, 2023.**

(b) June 30, 2021, for a local government subject to ORS [197.758 (2)] **197A.420 (2).**

(c) June 30, 2024, for each city subject to ORS [197.758 (3), *as amended by section 20 of this 2023 Act*] **197A.420 (3).**

(d) June 30, 2026, only for unincorporated urban lands.

(5) The department shall grant or deny a request for an extension under this section:

(a) Within 90 days of receipt of a complete request from a city subject to ORS [197.758 (3)] **197A.420 (3).**

(b) Within 120 days of receipt of a complete request from a local government subject to ORS [197.758 (2)] **197A.420 (2).**

(6) The department shall adopt rules regarding the form and substance of a local government's application for an extension under this section. The department may include rules regarding:

(a) Defining the affected areas;

(b) Calculating deficiencies of water, sewer, storm drainage or transportation services;

(c) Service deficiency levels required to qualify for the extension;

(d) The components and timing of a remediation plan necessary to qualify for an extension;

(e) Standards for evaluating applications; and

(f) Establishing deadlines and components for the approval of a plan of action.

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

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

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

(b) Current housing underproduction;

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

(d) Housing units projected to be converted into vacation homes or second homes during the next 20 years.

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

(3) In making an allocation under subsection (2) of this section, the department shall consider:

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

(b) The forecasted regional job growth;

(c) An equitable statewide distribution of housing for income levels described in subsection (4) of this section;

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

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

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

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

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

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

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

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

(e) Housing affordable to households making 120 percent or more of median family income.

(5) On an annual basis, the department shall publish maximum sales prices and income affordability requirements, by region, as described in section 3 (1) of this 2025 Act.

SINGLE ROOM OCCUPANCIES

SECTION 6. ORS 197A.430 is amended to read:

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

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

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

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

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

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

(A) A single detached dwelling, if the single room occupancy development has six or fewer units; or

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

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

SECTION 6a. A local government shall comply as described in ORS 197.646 (1) with the new requirements imposed under the amendments to ORS 197A.430 by section 6 of this 2025 Act on or before January 1, 2027.

PROMOTING HOUSING DENSITY

SECTION 7. ORS 93.277 is amended to read:

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

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

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

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

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

SECTION 7a. If House Bill 3144 becomes law, section 7 of this 2025 Act (amending ORS 93.277) is repealed and ORS 93.277, as amended by section 1, chapter 274, Oregon Laws 2025 (Enrolled House Bill 3144), is amended to read:

93.277. (1) A provision in a recorded instrument affecting real property is void and unenforceable, as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100, if, within an urban growth boundary as defined in ORS 197.015, the provision would allow the development of a single-unit dwelling on the real property but would prohibit the development of, or the partitioning or subdividing of lands under ORS 92.031 for:

- (a) **Middle housing**, as defined in ORS 197A.420; or
- (b) **An accessory dwelling unit allowed under ORS 197A.425.**

[(1)] (2) A provision in a recorded instrument affecting real property is not enforceable if the provision would allow the development of a [single-family] **single-unit** dwelling on the real property but would prohibit the development of, *or the partitioning or subdividing of lands under ORS 92.031 for*:

[(a)] *Middle housing, as defined in ORS 197A.420;*

[(b)] *An accessory dwelling unit allowed under ORS 197A.425 (1);*

[(c)] (a) A manufactured dwelling, as defined in ORS 446.003; or

[(d)] (b) A prefabricated structure, as defined in ORS 197A.015.

[(2)] (3) **Subsection (2) of this section applies only [if the] to an instrument[:]**

[(a)] *Contains a provision described under subsection (1)(a) or (b) of this section and was executed on or after January 1, 2021.*

[(b)] *Contains a provision described under subsection (1)(c) or (d) of this section and was* executed on or after *[effective date of this 2025 Act]* **January 1, 2026.**

SECTION 8. ORS 93.277 applies to instruments executed before, on or after January 1, 2021.

SECTION 9. ORS 94.776 is amended to read:

94.776. (1) A provision in a governing document *[that is adopted or amended on or after January 1, 2020,]* is void and unenforceable, **as being against the policy of this state of promoting housing availability and affordability and affirmatively furthering fair housing as defined in ORS 197A.100**, to the extent that the provision would prohibit or have the effect of unreasonably restricting the development of, *or the dividing of lands under ORS 92.031 for*, housing, **including accessory dwelling units or middle housing**, that is otherwise allowable under the maximum density of the zoning for the land.

(2) Lots or parcels *[resulting]*, **as those terms are defined in ORS 92.010, that result** from the division of land in a planned community are subject to the governing documents of the planned community *[and]*. **Any resulting dwelling units** are allocated assessments and voting rights on the same basis as existing units.

SECTION 10. ORS 94.776 applies to governing documents that were adopted before, on or after January 1, 2020.

SECTION 11. The amendments to ORS 93.277 and 94.776 by sections 7 and 9 of this 2025 Act become operative on January 1, 2027.

SECTION 12. The repeal of section 7 of this 2025 Act (amending ORS 93.277) by section 7a of this 2025 Act and the amendments to ORS 93.277 by section 7a of this 2025 Act become operative on January 1, 2027.

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

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

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

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

(b) The standards, conditions and procedures:

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

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

[(c)] (C) May be contained in a comprehensive plan, land use regulation or an ordinance relating to housing adopted by a city that adopts, including by reference, a model ordinance adopted by the

Land Conservation and Development Commission that comports with any qualifications, conditions or applicability of the model ordinance.

(c) This subsection applies only within:

(A) An urban growth boundary;

(B) An unincorporated community designated in a county's acknowledged comprehensive plan after December 5, 1994;

(C) Nonresource land; or

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

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

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

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

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

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

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

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

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

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

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

(c) Establish approval procedures.

EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

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

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

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

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

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

(b) A proposal for development of middle housing that is in compliance or must comply with the Oregon residential specialty code and land use regulations under ORS 197A.420 (5) that are applicable to the original lot or parcel and which may consist of:

(A) A single duplex, triplex, quadplex, cottage cluster or structure containing townhouses;

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

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

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

- (A) Locating, accessing, replacing and servicing all utilities;
- (B) Pedestrian access from each dwelling unit to a private or public road;
- (C) Any common use areas or shared building elements;
- (D) Any dedicated driveways or parking; and
- (E) Any dedicated common area;
- (d) Exactly one dwelling unit on each resulting lot or parcel, except for:

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

(B) Lots or parcels with a detached single-unit dwelling and accessory dwelling unit or a duplex as allowed under ORS 197A.420 (4); and

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

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

(a) **Subject to subsection (6) of this section**, prohibit the further division of the resulting lots or parcels.

(b) Require that a notation appear on the final plat indicating that the approval was given under this section.

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

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

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

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

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

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

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

(g) May require separate water and wastewater utilities for each dwelling unit.

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

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

[(6) Notwithstanding ORS 197A.425 (1), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.]

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

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

(b) Provided that the middle housing land division lots or parcels may be used to create housing that is at or above the minimum density for the zoning of the land.

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

[(a) The original partition was not a middle housing land division; and]

[(b) The original parcel or parcels not divided will not be part of the resulting partition plat for the middle housing land division.]

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

SECTION 15. ORS 92.044 is amended to read:

92.044. (1)(a) The governing body of a county or a city shall, by regulation or ordinance, adopt standards and procedures, in addition to those otherwise provided by law, governing, in the area over which the county or the city has jurisdiction under ORS 92.042, the submission and approval of tentative plans and plats of subdivisions~~[,]~~ **and** tentative plans and plats of partitions *[in exclusive farm use zones established under ORS 215.203]*.

(b) The standards *[shall]* **must** include, taking into consideration the location and surrounding area of the proposed subdivisions or partitions, requirements for:

(A) Placement of utilities subject to subsection (7) of this section, for the width and location of streets or for minimum lot sizes and other requirements the governing body considers necessary for lessening congestion in the streets;

(B) Securing safety from fire, flood, slides, pollution or other dangers;

(C) Providing adequate light and air, including protection and assurance of access to incident solar radiation for potential future use;

(D) Preventing overcrowding of land;

(E) Facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs; and

(F) Protection and assurance of access to wind for potential electrical generation or mechanical application.

(c) The *[ordinances or regulations shall establish]* **procedures must provide for:**

(A) The form and contents of tentative plans of partitions and subdivisions submitted for approval.

[(d)] (B) *[The procedures established by each ordinance or regulation shall provide for]* The coordination in the review of the tentative plan of any subdivision or partition with all affected city, county, state and federal agencies and all affected special districts.

(C) **A method by which the city or county may approve a plan or plat that includes further division of one or more of the resulting lots or parcels via concurrently submitted applications for middle housing land divisions under ORS 92.031, all to be approved within the timelines provided under ORS 215.427 or 227.178.**

(2)(a) The governing body of a city or county may provide for the delegation of any of its lawful functions with respect to subdivisions and partitions to the planning commission of the city or county or to an official of the city or county appointed by the governing body for such purpose.

(b) If an ordinance or regulation adopted under this section includes the delegation to a planning commission or appointed official of the power to take final action approving or disapproving a tentative plan for a subdivision or partition, such ordinance or regulation may also provide for appeal to the governing body from such approval or disapproval.

(c) The governing body may establish, by ordinance or regulation, a fee to be charged for an appeal under ORS chapter 197, 197A, 215 or 227, except for an appeal under ORS 197.805 to 197.855.

(3) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed subdivisions that are

submitted for approval pursuant to this section. As used in this subsection, “costs” does not include costs for which fees are prescribed under ORS 92.100 and 205.350.

(4) The governing body may, by ordinance or regulation, prescribe fees sufficient to defray the costs incurred in the review and investigation of and action upon proposed partitions that are submitted for approval pursuant to this section.

(5) Ordinances and regulations adopted under this section [shall] **must** be adopted in accordance with ORS 92.048.

(6) Any ordinance or regulation adopted under this section [shall] **must** comply with the comprehensive plan for the city or county adopting the ordinance or regulation.

(7) Unless specifically requested by a public or private utility provider, the governing body of a city or county may not require a utility easement except for a utility easement abutting a street. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The governing body of a city or county may not place additional restrictions or conditions on a utility easement granted under this chapter.

(8) For the purposes of this section:

(a) “Incident solar radiation” means solar energy falling upon a given surface area.

(b) “Wind” means the natural movement of air at an annual average speed measured at a height of 10 meters or at least eight miles per hour.

SECTION 16. ORS 215.427, as amended by section 7, chapter 102, Oregon Laws 2024, and section 8, chapter 110, Oregon Laws 2024, is amended to read:

215.427. *[(1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.]*

(1) Except as provided in subsections (3), (5) and (10) of this section, the governing body of a county or its designee shall take final action on an application, including resolution of all appeals under ORS 215.422, within the shortest applicable period of the following periods, all of which begin on the date that the application is deemed complete:

(a) 150 days;

(b) 120 days, for land within an urban growth boundary or for applications for mineral aggregate extraction;

(c) 100 days, for an application for the development of affordable housing as provided in ORS 197A.470; or

(d) 63 days, for an expedited land division under ORS 197.365.

(2) If an application [for a permit, limited land use decision or zone change] is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application [shall be] **is** deemed complete for the purpose of subsection (1) of this section [and ORS 197A.470] upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information within 180 days of the date the application was first submitted, approval or denial of the application must be based:

(A) Upon the standards and criteria that were applicable at the time the application was first submitted; or

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section, *[and ORS 197A.470]* the application is not deemed complete until:

(i) The county determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a county's request;

(C) A county may deny a request under paragraph (a)(B) of this subsection if:

(i) The county has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The county may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the county to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section *[or the 100-day period set in ORS 197A.470]* may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section *[and the 100-day period set in ORS 197A.470 do]* **does** not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) *[Except when an applicant requests an extension under subsection (5) of this section,]* If the governing body of the county or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete,]* **within the applicable periods allowed under subsections (1) and**

(5) of this section, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS [197A.470 or] 215.429 as a condition for taking any action on an application, [for a permit, limited land use decision or zone change] except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section [and ORS 197A.470] may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

(11) As used in this section, “application” means an application for:

(a) A permit;

(b) A limited land use decision;

(c) A zone change;

(d) A consolidated zone change and permit described under ORS 215.416;

(e) An expedited land division under ORS 197.365; or

(f) A plat consisting of a land division and middle housing land division as described in ORS 92.044 (1)(c)(C).

SECTION 17. ORS 227.178, as amended by section 8, chapter 102, Oregon Laws 2024, and section 9, chapter 110, Oregon Laws 2024, is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application [for a permit, limited land use decision or zone change], including resolution of all appeals under ORS 227.180, within [120 days after] **the shortest applicable period of the following periods, all of which begin on the date that the application is deemed complete[.]**:

(a) 120 days;

(b) 100 days, for an application for the development of affordable housing as provided in ORS 197A.470; or

(c) 63 days, for an expedited land division under ORS 197.365.

(2) If an application [for a permit, limited land use decision or zone change] is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application [shall be] **is** deemed complete for the purpose of subsection (1) of this section [or ORS 197A.470] upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application must be based:

(A) Upon the standards and criteria that were applicable at the time the application was first submitted; or

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section, *[and ORS 197A.470]* the application is not deemed complete until:

(i) The city determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a city's request;

(C) A city may deny a request under paragraph (a)(B) of this subsection if:

(i) The city has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The city may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The *[120-day]* period set in subsection (1) of this section *[or the 100-day period set in ORS 197A.470]* may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The *[120-day]* period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the *[120-day]* period set in subsection (1) of this section *[and the 100-day period set in ORS 197A.470 do]* **does** not apply to:

(a) A decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a city involving an application for the development of residential structures within an urban growth boundary, where the city has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) *[Except when an applicant requests an extension under subsection (5) of this section,]* If the governing body of the city or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days after the application is deemed complete]* **within the period set in subsection (1) of this section**, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee;
or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the [120-day] period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS [197A.470 or] 227.179 as a condition for taking any action on an **application**, [for a permit, limited land use decision or zone change] except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The periods set forth in subsections (1) and (5) of this section [and ORS 197A.470] may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

(12) As used in this section, “application” means an application for:

(a) A permit;

(b) A limited land use decision;

(c) A zone change;

(d) A consolidated zone change and permit described under ORS 227.175;

(e) An expedited land division under ORS 197.365; or

(f) A plat consisting of a land division and middle housing land division as described in ORS 92.044 (1)(c)(C).

SECTION 18. ORS 197.360 and 197.365 are added to and made a part of ORS chapter 197A.

SECTION 19. ORS 197.360 is amended to read:

197.360. (1) [As used in this section:]

[(a) “Expedited land division” means a division of land] **If requested by the applicant, a local government shall approve a partition or subdivision made under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 [by a local government that] as an expedited land division under ORS 197.365 if the division:**

[(A)] **(a)** Includes only land that is zoned for residential uses and is within an urban growth boundary.

[(B)] **(b)** Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

[(C)] **(c)** Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

[(i)] **(A)** Open spaces, scenic and historic areas and natural resources;

[(ii)] **(B)** The Willamette River Greenway;

[(iii)] **(C)** Estuarine resources;

[(iv)] **(D)** Coastal shorelands; and

[(v)] **(E)** Beaches and dunes.

[(D)] (d) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

[(E)] (e) Will result in development that either:

[(i)] (A) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

[(ii)] (B) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

[(b) "*Expedited land division*" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.]

[(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.]

[(3)] (2) [The provisions of ORS 197.360 to 197.380 apply] **ORS 197.365 applies** to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

[(4)] (3) An application [for an expedited land division submitted to a local government shall] **under this section must** describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.

SECTION 20. ORS 197.365 is amended to read:

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

[(1)(a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.]

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

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

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

[(a) State:]

[(A) The deadline for submitting written comments:]

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

[(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.]

[(b) Set forth, by commonly used citation, the applicable criteria for the decision.]

[(c) Set forth the street address or other easily understood geographical reference to the subject property.]

[(d) State the place, date and time that comments are due.]

[(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.]

[(f) Include the name and telephone number of a local government contact person.]

[(g) Briefly summarize the local decision-making process for the land division decision being made.]

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

[(a) Provide a 14-day period for submission of written comments prior to the decision.]

Notwithstanding any other requirement applicable to a land use decision under ORS chapter 197 or 197A, for an application that is reviewed as an expedited land division based on the request of the applicant:

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

(2) A local government:

[(b)] (a) Shall make a decision to approve or deny the application within 63 days of receiving a completed application as described in ORS 215.246 or 227.178, based on whether [it] the application satisfies the substantive requirements of the applicable land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. [For applications subject to this section, the local government:]

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

[(B)] (c) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination. The determination must include an explanation of the applicant's right to appeal the determination under ORS 197.830 to 197.855.

[(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:]

[(A) The summary statement described in paragraph (b)(B) of this subsection; and]

[(B) An explanation of appeal rights under ORS 197.375.]

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

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

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

SECTION 21. ORS 92.377, 197.370, 197.375, 197.380, 197.726 and 197.727 are repealed.

RULEMAKING

SECTION 22. (1) On or before January 1, 2028, the Land Conservation and Development Commission shall adopt rules that must include:

(a) Prohibiting or restricting siting and design standards that prevent or discourage, or have the effect of preventing or discouraging, the siting of middle housing that is manufactured, site-built or prefabricated;

(b) Establishing parameters on unreasonable cost or delay for siting and design standards for accessory dwelling units and single room occupancies under standards allowed under ORS 197A.425 and 197A.430;

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

(d) Amending siting and design parameters for middle housing types;

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

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

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

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

(a) Emphasize improving the efficiency of the development process with a focus on increasing housing production, availability and affordability, especially that of middle housing, accessory dwelling units and single room occupancies.

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

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

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

(e) Provide a report on or before July 1, 2028, to the interim committees of the Legislative Assembly relating to land use, in the manner provided in ORS 192.245, on the feasibility and advisability of providing safe harbor protections for cities that use the commission’s model system development charges under subsection (1)(f) of this section or otherwise incentivizing the use of the models.

CONFORMING AMENDMENTS

SECTION 23. ORS 34.020 is amended to read:

34.020. Except for a proceeding resulting in a land use decision or limited land use decision as defined in ORS 197.015, for which review is provided in ORS 197.830 to 197.845, [*or an expedited land division as described in ORS 197.360, for which review is provided in ORS 197.375 (8),*] any party to any process or proceeding before or by any inferior court, officer, or tribunal may have the decision or determination thereof reviewed for errors, as provided in ORS 34.010 to 34.100, and not otherwise. Upon a review, the court may review any intermediate order involving the merits and necessarily affecting the decision or determination sought to be reviewed.

SECTION 24. ORS 34.102 is amended to read:

34.102. (1) As used in this section, “municipal corporation” means a county, city, district or other municipal corporation or public corporation organized for a public purpose, including a cooperative body formed between municipal corporations.

(2) Except for a proceeding resulting in a land use decision or limited land use decision as defined in ORS 197.015, for which review is provided in ORS 197.830 to 197.845, [*or an expedited land division as described in ORS 197.360, for which review is provided in ORS 197.375 (8),*] the decisions of the governing body of a municipal corporation acting in a judicial or quasi-judicial capacity and made in the transaction of municipal corporation business shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

(3) A petition for writ of review filed in the circuit court and requesting review of a land use decision or limited land use decision as defined in ORS 197.015 of a municipal corporation shall be transferred to the Land Use Board of Appeals and treated as a notice of intent to appeal if the petition was filed within the time allowed for filing a notice of intent to appeal pursuant to ORS

197.830. If the petition was not filed within the time allowed by ORS 197.830, the court shall dismiss the petition.

(4) A notice of intent to appeal filed with the Land Use Board of Appeals pursuant to ORS 197.830 and requesting review of a decision of a municipal corporation made in the transaction of municipal corporation business that is not reviewable as a land use decision or limited land use decision as defined in ORS 197.015 shall be transferred to the circuit court and treated as a petition for writ of review. If the notice was not filed with the board within the time allowed for filing a petition for writ of review pursuant to ORS 34.010 to 34.100, the court shall dismiss the petition.

(5) In any case in which the Land Use Board of Appeals or circuit court to which a petition or notice is transferred under subsection (3) or (4) of this section disputes whether it has authority to review the decision with which the petition or notice is concerned, the board or court before which the matter is pending shall refer the question of whether the board or court has authority to review to the Court of Appeals, which shall decide the question in a summary manner.

SECTION 25. ORS 92.325, as amended by section 11, chapter 102, Oregon Laws 2024, is amended to read:

92.325. A person may not sell or lease any subdivided lands or series partitioned lands without having complied with all the applicable provisions of ORS 92.305 to 92.495 except that:

- (1) ORS 92.305 to 92.495 do not apply to the sale or leasing of:
 - (a) Apartments or similar space within an apartment building;
 - (b) Cemetery lots, parcels or units in Oregon;
 - (c) Subdivided lands and series partitioned lands in Oregon that are not in unit ownership or being developed as unit ownerships created under ORS chapter 100, to be used for residential purposes and that qualify under ORS 92.337;
 - (d) Property submitted to the provisions of ORS chapter 100;
 - (e) Subdivided lands and series partitioned lands in Oregon expressly zoned for and limited in use to nonresidential industrial or nonresidential commercial purposes;
 - (f) Lands in this state sold by lots or parcels of not less than 160 acres each;
 - (g) Timeshares regulated or otherwise exempt under ORS 94.803 and 94.807 to 94.945;
 - (h) Mobile home or manufactured dwelling parks, as defined in ORS 446.003, located in Oregon;
 - (i) Planned community subdivision of manufactured dwellings or mobile homes created under ORS 92.830 to 92.845;
 - (j) Lots or parcels created *[from an expedited land division]* under ORS 197.360; or
 - (k) Lots or parcels created from a middle housing land division under ORS 92.031 **or 92.044**
- (1)(c)(C).

(2) The subdivider or series partitioner of subdivided and series partitioned lands in a city or county which, at the time tentative approval of a subdivision plat and each partition map for those lands is given under ORS 92.040 or an ordinance adopted under ORS 92.046, has a comprehensive plan and implementing ordinances that have been acknowledged under ORS 197.251 must only comply with ORS 92.425, 92.427, 92.430, 92.433, 92.460 and 92.485 in the sale or leasing of such lands.

SECTION 26. ORS 184.633 is amended to read:

184.633. (1) Subject to policy direction by the Oregon Transportation Commission, the Director of Transportation shall:

- (a) Be the administrative head of the Department of Transportation;
- (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Personnel Relations Law;
- (c) Administer the laws of the state concerning transportation;
- (d) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies which may substantially affect the interest of the consumers and providers of transportation within Oregon; and
- (e) Construct, coordinate and promote an integrated transportation system in cooperation with any city, county, district, port or private entity, as defined in ORS 367.802.

(2) In addition to duties otherwise required by law, the director shall prescribe regulations for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(3) The director may delegate to any of the employees of the department the exercise or discharge in the director's name of any power, duty or function of whatever character, vested in or imposed by law upon the director, including powers, duties or functions delegated to the director by the commission pursuant to ORS 184.635. The official act of any such person so acting in the director's name and by the authority of the director shall be considered to be an official act of the director.

(4) The director shall have authority to require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bond shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The department shall pay the premiums on the bonds.

(5)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845, the director may participate in and seek review of a land use decision or limited land use decision as defined in ORS 197.015[, *or an expedited land division as defined in ORS 197.360*]. The director shall report to the commission on each case in which the department participates and on the positions taken by the director in each case.

(b) If a meeting of the commission is scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, the director shall obtain formal approval from the commission prior to seeking review of the decision. However, if the land use decision[, *expedited land division*] or limited land use decision becomes final less than 15 days before a meeting of the commission, the director shall proceed as provided in paragraph (c) of this subsection. If the director requests approval from the commission, the applicant and the affected local government shall be notified in writing that the director is seeking commission approval. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to seek review. No other testimony shall be taken by the commission.

(c) If a meeting of the commission is not scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, at the next commission meeting the director shall report to the commission on each case for which the department has sought review. The director shall request formal approval to proceed with each appeal. The applicant and the affected local government shall be notified of the commission meeting in writing by the director. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to proceed with the appeal. No other testimony shall be taken by the commission. If the commission does not formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

(d) A decision by the commission under this subsection is not subject to appeal.

(e) For purposes of this subsection, "applicant" means a person seeking approval of [*a permit, as defined in ORS 215.402 or 227.160, expedited land division or limited land use decision*] **an application as defined in ORS 215.427 or 227.178.**

(6) The director may intervene in an appeal of a land use decision brought by another person in the manner provided for an appeal by the director under subsection (5) of this section.

SECTION 27. ORS 197.015, as amended by section 44, chapter 110, Oregon Laws 2024, is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan,

amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; [or]

(C) A decision of a county planning commission made under ORS 433.763; **or**

(D) An expedited land division under ORS 197.365;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

[*(E) That is an expedited land division as described in ORS 197.360;*]

[*(F)*] **(E)** That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

[(G)] (F) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

[(H)] (G) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)(a) "Limited land use decision" means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a non-conforming use.

(b) "Limited land use decision" does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

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

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 28. ORS 197.090 is amended to read:

197.090. (1) Subject to policies adopted by the Land Conservation and Development Commission, the Director of the Department of Land Conservation and Development shall:

(a) Be the administrative head of the Department of Land Conservation and Development.

(b) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, local governments and special districts.

(c) Appoint, reappoint, assign and reassign all subordinate officers and employees of the department, prescribe their duties and fix their compensation, subject to the State Personnel Relations Law.

(d) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

(2)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845, the director may participate in and seek review of:

(A) A land use decision[, *expedited land division*] or limited land use decision involving the goals or involving an acknowledged comprehensive plan and land use regulations implementing the plan; or

(B) Any other matter within the statutory authority of the department or commission under ORS chapters 195, 196, 197 and 197A.

(b) The director shall report to the commission on each case in which the department participates and on the positions taken by the director in each case.

(c) If a meeting of the commission is scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, the director shall obtain formal approval from the commission prior to seeking review of the decision. However, if the land use decision[, *expedited land division*] or limited land use decision becomes final less than 15 days before a meeting of the commission, the director shall proceed as provided in paragraph (d) of

this subsection. If the director requests approval from the commission, the applicant and the affected local government shall be notified in writing that the director is seeking commission approval. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to seek review. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission.

(d) If a meeting of the commission is not scheduled prior to the close of the period for seeking review of a land use decision[, *expedited land division*] or limited land use decision, at the next commission meeting the director shall report to the commission on each case for which the department has sought review. The director shall request formal approval to proceed with each appeal. The applicant and the affected local government shall be notified of the commission meeting in writing by the director. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to proceed with the appeal. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission. If the commission does not formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

(e) A decision by the commission under this subsection is not subject to appeal.

(f) For purposes of this subsection, "applicant" means a person seeking approval of a permit, as defined in ORS 215.402 or 227.160, [*expedited land division*] or limited land use decision.

(3) The commission by rule shall adopt a set of factors for the commission to consider when determining whether to appeal or intervene in the appeal of a land use decision[, *expedited land division*] or limited land use decision that involves the application of the goals, acknowledged comprehensive plan, land use regulation or other matter within the authority of the department or commission under ORS chapters 195, 196, 197 and 197A.

(4) The director may intervene in an appeal of a land use decision[, *expedited land division*] or limited land use decision brought by another person in the manner provided for an appeal by the director under subsection (2)(c) and (d) of this section.

SECTION 29. ORS 197.200 is amended to read:

197.200. (1) A local government may convene a land use proceeding to adopt a refinement plan for a neighborhood or community within its jurisdiction and inside the urban growth boundary as provided in this section.

(2) A refinement plan is more detailed than a comprehensive plan and applies to a specific geographic area. A refinement plan shall:

(a) Establish efficient density ranges, including a minimum and a maximum density for residential land uses;

(b) Establish minimum and maximum floor area ratios or site coverage requirements for non-residential uses;

(c) Be based on a planning process meeting statewide planning goals; and

(d) Include land use regulations to implement the plan.

(3) A refinement plan and associated land use regulations adopted prior to September 9, 1995, may qualify as a refinement plan if the local government holds a public hearing to gather public comment and decides to adopt the plan as a refinement plan under this section.

(4) A local government shall apply the procedures for expedited land divisions described in ORS [197.360 to 197.380] **197.365** to all applications for land division and site or design review located in any area subject to an acknowledged refinement plan. The review shall include:

(a) All elements of a local government comprehensive plan and land use regulations that must be applied in order to approve or deny any such application; and

(b) Any planned unit development standards and any procedures designed to regulate:

(A) The physical characteristics of permitted uses;

(B) The dimensions of the lots **or parcels** to be created; or

(C) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development.

[(5) Any decision made on a refinement plan described in subsection (3) of this section shall be appealed only as provided for appeals of expedited land division decisions in ORS 197.375.]

[(6)] (5) Refinement plans and implementing ordinances may be adopted through the post-acknowledgment or periodic review process.

SECTION 30. ORS 197.245 is amended to read:

197.245. The Land Conservation and Development Commission may periodically amend the initial goals and guidelines adopted under ORS 197.240 and adopt new goals and guidelines. The adoption of amendments to or of new goals shall be done in the manner provided in ORS 197.235 and 197.240 and shall specify with particularity those goal provisions that are applicable to land use decisions[, *expedited land divisions*] and limited land use decisions before plan revision. The commission shall establish the effective date for application of a new or amended goal. Absent a compelling reason, the commission shall not require a comprehensive plan, new or amended land use regulation, land use decision[, *expedited land division*] or limited land use decision to be consistent with a new or amended goal until one year after the date of adoption.

NOTE: Section 31 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 32. ORS 197.724 is amended to read:

197.724. (1) An applicant for a new industrial use or the expansion of an existing industrial use located within a regionally significant industrial area may request that an application for a land use permit be reviewed as an application for an expedited industrial land use permit under this section if the proposed use does not require:

- (a) An exception taken under ORS 197.732 to a statewide land use planning goal;
- (b) A change to the acknowledged comprehensive plan or land use regulations of the local government within whose land use jurisdiction the new or expanded industrial use would occur; or
- (c) A federal environmental impact statement under the National Environmental Policy Act.

(2) If the applicant makes a request that complies with subsection (1) of this section, the local government shall review the applications for land use permits for the proposed industrial use by applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for review of an expedited land division in ORS 197.365 *[and 197.370]*.

SECTION 33. ORS 197.794 is amended to read:

197.794. (1) As used in this section, "railroad company" has the meaning given that term in ORS 824.200.

(2) If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application for a land use decision[,] **or** a limited land use decision *[or an expedited land division]*, the applicant must indicate that fact in the application submitted to the decision maker.

(3) The decision maker shall provide notice to the Department of Transportation and the railroad company whenever the decision maker receives the information described under subsection (2) of this section.

SECTION 34. ORS 197.796 is amended to read:

197.796. (1) An applicant *[for a land use decision, limited land use decision or expedited land division or for a permit]* under ORS 215.427 or 227.178 may accept a condition of approval imposed under ORS 215.416 or 227.175 and file a challenge to the condition under this section. Acceptance by an applicant *[for a land use decision, limited land use decision, expedited land division or permit]* under ORS 215.427 or 227.178 of a condition of approval imposed under ORS 215.416 or 227.175 does not constitute a waiver of the right to challenge the condition of approval. Acceptance of a condition may include but is not limited to paying a fee, performing an act or providing satisfactory evidence of arrangements to pay the fee or to ensure compliance with the condition.

(2) Any action for damages under this section shall be filed in the circuit court of the county in which the application was submitted within 180 days of the date of the decision.

(3)(a) A challenge filed pursuant to this section may not be dismissed on the basis that the applicant did not request a variance to the condition of approval or any other available form of reconsideration of the challenged condition. However, an applicant shall comply with ORS 197.797 (1) prior to appealing to the Land Use Board of Appeals or bringing an action for damages in circuit court and must exhaust all local appeals provided in the local comprehensive plan and land use regulations before proceeding under this section.

(b) In addition to the requirements of ORS 197.797 (5), at the commencement of the initial public hearing, a statement shall be made to the applicant that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

(c) An applicant is not required to raise an issue under this subsection unless the condition of approval is stated with sufficient specificity to enable the applicant to respond to the condition prior to the close of the final local hearing.

(4) In any challenge to a condition of approval that is subject to the Takings Clause of the Fifth Amendment to the United States Constitution, the local government shall have the burden of demonstrating compliance with the constitutional requirements for imposing the condition.

(5) In a proceeding in circuit court under this section, the court shall award costs and reasonable attorney fees to a prevailing party. Notwithstanding ORS 197.830 (15), in a proceeding before the Land Use Board of Appeals under this section, the board shall award costs and reasonable attorney fees to a prevailing party.

(6) This section applies to appeals by the applicant of a condition of approval and claims filed in state court seeking damages for the unlawful imposition of conditions of approval [*in a land use decision, limited land use decision, expedited land division or permit*] **of an application made** under ORS 215.427 or 227.178.

SECTION 35. ORS 197.825 is amended to read:

197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government, special district or a state agency in the manner provided in ORS 197.830 to 197.845.

(2) The jurisdiction of the board:

(a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;

(b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;

(c) Does not include a local government decision that is:

(A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.651 or a matter arising out of a local government decision submitted to the department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director's sole discretion, transfers the matter to the board; or

(B) Subject to the review authority of the department under ORS 197.412, 197.445, 197.450 or 197.455 or a matter related to a local government decision subject to the review authority of the department under ORS 197.412, 197.445, 197.450 or 197.455;

(d) Does not include those land use decisions of a state agency over which the Court of Appeals has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

(e) Does not include any rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.770, 527.990 (1) and 527.992; **and**

(f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663; *and*].

[(g) *Does not include review of expedited land divisions under ORS 197.360.*]

(3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain jurisdiction:

(a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions described in ORS 197.015 (10)(b) or proceedings brought to enforce the provisions of an adopted comprehensive plan or land use regulations; and

(b) To enforce orders of the board in appropriate proceedings brought by the board or a party to the board proceeding resulting in the order.

SECTION 36. ORS 197.830 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due and shall be accompanied by a filing fee of \$100.

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

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

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

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

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

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

(b) The date of the decision.

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

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

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

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

(B) Prior to:

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

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

(c) If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent is not required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

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

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

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

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

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

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

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

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

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

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

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

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

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

SECTION 37. ORS 197A.465 is amended to read:

197A.465. (1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) "Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

(2) Except as provided in subsection (3) of this section, a metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving [a permit] **an application** under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale or rent to a particular class or group of purchasers or renters.

(3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan service district to:

(a) Adopt or enforce a use regulation, provision or requirement creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or requirement designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving [a permit] **an application** under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing.

(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this section:

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing.

(b) May apply only to multifamily structures containing at least 20 housing units.

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates.

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.

(e) Does not apply to a CCRC, as defined in ORS 101.020, that executes and records a covenant with the applicable city or county in which the CCRC agrees to operate all units within its structure as a CCRC. Units within a CCRC that are offered or converted into residential units that are for sale or rent and are not subject to ORS chapter 101 must comply with regulations, provisions or requirements adopted by the city or county that are consistent with those applicable to a new multifamily structure under subsection (3) or (4) of this section.

(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this section may offer developers one or more of the following incentives:

(a) Density adjustments.

- (b) Expedited service for local permitting processes.
- (c) Modification of height, floor area or other site-specific requirements.
- (d) Other incentives as determined by the city or county.
- (7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:
 - (a) Increase the number of affordable housing units in a development.
 - (b) Decrease the sale or rental price of affordable housing units in a development.
 - (c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.
- (8)(a) A city or county that adopts or imposes a regulation, provision or requirement described in subsection (4) of this section may not apply the regulation, provision or requirement to any multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city or county prior to the effective date of the regulation, provision or requirement.
- (b) If a multifamily structure described in paragraph (a) of this subsection has not been completed within the period required by the permit issued by the city or county, the developer of the multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application under the regulation, provision or requirement adopted by the city or county under subsection (4) of this section.
- (9)(a) A city or county that adopts or imposes a regulation, provision or requirement under subsection (4) of this section shall adopt and apply only clear and objective standards, conditions and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay.
- (b) Paragraph (a) of this subsection does not apply to:
 - (A) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.
 - (B) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.
- (c) In addition to an approval process for affordable housing based on clear and objective standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:
 - (A) The developer retains the option of proceeding under the approval process that meets the requirements of paragraph (a) of this subsection;
 - (B) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and
 - (C) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in paragraph (a) of this subsection.
- (10) If a regulation, provision or requirement adopted or imposed by a city or county under subsection (4) of this section requires that a percentage of housing units in a new multifamily structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6) of this section shall be related in a manner determined by the city or county to the required percentage of affordable housing units.

SECTION 38. ORS 197A.470 is amended to read:
197A.470. (1) As used in this section:

(a) “Affordable housing” means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater, that is subject to an affordable housing covenant, as provided in ORS 456.270 to 456.295, that maintains the affordability for a period of not less than 60 years from the date of the certificate of occupancy.

(b) “Multifamily residential building” means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) [Notwithstanding ORS 215.427 (1) or 227.178 (1),] A city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section[, including resolution of all local appeals under ORS 215.422 or 227.180,] within 100 days after the application is deemed complete **as provided in ORS 215.427 or 227.178.**

(3) An application qualifies for final action within the timeline described in subsection (2) of this section if:

(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;

(b) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary; and

(c) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing.

(4) A city or a county shall take final action within the time allowed under ORS 215.427 or 227.178 on any application [for a permit, limited land use decision or zone change] that does not qualify for review and decision under subsection (3) of this section, including resolution of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.

(5) With respect to property within an urban growth boundary owned by a nonprofit corporation organized as a religious corporation, a local government:

(a) May apply only restrictions or conditions of approval to the development of affordable housing that are, notwithstanding ORS 197A.400 (2) or statewide land use planning goals relating to protections for historic areas:

(A) Clear and objective as described in ORS 197A.400 (1); or

(B) Discretionary standards related to health, safety, habitability or infrastructure.

(b) Shall approve the development of affordable housing on property not zoned for housing if:

(A) The property is not zoned for industrial uses; and

(B) The property is contiguous to property zoned to allow residential uses.

(6) Affordable housing allowed under subsection (5)(b) of this section may be subject only to the restrictions applicable to the contiguously zoned residential property as limited by subsection (5)(a) of this section and without requiring that the property be rezoned for residential uses. If there is more than one contiguous residential property, the zoning of the property with the greatest density applies.

SECTION 39. ORS 215.402 is amended to read:

215.402. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:

(1) “Contested case” means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) “Hearing” means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS [197.360] **197.365**.

SECTION 40. 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 197A.400 (2); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197A.400 (3).

(c) A county may not 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 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 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 197.797.

(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]* **must** be based on standards and criteria *[which shall be]* **that are** 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 *[197A.200 and]* 197A.400 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]* **must** be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, 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]* **must** 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 197.797 (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 ad-

versely 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 197.797 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 197.797 (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 41. ORS 215.429 is amended to read:

215.429. (1) *[Except when an applicant requests an extension under ORS 215.427,]* If the governing body of the county or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days or 150 days, as appropriate, after the application is deemed complete,]* **within the period allowed under ORS 215.427,** the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within *[120 days or 150 days, as appropriate, of the date the application is deemed complete,]* **the period allowed under ORS 215.427,** the applicant may elect to proceed with the application according to the applicable provisions of the county comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the county comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the county comprehensive plan or land use regulations.

SECTION 42. ORS 223.299 is amended to read:

223.299. As used in ORS 223.297 to 223.316:

(1)(a) "Capital improvement" means facilities or assets used for the following:

- (A) Water supply, treatment and distribution;
- (B) Waste water collection, transmission, treatment and disposal;
- (C) Drainage and flood control;
- (D) Transportation; or
- (E) Parks and recreation.

(b) "Capital improvement" does not include costs of the operation or routine maintenance of capital improvements.

(2) "Improvement fee" means a fee for costs associated with capital improvements to be constructed.

(3) "Reimbursement fee" means a fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the local government determines that capacity exists.

(4)(a) "System development charge" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities.

(b) "System development charge" does not include any fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision[, *expedited land division*] or limited land use decision.

SECTION 43. ORS 227.160 is amended to read:

227.160. As used in ORS 227.160 to 227.186:

(1) "Hearings officer" means a planning and zoning hearings officer appointed or designated by a city council under ORS 227.165.

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS [197.360] **197.365**.

SECTION 44. ORS 227.173 is amended to read:

227.173. *[(1) Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.]*

(1) Approval or denial of a discretionary permit application must be based on standards and criteria that are set forth in the development ordinance and that relate approval or denial of a discretionary permit application to the development ordinance and the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.

(2) When an ordinance establishing approval standards is required under ORS [197A.200 and] 197A.400 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(3) Approval or denial of a permit application [*or expedited land division shall be*] **must be** based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, 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.

(4) Written notice of the approval or denial [*shall*] **must** be given to all parties to the proceeding.

SECTION 44a. ORS 227.175, as amended by section 5, chapter 111, Oregon Laws 2024, 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 is 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, including an ordinance described in ORS 197A.400 [(1)(c)] **(1)(b)(C)**. 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 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 197A.400 (2); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197A.400 (3).

(c) A city may not 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 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 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 197.797.

(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 does 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 197.797 (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 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 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 197.797 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 may 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 does 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 197.797 (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 are subject to the requirements set forth in ORS 197.195 and 197.828.

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

SECTION 45. ORS 227.179 is amended to read:

227.179. (1) *[Except when an applicant requests an extension under ORS 227.178 (5),]* If the governing body of a city or its designee does not take final action on an application *[for a permit, limited land use decision or zone change within 120 days after the application is deemed complete]* **within the period allowed under ORS 227.178**, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within *[120 days of the date the application is deemed complete]* **the period allowed under ORS 227.178**, the applicant may elect to proceed with the application according to the applicable provisions of the local comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the local comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the local comprehensive plan or land use regulations.

SECTION 46. ORS 227.184 is amended to read:

227.184. (1) A person whose application *[for a permit]* is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all

other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

(2) The governing body of a city or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the city's comprehensive plan and land use regulations.

(4) The governing body of a city or its designee shall adopt specific findings describing the reasons for approving or denying:

(a) A use for which approval is sought under this section; and

(b) A rezoning or variance requested in the application.

SECTION 47. ORS 421.649 is amended to read:

421.649. (1) The Department of Corrections shall obtain public services necessary for the construction and operation of a women's correctional facility and intake center complex in the manner provided under ORS 421.628 (4) to (15).

(2) Regardless of the territorial limits of the public body providing public services to the complex, and notwithstanding any other law, upon request or application from the department, the public body shall provide any public service necessary for the construction and operation of the complex. During the pendency of any mediation, arbitration or judicial review proceeding under this section, the public body shall provide any public service necessary for the continued construction and operation of the complex, as requested by the department.

(3) The existence of a public service provided to the complex *[shall]* **may** not be a consideration in support of or in opposition to an application for a land use decision[,] **or** limited land use decision *[or expedited land division]* under ORS chapter 197, 197A, 215 or 227.

SECTION 48. ORS 476.394 is amended to read:

476.394. (1) The minimum defensible space requirements established by the State Fire Marshal pursuant to ORS 476.392 may not be used as criteria to approve or deny:

(a) An amendment to a local government's acknowledged comprehensive plan or land use regulations.

(b) A permit, as defined in ORS 215.402 or 227.160.

(c) A limited land use decision, as defined in ORS 197.015.

(d) An expedited land division, as *[defined in ORS 197.360]* **described in ORS 197.365.**

(2) Notwithstanding subsection (1) of this section, a local government may:

(a) Amend the acknowledged comprehensive plan or land use regulations of the local government to include the requirements; and

(b) Use the requirements that are included in the amended acknowledged comprehensive plan or land use regulations as a criterion for a land use decision.

SECTION 48a. Notwithstanding section 48 of this 2025 Act (amending ORS 476.394), if Senate Bill 83 becomes law, ORS 476.394 is repealed by section 1, chapter __, Oregon Laws 2025 (Enrolled Senate Bill 83).

SECTION 49. Section 1, chapter 110, Oregon Laws 2024, is amended to read:

Sec. 1. (1) The Department of Land Conservation and Development and the Department of Consumer and Business Services shall enter into an interagency agreement to establish and administer the Housing Accountability and Production Office.

(2) The Housing Accountability and Production Office shall:

(a) Provide technical assistance, including assistance through grants, to local governments to:

(A) Comply with housing laws;

(B) Reduce permitting and land use barriers to housing production; and

(C) Support reliable and effective implementation of local procedures and standards relating to the approval of residential development projects.

(b) Serve as a resource, which includes providing responses to requests for technical assistance with complying with housing laws, to:

(A) Local governments, as defined in ORS 174.116; and

(B) Applicants for land use and building permits for residential development who are experiencing permitting and land use barriers related to housing production.

(c) Investigate and respond to complaints of violations of housing laws under section 2, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(d) Establish best practices related to model codes, typical drawings and specifications as described in ORS 455.062, procedures and practices by which local governments may comply with housing laws.

(e) Provide optional mediation of active disputes relating to housing laws between a local government and applicants for land use and building permits for residential development, including mediation under ORS 197.860.

(f) Coordinate agencies that are involved in the housing development process, including, but not limited to, the Department of Land Conservation and Development, Department of Consumer and Business Services, Housing and Community Services Department and Oregon Business Development Department, to enable the agencies to support local governments and applicants for land use and building permits for residential development by identifying state agency technical and financial resources that can address identified housing development and feasibility barriers.

(g) Establish policy and funding priorities for state agency resources and programs for the purpose of addressing barriers to housing production, including, but not limited to, making recommendations for moneys needed for the purposes of section 35, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(3) The Land Conservation and Development Commission and the Department of Consumer and Business Services shall coordinate in adopting, amending or repealing rules for:

(a) Carrying out the respective responsibilities of the departments and the office under sections 1 to 5, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

(b) Model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(c) Establishing standards by which complaints are investigated and pursued.

(4) The office shall prioritize assisting local governments in voluntarily undertaking changes to come into compliance with housing laws.

(5) As used in sections 1 to 5, **chapter 110, Oregon Laws 2024** [of this 2024 Act]:

(a) "Housing law" means ORS chapter 197A and ORS 92.010 to 92.192, 92.830 to 92.845, 197.360, **197.365** [to 197.380], 197.475 to 197.493, 197.505 to 197.540, 197.660 to 197.670, 197.748, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465 and 455.467 and administrative rules implementing those laws, to the extent that the law or rule imposes a mandatory duty on a local government or its officers, employees or agents and the application of the law or rule applies to residential development or pertains to a permit for a residential use or a division of land for residential purposes.

(b) "Residential" includes mixed-use residential development.

APPROPRIATIONS

SECTION 50. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter __, Oregon Laws 2025 (Enrolled Senate Bill 5528), for the biennium beginning July 1, 2025, for the planning program, is increased by \$2,391,599 to support rulemaking and other work related to the development of middle housing.

SECTION 51. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (2), chapter ___, Oregon Laws 2025 (Enrolled Senate Bill 5528), for the biennium beginning July 1, 2025, for grant programs, is increased by \$1,500,000 for technical assistance grants related to middle housing.

UNIT CAPTIONS

SECTION 52. The unit captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.

EMERGENCY CLAUSE

SECTION 53. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect on its passage.

Passed by House June 18, 2025

Received by Governor:

Repassed by House June 26, 2025

.....M.,....., 2025

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2025

.....
Julie Fahey, Speaker of House

.....
Tina Kotek, Governor

Passed by Senate June 24, 2025

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Rob Wagner, President of Senate

.....
Tobias Read, Secretary of State

OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE



Agenda Item 3
July 29, 2026 LCDC Meeting
Attachment C

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED: 06/30/2026 4:30 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: CORRECTED-Amendments to OAR chapter 600 division 46; creation of division 47, Oregon Homes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/02/2026 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:

Ingrid Caudel
971-701-1133
ingrid.caudel@dlcd.oregon.gov
635 Capitol St.
Ste. 150
Salem, OR 97301

Filed By:

Casaria Taylor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/29/2026

TIME: 8:00 AM

OFFICER: LCDC

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-701-1133

CONFERENCE ID: 98293831536

SPECIAL INSTRUCTIONS:

Passcode: 257663. Sign up to testify: <https://www.oregon.gov/lcd/Commission/Pages/Public-Comment.aspx>

NEED FOR THE RULE(S):

The purpose of creating Oregon Administrative Rule (OAR) 660- 047 is to establish the Oregon Homes program and create standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

The purpose of the amendment to Oregon Administrative Rule (OAR) 660-046-0020 is to provide conforming updates to the definitions of middle housing types.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

House Bill 2138 and House Bill 2258. Oregon Laws 2025, chapter 330, sections 8 and 9. Oregon Administrative Rules chapter 660, division 46. These regulations can be found on the State of Oregon Secretary of State website.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” (ORS 183.335(2)(a) (HB 2993). For the purposes of this statement, racial equity has been defined as treating people of all races fairly, justly, and without bias. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities. The proposed rules are not expected to have disparate impacts on different racial groups if fair housing rules are followed on the State and Local levels. This rule relates to the production of new housing on qualified lots, and discrimination in housing is prohibited by federal, state, and local law. The rules are designed to provide clear and objective standards to create new housing opportunities in multiple zones across Oregon cities. The provision of model code, building designs, and a completeness check or mandatory ministerial approval process should have the effect of allowing for more timely, efficient, and lower cost housing production. Groups that have historically been discriminated against in housing, including exclusion from some areas, redlining in lending, and facing other structural affordability issues will benefit from new Oregon Homes housing being supplied across all neighborhoods in formats that in theory should be more economical to build and lower cost to rent or buy. The proposed rules support multigenerational and flexible household structures through the explicit inclusion of accessory dwelling units (ADUs) and cottage clusters. Accessory dwelling units allow parents to support their children for longer while still allowing them freedom, as well as allowing children to support their parents and transition into a caregiver role. The proposed rules address some significant obstacles to building accessible dwelling units by pre-approving building plans and implementing objective standards with a measurable 10% variance allowance, relieving regulatory uncertainty for those who may find it difficult to get accurate and updated information on allowable accessible dwelling units. Additionally, permitting ADUs allows for opportunities for family wealth building through a rental unit and mitigates the chance of displacement due to the addition of lower cost housing units. The proposed rule that “local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-0050 “ (660-047-0020(1)) will help diminish entitlement risk inherent with small urban infill developments as well as make the entitlement process more predictable. This is likely to create a slight increase in the production of affordable homes, which will benefit income-limited households and provide some protection against displacement. The size caps on these will ensure that development benefiting from this comes in the form of smaller homes. The Oregon Homes program intends to expand housing choice by expediting development review of a variety of housing types. The result of increased housing production under this program is likely to have overall positive impacts for minority racial populations as more units leads to more housing choice.

FISCAL AND ECONOMIC IMPACT:

As part of the rulemaking process, a Fiscal Impact Statement is required to assess the expected degree to which “state agencies, units of local government, tribes, and the public that may be economically affected by the adoption, amendment or repeal of the rule” and must estimate the economic impact on those entities. ORS Chapter 183.335(2)(b)(E) also requires that, in determining economic impact, the agency shall “project any significant economic

effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.”

Proposed new rules include a series of specific characteristics that would be required for certification of the Oregon Homes program. Our assumption is that builders and/or developers evaluate their current plans against these requirements and determine qualified architectural plans they either have or can easily adapt. They may also commission or purchase plans meeting Oregon Homes standards. The department would expect any fiscal impacts to developers to be either neutral or positive from the new program, providing an alternative but not required path to delivering housing. For local jurisdictions, the new rules could reduce the fiscal costs of residential review. Because the program allows for a completeness check or a ministerial review of defined criteria, applications should be straightforward to evaluate. The limited review process should also reduce staff and commission time for affected projects. The rules provide clear and objective expectations and standards for homes developed as part of the program. There are many jurisdictions that may have rules that are significantly in variance with the Oregon Homes program requirements, and some of the jurisdictional requirements would be overridden by utilization of the program. The department would expect there to be no substantive fiscal impact to the tribes or state agencies. There are no additional administrative requirements for these groups under the new rules. Small and Large Businesses Property owners, developers, and home builders will have access to the program if they so choose. As we expect the program to marginally decrease construction costs, the businesses may have an increased ability to profit from qualified home production. The cost of the new rules to local jurisdictions is expected to be negligible and should result in no new revenue requirements that may impact local businesses. To the extent the program has a positive impact on housing affordability, it would be supportive of small and large businesses by providing better housing alternatives for their workforce. If the program induces a higher level of residential construction activity, it will support additional employment and construction trades and related fields.

Local Government Costs The magnitude and character of local government costs incurred will be partially a function of the program’s marginal impact on housing production. To the extent overall home construction activity is accelerated, DLCD would expect higher revenues associated with development fees, system development charges, and ongoing property taxes. This may not reflect as a fiscal positive as residential construction is associated with service requirements and costs. As the program primarily targets smaller units, and we expect the mix of units to shift to smaller, relationship between properties, tax revenues from the residential development maybe offset by service requirements associated with the new residents. Improving the housing mix in the community may benefit many business local businesses, and increase in residential density, which support a greater mix of commercial uses. The fiscal impact of adopting and administering the Oregon Homes Program under the proposed rules is expected to be modest for local jurisdictions. We would not anticipate a need for a jurisdiction to utilize a consultant team or other outside assistance for this effort.

State Agency Costs The proposed rule is expected to have a modest fiscal impact primarily on DLCD among state agencies, although other state agencies that are part of the coordination outreach may be impacted. The rules are straight forward by design. There is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government’s actions that are not consistent with this administrative rule to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records. We would expect this risk to be low due to the limited impact of these rules. The fiscal impact associated with additional DLCD staff time is expected to be minimal and no additional staffing is expected to be required.

Public We could expect that the primary shift associated with the program in favor of increased production of lower priced homes in an area. We are unsure of what percentage of developers will take advantage of the program. Marginal gains in affordability provide benefit to the public. The proposed rule amendment of division 46 will likely result in a positive fiscal or economic impact to small and large businesses such as housing developers and home builders. The proposed amendments to middle housing definitions are likely to make the development of middle housing types more feasible. The proposed rule amendments are likely to have minimal to no fiscal or economic impact to state agencies such as the Department of Land Conservation and Development. The amendments to Division 46 largely implement existing programs and does not create or materially alter existing processes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The Department of Land Conversation and Development and the Department of Consumer and Business Services will be economically impacted by this rule as it will take dedicated staff time to manage and advertise the Oregon Homes program. The economic impact to local governments is marginal and largely accounted for in regular work planning. Members of the public are anticipated to have a positive economic impact of the program, if the intended result of more housing and more housing choice is actualized. Both large and small home builders and housing developers will be able to utilize the Oregon Homes program. The intent of the program is to produce a cost savings through pre approving and therefore being able to use the same development plans across multiple jurisdictions. Architecture firms and entitlement consultants may also begin to draft plans and utilize the Oregon Homes program. To comply with these rules local governments must review development applications that have the requirements of the Oregon Homes program. They will likely use existing permitting and tracking software, staff, and equipment to conduct this work. Developers and builders will need to prepare building plans or utilize preapproved state building plans, in addition to finding a parcel or lot that meets the criteria for an Oregon Homes development. This is very similar practice to existing development proposals.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DLCD engaged representatives from the Oregon Realtors Association, Oregon Home Builders Association, and small architecture firms as part of the Rulemaking Advisory Committee. The proposed rules are not expected to have any substantive impact on any businesses not directly involved in housing production.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

ORS Chapter 183.335(2)(b)(E) and ORS 183.530 require that rules adopted by the LCDC include an “estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel.” (ORS 183.530). This Housing Impact Statement (HIS) is described in ORS 183.534. The new rules are not expected to impact the supply of available housing land. The rules are expected to have substantive impact on the cost of providing housing and/or the pace of construction. The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions. The rules are likely to result in a net reduction in costs for those who opt to use the Oregon Homes approach to development. The rule cannot directly impact the cost of materials, or the going rate of labor in the construction industries, both of which are set by the market. However, by creating standardization and certainty in the building process for those who use this system, there is the potential over time to create efficiencies among developers/construction firms who become familiar with the system and thus standardize their own processes to produce qualified Oregon Home units. This would be expected to reduce the time and labor needed to construct an Oregon Homes unit over a custom unit that carries more uncertainty and unexpected circumstances during planning, permitting, and construction. To the extent that the Oregon Homes are limited in size (2,200 sq.ft., or 1,400 sq.ft. for MFR) these units might have lower costs in a local housing market where the average unit is larger than these maximums. For instance, in a local market where the average newly built home is 2,750 sq.ft., qualifying Oregon Homes units would be expected to cost less in materials, and potentially labor, than the average unit. The lack of an on-site parking requirement may significantly reduce costs vs. plans that

require a driveway or garage space. A newly laid driveway may add \$15k to \$20k to project cost, while a new garage may range anywhere from \$60k to \$120k depending on standard. The ability to request a 10% variance by right to such standards as setbacks, pedestrian entry orientation, and outdoor characteristics has the potential to impact costs marginally depending on the nature of the variance. In practice, variances that reduce costs are most likely to be requested, but in some cases variance may marginally increase construction cost if deemed necessary to facilitate some other aspect of the project. Similarly, to the extent that any of the clear and objective standards adopted in this Oregon Homes rule are more flexible than the pre-existing standards of a local jurisdiction they have the potential to allow for cost-reducing solutions in site planning and building design that might not otherwise be permitted in a non-Oregon Homes project. The Oregon Homes project has the potential to significantly reduce administrative and development "soft costs" for construction projects by creating more certainty in the application process, providing permit-ready designs, and reducing plans review and permitting timeline. The availability of permit-ready designs following established standards, with required completeness check or ministerial (Type I) approval may reduce costs in the initial phases of the project for builder who want to use the Oregon Homes system. As builders become familiar with qualified plans and construction forms, architecture and engineering costs for future projects could be substantially reduced. The reduction in time and uncertainty in the approval process also has the potential to significantly reduce costs. Many builders carry loans during the planning and permitting phase of a project. Interest on these loans accrue during long and difficult permitting processes. They also typically have significant equity tied up in the projects. The Oregon Homes program can help shorten pre-development phase to a predictable timeframe. Clear and objective standards should reduce the need for multiple design iterations and back-and-forth with staff and officials before approval. Proposed tree standards in the rule do not meaningfully change existing requirements and therefore are unlikely to impact costs. A new fee-in-lieu option is allowed to local governments. Depending on the local fees adopted under this rule, the fee-in-lieu may either increase or decrease costs relative to other options. Though applicants should be expected to opt for the lowest cost option, all else being equal.

RULES PROPOSED:

660-046-0000, 660-046-0010, 660-046-0020, 660-046-0030, 660-046-0040, 660-046-0050, 660-046-0100, 660-046-0105, 660-046-0110, 660-046-0115, 660-046-0120, 660-046-0125, 660-046-0130, 660-046-0200, 660-046-0205, 660-046-0210, 660-046-0215, 660-046-0220, 660-046-0225, 660-046-0226, 660-046-0230, 660-046-0235, 660-046-0300, 660-046-0310, 660-046-0320, 660-046-0330, 660-046-0340, 660-046-0350, 660-046-0360, 660-046-0370, 660-047-0000, 660-047-0010, 660-047-0020, 660-047-0030, 660-047-0040, 660-047-0050

AMEND: 660-046-0000

RULE SUMMARY: This rule states the purpose to establish standards for the development of middle housing types.

CHANGES TO RULE:

660-046-0000

Purpose

The purpose of this division is to prescribe standards guiding the development of Middle Housing types as provided in Oregon Laws 2019, chapter 639. OAR 660-046-0010 to OAR 660-046-0235 establish standards related to the siting and design of Middle Housing types in urban growth boundaries. OAR 660-046-0300 to OAR 660-046-0370 establish the form and substance of an application and the review process to delay the enactment of standards related to the siting and design of Middle Housing types in areas with significant infrastructure deficiencies.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758, 420

RULE SUMMARY: This rule describes which local governments are subject to the provisions of the division and in which areas of the city's urban growth boundary. The rule also describes how a city may regulate middle housing in conjunction with protective measures the city may have adopted to be in compliance with the statewide land use planning goals.

CHANGES TO RULE:

660-046-0010

Applicability

(1) A local government that is a Medium City or Large City must comply with this division.¶

(2) Notwithstanding section (1), a Medium or Large City need not comply with this division for:¶

(a) Lots or Parcels that are not zoned for residential use, including but not limited to Lots or Parcels zoned primarily for commercial, industrial, agricultural, or public uses;¶

(b) Lots or Parcels that are Zoned For Residential Use but do not allow for the development of a detached single-family unit dwelling; and¶

(c) Lots or Parcels that are not incorporated and that are zoned under an interim zoning designation that maintains the land's potential for planned urban development.¶

(3) A Medium or Large City may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. Where Medium and Large Cities have adopted, or shall adopt, regulations implementing the following statewide planning goals, the following provisions provide direction as to how those regulations shall be implemented in relation to Middle Housing, as required by this rule.¶

(a) Goal 5: Natural Resources, Scenic, and Historic Areas - OAR chapter 660, division 23, prescribes procedures, and in some cases, standards, for complying with Goal 5. OAR chapter 660, division 16 directed implementation of Goal 5 prior to division 23. Local protection measures adopted pursuant to divisions 23 and 16 are applicable to Middle Housing.¶

(A) Goal 5 Natural Resources - Pursuant to OAR 660-023-0050 through OAR 660-023-0110, Medium and Large Cities must adopt land use regulations to protect water quality, aquatic habitat, and the habitat of threatened, endangered and sensitive species. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 5.¶

(i) Medium and Large Cities may apply regulations to Duplexes that apply to detached single-family unit dwellings in the same zone;¶

(ii) Medium and Large Cities may limit the development of Middle Housing other than Duplexes in significant resource sites identified and protected pursuant to Goal 5; and¶

(iii) If a Medium or Large City has not adopted land use regulations pursuant to OAR 660-023-0090, it must apply a 100-foot setback to Middle Housing developed along a riparian corridor.¶

(B) Goal 5: Historic Resources - Pursuant to OAR 660-023-0200(7), Medium and Large Cities must adopt land use regulations to protect locally significant historic resources. This includes regulations applicable to Middle Housing to comply with protective measures as it relates to the integrity of a historic resource or district. Protective measures shall be adopted and applied as provided in OAR 660-023-0200. Medium and Large Cities may apply regulations adopted under OAR 660-023-0200 to Middle Housing that apply to detached single-family unit dwellings in the same zone, except as provided below. If a Medium or Large City has not adopted land use regulations to protect significant historic resources listed on the National Register of Historic Places, it must apply protective measures to Middle Housing as provided in OAR 660-023-0200(8)(a) until the Medium or Large City adopts land use regulations in compliance with OAR 660-023-0200. Medium or Large Cities may not apply the following types of regulations specific to Middle Housing:¶

(i) Use, density, and occupancy restrictions that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family unit dwellings; and¶

(ii) Standards that prohibit the development of Middle Housing on historic properties or districts that otherwise permit the development of detached single-family unit dwellings.¶

(b) Goal 6: Air, Water and Land Resources Quality - Pursuant to OAR 660-015-0000(6), a Medium or Large City may limit development within an urban growth boundary to support attainment of federal and state air, water, and land quality requirements. Medium and Large Cities may apply regulations adopted pursuant to Goal 6 to the development of Middle Housing.¶

(c) Goal 7: Areas Subject to Natural Hazards - Pursuant to OAR 660-015-0000(7), Medium and Large Cities must adopt comprehensive plans (inventories, policies, and implementing measures) to reduce risk to people and property from natural hazards. Such protective measures adopted pursuant to Goal 7 apply to Middle Housing, including, but not limited to, restrictions on use, density, and occupancy in the following areas:¶

(A) Special Flood Hazard Areas as identified on the applicable Federal Emergency Management Agency Flood Insurance Rate Map; and¶¶

(B) Other hazard areas identified in an adopted comprehensive plan or development code, provided the Medium or Large City determines that the development of Middle Housing presents a greater risk to life or property than the development of detached single-family-unit dwellings from the identified hazard. Greater risk includes but is not limited to actions or effects such as:¶¶

(i) Increasing the number of people exposed to a hazard;¶¶

(ii) Increasing risk of damage to property, built, or natural infrastructure; and¶¶

(iii) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.¶¶

(d) Goal 9: Economic Development - Pursuant to OAR 660-009-0025, Medium and Large Cities must adopt measures adequate to implement industrial and other employment development policies, including comprehensive plan designations. Medium and Large Cities may limit the development of Middle Housing on Lots or Parcels Zoned For Residential Use designated for future industrial or employment uses.¶¶

(e) Goal 11: Public Facilities and Services - Pursuant to OAR 660-011-0020(2), a public facility plan must identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. This includes public facility projects to support the development of Middle Housing in areas zoned for residential use that allow for the development of detached single-family-unit dwellings. Following adoption of Middle Housing allowances by a Large City, the Large City shall work to ensure that infrastructure serving undeveloped or underdeveloped areas, as defined in OAR 660-046-0320(8), where Middle Housing is allowed is appropriately designed and sized to serve Middle Housing.¶¶

(f) Goal 15: Willamette Greenway - Pursuant to OAR 660-015-0005, Medium and Large Cities must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Medium and Large Cities may allow and regulate the development of Middle Housing in the Willamette Greenway, provided that applicable regulations adopted pursuant to Goal 15 comply with ORS 197.307-400.¶¶

(g) Goal 16: Estuarine Resources - Pursuant to OAR 660-015-0010(1) and OAR chapter 660, division 17, Medium and Large Cities must apply land use regulations that protect the estuarine ecosystem, including its natural biological productivity, habitat, diversity, unique features, and water quality. Medium and Large Cities may prohibit Middle Housing in areas regulated to protect estuarine resources under Goal 16 in the same manner as the Medium or Large City prohibits detached single-family-unit dwellings to protect estuarine resources under Goal 16.¶¶

(h) Goal 17: Coastal Shorelands - Pursuant to OAR 660-015-0010(2) and OAR 660-037-0080, local governments must apply land use regulations that protect shorelands for water-dependent recreational, commercial, and industrial uses. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 17. Local governments may apply regulations to Middle Housing that apply to detached single-family-unit dwellings in the same zone.¶¶

(i) Goal 18: Beaches and Dunes - Pursuant to OAR 660-015-0010(3), Medium and Large Cities must apply land use regulations to residential developments to mitigate hazards to life, public and private property, and the natural environment in areas identified as Beaches and Dunes under Goal 18. This includes regulations applicable to Middle Housing to comply with protective measures adopted pursuant to Goal 18 including but not limited to restrictions on use, density, and occupancy; provided the development of Middle Housing presents a greater risk to life or property than development of detached single-family-unit dwellings. Greater risk includes but is not limited to actions or effects such as:¶¶

(A) Increasing the number of people exposed to a hazard;¶¶

(B) Increasing risk of damage to property, built or natural infrastructure; and¶¶

(C) Exacerbating the risk by altering the natural landscape, hydraulics, or hydrology.¶¶

(4) For the purposes of assisting local jurisdictions in adopting reasonable siting and design standards for Middle Housing, the applicable Model Code adopted in this section will be applied to A Local Government That Has Not Acted to comply with the provisions of ORS 197.758A.420 and this division. For such Medium and Large Cities, the applicable Model Code completely replaces and pre-empts any provisions of those Medium and Large Cities' development codes that conflict with the Model Code. The Commission adopts the following Middle Housing Model Codes:¶¶

(a) The Medium City Model Code as provided in Exhibit A; and¶¶

(b) The Large City Model Code as provided in Exhibit B.¶¶

(5) This division does not prohibit Medium or Large Cities from allowing:¶¶

(a) Single-family-unit dwellings in areas zoned to allow for single-family-unit dwellings; or¶¶

(b) Middle Housing in areas not required under this division.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

NOTE: Attachments referenced are attached to this document. You may view the attachment 660-046-0010.pdf from the Attachments panel. Alternately, you may view the attachments at the following link:

<https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=337365>

RULE SUMMARY: This rule defines terms and phrases that are used throughout the division.

CHANGES TO RULE:

660-046-0020

Definitions

As used in this division, the definitions in ORS 197.015 and ORS 197.758A.420 apply, unless the context requires otherwise. In addition, the following definitions apply:¶

(1) "A Local Government That Has Not Acted" means a Medium or Large City that has not adopted acknowledged land use regulations that are in compliance with ORS 197.758A.420 and this division.¶

(2) "Cottage Cluster" means a grouping of ~~no fewer than four detached dwelling~~dwelling units that:¶

~~(a) Are attached in subgroupings of up to four units per acre with a footprint of less than 900 square feet each that includes a common courtyard. A Medium or Large City may allow Cottage Cluster units to be located on a single Lot or Parcel, or on individual Lots or Parcel, or detached in any configuration; with no limitation on the total number of cottage cluster units;¶~~

~~(b) Have a common courtyard; and¶~~

~~(c) Each have a small footprint or floor area such that units have an average of 1,400 square feet;¶~~

~~(A) To be calculated excluding porches and garages; and¶~~

~~(B) Nothing in this subsection prohibits a local government from regulating renovations, remodels, additions, or nonconforming uses after development occurs.¶~~

(3) "Department" means the Department of Land Conservation and Development.¶

(4) "Design Standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.¶

(5) "Detached single-family unit dwelling" means a detached structure on a Lot or Parcel that is comprised of a single dwelling unit.¶

~~(6) "Duplex" means two attached dwelling units on a Lot or Parcel. A Medium or Large City may define the same meaning a Duplex to include two detached dwelling units on a Lot or Parcel, provided in ORS 197A.420(1)(d).¶~~

(7) "Goal Protected Lands" means lands protected or designated pursuant to any one of the following statewide planning goals:¶

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;¶

(b) Goal 6 Air, Water and Land Resource Quality;¶

(c) Goal 7 Areas Subject to Natural Hazards;¶

(d) Goal 9 Economic Development;¶

(e) Goal 15 Willamette River Greenway;¶

(f) Goal 16 Estuarine Resources;¶

(g) Goal 17 Coastal Shorelands; and¶

(h) Goal 18 Beaches and Dunes.¶

(8) "Large City" means a city with a certified Portland State University Population Research Center estimated population of 25,000 or more, or a city with a population over 1,000 within a metropolitan service district. ~~A Large City includes unincorporated areas of counties within a metropolitan service district that are provided with sufficient urban services as defined in ORS 195.065. Sufficient urban services me,~~ A Large City includes:¶

~~(a) Regardless of size, any city within Tillamook County and the communities of Barview/Twin Rocks/Watseco, Cloverdale, Hebo, Neahkahnie, Neskowin, Netarts, Oceanside and Pacific City/Woods; and¶~~

~~(b) Unincorporated lands areas that are within an urban service district boundary of counties within Metro.¶~~

(9) "Lot or Parcel" means any legally created unit of land.¶

(10) "Master Planned Community" means a site that is any one of the following:¶

(a) Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary that is zoned for or proposed to be Zoned For Residential Use, and which is not currently developed with urban residential uses, for which a Large City proposes to adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan;¶

(b) Greater than 20 acres in size within a Large City or adjacent to the Large City within the urban growth boundary for which a Large City adopted, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan after the site was incorporated into the urban growth boundary; or¶

(c) Added to the Large City's urban growth boundary after January 1, 2021 for which the Large City proposes to

adopt, by resolution or ordinance, a master plan or a plan that functions in the same manner as a master plan.¶¶

(11) "Medium City" means a city with a certified Portland State University Population Research Center estimated population more than 10,02,500 and less than 25,000 and not within a Metropolitan service district.¶¶

~~(12) "Middle Housing" means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.¶¶~~

(12) "Middle Housing" has the same meaning as provided in ORS 197A.420(1)(e).¶¶

(13) "Model Code" means the applicable Model Code developed by the Department and contained in the exhibits in OAR 660-046-0010(4).¶¶

(14) "Quadplex" ~~means four attached dwelling units on a Lot or Parcel. A Large City may define a Quadplex to include any configuration of four detached or attached dwelling units on one Lot or Parcel.~~ has the same meaning as provided in ORS 197A.420(1)(g).¶¶

(15) "Siting Standard" means a standard related to the position, bulk, scale, or form of a structure or a standard that makes land suitable for development. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.¶¶

(16) "Sufficient Infrastructure" means the following level of public services to serve new Triplexes, Quadplexes, Townhouses, or Cottage Cluster development:¶¶

(a) Connection to a public sewer system capable of meeting established service levels;¶¶

(b) Connection to a public water system capable of meeting established service levels;¶¶

(c) Access via public or private streets meeting adopted emergency vehicle access standards to a city's public street system; and¶¶

(d) Storm drainage facilities capable of meeting established service levels for storm drainage.¶¶

~~(17) "Townhouse" means a dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual Lot or Parcel and shares at least one common wall with an adjacent dwelling unit.~~ has the same meaning as provided in ORS 197A.420(1)(h).¶¶

(18) "Townhouse Project" means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the Townhouse property lines and the any commonly owned property.¶¶

~~(19) "Triplex" means three attached dwelling units on a Lot or Parcel. A Large City may define a Triplex to include any configuration of three detached or attached dwelling units on one Lot or Parcel.¶¶~~

~~(20) "Zoned for Residential Use" means a zoning district in which residential dwellings are the primary use and which implements a residential comprehensive plan map designation.~~ same meaning as provided in ORS 197A.420(1)(i).¶¶

(20) "Zoned for Residential Use" has the same meaning as provided in ORS 197A.420(1)(j).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0030

RULE SUMMARY: Updated statute implemented.

CHANGES TO RULE:

660-046-0030

Implementation of Middle Housing Ordinances

(1) Before a local government amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the local government must submit the proposed amendment to the Department for review and comment pursuant to OAR chapter 660, division 18.¶¶

(2) In adopting or amending regulations or amending a comprehensive plan to allow Middle Housing, a local government must include findings demonstrating consideration, as part of the post-acknowledgement plan amendment process, of methods to increase the affordability of Middle Housing through ordinances or policies that include but are not limited to:¶¶

(a) Waiving or deferring system development charges;¶¶

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

(c) Assessing a construction tax under ORS 320.192 and ORS 320.195.¶¶

(3) When a local government amends its comprehensive plan or land use regulations to allow Middle Housing, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758 A.420

RULE SUMMARY: This rule describes what actions are required of cities in order to comply with the requirements of ORS 197.758. The rule outlines the implications of not acting to comply with the requirements of ORS 197.758 including in circumstances where land use regulations are appealed.

CHANGES TO RULE:

660-046-0040

Compliance

(1) A Medium or Large City may adopt land use regulations or amend its comprehensive plan to comply with ORS ~~197.758~~A.420 and the provisions of this division.¶¶

(2) A Medium or Large City may request from the Department an extension of the time allowed to complete the action under section (1) pursuant to the applicable sections of OAR 660-046-0300 through OAR 660-046-0370.¶¶

(3) A Medium City which is A Local Government That Has Not Acted by ~~June 30~~January 1, 2024, or within one year of qualifying as a Medium City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) ~~in its entirety to all proposed Middle Housing development applications~~ until such time as the Medium City has adopted provisions under section (1).¶¶

(4) A Large City which is A Local Government That Has Not Acted by ~~June 30~~January 1, 2022, or within two years of qualifying as a Large City pursuant to OAR 660-046-0050 and has not received an extension under section (2), shall directly apply the applicable Model Code contained in OAR 660-046-0010(4) for the specific Middle Housing type that is not in compliance with the relevant rules in this division to all proposed development applications for that specific Middle Housing type until such time as the Large City has adopted provisions under section (1).¶¶

(5) If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large City's land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court solely on procedural grounds, the Medium or Large City is deemed to have acted. Accordingly, the Medium or Large City may continue to apply its own land use regulations and comprehensive plan as they existed prior to the adoption of land use regulations or comprehensive plan amendments that were the subject of procedural remand until the first of the two options:¶¶

(a) The Medium or Large City has adopted land use regulations or amended its comprehensive plan in response to the remand; or¶¶

(b) 120 days after the date of the remand. If the Medium or Large City has not adopted land use regulations or amended its comprehensive plan within 120 days of the date of the remand, the Medium or Large City is deemed not to have acted under sections (3) and (4).¶¶

(6) If a Medium or Large City has adopted land use regulations or amended its comprehensive plan by the date provided under sections (3) and (4) and the Medium or Large city's land use regulations or comprehensive plan changes are subsequently remanded by the Land Use Board of Appeals or an appellate court on any substantive grounds, the Medium or Large City is deemed to have not acted under sections (3) and (4).¶¶

(7) If a Medium or Large City acknowledged to be in compliance with this division subsequently amends its land use regulations or comprehensive plan, and those amendments are remanded by the Land Use Board of Appeals or an appellate court, the Medium or Large City shall continue to apply its land use regulations and comprehensive plan as they existed prior to the amendments until the amendments are acknowledged.¶¶

(8) Where a Medium or Large City directly applies the Model Code in accordance with sections (3), (4) and (5), the Model Code completely replaces and pre-empts any provisions of that Medium or Large City's development code that conflict with the applicable sections of the Model Code.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS ~~197.758~~A.420

AMEND: 660-046-0050

RULE SUMMARY: This rule describes which local governments must comply with middle housing requirements for Medium and Large Cities.

CHANGES TO RULE:

660-046-0050

Eligible Local Governments

(1) If a local government was not previously a Medium City and a certified Portland State University Population Research Center population estimate qualifies it as a Medium City, the local government must comply with this division within one year of its qualification as a Medium City.¶

(2) If a local government was not previously a Large City and a certified Portland State University Population Research Center population estimate qualifies it as a Large City, the local government must comply with this division within two years of its qualification as a Large City.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0100

RULE SUMMARY: This rule describes the purpose of middle housing rules for Medium Cities.

CHANGES TO RULE:

660-046-0100

Purpose of Middle Housing in Medium Cities

OAR 660-046-0105 through OAR 660-046-0130 are intended to measure compliance with ORS 197.~~758~~A.420 et seq and Goal 10 Housing for Medium Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0105

RULE SUMMARY: This rule describes the requirements for middle housing in medium cities.

CHANGES TO RULE:

660-046-0105

Applicability of Middle Housing in Medium Cities

(1) A Medium City must allow for the development of a Duplex, including those Duplexes created through conversion of an existing detached single-family unit dwelling, on each Lot or Parcel zoned for residential use that allows for the development of detached single-family unit dwellings.¶

(2) OAR 660-046-0105 through OAR 660-046-0130 do not require a Medium City to allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0110

RULE SUMMARY: This rule outlines the provisions a city may adopt to regulate the siting and design of middle housing in medium cities. This rule also includes a description of which standards cause unreasonable cost and delay to the development of middle housing in medium cities.

CHANGES TO RULE:

660-046-0110

Provisions Applicable to Duplexes in Medium Cities

(1) Medium Cities may regulate Duplexes to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).¶¶

(2) Medium Cities may regulate siting and design of Duplexes, provided that the regulations:¶¶

(a) Are clear and objective standards, conditions, or procedures consistent with ORS 197.307A.400; and¶¶

(b) Do not, individually or cumulatively, discourage the development of Duplexes through unreasonable costs or delay.¶¶

(3) Siting and design standards that create unreasonable cost and delay include any standards applied to Duplex development that are more restrictive than those applicable to detached single-family unit dwellings in the same zone.¶¶

(4) Siting and design standards that do not, individually or cumulatively, discourage the development of Duplexes through unreasonable cost and delay include only the following:¶¶

(a) Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);¶¶

(b) Permitted uses and approval process provided in OAR 660-046-0115;¶¶

(c) Siting standards provided in OAR 660-046-0120;¶¶

(d) Design standards in Medium Cities provided in OAR 660-046-0125;¶¶

(e) Duplex Conversions provided in OAR 660-046-0130; and¶¶

(f) Any siting and design standards in the Model Code contained in section OAR 660-046-0010(4)(a).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0115

RULE SUMMARY: This rule states the approval process that medium cities must use to review development applications for middle housing.

CHANGES TO RULE:

660-046-0115

Permitted Uses and Approval Process

Medium Cities must apply the same approval process to Duplexes as detached single-family unit dwellings in the same zone. Pursuant to ~~OAR 660-007-0015~~, OAR 660-008-0015, and ORS 197.307A.400, Medium Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Duplexes. Nothing in this rule prohibits a Medium City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in ~~OAR 660-007-0015(2)~~, OAR 660-008-0015(2), and ORS 197.307A.400(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0120

RULE SUMMARY: This rule describes reasonable siting standards that a medium city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0120

Duplex Siting Standards in Medium Cities

The following standards apply to all Duplexes:¶¶

(1) Minimum Lot or Parcel Size: A Medium City may not require a minimum Lot or Parcel size that is greater than the minimum Lot or Parcel size required for a detached single-family~~unit~~ dwelling in the same zone. Additionally, Medium Cities shall allow the development of a Duplex on any property zoned to allow detached single-family~~unit~~ dwellings, which was legally created prior to the Medium City's current lot size minimum for detached single-family~~unit~~ dwellings in the same zone.¶¶

(2) Density: If a Medium City applies density maximums in a zone, it may not apply those maximums to the development of Duplexes.¶¶

(3) Setbacks: A Medium City may not require setbacks to be greater than those applicable to detached single-family~~unit~~ dwellings in the same zone.¶¶

(4) Height: A Medium City may not apply lower maximum height standards than those applicable to detached single-family~~unit~~ dwellings in the same zone.¶¶

(5) Parking:¶¶

(a) A Medium City may not require more than a total of two off-street parking spaces for a Duplex.¶¶

(b) Nothing in this section precludes a Medium City from allowing on-street parking credits to satisfy off-street parking requirements.¶¶

(6) Lot Coverage and Floor Area Ratio: Medium Cities are not required to apply lot coverage or floor area ratio standards to new Duplexes. However, if the Medium City chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for a Duplex that is less than established for detached single-family~~unit~~ dwelling in the same zone.¶¶

(7) A Medium City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family~~unit~~ dwelling development must allow the granting of the same exceptions to Duplexes.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758~~A.420~~

AMEND: 660-046-0125

RULE SUMMARY: This rule describes reasonable design standards that a medium city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0125

Duplex Design Standards in Medium Cities

(1) Medium Cities are not required to apply design standards to new Duplexes. However, if the Medium City chooses to apply design standards to new Duplexes, it may only apply the same clear and objective design standards that the Medium City applies to detached single-family unit structures in the same zone.¶

(2) A Medium City may not apply design standards to Duplexes created as provided in OAR 660-046-0130.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758, 420

AMEND: 660-046-0130

RULE SUMMARY: This rule describes specific situations in which a property owner may convert an existing single-family detached dwelling into a duplex in a medium city.

CHANGES TO RULE:

660-046-0130

Duplex Conversions

Conversion of an existing detached single-family ~~unit~~ dwelling to a Duplex is allowed, pursuant to OAR 660-046-0105(2), provided that the conversion does not increase nonconformance with applicable clear and objective standards in the Medium City's development code, unless increasing nonconformance is otherwise allowed by the Medium City.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758 ~~A.420~~

AMEND: 660-046-0200

RULE SUMMARY: This rule describes the purpose of middle housing rules for Large Cities.

CHANGES TO RULE:

660-046-0200

Purpose of Middle Housing in Large Cities

OAR 660-046-0205 through OAR 660-046-0235 are intended to measure compliance with ORS 197.~~758~~A.420 and Goal 10 Housing for Large Cities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.~~758~~A.420

RULE SUMMARY: This rule describes the requirements for middle housing in large cities.

CHANGES TO RULE:

660-046-0205

Applicability of Middle Housing in Large Cities

(1) A Large City must allow for the development of Duplexes in the same manner as required for Medium Cities in OAR 660-046-0100 through OAR 660-046-0130.¶¶

(2) A Large City must allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through additions to or conversions of existing detached single-family-unit dwellings, in areas zoned for residential use that allow for the development of detached single-family-unit dwellings. A Large City may regulate or limit development of these types of Middle Housing on the following types of lands:¶¶

(a) Goal-Protected Lands: Large Cities may regulate Middle Housing on Goal-Protected Lands as provided in OAR 660-046-0010(3);¶¶

(b) Master Planned Communities: Large Cities may regulate the development of Middle Housing in Master Planned Communities as follows:¶¶

(A) A Large City may regulate Middle Housing in Master Planned Communities created through the adoption, by resolution or ordinance, of a master plan, or plan that functions in the same manner as a master plan, after January 1, 2021, by either allowing the development of all Middle Housing types as provided in OAR 660-046-0205 through OAR 660-046-0235, or through implementation of one or more of the following actions:¶¶

(i) Plan to provide urban water, sanitary sewer, stormwater, and transportation systems that accommodate at least 20 dwelling units per net acre if located within a metropolitan service district boundary, and 15 dwelling units per net acre if located outside of a metropolitan service district boundary. The Large City may require the applicant demonstrate, through an amended public facility plan or similar mechanism, the sufficient provision of public services needed to serve the proposed development, if a proposed Middle Housing development exceeds the planned public service capacity of a master plan. A Large City may require a mix of two or more Middle Housing types within an adopted master plan or portions of a master plan. A Large City may designate areas within the adopted master plan exclusively for other housing types, such as multi-family-unit residential structures of five dwelling units or more or manufactured home parks; or,¶¶

(ii) Plan to provide urban water, sanitary sewer, stormwater, and transportation systems based on the implementation of a variable rate infrastructure fee or system development charge or impact fee that more accurately reflects the actual cost of providing urban services to Middle Housing and other housing types in an adopted master plan and which incentivize the development of Middle Housing and smaller and more affordable housing types generally by reducing development cost. Pursuant to ORS 223.304, a Large City, or other service provider, may establish a variable rate system development charge, comprised of reimbursement fees or improvement fees, or a combination, to residential development in a Master Planned Community. The charge or fee may be calculated by total square footage, anticipated occupancy of housing types, by unit type, or other metric as defined by the service provider; or,¶¶

(iii) Require applications for residential development within a Master Planned Community to develop a mix of residential types, including at least two Middle Housing types other than Duplexes. A Large City may adopt a master plan or a plan that functions in the same manner as a master plan which designates areas within the Master Planned Community exclusively for housing types other than detached single-family-unit dwellings, such as multi-family-unit residential structures of five dwelling units or more or manufactured home parks.¶¶

(B) If a Large City has adopted a master plan or a plan that functions in the same manner as a master plan before January 1, 2021, it may limit the development of Middle Housing other than Duplexes provided it authorizes in the entire master plan area a net residential density of at least eight dwelling units per acre and allows all dwelling units, at minimum, to be detached single-family-unit dwellings or Duplexes. A Large City may only apply this restriction to portions of the area not developed as of January 1, 2021, and may not apply this restriction after the initial development of any area of the master plan or a plan that functions in the same manner as a master plan, except that a Large City may prohibit redevelopment of other housing types, such as multi-family-unit residential structures and manufactured home parks.¶¶

(c) Impacted by State or Federal Law: A Large City must demonstrate that regulations or limitations of Middle Housing other than Duplexes are necessary to implement or comply with an established state or federal law or regulation on these types of lands.¶¶

(3) A Large City may:¶¶

(a) Allow for the development of Triplexes, Quadplexes, Townhouses, and Cottage Clusters, including those created through conversion of existing detached single-family-unit dwellings, in areas zoned for residential use that

allow for the development of detached single-family-unit dwellings as provided in OAR 660-046-0205 through OAR 660-046-0235; or

(b) Apply separate minimum lot size and maximum density provisions than what is provided in OAR 660-046-0220, provided that the applicable Middle Housing type other than Duplexes is allowed on the following percentage of Lots and Parcels zoned for residential use that allow for the development of detached single-family-unit dwellings, excluding lands described in subsection (2):

(A) Triplexes - Must be allowed on 80 percent of Lots or Parcels;

(B) Quadplexes - Must be allowed on 70 percent of Lots or Parcels;

(C) Townhouses - Must be allowed on 60 percent of Lots or Parcels; and

(D) Cottage Clusters - Must be allowed on 70 percent of Lots or Parcels.

(E) A Middle Housing type is considered "allowed" on a Lot or Parcel when the following criteria are met:

(i) The Middle Housing type is a permitted use on that Lot or Parcel under the same administrative process as a detached single-family-unit dwelling in the same zone;

(ii) The Lot or Parcel has sufficient square footage to allow the Middle Housing type within the applicable minimum lot size requirement;

(iii) Maximum density requirements do not prohibit the development of the Middle Housing type on the subject Lot or Parcel; and

(iv) The applicable siting or design standards do not individually or cumulatively cause unreasonable cost or delay to the development of that Middle Housing type as provided in OAR 660-046-0210(3).

(F) A Large City must ensure the equitable distribution of Middle Housing by allowing, as defined in paragraph (3)(b)(E) above, at least one Middle Housing type other than Duplexes and Cottage Clusters on 75 percent or more of all Lots or Parcels zoned for residential use that allow for the development of detached single-family-unit dwellings within each census block group, with at least four eligible Lots and Parcels as described in section (2), within a Large City.

(G) Large Cities must demonstrate continuing compliance with subsection (3)(b) at the following intervals:

(i) At the initial submittal of a Middle Housing comprehensive plan or land use regulation change, in accordance with OAR chapter 660, division 18;

(ii) At any future Housing Capacity Analysis deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required earlier than six years after initial adoption of acknowledged land use regulations in compliance with this division; and

(iii) With any future comprehensive plan or land use regulation changes that implements this division, in accordance with OAR chapter 660, division 18, for Large Cities that are not subject to the Housing Capacity Analysis deadline as provided in OAR 660-008-0045, except that a demonstration of continuing compliance will not be required more frequently than once every six years after initial adoption of acknowledged land use regulations in compliance with this division.

(4) Pursuant to OAR 660-046-0205 through OAR 660-046-0235, the following numerical standards related to Middle Housing types apply:

(a) Duplexes - Large Cities may allow more than two dwellings units on a Lot or Parcel, including any accessory dwelling units.

(b) Triplexes and Quadplexes - Large Cities may allow more than four dwelling units on a Lot or Parcel, including any accessory dwelling units.

(c) Townhouses - Large Cities must require at least two attached Townhouse dwelling units and must allow up to four attached Townhouse units subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. A Large City may allow five or more attached Townhouse dwelling units.

(d) Cottage Clusters -

(A) A Large City is not required to set a minimum number of dwelling units in a Cottage Cluster, but if it chooses to, it may require a minimum of three, four, or five dwelling units in a Cottage Cluster. A Large City may allow, but may not require, greater than five units in a Cottage Cluster.

(B) A Large City must allow up to eight cottages per common courtyard subject to applicable siting or design standards as provided in OAR 660-046-0220 through OAR 660-046-0235. Nothing in this section precludes a Large City from permitting greater than eight dwelling units per common courtyard.

(5) A Large City may require that applicants for a partition, subdivision, replat, property line adjustment, or planned unit development not meeting the definition of a Master Planned Community specify, for the purpose of public facilities planning, the anticipated development of Middle Housing on Lots or Parcels resulting from the partition, subdivision, replat, property line adjustment, or planned unit development. Should an applicant subsequently submit a proposal for residential development exceeding the planned public facilities as specified in the partition, subdivision, replat, property line adjustment, or planned unit development approval, the city may withhold issuance of building permits until the public facility deficiency is remediated. This subsection does not apply to Middle Housing Land Divisions as provided in ORS 92.031.

(6) A Large City may require applicants of Middle Housing to provide the same right-of-way dedications, frontage improvements, and connectivity standards that would apply to detached single-family ~~unit~~ dwellings on the same Lot or Parcel, including applicable exemptions related to proportionality.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758 ~~A.420~~

AMEND: 660-046-0210

RULE SUMMARY: This rule outlines the provisions that Large Cities must apply to middle housing.

CHANGES TO RULE:

660-046-0210

Provisions Applicable to Middle Housing in Large Cities

(1) Large Cities may regulate Middle Housing to comply with protective measures, including plans, policies and regulations, as provided in OAR 660-046-0010(3).¶

(2) Large Cities may regulate siting and design of Middle Housing, provided that the regulations:¶

(a) Are clear and objective standards, conditions, or procedures consistent with the requirements of ORS 197.307 ~~A.400~~; and¶

(b) Do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable costs or delay.¶

(3) Siting and design standards that do not, individually or cumulatively, discourage the development of Middle Housing through unreasonable cost and delay include only the following:¶

(a) Regulations to comply with protective measures adopted pursuant to statewide land use planning goals provided in OAR 660-046-0010(3);¶

(b) Permitted uses and approval processes provided in OAR 660-046-0215;¶

(c) Siting standards provided in OAR 660-046-0220;¶

(d) Design standards in Large Cities provided in OAR 660-046-0225;¶

(e) Middle Housing Conversions provided in OAR 660-046-0230;¶

(f) Alternative siting or design standards provided in OAR 660-046-0235; and¶

(g) Any siting and design standards in the Model Code contained in OAR 660-046-0010(4)(b).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758 ~~A.420~~

AMEND: 660-046-0215

RULE SUMMARY: This rule states the approval process that large cities must use to review development applications for middle housing.

CHANGES TO RULE:

660-046-0215

Permitted Uses and Approval Process

Large Cities must apply the same approval process to Middle Housing as detached single-family unit dwellings in the same zone. Pursuant to OAR 660-008-0015 and ORS 197.307A.400, Large Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Middle Housing consistent with the requirements of ORS 197.307A.400. Nothing in this rule prohibits a Large City from adopting an alternative approval process for applications and permits for Middle Housing based on approval criteria that are not clear and objective as provided in ~~OAR 660-007-0015(2)~~, OAR 660-008-0015(2), and ORS 197.307A.400(6).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420, ORS 197A.400

RULE SUMMARY: This rule describes reasonable siting standards that a large city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0220

Middle Housing Siting Standards in Large Cities

(1) Large Cities must apply siting standards to Duplexes in the same manner as required for Medium Cities in OAR 660-046-0120.¶¶

(2) The following governs Large Cities' regulation of siting standards related to Triplexes and Quadplexes:¶¶

(a) Minimum Lot or Parcel Size:¶¶

(A) For Triplexes:¶¶

(i) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is 5,000 square feet or less, the minimum Lot or Parcel size for a Triplex may be no greater than 5,000 square feet.¶¶

(ii) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is greater than 5,000 square feet, the minimum Lot or Parcel size for a Triplex may be no greater than the minimum Lot or Parcel size for a detached single-family unit dwelling.¶¶

(B) For Quadplexes:¶¶

(i) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Quadplex may be no greater than 7,000 square feet.¶¶

(ii) If the minimum Lot or Parcel size in the zone for a detached single-family unit dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Quadplex may be no greater than the minimum Lot or Parcel size for a detached single-family unit dwelling.¶¶

(C) A Large City may apply a lesser minimum Lot or Parcel size in any zoning district for a Triplex or Quadplex than provided in paragraphs (A) or (B).¶¶

(b) Density: If a Large City applies density maximums in a zone, it may not apply those maximums to the development of Quadplex and Triplexes.¶¶

(c) Setbacks: A Large City may not require setbacks greater than those applicable to detached single-family unit dwellings in the same zone.¶¶

(d) Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family unit dwellings in the same zone, except a maximum height may not be less than 25 feet or two stories.¶¶

(e) Parking:¶¶

(A) For Triplexes, a Large City may require up to the following off-street parking spaces:¶¶

(i) For Lots or Parcels of less than 3,000 square feet: one space in total;¶¶

(ii) For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total; and¶¶

(iii) For Lots or Parcels greater than or equal to 5,000 square feet: three spaces in total.¶¶

(B) For Quadplexes, a Large City may require up to the following off-street parking spaces:¶¶

(i) For Lots or Parcels of less than 3,000 square feet: one space in total;¶¶

(ii) For Lots or Parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces in total;¶¶

(iii) For Lots or Parcels greater than or equal to 5,000 square feet and less than 7,000 square feet: three spaces in total; and¶¶

(iv) For Lots or Parcels greater than or equal to 7,000 square feet: four spaces in total.¶¶

(C) A Large City may allow on-street parking credits to satisfy off-street parking requirements.¶¶

(D) A Large City may allow, but may not require, off-street parking to be provided as a garage or carport.¶¶

(E) A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family unit detached dwellings in the same zone.¶¶

(F) A Large City may not apply additional minimum parking requirements to Middle Housing created as provided in OAR 660-046-0230.¶¶

(f) Lot or Parcel Coverage and Floor Area Ratio: Large Cities are not required to apply Lot or Parcel coverage or floor area ratio standards to Triplexes or Quadplexes. However, if the Large City applies Lot or Parcel coverage or floor area ratio standards, it may not establish a cumulative Lot or Parcel coverage or floor area ratio for Triplexes or Quadplexes that is less than established for detached single-family unit dwelling in the same zone.¶¶

(g) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Triplex or Quadplex development application.¶¶

(3) The following governs Large Cities' regulation of siting standards related to Townhouses:¶¶

(a) Minimum Lot or Parcel Size: A Large City is not required to apply a minimum Lot or Parcel size to Townhouses,

but if it applies those standards, the average minimum Lot or Parcel size for Lot or Parcels in a Townhouse Project may not be greater than 1,500 square feet. A Large City may apply separate minimum Lot or Parcel sizes for internal, external, and corner Townhouse Lots or Parcels provided that they average 1,500 square feet, or less.¶¶

(b) Minimum Street Frontage: A Large City is not required to apply a minimum street frontage standard to Townhouses, but if it applies those standards, the minimum street frontage standard must not exceed 20 feet. A Large City may allow frontage on public and private streets or alleys; and on shared or common drives. If a Large City allows flag Lots or Parcels, it is not required to allow Townhouses on those Lots or Parcels.¶¶

(c) Density: If a Large City applies density maximums in a zone, it must allow four times the maximum density allowed for detached single-family-unit dwellings in the same zone for the development of Townhouses or 25 dwelling units per acre, whichever is less.¶¶

(d) Setbacks: A Large City may not require front, side, or rear setbacks to be greater than those applicable to detached single-family-unit structures in the same zone and must allow zero-foot side setbacks for Lot or Parcel lines where Townhouse units are attached.¶¶

(e) Height: A Large City may not apply lower maximum height standards than those applicable to detached single-family-unit dwellings in the same zone. If a Large City requires covered or structured parking for townhouses, the applicable height standards must allow construction of at least three stories. If a Large City does not require covered or structured parking, the applicable height standards must allow construction of at least two stories.¶¶

(f) Parking:¶¶

(A) A Large City may not require more than one off-street parking space per Townhouse dwelling unit.¶¶

(B) Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.¶¶

(C) A Large City must apply the same off-street parking surfacing, dimensional, landscaping, access, and circulation standards that apply to single-family-unit detached dwellings in the same zone.¶¶

(g) Bulk and Scale: A Large City is not required to apply standards to control bulk and scale to new Townhouses. However, if a Large City chooses to regulate scale and bulk, including but not limited to provisions including Lot or Parcel coverage, floor area ratio, and maximum unit size, those standards cannot cumulatively or individually limit the bulk and scale of the cumulative Townhouse project greater than that of a single-family-unit detached dwelling.¶¶

(h) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Townhouse development application.¶¶

(4) The following governs Large Cities' regulation of siting standards related to Cottage Clusters:¶¶

(a) Minimum Lot or Parcel Size: A Large City is not required to apply minimum Lot or Parcel size standards to new Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel size for Cottage Clusters on a single Lot or Parcel, the following provisions apply:¶¶

(A) If the minimum Lot or Parcel size in the same zone for a detached single-family-unit dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a Cottage Cluster may be no greater than 7,000 square feet.¶¶

(B) If the minimum Lot or Parcel size in the same zone for a detached single-family-unit dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Cottage Cluster may not be greater than the minimum Lot or Parcel size for a detached single-family-unit dwelling.¶¶

(b) Minimum Lot or Parcel Width: A Large City is not required to apply minimum Lot or Parcel width standards to Cottage Clusters. However, if a Large City applies standards to regulate minimum Lot or Parcel width for to Cottage Clusters, it may not require a minimum Lot or Parcel width that is greater than the standard for a single-family-unit detached dwelling in the same zone.¶¶

(c) Density: A Large City may not apply density maximums to the development of Cottage Clusters. A Cottage Cluster development must meet a minimum density of at least four units per acre.¶¶

(d) Setbacks: A Large City may not require perimeter setbacks to be greater than those applicable to detached single-family-unit dwellings in the same zone. Additionally, perimeter setbacks applicable to Cottage Cluster dwelling units may not be greater than ten feet. The minimum distance between structures may not be greater than what is required by applicable building code requirements or 10 feet.¶¶

(e) Dwelling Unit Size: A Large City may limit the minimum or maximum size of dwelling units in a Cottage Cluster, but must apply a maximum building footprint of less than 900 square feet per dwelling unit. A Large City may exempt up to 200 square feet in the calculation of dwelling unit footprint for an attached garage or carport. A Large City may not include detached garages, carports, or accessory structures in the calculation of dwelling unit footprint.¶¶

(f) Parking:¶¶

(A) A Large City may not require more than one off-street parking space per dwelling unit in a Cottage Cluster.¶¶

(B) A Large City may allow but may not require off-street parking to be provided as a garage or carport.¶¶

(C) Nothing in this section precludes a Large City from allowing on-street parking credits to satisfy off-street parking requirements.¶¶

- (g) Lot or Parcel Coverage and Floor Area Ratio: A Large City may not apply Lot or Parcel coverage or floor area ratio standards to Cottage Clusters.¶¶
- (h) Nothing in this division precludes a Large City from allowing Cottage Cluster dwelling units on individual Lots or Parcels within the Cottage Cluster development.¶¶
- (i) A Large City shall work with an applicant for development to determine whether Sufficient Infrastructure will be provided, or can be provided, upon submittal of a Cottage Cluster development application.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.~~758~~A.420

AMEND: 660-046-0225

RULE SUMMARY: This rule describes reasonable design standards that a large city may adopt to regulate middle housing.

CHANGES TO RULE:

660-046-0225

Middle Housing Design Standards in Large Cities

(1) A Large City is not required to apply design standards to Middle Housing. However, if a Large City chooses to apply design standards to Middle Housing, it may only apply the following:¶¶

(a) Design standards in the Model Code for Large Cities as provided in OAR 660-046-0010(4)(b);¶¶

(b) Design standards that are less restrictive than those in the Model Code for Large Cities as provided in OAR 660-046-0010(4)(b);¶¶

(c) The same clear and objective design standards that the Large City applies to detached single-family unit structures in the same zone. Design standards may not scale by the number of dwelling units or other features that scale with the number of dwelling units, such as primary entrances. Design standards may scale with form-based attributes, including but not limited to floor area, street-facing facade, height, bulk, and scale; or¶¶

(d) Alternative design standards as provided in OAR 660-046-0235.¶¶

(2) A Large City may not apply design standards to Middle Housing created as provided in OAR 660-046-0230.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758, 420

AMEND: 660-046-0226

RULE SUMMARY: This rule outlines that local governments may not apply residential design standards for housing developments within an urban growth boundary. This rule will be repealed in January 2033.

CHANGES TO RULE:

660-046-0226

Residential Design Standards

(1) A local government may not apply residential design standards as defined in ~~Oregon Laws 2025, chapter 330, section 8(3)(a)~~ Section 8(3)(a) compiled as a note after ORS 197A.400 to an application for the development of housing within an urban growth boundary unless the application is for the development of a multifamily unit structure as defined in ORS 197A.465 or fewer than 20 residential units as defined in ~~Oregon Laws 2025, chapter 330, section 8(3)(b)~~ Section 8(3)(b) compiled as a note after ORS 197A.400.[¶]

(2) This rule is repealed on January 2, 2033.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ~~Or Laws 2025, ch 330, ss 8 and 9, compiled as a note after~~ RS 197A.400, ORS 197A.4020

AMEND: 660-046-0230

RULE SUMMARY: This rule outlines standards a large city must comply with when converting an existing single family detached structure to middle housing.

CHANGES TO RULE:

660-046-0230

Middle Housing Conversions

(1) Additions to, or conversions of, an existing detached single-family unit dwelling into Middle Housing is allowed in a Large City pursuant to OAR 660-046-0205(2), provided that the addition or conversion does not increase nonconformance with applicable clear and objective standards, unless increasing nonconformance is otherwise permitted by the Large City's development code.¶¶

(2) If Middle Housing is created through the addition to, or conversion of, an existing detached single-family unit dwelling, a Large City or other utility service provider that grants clear and objective exceptions to public works standards to detached single-family unit dwelling development must allow the granting of the same exceptions to Middle Housing.¶¶

(3) An existing detached single-family unit dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:¶¶

(a) The existing single-family unit dwelling may be nonconforming with respect to the requirements of the applicable code;¶¶

(b) The existing single-family unit dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, an existing single-family unit dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;¶¶

(c) The existing single-family unit dwelling shall count as a unit in the Cottage Cluster;¶¶

(d) The floor area of the existing single-family unit dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits; and¶¶

(e) A Large City may apply a time limit on the conversion of a single-family unit dwelling to a Cottage Cluster not to exceed five years.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758A.420

AMEND: 660-046-0235

RULE SUMMARY: This rule describes the criteria that must be met to utilize alternative siting or design standards.

CHANGES TO RULE:

660-046-0235

Alternative Siting or Design Standards

A Large City may adopt Siting or Design Standards not authorized by OAR 660-046-0220 or OAR 660-046-0225 as allowed if the city can demonstrate that it meets the applicable criteria in this section. Alternative Siting or Design standards do not include minimum Lot or Parcel size and maximum density requirements. If a Large City proposes to adopt alternative Siting or Design Standards, the Large City must submit to the Department findings and analysis demonstrating that the proposed standard or standards will not, individually or cumulatively, cause unreasonable cost or delay to the development of Middle Housing. To demonstrate that, the Large City must consider how a standard or standards, individually and cumulatively, affect the following factors in comparison to what is would otherwise be required under OAR 660-046-0220 or OAR 660-046-0225:¶

(1) The total time and cost of construction, including design, labor, and materials;¶

(2) The total cost of land;¶

(3) The availability and acquisition of land, including in areas with existing development;¶

(4) The total time and cost of permitting and fees required to make land suitable for development;¶

(5) The cumulative livable floor area that can be produced; and¶

(6) The proportionality of cumulative time and cost imposed by the proposed standard or standards in relationship to the public need or interest the standard or standards fulfill.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.758 A.420

AMEND: 660-046-0300

RULE SUMMARY: This rule describes the purpose of creating an infrastructure-based time extension request and defines the need for that process.

CHANGES TO RULE:

660-046-0300

Purpose of Infrastructure-Based Time Extension Request Process

OAR 660-046-0300 to OAR 660-046-0370 establish the form and substance of the IBTER application and review process. The purpose of these rules is to provide submittal requirements, including required data and analyses that a local government must submit with an IBTER, prescribe when a local government is eligible for a time extension in response to an IBTER, and to provide the evaluation process and criteria that the department will use to review IBTERs and issue Time Extensions.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758, 197A.420, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

AMEND: 660-046-0310

RULE SUMMARY: This rule defines which local governments are eligible to submit an infrastructure-based time extension request for an extension of time to adopt middle housing land use regulations or amend a comprehensive plan to include middle housing.

CHANGES TO RULE:

660-046-0310

Entities Eligible to Apply

Local governments, as defined in OAR 660-046-0320, may submit an IBTER.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

RULE SUMMARY: This rule defines terms and phrases that are used in sections 660-046-0310 through 660-046-0370.

CHANGES TO RULE:

660-046-0320

Definitions

In addition to the definitions in OAR 660-046-0020 and in ORS 197.015 and ORS 197.758A.420, the following definitions apply to OAR 660-046-0300 to OAR 660-046-0370. In the event of a conflict, these definitions will take precedence.¶¶

- (1) "Acceptable service levels" means measures of public facility adequacy defined by common engineering standards of practice, adopted as a policy for a utility, identified by designated authority from the decision-making body of a local government, identified in an adopted utility master plan or special area utility plan, or as necessary to comply with state or federal law.¶¶
- (2) "IBTER" means an infrastructure-based time extension request submitted by a local government for an extension of time to adopt land use regulations or amend a comprehensive plan as provided for under Oregon Laws 2019, chapter 639, section 4.¶¶
- (3) "Infill and redevelopment areas" means areas with lot sizes of less than one-half an acre that are zoned to allow detached single ~~family~~unit dwellings and that are either vacant or developed with detached single ~~family~~unit dwellings.¶¶
- (4) "Infrastructure" means urban water, sanitary sewer, stormwater, and transportation systems.¶¶
- (5) "Local governments" means a city outside a metropolitan service district, with a population of more than 10,000 and less than 25,000; a city inside a metropolitan service district, with a population of more than 1,000 and less than 25,000; any city with a population of 25,000 or more; or any unincorporated portion of a county within a metropolitan service district that is provided with sufficient urban services as defined in ORS 195.065. No other unincorporated areas within urban growth boundaries are included in this definition.¶¶
- (6) "Significant infrastructure deficiency" means a local government has met the burden of proof to demonstrate a situation or situations where the following exists:¶¶
 - (a) A local government or service provider is unable to provide acceptable service levels within a developed, or developing, area zoned to allow detached single ~~family~~unit dwellings; or.¶¶
 - (b) A local government or service provider anticipates that it will be unable to provide acceptable service levels by December 31, 2023, based either on extrapolated current development rates alone, or based on extrapolated current rates and additional anticipated middle housing development.¶¶
 - (c) There is no single service level for demonstrating a significant infrastructure deficiency for transportation infrastructure. Supporting information regarding the magnitude and severity of the deficiency must support a determination that the deficiency has a significant impact on transportation function or safety in the affected area. Higher street classifications, traffic volumes, and impacts to the function of transportation corridors, rather than a single intersection, will help to support the significance of the transportation deficiency. The severity of safety issues may be supported with information such as crash data, posted speed limits, sight distance at intersections, or similar information.¶¶
- (7) "Time extension" is an IBTER as granted by the department.¶¶
- (8) "Undeveloped or underdeveloped areas" means areas with lot sizes greater than one-half an acre that are zoned to allow single ~~family~~unit detached dwellings and are currently developed at a density of two dwelling units per acre or less.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

RULE SUMMARY: This rule describes parameters to guide local government preparation of IBTER applications.

CHANGES TO RULE:

660-046-0330

Parameters

(1) Infrastructure, as defined in OAR 660-046-0320(4) and as described in more detail in OAR 660-046-0340, is eligible as a basis for an IBTER application. An infrastructure deficiency is not significant if it would be addressed with infrastructure improvements required in conjunction with the development of a single-family unit dwelling.¶

(2) If a local government is currently unable to issue any new permits for residential development due to a jurisdiction-wide significant infrastructure deficiency, the local government must address that situation through the moratorium process provided in ORS 197.505 through ORS 197.540. The department will not approve IBTER applications that address this type of situation.¶

(3) If a local government intends to continue permitting new single-family unit detached dwellings or other development allowed by the current zoning within the area that has a significant infrastructure deficiency while deferring middle housing development within the area, the local government shall demonstrate that the additional infrastructure demand created by middle housing development would cause an unacceptable service level of the infrastructure, or shall provide other valid justification for allowing other development in the subject area while prohibiting middle housing development until the significant infrastructure deficiency is addressed.¶

(4) For the purpose of estimating the additional impacts of middle housing development on infrastructure, the local government may assume the following increases in residential development that would create additional impacts upon an area that is significantly infrastructure deficient over the period ending December 31, 2023:¶

(a) The local government shall prepare the baseline estimate for the number of dwelling units per acre produced within a residential zoning district by following the process described in ORS 197.296A.350(5)(a)(A). A local government may add units produced by middle housing allowances, as described in subsections (b) through (f) to estimate residential infrastructure demand within a specified area. A local government may include additional infrastructure demand from other existing uses within the service area, such as higher density housing, schools, businesses, industrial uses, or other uses to estimate a total infrastructure service demand within the area that has a significant infrastructure deficiency. ¶

(b) Infill and redevelopment areas may assume a one percent increase in the number of dwelling units produced due to middle housing allowances within the specified residential zone(s), above the baseline estimate described in subsection (a) prior to adoption of middle housing allowances. If some types of middle housing are currently allowed in a residential zone, the local government must adjust the anticipated increase for that area to an estimated fraction of one percent representing additional housing production from the middle housing types that are not currently allowed.¶

(c) Undeveloped and underdeveloped areas may assume a three percent increase in the number of dwelling units produced due to middle housing allowances within the specified residential zone(s), above the baseline estimate described in subsection (a) prior to adoption of middle housing allowances. If some types of middle housing are currently allowed in a residential zone, the local government must adjust the anticipated increase to an estimated fraction of three percent representing additional housing production from the middle housing types that are not currently allowed.¶

(d) The local government may project an increase in anticipated middle housing residential development above the thresholds identified in subsections (b) or (c) if it provides quantifiable validation of such an increase. For local governments located outside a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (e). For local governments within a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (f).¶

(e) A local government located outside a metropolitan service district may provide a quantifiable validation by demonstrating an actual increase in residential dwelling units produced above the rates anticipated in subsections (b) and (c), within a zone that allows densities that are no higher than those that would be allowed with adopted middle housing provisions. The evidence may be derived from an existing zone within the local government's jurisdiction, or from another local government within 25 miles of the subject local government.¶

(f) A local government located inside a metropolitan service district may provide a quantifiable validation by demonstrating an actual increase in residential dwelling units produced above the rates anticipated in subsections (b) and (c), within a zone that allows densities that are no higher than those that would be allowed with adopted middle housing provisions. The evidence may be derived from an existing zone within the local government's jurisdiction, or from another local government within the metropolitan service district.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a

note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a
note after ORS 197A.420

RULE SUMMARY: This rule describes what circumstances would grant a time extension by infrastructure type.

CHANGES TO RULE:

660-046-0340

Infrastructure-Specific Application Thresholds

This rule specifies the circumstances that would justify a time extension for each infrastructure type.¶¶

(1) Transportation. A local government may use the following circumstances to justify a transportation-based IBTER:¶¶

(a) Areas where the supporting roadways, intersections, or both are operating or anticipated to operate over capacity, not meet currently acceptable service levels, or have existing geometric/safety limitations. Supporting information regarding the magnitude and severity of the deficiency must support a determination that the deficiency has a significant impact on transportation function or safety in the affected area. This type of transportation IBTER applies only to areas where mitigation is planned and is either within the jurisdiction and financial capacity of the local government, or is planned, financed, and scheduled in partnership with county, state, or other governmental or private partners.¶¶

(b) Areas that lack adequate emergency vehicle access per current adopted Fire Code standards, and for which mitigation in conjunction with development is not feasible.¶¶

(2) Stormwater. A local government may use the following circumstances to justify a stormwater-based IBTER:¶¶

(a) Lack of stormwater infrastructure, or adequately-sized stormwater infrastructure, such as storm drainage pipes, curb and gutters, catch basins and inlets, lateral storm connections, regional stormwater facilities, and discharge outfalls that results in not meeting an acceptable service level. An acceptable service level may include metrics for water quantity discharge, water quality, or both.¶¶

(b) A downstream stormwater conveyance system deficiency, resulting in localized ponding or flooding and storm pipe back-ups caused by pipes, culverts, or catch basins in disrepair; these problems may be compounded by high groundwater; compacted underlying soils; or backwater from nearby waterways during high flows; any of which that results in not meeting an acceptable service level.¶¶

(3) Water and Sewer. A local government may use the following circumstances to justify a water or sanitary sewer IBTER:¶¶

(a) A significant infrastructure deficiency in localized (not citywide) water or sanitary sewer service that results in unacceptable service levels for water or sewer services. For example, maintaining minimum water pressure in a water system or exceeding the capacity of existing infrastructure within a sanitary sewer system.¶¶

(b) A localized (not citywide) combined sewer/stormwater system that will exceed capacity as a result of new middle housing units. As further justification the local government shall demonstrate how it would mitigate the deficiency with respect to wastewater capacity and stormwater controls, if both aspects would not meet acceptable service levels. In this case, the local government shall include descriptions and justifications for the IBTER consistent with the requirements for each of the infrastructure types.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4.4, compiled as a note after ORS 197A.420

RULE SUMMARY: This rule describes the information and analysis required in an IBTER application, as well as the application deadlines as provided in Oregon Laws 2019, chapter 639, section 4.

CHANGES TO RULE:

660-046-0350

Application Submittal Timeline and Requirements

- (1) Local governments requesting a time extension must file IBTER applications with the department as follows:¶
- (a) By December 31, 2020, for local governments subject to ORS 197.758(3) A.420 as in effect on January 1, 2023.¶
 - (b) By June 30, 2021, for local governments subject to ORS 197.758(2).¶
 - (c) By June 30, 2026, only for unincorporated urban lands.¶
- (2) Completeness review. Upon receipt of an IBTER application, the department will conduct a preliminary completeness review within 30 calendar days of receipt and notify the local government of any additional materials from section (3) that are required to make a complete application. Within one week of receiving notification of an incomplete application, the local government shall notify the department if it will provide all, some, or none of the requested additional information. If no additional information will be provided by the local government, the review period specified in OAR 660-046-0360(2) will begin upon receipt of the notification from the local government. If additional information is to be provided, the review period specified in OAR 660-046-0360(2) will begin on the date of receipt of the additional information. The local government must submit all requested materials within 60 calendar days of receipt of a request for additional materials. If the local government does not submit some or all of the requested completeness materials within the 60-day period, the review period specified in OAR 660-046-0360(2) will begin on the 61st day from the notification of incompleteness, and the department will evaluate the application based on the information that the local government has submitted by the end of the 60-day period.¶
- (3) Required materials. A complete IBTER application from a local government shall include the information described in subsections (a) through (g):¶
- (a) A narrative, graphics, tabular data, and other information as necessary to provide a general description of the significant infrastructure deficiency, including:¶
 - (A) A description of the infrastructure and the current system capacity. Relevant information from adopted utility master plans, special area utility plans, capital improvement plans, or similar documents and studies. Also, an identification of the service level that will not be met, including identification of the adopted utility master plan or other authority which establishes the service level.¶
 - (B) A description of the significant infrastructure deficiency. The application shall clarify if capacity is exceeded currently, or is anticipated by December 31, 2023, based on current development trends; or if the infrastructure is only expected to exceed capacity based on additional impacts from middle housing development pursuant to OAR 660-046-0330(4).¶
 - (C) If the local government finds significant infrastructure deficiency would be caused only by additional middle housing development in the area and plans to continue issuing permits for other types of development within the area, a detailed analysis of how and why existing infrastructure can continue to meet the needs of other types of development, but not middle housing.¶
 - (D) A description of assumptions used to calculate or estimate system capacity. This includes analysis of current impacts on the infrastructure system; impacts from additional development anticipated to occur based on current zoning; and impacts anticipated from the allowance for middle housing in the areas where it is not currently allowed, as more fully described in OAR 660-046-0330(4).¶
 - (E) Documentation of the significant infrastructure deficiency sufficient to allow the department to verify that the deficiency exists, including (but not necessarily limited to) items such as; maintenance and complaint records, photographs, modeling results (if available), crash data, a deficiency documented in an adopted utility master plan, or other evidence of deficiency.¶
- (b) The name of the service provider if the Infrastructure is owned or operated by another provider, along with a description of any agreements between the local government and service provider for infrastructure improvements.¶
- (c) A vicinity map showing the boundary of the impacted areas for which the IBTER is requested. If the local government identifies more than one significant infrastructure deficiency (sewer and transportation, for example), the map should show the boundary of each deficiency separately and any areas of overlap.¶
- (d) A regional map, if applicable, showing the significant infrastructure deficiency that otherwise provides service to the area where an IBTER is being requested.¶
- (e) If the local government is subject to ORS 197.758 A.420(2), a description of the local government's plan for middle housing implementation in the impacted area, including identification of areas intended for duplex-only

provisions, and, as applicable, standards to be applied in goal-protected and constrained areas, and areas intended to accommodate triplexes, quadplexes, townhomes, and cottage cluster developments.¶¶

(f) A remediation plan that describes the proposed infrastructure improvement(s) intended to remedy the significant infrastructure deficiency so that the local government may implement middle housing provisions. For each infrastructure improvement project, the description should include, at a minimum:¶¶

(A) The proposed period of time needed to address the significant infrastructure deficiency, including phasing and contingencies, if applicable.¶¶

(B) A discussion of the options initially considered for addressing the significant infrastructure deficiency, along with an explanation of how the proposed approach is the most expeditiously feasible approach available to address the deficiency.¶¶

(C) Explanation of how the improvement project will provide acceptable service levels to anticipated middle housing.¶¶

(D) Potential funding source(s), including funding commitments from other governmental agencies or private parties, and schedule for project completion.¶¶

(E) Depiction of the area that will be remedied by the project.¶¶

(F) Proposed timeline and associated mapping to demonstrate any phasing of the remediation plan where there are several improvement projects identified.¶¶

(G) A map of all other areas within the local government where middle housing will be implemented during the extension period.¶¶

(H) If a local government proposes a bond measure or similar financial mechanism that requires voter approval as a means to fund an infrastructure improvement project, a local government may also propose a contingency plan for funding the infrastructure improvement.¶¶

(g) A narrative detailing how the application is in compliance with the Review Criteria in OAR 660-046-0360(5). In response to criterion in OAR 660-046-0360(5)(d), the local government shall provide a map of the local government's jurisdictional area, depicting US Census tract scores based on the Oregon Housing and Community Services Department's Notice of Funding Availability Scoring Criteria Map:

(<https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=2cb211dbdd3d4cf497d8190283f1402f>). The map identifies census tracts within communities that score low, medium, or high in relation to access to opportunity. Those tracts identified as high opportunity areas have a relatively low poverty rate, high labor market engagement index, and a low unemployment rate. Low opportunity areas have a relatively high poverty rate, low labor market engagement index, and a high unemployment rate. The narrative addressing criterion in OAR 660-046-0360(5)(d) must refer to the mapped areas in relation to the review criterion.

Statutory/Other Authority: ORS 197.040, ORS 197A.420, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420

Statutes/Other Implemented: ORS 197.758, ORS 197A.420, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

RULE SUMMARY: This rule outlines the process and criteria for review of an infrastructure-based time extension request. This rule also describes how to appeal a review decision.

CHANGES TO RULE:

660-046-0360

Review Process, Review Criteria and Appeal Process

(1) Review and decision-making authority. The department reviews IBTERs for consistency with the review criteria and compliance with the procedural requirements in OAR 660-046-0360. The department will deny an IBTER that does not meet either the review criteria or comply with the procedural requirements. The department has final decision-making authority for IBTERs. The Land Conservation and Development Commission has decision-making authority for appeals of the department's decision.¶

(2) Posting for Public Comment. The department will post a timely and complete IBTER on the department's website along with the review criteria provided in section (5) and a statement that any person may file a comment regarding the IBTER no more than 21 days after the posting of the IBTER.¶

(3) Valid Comments. Any person may file a comment with the Department. In order to be considered valid, a comment must:¶

(a) Be in writing and filed with the Department no more than 21 days after the Department posting of the IBTER on the department's website;¶

(b) Address one or more of the five review criteria in section (5); and¶

(c) Provide the person's mailing address.¶

(4) Department Decision. The Department shall review the IBTER along with any valid comments and shall approve, approve with conditions of approval under section (7), or deny an IBTER. The department will mail the decision to the local government submitting the IBTER and any person that submitted valid comments. The department will issue a decision on an IBTER as follows:¶

(a) Within 90 days of receipt of a complete application for local governments subject to ORS 197.758A.420(3);¶

(b) Within 120 days of receipt of a complete application for local governments subject to ORS 197.758A.420(2).¶

(5) Review criteria. The department shall consider the following criteria in the review of IBTERs:¶

(a) Whether the identified deficiency is a significant infrastructure deficiency, consistent with the parameters and infrastructure-specific thresholds established in OAR 660-046-0330 and OAR 660-046-0340.¶

(b) Whether the IBTER has adequately described and documented the identified significant infrastructure deficiency and has established a boundary for the requested extension area(s), as required by OAR 660-046-0350. The boundary for the requested time extension is a specific area where there is an identified significant infrastructure deficiency.¶

(c) Whether the proposed remediation plan is likely to be effective and presents the most expeditiously feasible course of action to enable implementation of middle housing provisions.¶

(d) Whether, in relation to the opportunity area map provided per OAR 660-046-0350(3)(g) and any other available data sources regarding income, race, or ethnicity within the jurisdiction, the local government has demonstrated that correction of the significant infrastructure deficiency will either help to overcome patterns of segregation by income, race, or ethnicity, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics, or, at minimum, will not serve to perpetuate these inequities. To assist with this evaluation, local governments may demonstrate that the IBTER is consistent with a plan of actions over time by the local government and community partners that will reduce barriers to opportunity for all community residents, in all areas within the local government's jurisdiction.¶

(e) Whether the time period proposed for the IBTER is the minimum necessary to remedy the significant infrastructure deficiency.¶

(6) Response to Comments. The department's decision under section (4) shall include a response to each valid comment.¶

(7) Conditions of Approval. The department may impose conditions in time extensions that it deems necessary to satisfy the review criteria or to ensure the time extension is consistent with the intent of OAR chapter 660, division 46, ORS 197.758A.420, and Oregon Laws 2019, chapter 639, section 4.¶

(8) Appeals.¶

(a) Within 21 days of the mailing of the department's decision the local government submitting the IBTER or a person that submitted a valid comment may file an appeal, in writing, of the decision to the Land Conservation and Development Commission. The appellant shall simultaneously provide a copy of the appeal to each recipient of the department's decision as indicated by the department's certificate of service.¶

(b) Appeals must identify the specific findings and analysis that are alleged to be made in error in relation to the

applicable criterion or criteria. A challenge to a condition of approval under section (7) must specify how the condition is inconsistent with the intent of OAR chapter 660, division 46, ORS 197.758A.420, and Oregon Laws 2019, chapter 639, section 4. An appellant may submit written materials in support of the appeal.¶

(c) The local jurisdiction or a party that submitted a valid comment may file a written response to the appeal with the Department within 21 days of the filing of the appeal.¶

(d) The Commission shall hold an appeal hearing within 120 days of the filing of the appeal. The appeal hearing shall be a contested case hearing. In making its decision the Commission may consider:¶

(A) All materials in the record that led to the Department decision under section (4);¶

(B) Any written materials submitted in support of the appeal under subsection (8)(b);¶

(C) Any timely written responses filed in response to the appeal under subsection(8)(c);¶

(D) The department staff report and recommendation to the Commission; and¶

(E) Oral arguments and evidence presented at the appeal hearing.¶

(e) The Commission shall issue a final order rejecting or upholding the appeal within 30 days of the appeal hearing. Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758A.420, OR Laws 2019, chapter 639, sections 3 and 4-4, compiled as a note after ORS 197A.420

AMEND: 660-046-0370

RULE SUMMARY: This rule defines how the length of time an infrastructure-based time extension is determined and how a local government must report during that time.

CHANGES TO RULE:

660-046-0370

Duration of Time Extension

(1) As provided in OAR 660-046-0350(3)(f)(A), the IBTER must specify when the local government intends to correct the significant infrastructure deficiency. The IBTER must provide a detailed timeline for a complete plan of action that will remedy the significant infrastructure deficiency, which may include phased infrastructure improvements and contingent actions and timelines based on circumstances outside the control of the local government.¶¶

(2) If, for reasons beyond the control of the local government, the local government cannot complete an approved remediation plan by the deadline specified in the time extension decision, the local government, prior to the expiration date of a time extension, may prepare an amended remediation plan and submit the plan for department consideration. With the exception of application deadlines specified in OAR 660-046-0350(1), the amended remediation plan must be consistent with the provisions of OAR 660-046-0300 through OAR 660-046-0370. The amended remediation plan must explain why the initial approved plan could not be completed on schedule. Department review of the amended remediation plan is not subject to the completeness review period specified in OAR 660-046-0350(2), nor the required decision timelines in OAR 660-046-0360(4). Otherwise, the review process and criteria for the amended remediation plan must be consistent with the requirements of OAR 660-046-0360. Additionally, the department shall evaluate the following considerations in review of any amended remediation plan:¶¶

(a) Whether the local government anticipated or reasonably should have anticipated the contingencies causing delay in the initial remediation plan;¶¶

(b) Whether additional delay in the enactment of middle housing allowances is warranted; and¶¶

(c) Whether the allowance for middle housing in the subject area would provide an opportunity for other parties to construct the necessary infrastructure as needed in association with middle housing development. ¶¶

(3) Upon the expiration date of a time extension, the local government must either enact development code regulations implementing middle housing or apply the model code, as applicable, per OAR 660-046-0100 or OAR 660-046-0200.

Statutory/Other Authority: ORS 197.040, OR Laws 2019, chapter 639, section 4(6), compiled as a note after ORS 197A.420, ORS 197A.420

Statutes/Other Implemented: ORS 197.758, OR Laws 2019, chapter 639, sections 3 and 4, compiled as a note after ORS 197A.420

ADOPT: 660-047-0000

RULE SUMMARY: This rule establishes the purpose of chapter 660 division 47, the Oregon Homes program.

CHANGES TO RULE:

660-047-0000

Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule establishes the definitions for Division 660-047, the Oregon Homes program.

CHANGES TO RULE:

660-047-0010

Definitions

As used in this division, the definitions in ORS 197A.420, apply. In addition, the following definitions apply:¶

(1) "Building Height" means the vertical distance from grade plane (measured from the lowest ground surface a maximum of five feet from the building wall) to the average height of the highest roof surface (measured to the tallest point of the roof of the building)¶

(2) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side, as defined in ORS 90.100.¶

(3) "Design standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.¶

(4) "Developable area" means the space on the lot not including setbacks, public utility easements, right of way, and any required open space.¶

(5) "Environmentally sensitive area" means lands protected or designated pursuant to any one of the following statewide planning goals:¶

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces;¶

(b) Goal 6 Air, Water and Land Resource Quality;¶

(c) Goal 15 Willamette River Greenway;¶

(d) Goal 16 Estuarine Resources;¶

(e) Goal 17 Coastal Shorelands; and¶

(f) Goal 18 Beaches and Dunes.¶

(6) "Final engineering plans" means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.¶

(7) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including:¶

(a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;¶

(b) Types with a buildable area of:¶

(A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; and¶

(B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling;¶

(c) A multiunit dwelling with more than six and fewer than twelve units;¶

(d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel; and¶

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria as provided in subsections (a) - (d) and approved through local building code review.¶

(8) "Oregon Homes Lot" means a lot or parcel that is:¶

(a) A lawfully established units of land;¶

(b) Within an urban growth boundary;¶

(c) Zoned to allow residential use;¶

(d) At least 1,500 square feet;¶

(e) Not larger than 20,000 square feet;¶

(f) Not covered by slopes averaging more than 15 percent; and¶

(g) Not within an area identified in an inventory or map that is part of the local government's comprehensive plan as:¶

(A) Environmentally sensitive or containing significant natural resources;¶

(B) Open space or scenic areas; or¶

(C) Natural hazard areas, including floodplains, river greenways, landslide zones, or wildfire risk areas;¶

(D) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A-C), development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.¶

(h) Vacant, including a lot or parcel:¶

(A) Created by any lawful division of land, regardless of when the division occurred.¶

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.¶

(C) For which residential units were demolished more than five years prior; or¶

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria in section (5) and approved through local building code review.¶

(9) "Public facilities plan or engineering master plan" means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500. ¶

(10) "Site plan" means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:¶

(a) All property lines with dimensions and total lot area:¶

(b) North arrow and scale of drawing:¶

(c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes:¶

(d) Existing goal protected resources, if any are present on the site:¶

(e) Existing and proposed easements and on-site utilities:¶

(f) Existing and proposed development with all dimensions, including floor area and building footprint:¶

(g) Distances of all existing and proposed development to property lines:¶

(h) Types and location of outdoor area(s) and usable open space (if required):¶

(i) Percentage of the site proposed for outdoor area coverage:¶

(j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions: and¶

(k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.¶

(11) "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.¶

(12) "Traffic impact analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.¶

(13) "Usable outdoor space" means one of the following:¶

(a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be a contiguous 10-foot by 10-foot square:¶

(b) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents:¶

(c) Tree groves of existing mature trees:¶

(d) Turf or grass play fields:¶

(e) Children's play structure or play area: ¶

(f) Sports courts:¶

(g) Swimming or wading pool or hot tub:¶

(h) Walking fitness course:¶

(i) Natural area with benches: or¶

(j) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0020

RULE SUMMARY: This rule creates the local government review process for the development of Oregon Homes Lots.

CHANGES TO RULE:

660-047-0020

Local Government Review Process

A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

(1) Local governments must issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards provided in OAR 660-047-0030 through OAR 660-047-0050.

(2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot through a completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are:

(A) Approved by the Building Codes Division as meeting applicable building code standards; or

(B) Building plans that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010 (5); and

(c) A tree mitigation plan that meets the standards outlined in OAR 660-047-0050, as applicable.

(4) A local government shall deem an application submission that does not include information required in this division incomplete.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice or hearing in reviewing or approving an application for Oregon Homes Development.

(7) Nothing in this section precludes a local government from applying locally administered public facilities plans, including but not limited to public works design standards, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application. The order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee compatible to similar development applications.

(9) A local government shall deny an Oregon Homes Development application if the application does not meet the definitions of an Oregon Homes Lot and Oregon Homes Development provided in OAR 660-047-0010 and does not meet the requirements provided in OAR 660-047-0030 through OAR 660-047-0050.

(10) A local government is not required to grant a request for adjustment under Oregon Laws 2024, chapter 110, sections 38 to 41, compiled as a note after ORS 197A.395 in approving an application for an Oregon Homes Development.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0030

RULE SUMMARY: This rule establishes a set of design standards for an Oregon Homes Lot including entry orientation, garages and driveways, and waste storage facilities.

CHANGES TO RULE:

660-047-0030

Design Standards

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and people that interact with the right-of-way. A local government may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:¶

(1) All units within the development, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:¶

(a) Face the street:¶

(b) Be at an angle of up to 45 degrees from the street:¶

(c) Face a common open space that is adjacent to the street; or¶

(d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.¶

(2) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development scenarios are excluded from this standard:¶

(a) Accessible and adaptable units:¶

(b) Lots that receive vehicular access from an alley; and¶

(c) Off-street parking areas that are separated from the street lot line by a dwelling.¶

(3) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:¶

(a) The storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.¶

(b) The storage facility must be separated from the street lot line by at least 5 feet.¶

(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.¶

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the design standards described in this section.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0040

RULE SUMMARY: This rule establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and required outdoor areas.

CHANGES TO RULE:

660-047-0040

Siting Standards

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions. A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.

(2) Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area and containing one or more of the following features:

(a) Areas planted with vegetation (including natural areas and existing trees);

(b) Private open space, including balconies attached to individual dwelling units;

(c) Pedestrian hardscape;

(d) Usable open space being one of the following:

(A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface;

(B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;

(C) Tree groves of existing mature trees;

(D) Turf or grass play fields;

(E) Children's play structure or play area;

(F) Sports courts;

(G) Swimming or wading pool or hot tub;

(H) Walking fitness course;

(I) Natural area with benches; or

(J) Gardening area with at least 50 square feet of planting area.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or outdoor area characteristics requirements within this section.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0050

RULE SUMMARY: This rule establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Home Lots.

CHANGES TO RULE:

660-047-0050

Tree Standards

A local government must require the applicant to adhere to the following standards to guide the preservation or replacement of trees on an Oregon Homes Lot.

(1) Approval of an Oregon Homes Development may not result in the removal of trees that are:

(a) Designated by the local government as a heritage tree, or

(b) 20 inches or greater DBH.

(2) An applicant for an Oregon Homes Development on an Oregon Homes Lot may propose to remove eligible tree(s) as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:

(a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;

(b) Not deemed unhealthy by a certified arborist; and

(c) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:

(a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;

(b) The replacement of the removed tree with a tree of the same protected species; or

(c) A payment of a fee-in-lieu as established by local ordinance.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

From: [Tracy, Morgan](#)
To: [DLCD Housing * DLCD](#)
Subject: MHOR Homes – For Staff
Date: Thursday, February 19, 2026 10:26:17 AM

With regard to the DLCD action item to clarify Section 2 Subsection 4bA refers to buildable area –

My initial reaction was that buildable area was synonymous with floor area, not building coverage as a RAC member had suggested. But upon further reading I see that there is a clear distinction between buildable area and floor area:

HB2138 Section 3 (4), re bonuses states:

(4) The additional units under this section are subject to the regulations under ORS 197A.420 (5), except that a city must allow commensurate increases to the **developable area, floor area**, height or density requirements to allow for the development of the units.

While it is still debatable whether buildable area is synonymous with building coverage (or impervious area, or something else...) I just wanted to own up to my prior misunderstanding, and that it is not the same as floor area.

PS – well facilitated first RAC meeting. 3 hours passed a lot quicker than I had expected it to. One tiny suggestion for the facilitators – I appreciate the call out to pull comments from specific interests, and prioritize those (and to help diversify who is talking), I just observed that in the instance when that was done, there was not a follow up call to broaden the comments after the initial round of reaction. We worked it out by raising our hands when it “felt about right”, but I think this might put quieter folks a bit on the outside. Like I said, it was minor and one time, and not a super big deal. Just something I observed.

See ya next time.

Sincerely,

Morgan Tracy (he/him) | Senior Planner | City of Portland | Bureau of Planning & Sustainability | morgan.tracy@portlandoregon.gov | 503.823.6879

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From: [Tracy, Morgan](#)
To: [DLCD Housing * DLCD](#)
Subject: MHOR Homes - For staff (RAC scope)
Date: Wednesday, March 11, 2026 1:43:39 PM

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I already asked the question in the RAC and didn't want to belabor the point further. But I think I am still confused about our group's scope.

I'll lay out my assumptions and questions...

HB2258 includes directives to establish two programs:

- Master plans [Section 5] – (not within this RAC scope). These are plans **created by a builder**, reviewed by BCD (?) and then used by that builder in multiple jurisdictions. There is no “super siting” aspect to this program. Instead, a builder uses this program to speed up the building permit review process

These housing types include 1-11 units in various configurations of attached or detached layouts.

Building/Life Safety/Structure review - Local jurisdictions building departments will still review for structure - site requirements like foundation design and egress, just not the structure itself, as those components are already “pre-approved”

Planning/Zoning review – Typical development standards like setbacks, coverage, FAR, density would continue to apply. However, depending on the specific plan and lot location or geometry, it may not meet land use requirements, and if that is the case would not be approved by the local jurisdiction.

- Permit ready plans [Section 2] – (this is the scope of this RAC). These are plans **created by BCD** (likely through contract to architect/engineering firm) and published for use by others. This includes some “super siting” aspects that if a lot qualifies, these plans have a fast track building permit approval (may need additional foundation review), and essentially bypass local land use regulations.

I assumed these plans would cover the same housing types I'd above, but today I heard we were just talking about houses and ADUs. So a bit confused there. I also don't have a sense of whether we are talking about 1 version of each, or 100's.

Building/Life Safety/Structure review – BCD will use a collaborative process to solicit input from local jurisdictions to identify building code issues, to arrive a plan that can be utilized uniformly throughout the state.

Planning/Zoning review – I think this is still tbd, but one approach would be a set of standards that are unique to Permit Ready plans that override local standards. This may include a section detailing permissible adjustments to those standards under prescribed scenarios. Another approach would be that the state signs off on applications that show siting/design standards under the rules are met, and builders bypass local zoning review. (not suggesting a preference, just laying out scenarios).

If those assumptions are correct (and I suspect that they are not), then the RAC scope is VERY

limited (permit ready plans for house or ADU). I think our interest would start to shift from what siting (and design?) standards should apply to this very limited pool of housing plans, to learning more about how the permit ready plans will be selected/what sorts of design direction the A&E firms would be given (which again, is likely out of our RAC scope).

If I am wrong, and the permit ready plans will encompass more housing types, or the master plan program does include some super siting aspects, then the RAC discussion is going to be more critical.

On a separate note – I was curious what the timeframe will be from when LCDRC adopts rules to when cities must apply them? The bill specifies rulemaking to be complete by 1/1/27 but does not specify when they become operative (other than the bill taking effect on passage). Is there a typical timeframe for rulemaking effective dates?

Thanks again for another good meeting. Lots of work and prep that go into those. Its nice being on the other side of the desk.

Sincerely,

Morgan Tracy (he/him) | Senior Planner | City of Portland | Bureau of Planning & Sustainability | morgan.tracy@portlandoregon.gov | 503.823.6879

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From: [CAUDEL Ingrid * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: FW: MHOR Homes RAC2 Post-Meeting Roundup
Date: Thursday, March 26, 2026 3:30:14 PM
Attachments: [commercial_e7c7e98e-0bc7-460a-a9d5-7067c3d38f9a.png](#)
[linkedin_39c89adf-f83b-47b8-9a99-3e4a6d5b350a.png](#)
[instagram_afd6e264-a8fe-4612-beba-16ed48d02f31.png](#)
[facebook_6f5f0885-ba22-4aaf-8694-478f6097e128.png](#)
[vimeo_95e11c5c-5959-4b2b-96e7-81adf209b69a.png](#)

From: Destin Ferdun <destinf@pahlischcommercial.com>
Sent: Thursday, March 26, 2026 12:23 PM
To: CAUDEL Ingrid * DLCD <Ingrid.CAUDEL@dlcd.oregon.gov>; STUCKMAYER Ethan * DLCD <ethan.stuckmayer@dlcd.oregon.gov>
Subject: RE: MHOR Homes RAC2 Post-Meeting Roundup

Ingrid / Ethan:

My current concern is of creating a whole new zoning code that overlays the existing zoning codes, with local appeals processes will probably complicate things rather than ease.

I expect that having only a few simple and explicitly necessary overriding exceptions to local ordinances.... that are carefully crafted.... and have the local jurisdictions being able to appeal to the State to be exempted or modify those exceptions for all other or specific jurisdictions, so that the State can modify over time or new situation discovery, Might be the best way to go. (i.e. the example of the requested modification for tree ordinances in the current legislation, or perhaps bike parking, or other bits of local overreach.)

or alternately, if there is a whole new state zoning code, that jurisdictions can opt in for specific zoning areas.

pahlisch
COMMERCIAL

Destin Ferdun

Director of Affordable Housing Development

D: 971.998.7156
A: 105 W. Evergreen Blvd. Suite 300
Vancouver, WA 98660

Please check us out at pahlischcommercial.com

From: [Brienne Bennett](#)
To: [ANDERSON Emily * DLCD](#); [HAMMER Alexis * DLCD](#); [HAMPTON Matthew L * DLCD](#); [TAYLOR Casaria * DLCD](#); [DLCD Housing * DLCD](#)
Subject: Public Comment: MHOR Homes Rulemaking - Module 3.1 Tree Removal Standards
Date: Tuesday, March 31, 2026 12:21:28 AM

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Thank you for providing materials in advance to review prior to the meeting. Please find public comments regarding the Tree Removal Standard enclosed.

The proposed MHOR tree removal standards are more restrictive than the standards that exist today in many municipalities across Oregon, which discourage the development of middle housing and add unreasonable costs and delays. This is contrary to the statutory goals. Some cities have very restrictive tree removal rules, which have largely contributed to inadequate housing production and the housing crisis. Onerous and restrictive tree removal requirements have limited the space available for development and have also made the permitting process slow. In some cases, discretionary decisions about what constitutes a heritage tree is used to render lots unbuildable. For example, a tree permit in Lake Oswego can take 1-2 months or more, including public comment periods and a hearing. It is no coincidence that cities with the most restrictive tree codes also have the least amount of regulated housing production over the last 6 years. Some cities have no tree removal restrictions and have tree codes that are limited to the requirements of planting street trees. Implementing the MHOR Tree Removal Standards would make housing production harder and limit the number of units built.

MHOR home rulemaking standards should seek to ease tree removal standards to encourage housing production. Not mandating the proposed tree standards is not enough. The State must actively find ways to reduce the burden of tree removal standards that cities have used intentionally to block housing production. This should include requirements to make the removal of trees for the production of housing easier and faster. The rulemaking does not need to make things harder; it needs to find ways to make things easier.

I recommend abandoning the Tree Removal Standards shown in Module 3.1 and replace with the following recommendations to reduce the burden in cities with overly restrictive tree removal standards:

- Tree removal standards must be objective and clear. The approval process must also be objective and exclude use of discretionary procedures like public comment.
- Words like significant and character are vague and may not be used for the rationale to deny a tree removal application.
- Tree removal decisions must be made within 5 business days.
- Cities shall adopt a clear and objective definition of Heritage trees that incorporates the following:
 - To be considered a heritage tree, the DBH must exceed 36", be at least 100 years old, have a documented historical importance (simply being old does not meet the standard of heritage), is in good health with at least 25 years of remaining life, be a rare species for the jurisdiction, not be located within 20 feet of a structure, road, driveway, sidewalk, or utility line, and may not be considered an invasive or nuisance species.
 - A fee to remove a heritage tree should always be an option, which shall not exceed \$50 per 1" of DBH.
- Tree removal shall be permitted the tree is within 20 feet of a utility pole or line, is an invasive species, or is a type of fruit tree.
- Hazardous trees shall be removed. Hazardous trees include any tree that would jeopardize a homeowner's insurance policy or mortgage loan, could damage property, is within 20 feet of a utility line or structure, is at risk of death within 10 years, has branches at risk of falling or located over the roof of a structure or road/walkway, insect infestation, show signs of decay or fungus, structural risks, or root failure.
 - Arborist reports are optional; the property owner shall be permitted to certify the condition.
- Douglas Fir shall not be located within 120 feet of a structure and poplar, silver maples, Norway

maples, and cottonwood trees shall not be located within 50 feet of a structure due to their falling risk and because they are poorly suited in residential settings.

- Tree removal standards shall not apply to trees with a DBH of 20" or less.
- Human shelter shall be prioritized over animal habitat. Most urban areas are not suitable animal habitats and should maximize urban use.
- Up to 1/3 of trees greater than 20" DBH, except heritage trees shall be eligible for removal without review, approval, or a permit.
- Trees that are prevalent in an area are by definition not significant because they are common.
- Mitigation and replanting requirements or mitigation fees must meet the Nollan Dolan test, which must be completed by a municipality on an individual basis and demonstrate that permit conditions have an essential nexus to the government's land use interest.
- Replanting standards shall not include monitoring, fees, or inspections.
- Replanting species shall not be overly prescriptive on what type of tree can be planted and should incorporate goals to diversify and be resilient to changing climate, disease, and insects.

Thank you,

Brianne M. Margolin
Phone: (971) 226-4533
briannebmb@yahoo.com

From: [Brienne Bennett](#)
To: [DLCD Housing * DLCD](#); [CAUDEL Ingrid * DLCD](#); [HAPO Dlcd * DLCD](#); [ANDERSON Emily * DLCD](#); [HAMMER Alexis * DLCD](#); [TAYLOR Casaria * DLCD](#); [HAMPTON Matthew L * DLCD](#)
Subject: Middle Housing Tree Removal
Date: Tuesday, March 31, 2026 12:25:21 AM

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Oregon DLCD,

I have reviewed the Tree Removal standards under Module 3.1 of the MHOR Homes Rulemaking and provide the following comments regarding issues with the mitigation standards.

I see constitutional violations involving the mitigation requirements. It doesn't appear that the mitigation requirements comply with the Fifth Amendment, Nollan Dolan doctrine, or unconstitutional conditions doctrine.

These standards apply when a government places a condition on land use or development. First, there must be an essential nexus - a clear connection between the government's demand and a legitimate public interest. A condition can't serve a general public interest not directly tied to the project. Second, the demand must be individualized and proportional to the impact or benefit of development. For example, a City requirement to plant mitigation trees or pay fees for the removal of certain trees is not proportional (and is unconstitutional).

Unless a municipality can prove that the removal of trees on an individualized basis (each application) has a direct nexus to the permit and specific parcel, and is both significant and proportional, it may not assess mitigation requirements or a mitigation fee.

In case you are not familiar with the legislative history or case law, please find samples below. Case law is well established on this exact topic, including the landmark Supreme Court case in Oregon and a recent Washington Supreme Court case in 2024.

Using vague words like character, heritage, and significant have also been struck down by courts, which concluded rules were invalid and unenforceable.

I suggest removing any mitigation requirements since tree mitigation requirements have been repeatedly determined to be unconstitutional takings and that the state provide guidance that such standards may not be used. Please also ensure there are not vague terms used like heritage, significant, or character and advise municipalities to use clear and objective language, particularly if they could involve any civil violations.

[Nollan v California Coastal Commission \(1987\)](#)

Nollan is a landmark case that established legal precedent of "rational nexus". The Supreme Court determined that government imposed conditions on land use must substantially advance legitimate state interests. The court clarified that a public easement constitutes a taking under the Fifth Amendment. Although the government is free to advance its comprehensive plan, it cannot compel residents alone to contribute to the realization of that goal. A use restriction may constitute a taking if not reasonably necessary to the effectuation of a substantial government purpose.

[Dolan v. City of Tigard \(1994\)](#)

The case examined the unconstitutional conditions doctrine, which prohibits the government from requiring individuals to relinquish constitutional rights for discretionary benefits. The Court established the need for an "essential nexus" between the permit conditions and legitimate state interests. It clarified that standards for evaluating conditions imposed by local governments must be individualized determinations. The burden of proof lies with the city to justify the conditions imposed are related both in

nature and extent to the impact of the proposed development. The city's analysis must be proved to be actual, not theoretical. If the condition is overly broad or serves a general public purpose not directly tied to the project, it is likely a Dolan violation requiring compensation. The government may not use its permit power to force a landowner to solve existing community problems that their development did not primarily cause. The U.S. Supreme Court reversed the judgement by the Oregon Supreme Court.

Examples: Impact fees, tree preservation, water/sewer connection, fees in-lieu of requirements, land dedication, on-site infrastructure, parks and open space, traffic mitigation, environmental dedications and mitigation, school or library, emergency services.

F.P. DEVELOPMENT, LLC v CHARTER TOWNSHIP OF CANTON (2022)

City ordinance required mitigation of trees removed by replacing trees or paying a fee to the tree fund. Court found the tree mitigation ordinance to be an unconstitutional taking under the 5th Amendment because the requirement was burdensome and lacked proportionality. The court determined the ordinance to be an an unconstitutional taking.

Koontz v. St. Johns River Water Management District, 570 U.S. 595 (2013)

Koontz applied for permits to develop his property, which was a wetland. Government agency required mitigation for environmental damage. Supreme Court held that Nollan/Dolan applied even when a permit is denied and when the demands are for money related to land-use permits. Demand for money for a specific parcel of land implicates the Takings Clause. Court emphasized that a demand for monetary payment was akin to a lien on a property, which is subject to takings analysis.

Sheetz v. El Dorado County, 22-1074 (2024)

County required payment of a \$23k traffic impact fee to obtain a building permit. SCOTUS unanimously ruled that a fee can be an uncompensated taking if private property. A fee schedule is not permitted because the analysis must be for the individualized impact of a specific property.

EDWARD C. GOKEY v. CITY OF BLACK DIAMOND, 2025

City Tree Ordinance requiring mitigation trees and fees for the removal of trees was ruled by the Washington Supreme Court as an unlawful taking in violation of the 5th Amendment. Court also found that using vague words made the ordinance void and unenforceable. Words like significant, heritage, degrade, character are vague, subjective, and unclear.

Thanks,
Brianne Margolin
[Sent from Yahoo Mail for iPhone](#)

From: [Anni Eriksson](#)
To: [DLCD Housing](#) * [DLCD](#)
Subject: Public Comment for RAC – Tree Standards (March 11 discussion)
Date: Tuesday, April 7, 2026 5:59:16 PM

[Some people who received this message don't often get email from erikssona@icloud.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Please distribute this comment to the MHOR Homes RAC members for consideration regarding tree removal and mitigation standards.

I have reviewed the materials for Meeting #3 regarding tree removal, replacement, and replanting standards. As an Oregon City homeowner who has personally navigated tree-related liens, code enforcement, and the need for clear and objective review processes, I can offer a highly relevant perspective. Specifically, our rules need to address the critical gap between tree mitigation obligations and their enforcement across property transfers. I raise this concern based on my direct personal experience with how these enforcement mechanisms can disproportionately impact subsequent homeowners.

Before I owned my home, a street tree was removed. The required mitigation was never completed. A lien remains on my title, and no replacement tree was ever planted. I am now responsible for a violation I did not commit, with no clear path to resolution.

I urge the committee to consider two essential safeguards as we standardize local land use review processes:

1. Pre-transfer compliance verification. The Oregon Homes program is built on the premise of using "clear and objective criteria" to make development processes predictable and streamlined. However, hidden municipal liens fundamentally undermine this predictability. How will the proposed rules ensure that a prospective buyer or builder can verify a property's tree-mitigation compliance before inheriting a crippling lien? The rules should require either explicit disclosure at the time of sale or a publicly searchable compliance status for tree-related obligations, ensuring that lot eligibility and encumbrances are fully transparent.

2. A mechanism for innocent owners to seek lien review or release. When cities issue maximum daily penalties via default judgments—such as assessing \$300 a day until a fine reaches \$72,000 simply because an absentee owner failed to appear in court—rules that allow these unresolved liens to transfer silently risk perpetuating uneven or disproportionate enforcement. Without an objective review process for current, good-faith owners to challenge or clear liens they did not create, our rules risk entrenching past enforcement failures rather than removing barriers to housing production, which is a core charge of this committee.

Fulfilling HB 2258: HB 2258 explicitly mandates the replacement or replanting of certain removed trees, such as those with a DBH of 12 inches or more. The program's standardized criteria must extend to how these obligations are tracked, enforced, and resolved across property transfers. We must ensure these rules actually result in new trees and preserved canopy, rather than just generating perpetual municipal debt attached to properties.

Finally, in our discussions around equity and housing outcomes, I want to highlight that equity extends beyond just geography and census tracts. Many assistance programs rely heavily on specific demographics, which is crucial, but it often means people facing real, devastating hardships in historically advantaged areas completely fall through the cracks. For example, when I sought relief from exorbitant municipal liens, I was entirely excluded from a city reimbursement program due to a rigid technicality regarding the timeline of my property transfer. As the RAC develops rules to remove barriers and create equitable housing outcomes, we must ensure our policies have the flexibility to account for actual lived hardships, not just geographic checkboxes.

Thank you for your consideration.

Thank you,
Annika Eriksson

971-359-8578
erikssona@icloud.com

Draft Language: Oregon Administrative Rules Chapter 660, Division 047 – Oregon Homes

Updated April 2026

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660-047-0000 Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197.040

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply.

In addition, the following definitions apply:

- (1) "Building Height" means the vertical distance from grade plane to the average height of the highest roof surface.
- (2) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.
- (3) "Design standards" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site.
- (4) "Final Engineering Plans" means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems and utilities.
- (5) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including:
 - (a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing.
 - (b) Types with a buildable area of:
 - (A) A size of not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, duplex, triplex, quadplex or townhouse.
 - (B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling.
 - (c) A multiunit dwelling with more than six and fewer than 12 units.
 - (d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.
 - (e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685 and OAR 918-001-0500.
- (6) "Oregon Homes Lot" means lots or parcels that meets the following criteria are:
 - (a) Lawfully established units of land;
 - (b) Within an urban growth boundary;

- (c) Zoned to allow residential use;
- (d) At least 1,500 square feet;
- (e) Not larger than 20,000 square feet;
- (f) Not covered by slopes averaging more than 15 percent;
- (g) **Not** within an area identified in an inventory or map that is part of the local government's comprehensive plan as:
 - (A) Environmentally sensitive or containing significant natural resources;
 - (B) Open space or scenic areas; or
 - (C) Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas; and
- (h) Vacant, including a lot or parcel:
 - (A) Created by any lawful division of land, regardless of when the division occurred.
 - (B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.
 - (C) For which residential units were demolished more than five years prior.
 - (D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685 and OAR 918-001-0500.
- (7) "**Site Plan**" means a site or development plan that is drawn accurately to scale and shows the following existing and proposed information:
 - (a) All property lines with dimensions and total lot area;
 - (b) North arrow and scale of drawing;
 - (c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
 - (d) Existing Goal Protected Resources, if any are present on the site;
 - (e) Easements and on-site utilities;
 - (f) Existing and proposed development with all dimensions, including floor area and building footprint;
 - (g) Distances of all existing and proposed development to property lines;
 - (h) Types and location of outdoor area and required usable open space (if required);
 - (i) Percentage of the site proposed for outdoor area coverage;
 - (j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
 - (k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

(8) “**Siting** standards” means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

660-047-0020 Local Government Review Process

660-047-0020 Local Government Review Process

Summary: This section creates the local government review process for the development of Oregon Homes Lots.

Commentary: Policy intent is to make clear local governments cannot apply additional standards to Oregon Homes. To ensure the fastest timeline for approval, a ministerial, also known as Type I review, is proposed. This allows the local jurisdiction to review application for completeness, using clear and objective approval criteria. The burden of proof to demonstrate application completeness is placed on the applicant to shorten the local government staff time required for the review.

(1) Local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-0060.

(2) **App**lications for Oregon Homes Development on an Oregon Homes Lot shall be reviewed by the local government as a ministerial review. Administration of this review shall only be to ensure compliance with standards outlined in OAR 660-047-0020 through OAR 660-047-0060 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) In a local governments review of an Oregon Homes Development an application shall be deemed complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements as listed in 6600-047-0010, 6600-047-0030, 6600-047-0040, and 660-047-0060;

(b) **Build**ing plans approved by Building Code Division that meet applicable building code standards;

(c) Written justification for any variations or adjustments from the requirements of OAR 660-047-0050; and

(d) A tree mitigation plan that meets the standards outlined in OAR 660-047-0060, as applicable.

(4) **App**lication submissions that do not include information required in this chapter shall be deemed incomplete by the local government.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice in reviewing or approving an application for Oregon Homes Development.

(7) **Not**hing in this section precludes a local government from applying locally required public facilities, final engineering plans, or traffic impact analysis review processes to an application for an Oregon

Homes Development. A local government shall not establish a public facilities, final engineering plans, or traffic impact analysis review process uniquely for an Oregon Homes Development.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.400

660-047-0030 Design Standards

660-047-0030 Design Standards

Summary: This section establishes a set of design standards for an Oregon Homes Lot including entry orientation, street facing façade, garages and driveways, and waste storage facilities.

Commentary: The intent of the proposed design standards is to ensure quality development while not increasing development costs or permitting review times. DCLD has considered OAR 600-046 (Model Code) as reference in the design standards below.

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and those that interact with the right-of-way. A local government may only review applications for Oregon Home Developments under the design standards outlined in this section. A local government may only apply the following design standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

(1) All units within the development must have their pedestrian entry orientation meet at least one of the following:

- (a) Face the street,
- (b) Be at an angle of up to 45 degrees from the street,
- (c) Face a common open space that is adjacent to the street and is abutted by dwellings on at least two sides, or
- (d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.

(2) Windows or pedestrian entrance doors must be provided on street-facing facades as follows:

- (a) At least one street-facing façade must have a minimum of 15 percent windows or pedestrian entrance doors.
- (b) All other street-facing facades must have a minimum of 10 percent windows or pedestrian entrance doors.

(c) The following facades are exempt from these standards:

- (A) Facades separated from the street lot line by a dwelling, or by a buildable lot with a depth of at least 20 feet measured from the street lot line.
- (B) Facades that are more than 40 feet from the street lot line.

(C) Facades facing an alley

(3) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Home Development scenarios are excluded from this standard:

(a) Accessible and adaptable units

(b) Lots that receive vehicular access from an alley

(c) Off-street parking areas that are separated from the street lot line by a dwelling

(5) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:

(a) the storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.

(b) The storage facility must be separated from the street lot line by at least 5 feet.

(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

660-047-0040 Siting Standards

660-047-0040 Siting Standards

Summary: This section establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and outdoor areas.

Commentary: Through the RAC process, the approach to have siting standards for Oregon Homes Lots, regardless of the type of Oregon Homes Development, was decided. The above siting standards were chosen to ensure development feasibility and an expedited review process. DCLD has considered OAR 600-046 (Model Code) as reference.

A local government may only review applications for Oregon Home Developments under the siting standards outlined in this section. A local government may only apply the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot

(1) **Minimum** lot setbacks are 5 ft on all sides of the building. For buildings greater than 35 feet in building height the setbacks must be 10 ft on all sides. Building height as defined in OAR 660-0470010.

(2) Development on an Oregon Homes Lot must meet the **minimum** density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(3) **At least** 15 percent of the gross site area must be provided as outdoor area and shall contain one

or more of the features:

- (a) areas planted with vegetation (including natural areas and existing trees);
- (b) Private open space, including balconies attached to individual dwelling units;
- (c) Pedestrian hardscape;
- (d) Usable open space being one of the following:
 - (A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
 - (B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
 - (C) Tree grove being existing mature trees;
 - (D) Turf or grass play fields;
 - (E) Children's play structure or play area;
 - (F) Sports courts;
 - (G) Swimming or wading pool or hot tub;
 - (H) Walking fitness course;
 - (I) Natural area with benches; or
 - (J) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

660-047-0050 Variances and Adjustments

660-047-0050 Variances and Adjustments

Summary: The above section establishes when variations and adjustments may be allowed and to what extent.

Commentary: While the intention of the Oregon Homes program is to create standards to be applied across the State, statute allows for rules to include consideration of circumstances to account for the real variety and diversity of lots that may be suitable for Oregon Homes development but for slight deviations from approval criteria. The policy intent for these variances is avoid introducing discretion into any approval process. A blanket 10% deviation allowance keeps these reviews clear, objective, and measurable.

- (1) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS 197A.395 in approving an application for Oregon Home Development.
- (2) A local government shall approve an Oregon Home Development application if the proposed site plan varies not more than 10% from the following standards:

- (a) Window and door coverage in OAR 660-047-0030 (2)
- (b) Garages, carports, or on-site parking standards in OAR 660-047-0030 (3)
- (c) Screening requirements for trash and recycling facilities OAR 660-047-0030 (4)
- (d) Setbacks outlined in OAR 660-047-0040 (1)
- (e) Outdoor area characteristics in OAR 660-047-0040 (3)

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 456.270 to 456.295; 197A.395

660-047-0060 Tree Standards

660-047-0060 Tree Standards

Summary: This section establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Homes lots.

Commentary: As proposed these rules do not add any additional requirements beyond those in HB 2258 to what trees cannot be removed. The list of trees that require mitigation if removed similarly does not add any additional requirements above statute. The proposed rules add an option for a local governments to require a fee in lieu.

- (1) Approval of an Oregon Home Development may not result in the removal of trees that are:
 - (a) designated by the local government as a heritage tree, or
 - (b) 20 inches or greater DBH.
- (2) An applicant for Oregon Home Development on an Oregon Home Lot may propose to remove trees as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:
 - (a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;
 - (b) Not deemed unhealthy by a certified arborist; and
 - (c) 12 inches or more DBH.
- (3) If one of the criteria as listed in 660-047-0060 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:
 - (a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;
 - (b) The replacement of the removed tree with a tree of the same protected species; or (b) A payment of a fee-in-lieu as established by the local government per local ordinances

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

From: CAUDEL Ingrid * DLCD
To: CAUDEL Ingrid * DLCD
Subject: MHOR Homes (Phase One) Rulemaking Draft Rules Comments
Date: Friday, May 15, 2026 11:59:30 AM
Attachments: Screenshot 2026-04-27 at 10.36.24AM.png

From: Brock Nation <bnation@oregonrealtors.org>
Sent: Monday, April 27, 2026 11:12 AM
To: STUCKMAYER Ethan * DLCD <Ethan.STUCKMAYER@dlcd.oregon.gov>
Subject: Re: MEETING MATERIALS: MHOR Homes (Phase One) Rulemaking Advisory Committee Meeting #4

Hi Ethan,

Looking forward to the meeting on Wednesday! Here's a few suggestions / notes based on my review of the initial draft rules:

- **-0010(8)** – “Siting Standards” definition is cut-off part-way through (page 3, see bottom)
- **-0020:**
 - **(4)** – Says “chapter”, should say “division” (page 4)
 - **(7)** – Might be good to remind cities of the prohibition on traffic impact analyses for certain middle housing developments [[HB 2138 §1\(6\)](#)]
- **-0030:**
 - **(1)(c)** – This could still be prohibitive in some cases where we (RAC/DLCD) would want it to work because of the “units on two sides” requirement
 - See attached image from Villebois as an example. For context, the strip behind the house is a drive aisle / alley, not a street
 - **(4)** – Does the 50% street frontage parking maximum include on-street parking? If so, this could be prohibitive if the home is not alley-fed or otherwise exempt from (4)
- **-0060(3)(c)** – Needs some sideboards around the maximum allowable amount of the locally adopted in-lieu fee
 - **Exaggerated example:** What if replacement or replanting isn't possible and City X has adopted an in-lieu fee of \$50k? That home simply isn't going to be built

Best,

Brock Nation
Policy Director
Oregon REALTORS®
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Brock Nation
Policy Director

www.oregonrealtors.org | 503-362-3645 | 800.252.9115

From: CAUDEL Ingrid * DLCD <Ingrid.CAUDEL@dlcd.oregon.gov>

Date: Thursday, April 23, 2026 at 5:56 PM

To: STUCKMAYER Ethan * DLCD <Ethan.STUCKMAYER@dlcd.oregon.gov>

Subject: MEETING MATERIALS: MHOR Homes (Phase One) Rulemaking Advisory Committee Meeting #4

Hello Middle Housing Oregon Homes (MHOR Homes) Rulemaking Advisory Committee (RAC) Members,

DLCD is very much looking forward to hosting the *fourth* MHOR Homes RAC meeting next week on **April 29, 2026 from 9:00 a.m. to 12:00 p.m. via Zoom!**

The primary objectives of next week's meeting are to discuss the draft rules for Oregon Homes specifically:

- Sitings Standards
- Design Standards
- Local Review Processes

To help you prepare to engage in this process, several background materials are included in this [Meeting Packet](#) for your review and reference (also attached).

The calendar appointment for the upcoming RAC meeting is also attached. Zoom meeting information is provided within that calendar appointment. Please do not share this calendar appointment with others in your organization or the public. Others wishing to observe the RAC meeting can do so by watching the livestream or recording on the department's [YouTube channel](#).

Much appreciation again for your partnership in this process. Looking forward to learning from you all next week.



Ethan Stuckmayer, AICP

Manager | Housing Division

Pronouns: he/him/his

Oregon Department of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

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ethan.stuckmayer@dlcd.oregon.gov | www.oregon.gov/LCD

Caution: This is an external email and may be malicious.

From: [Jerry Lidz](#)
To: [CAUDEL Ingrid * DLCD](#); [STUCKMAYER Ethan * DLCD](#)
Subject: Comments on Draft OARs
Date: Sunday, May 3, 2026 5:45:20 PM

Hi Ethan —

I thought last week's meeting was quite productive. The issues are complex, but this time RAC members mostly focused on the draft rules, with fewer tangents.

This is a very challenging project for you and DLCD colleagues. I think the hardest part is developing standard designs that will work in a wide variety of settings. To me, the biggest hurdle may be the placement of dwelling units on the lot, especially with regard to the street and/or city right-of-way, as those vary widely not only from city to city, but also within a city based on when the neighborhood was developed and what the city defines as public right-of-way, private property or some sort of hybrid (i.e., private but subject to city easement).

What follows are my specific rule-by-rule comments. Some are just nitpicky suggestions about punctuation or word choice, while others are questions about the rules' intent.

OAR 660-047-010

(3) Delete "s" from "Design standards" because what follows is the definition of "a standard."

(4) The next-to-last line ("including plans . . . Improvements") seems repetitious.

(5) "would be approved" is ambiguous. Does it mean "for which approval is requested" or ???

(a) Does this subparagraph ("Attached or detached housing....") exclude anything? Or is the intent to include only ADUs, prefab and modular?

(b) "Types" with a buildable area .. Does "types" refer to those listed in subsection (a)?

(A) Does "buildable area" (2200 sq ft) refer to total area or on-the-ground footprint?

(A) & (B) Should these be joined by "and"?

(6) "Oregon Homes Lot" [singular] means "a lot or parcel". And delete "are" at the end of the line.

(a) Delete (s) from "unit," because it refers back to "a" lot or parcel.

(f) Add "and" at end of this line.

(h) After (h) (C), add "or".

(7) (i) Should we define "outdoor area coverage"?

OAR 660-047-020

(3) Add an apostrophe for "local government's..."

(6) Re public notice: In light of some of the local government RAC members' comments, should we _allow_ local governments to provide public notice if they want to? If so, the rule could say "A local government is not required to provide public notice * * * but is not prohibited from doing so."

OAR 660-047-0030

Nitpick: In the introductory paragraph (and in the introductory paragraph for Rule 0040), I suggest moving "only" from "may only review" to precede "under," so it reads "...only under the design standards. . ." Similar change in the following sentence.

More substantive: What does "those" in the second line of the introductory paragraph refer to? The safety and functional aspects, or people? What 'aspects' 'interact' with the right-of-way? Also, query if 'right-of-way' has a common meaning for all cities (more comments on this in next section).

OAR 660-047-0040

Here's the hard part!

First, one nitpick: In the introductory two sentences, move "only" to follow "Oregon Home Developments." similarly, in next sentence, move "only" to follow "apply."

Building Oregon Homes Developments as infill in established neighborhoods is tricky: People often object to new development in established neighborhoods, and often a reasonable and appropriate response to that is essentially, 'Tough. Cities grow and change, and those changes affect many neighborhoods.' (I've had to help staff convey that message to folks who resented increased traffic as Eugene has expanded its city limits. In one case, the City installed street bumps and side-rails to mitigate traffic speed.) Still, to the extent we can achieve the goals of the

Oregon Homes program without too much resentment, the more likely we can continue to add density and affordability. And the better the chance that the new residents are likely to be welcomed to their new homes.

I think many RAC members agreed that a 5-ft setback is inadequate, especially from the right-of-way. Why? Because in many places, the existing houses are set back 20 or more feet from the right-of-way. And, what counts as the right-of-way may vary among cities and even within a city. For example, on my street, I think the right-of-way is unusually wide — i.e., much wider than the actual street — perhaps because it used to include a trolley line. Our ‘parking strip’ — between the street and the sidewalk — is about 10 feet, and I think every house on the street is set back another 15-20 feet from the sidewalk. If new homes were built just 5 — or even 10 — feet from the sidewalk, they would stick out like sore thumbs. And that would generate a lot of resentment in the community.

I wish I had a simple solution to the setback issue. Is it possible to allow the cities to use their own setback standards for the neighborhood, so long as the city doesn’t impose a greater setback for the Oregon Homes Development? Or, if you think that’s too restrictive, maybe say that the setback for Oregon Homes can be no more than 75% of the city’s standard setback for that neighborhood. I think that would go a long way to harmonizing Oregon Homes with existing neighborhoods.

I’m also concerned about the height standards. 35 feet is essentially a three-story or at least two-and-a-half story dwelling. Two concerns: (1) That’s pretty tall if the existing homes are all or nearly all only one story. For example, if a 35’ home is set back only 5 — or even 10 - feet from the neighbor’s lot, it is likely to cast a large shadow on the next-door home. That blocks sunlight for side-facing windows and limits sunshine for side gardens or shrubs. A short setback from the street also makes backing out of the other houses’ driveways more dangerous, as the drivers backing out of their driveway won’t be able to see cars driving on the street until their car’s tail is already in a traffic lane, at least where there’s no on-street parking space. Again, if there is a way to relate the height standards to existing city regulations, that might help.

(3)(d)(A) — Outdoor recreation area. I’m puzzled about why the outdoor recreation area is limited to a 10-foot by 10-foot square. 100 square feet is enough for some equipment, but it doesn’t leave room for many options. Does the rule allow for more than one such space? How does this relate to (E) (Children’s play structure) and the other things listed under (d) “Usable open space”?

OAR 660-047-0050

I must be missing something, but in the legislative website’s version of ORS 197A.395, I’m not seeing sections 38-41.

Those might answer my question about subsections (1) and (2) of the draft OAR, which is: To me, those two subsections seem inconsistent: (1) says local governments need not grant adjustments, while (2) says they must grant 10% variances. I think I understand subsection (2) to require cities to approve 10% variances to the standards listed in (a) through (e), which in effect means that, e.g., an outdoor recreation area may range from 90 sq ft to 110 sq ft, or a 20-ft setback could be 18 to 22 feet. I think that would work; I just wanted to make sure that’s the intent.

OAR 660-047-0060

Clarification: Am I right that, except for heritage trees and trees 20 inches or more in DBH, which cannot be removed at all [subsection (1) (a) or (b)], mitigation for tree removal is not required unless (2) (a), (b) and (c) all apply? For example, if the tree is larger than 12 inches DBH and less than 20 inches DBH but is not a protected species, no mitigation is required? I.e., I’m just checking that “and” is indeed the conjunction we want between subsections (2)(b) and (c).

Last and among the most nit-picky comments: In the first line of subsection (3), please substitute “is” for “are”, because the subject of the sentence is “one [of the criteria].”

Whew! That’s a lot of comments. I hope they’re helpful.

Thank you for all your great work on this.

Jerry

From: CAUDEL Ingrid * DLCDC
To: CAUDEL Ingrid * DLCDC
Subject: MHOR Homes - Thoughts
Date: Wednesday, May 6, 2026 4:53:42 PM

From: Fred Evander <fevander@ci.independence.or.us>
Sent: Wednesday, May 6, 2026 3:30 PM
To: STUCKMAYER Ethan * DLCDC <ethan.stuckmayer@dlcd.oregon.gov>
Cc: aring@orcities.org
Subject: MHOR Homes - Thoughts

Hey Ethan,

Thanks for taking questions yesterday.

A few thoughts. The bill says that the commission *may* specify "processes that the local governments may apply to the development...which the local government may establish and implement." While we have discussed this primarily as a ministerial review process, it seems like the process could also include something like a simple zoning compliance review to determine whether the proposal was consistent with the standards for the underlying zone. I would envision the process considering items such as density, allowed uses, height, setbacks, lot coverage, etc. At the last meeting, Jerry (?) mentioned taking steps to ensure that development under the bill would complement the surrounding neighborhood, and those basic standards would help.

Additionally, while the bill says that the Commission *may* specify "limits on land use, including establishing appropriate minimum or maximum setbacks, parking requirements, floor-to-area ratios, or minimum dwelling units per acre," the board does not have to, and taking the approach would ignore much of the nuance that is associated with local planning. If they do take the approach, I ultimately agree with Morgan that the section could establish a floor for the requirements and say something like - no front yard setback shall exceed 10 feet, no parking requirement shall exceed 1 or 1.5 spaces per unit, and no density shall be less than 6 units per acre (as examples).

Blending those two approaches would help ensure that the units would fit better in the planning framework of existing jurisdictions and promote more local acceptance of the program.

If I have time, I will try and type up some other thoughts.

Until then, if you have any questions, please let me know.

Thanks,

Fred

Fred Evander
City Planner
City of Independence
(503) 837-1168

From: [Jerry Lidz](#)
To: [CAUDEL Ingrid * DLCD](#); [STUCKMAYER Ethan * DLCD](#)
Subject: Photos of need for height limits and setbacks
Date: Wednesday, May 6, 2026 3:53:45 PM

Hi Ethan and Ingrid —

Here are four photos of a recent project in a Eugene low-density neighborhood that has provoked a lot of criticism and resentment from nearby residents. As you can see, it's inconsistent with the height of adjacent homes, and the minimal separation from its neighbors makes it a bit overwhelming. If the new admin rules can prevent or at least mitigate this kind of disparity, I think it will help to reduce opposition and hostility in the affected neighborhoods.

Thanks for looking at these photos.

Jerry









From: [Anni Eriksson](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Public Comment for MHOR Homes RAC Meeting #1 (Feb 18, 2026) – Lived Experience Perspective
Date: Thursday, May 14, 2026 2:13:20 AM

Dear DLCD Housing Team and RAC Members,

Please accept my participation in RAC Meeting #1 on February 18, 2026 by way of this written comment:

In reviewing the materials, particularly the LCDC Framework for Equitable Decision-Making, I want to emphasize that housing equity isn't always about geography. Federal equity programs and assistance frameworks are often the root source of rigid bureaucratic cracks, as they rely heavily on strict demographic check-boxes or specific census tracts. Consequently, people facing unusual and devastating financial hardships in historically affluent zip codes completely fall through the cracks.

As a new homeowner who faced this exact scenario, I can attest that local code enforcement practices can create a hostile, "us vs. them" environment. When rigid municipal enforcement is used to fiercely maintain a specific suburban lifestyle, it isolates new residents—especially those already facing a disadvantage or hardship—rather than inviting them to participate in or enrich the community.

This rulemaking process offers a unique opportunity for the State of Oregon to set a precedent from the ground up. As the RAC works on rules to remove barriers and further equitable housing outcomes, I urge the committee to ensure our definition of equity is broad enough to roll back exclusionary frameworks grandfathered in from federal programs. In doing so, we protect any homeowner acting in good faith, regardless of their zip code.

I appreciate your willingness to accommodate my schedule so my voice could be part of this discussion.

Thank you,
Annika Eriksson
Lived Experience Representative, MHOR Homes RAC
971-359-8578
erikssona@icloud.com

From: [Anni Eriksson](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Public Comment for MHOR Homes RAC Meeting #2 (March 11, 2026) – Design Standards & Variances
Date: Thursday, May 14, 2026 2:14:11 AM

Dear DLCD Housing Team and RAC Members,

Please accept this as my written comment for RAC Meeting #2.

On clear vs. subjective design standards: I caution against local mandates requiring high visibility from the public right-of-way. Oregon City's "clear vision" rules have been weaponized against homeowners—a 2011 city planning presentation explicitly framed privacy barriers as concealing criminal behavior and celebrated their removal as a crime deterrent. This "privacy equals suspicion" philosophy remains embedded in code enforcement, creating a hostile environment.

The mindset also spills over into the private sector. A local multifamily owner recently removed mature oak trees, and the head landscaper explained the goal: "removing places for people to hide and do bad things." When local government codifies nature and privacy as criminal risks, private actors absorb that logic—destroying habitat and treating shade as a threat.

Oregon has made strides in removing discriminatory rules that infringe on property rights. The 2021 HB 2534 required HOAs to remove discriminatory language from governing documents. The Oregon Homes program should extend that principle: no local government should enforce subjective aesthetic standards that function as barriers to enjoying one's own property.

For local review of BCD permit-ready plans: final rules must ensure transparency about existing site obligations (e.g., tree replacement, code violations). Buyers and builders need a clear way to verify a lot's compliance status before inheriting a municipal lien.

Thank you,
Annika Eriksson
Lived Experience Representative, MHOR Homes RAC
971-359-8578 | erikssona@icloud.com

From: [Anni Eriksson](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Public Comment for MHOR Homes RAC Meeting #3 (April 1, 2026)
Date: Friday, May 15, 2026 7:37:34 PM

Dear DLCD Housing Team and MHOR Homes RAC members,

Please accept this as my written comment for RAC Meeting #3. I am resubmitting after my previous submission was misfiled due to an error in the subject line, so that it may be considered at the appropriate time.

I have reviewed the materials for Meeting #3 regarding tree removal, replacement, and replanting standards. As an Oregon City homeowner who has personally navigated tree-related liens, code enforcement, and the need for clear and objective review processes, I can offer a highly relevant perspective. Specifically, our rules need to address the critical gap between tree mitigation obligations and their enforcement across property transfers. I raise this concern based on my direct personal experience with how these enforcement mechanisms can disproportionately impact subsequent homeowners.

Before I owned my home, a street tree was removed. The required mitigation was never completed. A lien remains on my title, and no replacement tree was ever planted. I am now responsible for a violation I did not commit, with no clear path to resolution.

I urge the committee to consider two essential safeguards as we standardize local land use review processes:

1. Pre-transfer compliance verification. The Oregon Homes program is built on the premise of using "clear and objective criteria" to make development processes predictable and streamlined. However, hidden municipal liens fundamentally undermine this predictability. How will the proposed rules ensure that a prospective buyer or builder can verify a property's tree-mitigation compliance before inheriting a crippling lien? The rules should require either explicit disclosure at the time of sale or a publicly searchable compliance status for tree-related obligations, ensuring that lot eligibility and encumbrances are fully transparent.

2. A mechanism for innocent owners to seek lien review or release. When cities issue maximum daily penalties via default judgments—such as assessing \$300 a day until a fine reaches \$72,000 simply because an absentee owner failed to appear in court—rules that allow these unresolved liens to transfer silently risk perpetuating uneven or disproportionate enforcement. Without an objective review process for current, good-faith owners to challenge or clear liens they did not create, our rules risk entrenching past enforcement failures rather than removing barriers to housing production, which is a core charge of this committee.

Fulfilling HB 2258: HB 2258 explicitly mandates the replacement or replanting of certain removed trees, such as those with a DBH of 12 inches or more. The program's standardized criteria must extend to how these obligations are tracked, enforced, and resolved across property transfers. We must ensure these rules actually result in new trees and preserved canopy, rather than just generating perpetual municipal debt attached to properties.

Finally, in our discussions around equity and housing outcomes, I want to highlight that equity extends beyond just geography and census tracts. Many assistance programs rely heavily on specific demographics, which is crucial, but it often means people facing real, devastating hardships in historically advantaged areas completely fall through the cracks. For example, when I sought relief from exorbitant municipal liens, I was entirely excluded from a city reimbursement program due to a rigid technicality regarding the timeline of my property transfer. As the RAC develops rules to remove barriers and create equitable housing outcomes, we must ensure our policies have the flexibility to account for actual lived hardships, not just geographic checkboxes.

Thank you for your consideration.

Thank you,
Annika Eriksson
971-359-8578

erikssona@icloud.com

Sent from my iPhone

From: [Anni Eriksson](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Public Comment for MHOR Homes RAC Meeting #4 (April 29, 2026) – Draft Rules Feedback
Date: Thursday, May 14, 2026 2:15:31 AM

Dear DLCD Housing Team and RAC Members,

Please accept this message as my written comment for RAC Meeting #4.

Drawing from my direct experience with inherited municipal burdens, I urge the Oregon Homes program to adopt the following safeguards:

1. Pre-Transfer Compliance Verification

Require public disclosure of tree-related obligations before any property transfer occurs.

2. Lien Review for Innocent Owners

Establish a clear process allowing current owners to challenge liens they did not create. For example, a \$72,000 lien on my title stems partly from a repealed code concerning unregistered vehicles—a standard the city no longer supports. Yet no mechanism exists to review it. Oregon Homes must not entrench past local enforcement failures.

3. Prohibit Subjective Aesthetic Standards

Ban discriminatory local design rules, especially "clear vision" vegetation limits. As detailed in my Meeting #2 comments, Oregon City's own 2011 Planning Commission materials explicitly framed privacy as criminal concealment. This philosophy has spilled over into private-sector landscaping practices that destroy mature habitat under the same presumption. The Oregon Homes program must not validate this framework.

4. Broad Hardship Definitions

Do not rely solely on census tracts. The rules must assist any good-faith homeowner facing inherited debt, regardless of zip code.

Thank you,
Annika Eriksson
Lived Experience Representative, MHOR Homes RAC
971-359-8578
erikssona@icloud.com

Draft Language: Oregon Administrative Rules Chapter 660, Division 047 – Oregon Homes

Updated April 2026

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660-047-0000 Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197.040

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply.

In addition, the following definitions apply:

- (1) "Building Height" means the vertical distance from grade plane to the average height of the highest roof surface.
- (2) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.
- (3) "Design standards" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site.
- (4) "Final Engineering Plans" means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems and utilities.
- (5) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including:
 - (a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing.
 - (b) Types with a buildable area of:
 - (A) A size of not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, duplex, triplex, quadplex or townhouse.
 - (B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling.
 - (c) A multiunit dwelling with more than six and fewer than 12 units.
 - (d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.
 - (e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685 and OAR 918-001-0500.
- (6) "Oregon Homes Lot" means lots or parcels that meets the following criteria are:
 - (a) Lawfully established units of land;
 - (b) Within an urban growth boundary;

- (c) Zoned to allow residential use;
- (d) At least 1,500 square feet;
- (e) Not larger than 20,000 square feet;
- (f) Not covered by slopes averaging more than 15 percent;
- (g) **Not** within an area identified in an inventory or map that is part of the local government's comprehensive plan as:
 - (A) Environmentally sensitive or containing significant natural resources;
 - (B) Open space or scenic areas; or
 - (C) Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas; and
- (h) Vacant, including a lot or parcel:
 - (A) Created by any lawful division of land, regardless of when the division occurred.
 - (B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.
 - (C) For which residential units were demolished more than five years prior.
 - (D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685 and OAR 918-001-0500.
- (7) **"Site Plan"** means a site or development plan that is drawn accurately to scale and shows the following existing and proposed information:
 - (a) All property lines with dimensions and total lot area;
 - (b) North arrow and scale of drawing;
 - (c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
 - (d) Existing Goal Protected Resources, if any are present on the site;
 - (e) Easements and on-site utilities;
 - (f) Existing and proposed development with all dimensions, including floor area and building footprint;
 - (g) Distances of all existing and proposed development to property lines;
 - (h) Types and location of outdoor area and required usable open space (if required);
 - (i) Percentage of the site proposed for outdoor area coverage;
 - (j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
 - (k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

(8) “**Siting** standards” means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

660-047-0020 Local Government Review Process

660-047-0020 Local Government Review Process

Summary: This section creates the local government review process for the development of Oregon Homes Lots.

Commentary: Policy intent is to make clear local governments cannot apply additional standards to Oregon Homes. To ensure the fastest timeline for approval, a ministerial, also known as Type I review, is proposed. This allows the local jurisdiction to review application for completeness, using clear and objective approval criteria. The burden of proof to demonstrate application completeness is placed on the applicant to shorten the local government staff time required for the review.

(1) Local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-0060.

(2) **App**lications for Oregon Homes Development on an Oregon Homes Lot shall be reviewed by the local government as a ministerial review. Administration of this review shall only be to ensure compliance with standards outlined in OAR 660-047-0020 through OAR 660-047-0060 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) In a local governments review of an Oregon Homes Development an application shall be deemed complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements as listed in 6600-047-0010, 6600-047-0030, 6600-047-0040, and 660-047-0060;

(b) **Build**ing plans approved by Building Code Division that meet applicable building code standards;

(c) Written justification for any variations or adjustments from the requirements of OAR 660-047-0050; and

(d) A tree mitigation plan that meets the standards outlined in OAR 660-047-0060, as applicable.

(4) **App**lication submissions that do not include information required in this chapter shall be deemed incomplete by the local government.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice in reviewing or approving an application for Oregon Homes Development.

(7) **Not**hing in this section precludes a local government from applying locally required public facilities, final engineering plans, or traffic impact analysis review processes to an application for an Oregon

Homes Development. A local government shall not establish a public facilities, final engineering plans, or traffic impact analysis review process uniquely for an Oregon Homes Development.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.400

660-047-0030 Design Standards

660-047-0030 Design Standards

Summary: This section establishes a set of design standards for an Oregon Homes Lot including entry orientation, street facing façade, garages and driveways, and waste storage facilities.

Commentary: The intent of the proposed design standards is to ensure quality development while not increasing development costs or permitting review times. DCLD has considered OAR 600-046 (Model Code) as reference in the design standards below.

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and those that interact with the right-of-way. A local government may only review applications for Oregon Home Developments under the design standards outlined in this section. A local government may only apply the following design standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

(1) All units within the development must have their pedestrian entry orientation meet at least one of the following:

- (a) Face the street,
- (b) Be at an angle of up to 45 degrees from the street,
- (c) Face a common open space that is adjacent to the street and is abutted by dwellings on at least two sides, or
- (d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.

(2) Windows or pedestrian entrance doors must be provided on street-facing facades as follows:

- (a) At least one street-facing façade must have a minimum of 15 percent windows or pedestrian entrance doors.
- (b) All other street-facing facades must have a minimum of 10 percent windows or pedestrian entrance doors.

(c) The following facades are exempt from these standards:

- (A) Facades separated from the street lot line by a dwelling, or by a buildable lot with a depth of at least 20 feet measured from the street lot line.
- (B) Facades that are more than 40 feet from the street lot line.

(C) Facades facing an alley

(3) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Home Development scenarios are excluded from this standard:

(a) Accessible and adaptable units

(b) Lots that receive vehicular access from an alley

(c) Off-street parking areas that are separated from the street lot line by a dwelling

(5) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:

(a) the storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.

(b) The storage facility must be separated from the street lot line by at least 5 feet.

(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

660-047-0040 Siting Standards

660-047-0040 Siting Standards

Summary: This section establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and outdoor areas.

Commentary: Through the RAC process, the approach to have siting standards for Oregon Homes Lots, regardless of the type of Oregon Homes Development, was decided. The above siting standards were chosen to ensure development feasibility and an expedited review process. DCLD has considered OAR 600-046 (Model Code) as reference.

A local government may only review applications for Oregon Home Developments under the siting standards outlined in this section. A local government may only apply the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot

(1) **Minimum** lot setbacks are 5 ft on all sides of the building. For buildings greater than 35 feet in building height the setbacks must be 10 ft on all sides. Building height as defined in OAR 660-0470010.

(2) Development on an Oregon Homes Lot must meet the **minimum** density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(3) **At least** 15 percent of the gross site area must be provided as outdoor area and shall contain one

or more of the features:

- (a) areas planted with vegetation (including natural areas and existing trees);
- (b) Private open space, including balconies attached to individual dwelling units;
- (c) Pedestrian hardscape;
- (d) Usable open space being one of the following:
 - (A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
 - (B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
 - (C) Tree grove being existing mature trees;
 - (D) Turf or grass play fields;
 - (E) Children's play structure or play area;
 - (F) Sports courts;
 - (G) Swimming or wading pool or hot tub;
 - (H) Walking fitness course;
 - (I) Natural area with benches; or
 - (J) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

660-047-0050 Variances and Adjustments

660-047-0050 Variances and Adjustments

Summary: The above section establishes when variations and adjustments may be allowed and to what extent.

Commentary: While the intention of the Oregon Homes program is to create standards to be applied across the State, statute allows for rules to include consideration of circumstances to account for the real variety and diversity of lots that may be suitable for Oregon Homes development but for slight deviations from approval criteria. The policy intent for these variances is avoid introducing discretion into any approval process. A blanket 10% deviation allowance keeps these reviews clear, objective, and measurable.

(1) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS 197A.395 in approving an application for Oregon Home Development.

(2) A local government shall approve an Oregon Home Development application if the proposed site plan varies not more than 10% from the following standards:

- (a) Window and door coverage in OAR 660-047-0030 (2)
- (b) Garages, carports, or on-site parking standards in OAR 660-047-0030 (3)
- (c) Screening requirements for trash and recycling facilities OAR 660-047-0030 (4)
- (d) Setbacks outlined in OAR 660-047-0040 (1)
- (e) Outdoor area characteristics in OAR 660-047-0040 (3)

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 456.270 to 456.295; 197A.395

660-047-0060 Tree Standards

660-047-0060 Tree Standards

Summary: This section establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Homes lots.

Commentary: As proposed these rules do not add any additional requirements beyond those in HB 2258 to what trees cannot be removed. The list of trees that require mitigation if removed similarly does not add any additional requirements above statute. The proposed rules add an option for a local governments to require a fee in lieu.

(1) Approval of an Oregon Home Development may not result in the removal of trees that are:

- (a) designated by the local government as a heritage tree, or
- (b) 20 inches or greater DBH.

(2) An applicant for Oregon Home Development on an Oregon Home Lot may propose to remove trees as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:

- (a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;
- (b) Not deemed unhealthy by a certified arborist; and
- (c) 12 inches or more DBH.

(3) If one of the criteria as listed in 660-047-0060 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:

- (a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;
- (b) The replacement of the removed tree with a tree of the same protected species; or (b)

A payment of a fee-in-lieu as established by the local government per local ordinances

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented:

From: [Jerry Lidz](#)
To: [CAUDEL Ingrid * DLCD](#); [STUCKMAYER Ethan * DLCD](#)
Subject: Comments on Draft OARs
Date: Sunday, May 3, 2026 5:45:20 PM

Hi Ethan —

I thought last week's meeting was quite productive. The issues are complex, but this time RAC members mostly focused on the draft rules, with fewer tangents.

This is a very challenging project for you and DLCD colleagues. I think the hardest part is developing standard designs that will work in a wide variety of settings. To me, the biggest hurdle may be the placement of dwelling units on the lot, especially with regard to the street and/or city right-of-way, as those vary widely not only from city to city, but also within a city based on when the neighborhood was developed and what the city defines as public right-of-way, private property or some sort of hybrid (i.e., private but subject to city easement).

What follows are my specific rule-by-rule comments. Some are just nitpicky suggestions about punctuation or word choice, while others are questions about the rules' intent.

OAR 660-047-010

(3) Delete "s" from "Design standards" because what follows is the definition of "a standard."

(4) The next-to-last line ("including plans . . . Improvements") seems repetitious.

(5) "would be approved" is ambiguous. Does it mean "for which approval is requested" or ???

(a) Does this subparagraph ("Attached or detached housing....") exclude anything? Or is the intent to include only ADUs, prefab and modular?

(b) "Types" with a buildable area .. Does "types" refer to those listed in subsection (a)?

(A) Does "buildable area" (2200 sq ft) refer to total area or on-the-ground footprint?

(A) & (B) Should these be joined by "and"?

(6) "Oregon Homes Lot" [singular] means "a lot or parcel". And delete "are" at the end of the line.

(a) Delete (s) from "unit," because it refers back to "a" lot or parcel.

(f) Add "and" at end of this line.

(h) After (h) (C), add "or".

(7) (i) Should we define "outdoor area coverage"?

OAR 660-047-020

(3) Add an apostrophe for "local government's..."

(6) Re public notice: In light of some of the local government RAC members' comments, should we _allow_ local governments to provide public notice if they want to? If so, the rule could say "A local government is not required to provide public notice * * * but is not prohibited from doing so."

OAR 660-047-0030

Nitpick: In the introductory paragraph (and in the introductory paragraph for Rule 0040), I suggest moving "only" from "may only review" to precede "under," so it reads "...only under the design standards. . ." Similar change in the following sentence.

More substantive: What does "those" in the second line of the introductory paragraph refer to? The safety and functional aspects, or people? What 'aspects' 'interact' with the right-of-way? Also, query if 'right-of-way' has a common meaning for all cities (more comments on this in next section).

OAR 660-047-0040

Here's the hard part!

First, one nitpick: In the introductory two sentences, move "only" to follow "Oregon Home Developments." similarly, in next sentence, move "only" to follow "apply."

Building Oregon Homes Developments as infill in established neighborhoods is tricky: People often object to new development in established neighborhoods, and often a reasonable and appropriate response to that is essentially, 'Tough. Cities grow and change, and those changes affect many neighborhoods.' (I've had to help staff convey that message to folks who resented increased traffic as Eugene has expanded its city limits. In one case, the City installed street bumps and side-rails to mitigate traffic speed.) Still, to the extent we can achieve the goals of the

Oregon Homes program without too much resentment, the more likely we can continue to add density and affordability. And the better the chance that the new residents are likely to be welcomed to their new homes.

I think many RAC members agreed that a 5-ft setback is inadequate, especially from the right-of-way. Why? Because in many places, the existing houses are set back 20 or more feet from the right-of-way. And, what counts as the right-of-way may vary among cities and even within a city. For example, on my street, I think the right-of-way is unusually wide — i.e., much wider than the actual street — perhaps because it used to include a trolley line. Our ‘parking strip’ — between the street and the sidewalk — is about 10 feet, and I think every house on the street is set back another 15-20 feet from the sidewalk. If new homes were built just 5 — or even 10 — feet from the sidewalk, they would stick out like sore thumbs. And that would generate a lot of resentment in the community.

I wish I had a simple solution to the setback issue. Is it possible to allow the cities to use their own setback standards for the neighborhood, so long as the city doesn’t impose a greater setback for the Oregon Homes Development? Or, if you think that’s too restrictive, maybe say that the setback for Oregon Homes can be no more than 75% of the city’s standard setback for that neighborhood. I think that would go a long way to harmonizing Oregon Homes with existing neighborhoods.

I’m also concerned about the height standards. 35 feet is essentially a three-story or at least two-and-a-half story dwelling. Two concerns: (1) That’s pretty tall if the existing homes are all or nearly all only one story. For example, if a 35’ home is set back only 5 — or even 10 - feet from the neighbor’s lot, it is likely to cast a large shadow on the next-door home. That blocks sunlight for side-facing windows and limits sunshine for side gardens or shrubs. A short setback from the street also makes backing out of the other houses’ driveways more dangerous, as the drivers backing out of their driveway won’t be able to see cars driving on the street until their car’s tail is already in a traffic lane, at least where there’s no on-street parking space. Again, if there is a way to relate the height standards to existing city regulations, that might help.

(3)(d)(A) — Outdoor recreation area. I’m puzzled about why the outdoor recreation area is limited to a 10-foot by 10-foot square. 100 square feet is enough for some equipment, but it doesn’t leave room for many options. Does the rule allow for more than one such space? How does this relate to (E) (Children’s play structure) and the other things listed under (d) “Usable open space”?

OAR 660-047-0050

I must be missing something, but in the legislative website’s version of ORS 197A.395, I’m not seeing sections 38-41.

Those might answer my question about subsections (1) and (2) of the draft OAR, which is: To me, those two subsections seem inconsistent: (1) says local governments need not grant adjustments, while (2) says they must grant 10% variances. I think I understand subsection (2) to require cities to approve 10% variances to the standards listed in (a) through (e), which in effect means that, e.g., an outdoor recreation area may range from 90 sq ft to 110 sq ft, or a 20-ft setback could be 18 to 22 feet. I think that would work; I just wanted to make sure that’s the intent.

OAR 660-047-0060

Clarification: Am I right that, except for heritage trees and trees 20 inches or more in DBH, which cannot be removed at all [subsection (1) (a) or (b)], mitigation for tree removal is not required unless (2) (a), (b) and (c) all apply? For example, if the tree is larger than 12 inches DBH and less than 20 inches DBH but is not a protected species, no mitigation is required? I.e., I’m just checking that “and” is indeed the conjunction we want between subsections (2)(b) and (c).

Last and among the most nit-picky comments: In the first line of subsection (3), please substitute “is” for “are”, because the subject of the sentence is “one [of the criteria].”

Whew! That’s a lot of comments. I hope they’re helpful.

Thank you for all your great work on this.

Jerry

From: [CAUDEL Ingrid * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Public comment submittal
Date: Monday, May 18, 2026 8:37:55 AM
Attachments: [cottage cluster comment letter.pdf](#)

From: Alec Shah <alec@shahhousingsolutions.com>
Sent: Friday, May 15, 2026 3:33 PM
To: TAYLOR Casaria * DLCD <casaria.taylor@dlcd.oregon.gov>
Subject: Public comment submittal

You don't often get email from alec@shahhousingsolutions.com. [Learn why this is important](#)

Hi,

I'd like to submit this public comment for the new cottage cluster rulemaking committee. I think it's called MHOR homes?

--

From: [STUCKMAYER Ethan * DLCD](#)
To: [Yaich, Jason](#)
Cc: [CAUDEL Ingrid * DLCD](#); [COUTINHO Becky * DLCD](#)
Subject: RE: MHOR RAC - Draft Rules for May 20 packet
Date: Monday, May 18, 2026 8:19:37 AM

Hi Jason,

Thank you for these! I'm including a few people so we can log your comments and get you answers to your questions.

Best,

Ethan Stuckmayer

Manager | Housing Division

Pronouns: He/Him/His

Cell: 503-302-0937 | Main: 503-373-0050

ethan.stuckmayer@dlcd.oregon.gov | www.oregon.gov/LCD

For general Housing Division inquiries, please email housing.dlcd@dlcd.oregon.gov

From: Yaich, Jason <Jason.Yaich@corvallisoregon.gov>
Sent: Friday, May 15, 2026 3:36 PM
To: STUCKMAYER Ethan * DLCD <ethan.stuckmayer@dlcd.oregon.gov>
Subject: MHOR RAC - Draft Rules for May 20 packet

Hi Ethan,

I think there may be incorrect citations in the draft Division 47 Oregon Homes rules:

https://www.oregon.gov/lcd/LAR/Documents/20260515_Div47_DraftRulesv2.pdf

In the "Local Government Review Process" section (660-047-0020), subsection (3)(c) and (3)(d), it states:

(c) Written justification for any variations or adjustments from the requirements of OAR 660-047-0050; and

(d) A tree mitigation plan that meets the standards outlined in OAR 660-047-0060, as applicable.

Based on the document and table of contents, there is not a section 0060 as far as I can tell, and section 0050 is the tree standards section.

Question 1: Are those intending to point to subsections 0040 and 0050 instead, so that (c) and (d) should read:

(c) Written justification for any variations or adjustments from the requirements of OAR 660-

047-0040; and

(d) A tree mitigation plan that meets the standards outlined in OAR 660-047-0050, as applicable.

Question 2: Are the variations and adjustments intended to allow adjustments to both “design standards” and “siting standards”, or to “tree standards”, or what standards exactly ?



Jason Yaich

Planning Division Manager

Community Development

Phone: 541-766-6577 | Planning Division: 541-766-6908 | www.corvallisoregon.gov/planning

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From: [Brianne Bennett](#)
To: [DLCD Housing](#); [STUCKMAYER Ethan * DLCD](#); [CAUDEL Ingrid * DLCD](#)
Subject: Comments to 2nd Revised Draft of OAR 660 047 (Oregon Homes)
Date: Sunday, May 17, 2026 5:33:43 PM
Attachments: [Comments to Div 47 Draft 2 Margolin 5.17.2026.pdf](#)
[20260423_Div47_DraftRules_Markup_Comments_5.17.2026.pdf](#)

Attached please find a letter summarizing my comments as well as a marked draft with proposed changes and comments.

Brianne M. Margolin
Phone: (971) 226-4533
briannebmb@yahoo.com

On Friday, May 15, 2026 at 03:05:08 PM PDT, DLCD Housing <dlcd_housing@public.govdelivery.com> wrote:

[Share / View as a webpage](#)

From: [Brienne Bennett](#)
To: [DLCD Housing](#); [CAUDEL Ingrid * DLCD](#); [COUTINHO Becky * DLCD](#); [STUCKMAYER Ethan * DLCD](#)
Subject: Comments regarding MHOR Homes Draft Impact Statements
Date: Sunday, May 17, 2026 5:37:30 PM

Comments regarding MHOR Homes Draft Impact Statements

<!--[if !supportLists]-->a. <!--[endif]-->I agree with the assessment that the rule is likely to reduce net costs. In addition to the cost savings identified, the cost to deliver housing will also be reduced by the following:

<!--[if !supportLists]-->i. <!--[endif]-->Ministerial process reduces the cost from public notice and comment periods, which create delays that contribute to higher costs.

<!--[if !supportLists]-->ii. <!--[endif]-->Fewer LUBA appeals because of the clear guidelines and ministerial process. LUBA appeal processes create delays and can result in additional legal and other expenses that contribute to higher housing costs.

Brienne M. Margolin
Phone: (971) 226-4533
briannebmb@yahoo.com

On Friday, May 15, 2026 at 03:05:08 PM PDT, DLCD Housing <dlcd_housing@public.govdelivery.com> wrote:

[Share / View as a webpage](#)



May 20, 2026

Attn: Middle Housing/Oregon Homes Rulemaking Advisory Committee (MHOR RAC)
CC: Ethan Stuckmayer, AICP, Housing Division Manager

Re: Updating definition of “Cottage Cluster” in 660-046-0020 Definitions

Dear Rulemaking Committee Members,

On behalf of homebuilder Hayden Homes, I am writing to share our support for the proposed updates to the definition of “cottage cluster” before you for consideration. In particular, we support the increase in square footage to 1400 s.f. This rules update, in the context of Oregon’s strong middle housing code reforms, will enable homebuilders like Hayden Homes to more successfully meet jurisdictions’ middle housing zoning minimums while keeping housing costs affordable for moderate-income households. This square footage increase will also help more Oregonian families with children and/or other dependents access first-time homeownership opportunities without sacrificing the space they need to thrive together.

Please adopt the proposed cottage cluster rules update before you today.

Gratefully,

Jenn Kovitz
Community Engagement and Government Affairs Manager
Hayden Homes
jenn.kovitz@hayden-homes.com

From: [CAUDEL Ingrid * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: MEETING MATERIALS: MHOR Homes (Phase One) Rulemaking Advisory Committee Meeting #5
Date: Wednesday, May 20, 2026 4:32:48 PM

From: Eric Rutledge <RutledgeE@SherwoodOregon.gov>
Sent: Tuesday, May 19, 2026 12:44 PM
To: CAUDEL Ingrid * DLCD <Ingrid.CAUDEL@dlcd.oregon.gov>; STUCKMAYER Ethan * DLCD <Ethan.STUCKMAYER@dlcd.oregon.gov>
Cc: Alexandra Ring <aring@orcities.org>
Subject: RE: MEETING MATERIALS: MHOR Homes (Phase One) Rulemaking Advisory Committee Meeting #5

Hi Ethan,

I'm not able to attend tomorrow's meeting. Just one question / comment – would the local government be permitted to provide voluntary notice under 660-047-0020(6)?

If section (6) is intended to not allow public notice, there seemed to be consensus amongst the RAC that voluntary notice should be left up to the local jurisdiction.

Thanks,

Eric Rutledge
City of Sherwood
Community Development Director
rutledgee@sherwoodoregon.gov
Desk 503.625.4242
Work Cell 971.979.2315

From: CAUDEL Ingrid * DLCD <Ingrid.CAUDEL@dlcd.oregon.gov>
Sent: Friday, May 15, 2026 1:43 PM
To: STUCKMAYER Ethan * DLCD <Ethan.STUCKMAYER@dlcd.oregon.gov>
Cc: CAUDEL Ingrid * DLCD <Ingrid.CAUDEL@dlcd.oregon.gov>
Subject: MEETING MATERIALS: MHOR Homes (Phase One) Rulemaking Advisory Committee Meeting #5

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Hello Middle Housing Oregon Homes (MHOR Homes) Rulemaking Advisory Committee (RAC)

Members,

DLCD is very much looking forward to hosting the *fifth* MHOR Homes RAC meeting next week on **May 20, 2026 from 9:00 a.m. to 12:00 p.m. via Zoom!**

The primary objectives of next week's meeting are to discuss:

- Discuss and provide input on the draft rules.
- Review and provide input on the fiscal impact statements.

To help you prepare to engage in this process, several background materials are included in this [Meeting Packet](#) for your review and reference (also attached).

Also attached to this email is the calendar appointment for the upcoming RAC meeting. Zoom meeting information is provided within that calendar appointment. Please do not share this calendar appointment with others in your organization or the public. Others wishing to observe the RAC meeting can do so by watching the livestream or recording on the department's [YouTube channel](#).

Much appreciation again for your partnership in this process. Looking forward to learning from you all next week.



Ethan Stuckmayer, AICP

Manager | Housing Division

Pronouns: he/him/his

Oregon Department of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

Work Phone: 503-302-0937 (*Preferred*) | Main DLCD Office: 503-373-0050

ethan.stuckmayer@dlcd.oregon.gov | www.oregon.gov/LCD

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May 21, 2026

Department of Land Conservation and Development
635 Capitol Street NE Suite 150
Salem, OR 97301

Re: HB 2138 and HB 2258 Rulemaking

DLCD Housing Team:

The City of Bend writes today to offer comments on the ongoing rulemaking process related to the implementation of HB 2138 and HB 2258 (2025). Thank you for the opportunity to provide these comments.

Our primary request is that the state allow local jurisdictions to apply local standards in place of state standards where local standards are more permissive to – and thus more supportive of – housing.

As a city that has consistently taken a proactive approach to housing related policy – and in particular to boosting not just overall housing production but housing options – this has been a common refrain of ours in both rulemaking and legislation processes over the past 10+ years.

We have applauded, helped shape, and regularly supported efforts to set state-level standards and expectations around housing production. State-level action has been critical to clarify and modernize state level policy, provide new policy tools for local governments and housing developers, and to provide funding for housing production across different income levels and types of housing.

A critical element of success for Bend and many other communities, however, also lies in our ability to innovate and create our own solutions. Local innovation allows local jurisdictions not just to respond to local circumstances but to develop new and innovative tools at the community level. In many regards, local innovation provides the basis for establishing effective state level policy because cities have the ability to develop, test, and refine tools at the local level that can then be shared across jurisdictions and provide a proven basis for state-level decision-making.

And so we write today to help ensure that as DLCD advances rulemaking with the intent of providing value at the state level that the opportunity to provide value at the local level is not lost. In a few cases, our comments also relate to our ability to address public safety and to avoid conflict with right-of-way management work that we rely on to ensure orderly and cost-effective provision of right-of-way and the services provided therein.

**Comment 1: Overall Flexibility / Intent Alignment****Comment:**

The draft language introduces standards that are more restrictive than some existing local development codes, which may increase complexity, reduce flexibility, and potentially lengthen development review timelines.

Recommendation:

Amend the rules to explicitly allow jurisdictions to apply their own development code standards where those standards are more permissive or flexible. Provide local jurisdictions the opportunity to demonstrate the efficacy of more permissive local policies.

Comment 2: Height-Based Setback Requirements

Section: Siting Standards (Setbacks) 660-047-0040(1)

Issue:

The proposed setbacks tied to building height are more restrictive than existing local standards.

Relevant Draft Language:

“A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development...”

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.

Comment:

This provision conflicts with local codes that allow greater flexibility, particularly in the City’s Medium Density (RM) (40-foot maximum height) and High Density (RH) Districts (50-foot maximum height) districts. The increased setbacks for buildings over 35 feet may unnecessarily constrain development potential.

Recommendation:

Allow local jurisdictions to apply their own setback standards where they are more permissive or revise the rule to establish these as minimum baseline standards rather than fixed requirements.

Comment 3: Height-Based Setback Requirements

Section: Siting Standards (Setbacks) 660-047-0040(1)

Issue:

The proposed five-foot setback standard does not address or account for special setback requirements associated with right-of-way standards.

Relevant Draft Language:

“A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development...”

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.”

Comment:

This provision may conflict with local codes that require additional or special setbacks from streets and alleys to accommodate existing or planned right-of-way needs and ensure adequate space for future infrastructure improvements. Limiting setbacks to the prescribed standard



creates uncertainty and may preclude application of locally adopted transportation and access standards.

Recommendation:

Clarify that these setback requirements are minimum standards and allow local jurisdictions to apply their own special setback requirements related to rights-of-way, streets, and alleys where applicable.

Comment 4: Clear Vision Area Standards

Issue:

The draft does not address applicability of local clear vision area requirements. A clear vision area is the space at intersections or driveways that must be kept clear of things like buildings, fences, walls, or landscaping so people can see oncoming traffic and move safely.

Comment:

Given that reduced front setbacks are allowed, it is important to clarify that local clear vision area standards continue to apply to ensure consistency with established traffic safety regulations. For example see Bend Development Code 3.1.500.

Recommendation:

Add explicit language confirming that local clear vision area requirements remain applicable.

Comment 5: Outdoor Area Requirement (15%)

Section: Siting Standards (Setbacks) 660-047-0040(3)

Issue:

The requirement for 15% outdoor area is more restrictive than the BDC requirements and it will limit developable land of the Oregon home lot.

Comment:

The BDC **only** requires 10% open space for multi-unit developments of 20 units or more. Applying a blanket 15% requirement to attached or detached housing, including accessory dwelling units or prefabricated or modular and multiunit dwellings with more than six and fewer than twelve units reduces flexibility and may create unnecessary constraints for certain housing types.

Recommendation:

Allow jurisdictions to apply their own open space or outdoor area standards or revise the requirement to better align with local codes.

Comment 6: Definition of Building Height

Section: OAR 660-047-0010 (Definitions)

Issue:

The rule establishes a definition of building height.

Comment:

If streamlining the review process is a key objective, introducing new measurement standards may create confusion and inefficiencies, particularly where jurisdictions already have established and widely understood definitions.

Recommendation:

Allow jurisdictions to rely on their existing building height definitions rather than creating a new, separate standard for Oregon Homes.

**Comment 7: Pedestrian Entry Orientation Standards****Section:** OAR 660-047-0030(1) – Design Standards**Issue:**

The proposed pedestrian entry orientation requirements are more restrictive than Bend Development Code, as they apply to all units, whereas Bend’s standards only apply to one unit of a duplex, triplex or quadplex.

Relevant Draft Language:

“(1) All units within the development, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:

- (a) Face the street;
- (b) Be at an angle of up to 45 degrees from the street;
- (c) Face a common open space that is adjacent to the street; or
- (d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.”

Comment:

This requirement is more restrictive than the Bend Development Code (BDC). Under the BDC, these types of orientation requirements only apply to one unit of duplex, triplex, and quadplex. For townhome developments, the standard is applied only to interior units rather than all units. As drafted, the rule appears to require compliance for every unit within a development, which may limit site design flexibility and create unnecessary constraints, particularly for larger or more complex developments.

Recommendation:

Clarify whether the standard is intended to apply to all units or if compliance by a subset of units is sufficient. Consider revising the requirement to allow flexibility consistent with local codes, such as requiring this standard to be met by at least one unit (or a portion of units) within a development rather than all units.

Comment 8: Tree Preservation Standards**Issue:**

Tree preservation standards appear more restrictive than the Bend Development Code, which exempts applications for sites one acre or smaller that include one or more dwelling units, micro units, or single room occupancies.

Comment:

While the proposed standards are more restrictive than the BDC, they are consistent with the requirements of HB 2258.

Recommendation:

No change recommended if consistency with HB 2258 is the primary objective; however, acknowledgment of impacts to local flexibility may be warranted.

Comment 9: Definition of “Footprint” for Cottage Clusters**Section:** OAR 660-046-0020 – Definitions**Issue:**

The proposed addition of a definition for “footprint” for cottage clusters may create conflicts with existing local definitions.

Relevant Draft Language:

- (2) “Cottage Cluster” means a grouping of no fewer than four detached dwelling units:



- (a) that are detached or attached in subgroupings of up to four units in any configuration;
- (b) that have a common courtyard;
- (c) that each have a small footprint or floor area;
- (A) small **footprint** or floor area shall be defined as:
 - (i) 1,400 square feet average per unit area;
 - (ii) to be calculated excluding porches and garages; and
 - (iii) as calculated at the time of initial development.

Comment:

The RAC discussed adding a definition for “footprint,” which is generally a helpful clarification for cottage cluster standards. However, establishing a uniform statewide definition may create inconsistencies or conflicts where jurisdictions, including Bend, already have adopted and implemented their own definitions within local development codes.

Requiring jurisdictions to apply a new or different definition specifically for cottage cluster developments could introduce confusion, reduce administrative efficiency, and undermine the goal of streamlining review. Consistency within a jurisdiction’s code framework is important for both applicants and staff.

Recommendation:

Allow jurisdictions to apply their existing local definitions of “footprint” where available. Alternatively, clarify that the state definition serves as a default only in the absence of a locally adopted definition.

Thank you for the opportunity to provide these comments. We would welcome any questions you have and an opportunity to discuss our recommendations in greater detail if you feel that would be helpful.

Sincerely,

A handwritten signature in blue ink that reads "Renee Brooke".

Renee Brooke, AICP

Planning Manager

rbrooke@bendoregon.gov

From: CAUDEL Ingrid * DLCD
To: CAUDEL Ingrid * DLCD
Subject: MHOR Rulemaking Comments
Date: Thursday, June 4, 2026 7:49:07 AM
Attachments: 20260515_Div47_DraftRulesv2_Redlined_fre.pdf

From: Fred Evander <fevander@ci.independence.or.us>
Sent: Thursday, May 28, 2026 4:58 PM
To: STUCKMAYER Ethan * DLCD <ethan.stuckmayer@dlcd.oregon.gov>
Cc: Alexandra Ring <aring@orcities.org>; Kenna West <kwest@ci.independence.or.us>
Subject: MHOR Rulemaking Comments

Hey Ethan,

Here are some comments about the draft rules.

As I note in the comments, "as drafted, these standards are highly likely to promote development that is out of scale and inattentive to the context of many neighborhoods in Oregon. For instance, under existing state law, the City of Independence is only required to allow a maximum of two units on most standard single-family residential parcels. These standards would increase that amount by 6 times - to 12 units on a qualifying Oregon Homes lot. And yet the standards include no mention of appropriate maximum densities, height limits, or floor area ratios. Additionally, no considerations about basic design - like ensuring there are windows on the front of a building - are proposed. As such, this draft appears to be an end run around local zoning standards, which have been crafted by cities to respond to local conditions over the last 50 years."

Given these facts, I sincerely hope that the next draft will include significant changes or that DLCD will request the legislature to provide additional clarity about the intended scope of the legislation.

If you have any questions, please let me know.

Thanks,

Fred

Fred Evander
City Planner
City of Independence
(503) 837-1168



Draft Language: Oregon Administrative Rules Chapter 660, Division 047 – Oregon Homes

Updated May 2026, Version 2

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660-047-0000 Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197.040

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply.

In addition, the following definitions apply:

- (1) "Building Height" means the vertical distance from grade plane to the average height of the highest roof surface.
- (2) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.

(3) "Design standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling

orientation, façade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces

(4) "Final Engineering Plans" means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.

(54) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including:

(a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;

(b) Types with a buildable area of:

(A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; and

(B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling;

(c) A multiunit dwelling with more than six and fewer than twelve units;



(d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel; and

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ~~and ORS 455.685,~~ or housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.

~~(65)~~ “Oregon Homes Lot” means a lot or parcel that are:

(a) Lawfully established units of land;

(b) Within an urban growth boundary;

(c) Zoned to allow residential use;

(d) At least 1,500 square feet;

(e) Not larger than 20,000 square feet;

(f) Not covered by slopes averaging more than 15 percent; and

(g) Not within an area identified in an inventory or map that is part of the local government’s comprehensive plan as:

(A) Environmentally sensitive or containing significant natural resources;

(B) Open space or scenic areas; or

(C) Natural hazard areas, including floodplains, river greenways, landslide zones, or wildfire risk areas;

(i) if a lot or parcel is within an area as identified in 660-047-0010 (g) (A-C) but the developable area is wholly outside any such area, the lot may become eligible; and

(h) Vacant, including a lot or parcel:

(A) Created by any lawful division of land, regardless of when the division occurred.

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.

(C) For which residential units were demolished more than five years prior; or

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ~~and ORS 455.685,~~ or housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.-

(7) “Public Facilities Plan” means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500.



(87) "Site Plan" means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:

- (a) All property lines with dimensions and total lot area;
- (b) North arrow and scale of drawing;
- (c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
- (d) Existing Goal Protected Resources, if any are present on the site;
- (e) Existing and proposed easements and on-site utilities;
- (f) Existing and proposed development with all dimensions, including floor area and building footprint;
- (g) Distances of all existing and proposed development to property lines;
- (h) Types and location of outdoor area(s) and usable open space (if required);
- (i) Percentage of the site proposed for outdoor area coverage;
- (j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
- (k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

(98) "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.

(10) "Traffic Impact Analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.

(119) "Usable outdoor space" means one of the following:

- (a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
- (b) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
- (c) Tree groves of existing mature trees;
- (d) Turf or grass play fields;
- (e) Children's play structure or play area;
- (f) Sports courts;
- (g) Swimming or wading pool or hot tub;
- (h) Walking fitness course;
- (i) Natural area with benches; or
- (j) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197.040



Statutes/Other Implemented: ORS 197A.420

660-047-0020 Local Government Review Process

660-047-0020 Local Government Review Process

Summary: This section creates the local government review process for the development of Oregon Homes Lots.

Commentary: Policy intent is to make clear local governments cannot apply additional standards to Oregon Homes. To ensure the fastest timeline for approval, a ministerial, also known as Type I review, is proposed. This allows the local jurisdiction to review applications for completeness using clear and objective approval criteria. The burden of proof to demonstrate application completeness is placed on the applicant to shorten the local government staff time required for the review.

Adjustments to 660-047-0020 (7) were made with the intention to add clarity for local governments that they may apply those plan standards to the Oregon Homes Development application. 660-047-0020 (8) was added to provide clear authorization for denial. With the removal of the variances and adjustments section, 660-047-0020 (9) was moved here.

A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

(1) Local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-00~~560~~.

(2) Applications for Oregon Homes Development on an Oregon Homes Lot shall be reviewed by the local government as a ministerial review. Administration of this review shall only be to ensure compliance with standards outlined in OAR 660-047-0020 through OAR 660-047-00~~560~~ and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) In a local government's review of an Oregon Homes Development, an application shall be deemed complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements as listed in 6600-047-0010, 6600-047-0030, 6600-047-0040, and 660-047-00~~560~~;

(b) Building plans that are:

(A)

~~(b) Building plans~~ approved by Building Codes Division that meet applicable building code standards;_
or ~~-(B) Building plans that meet the requirements of an Oregon Homes Development as listed in~~



OAR 660-047-0010 (5):

~~(c) Written justification for any variations or adjustments from the requirements of OAR 660-047-0050;~~
~~and~~

~~(cd)~~ A tree mitigation plan that meets the standards outlined in OAR 660-047-00~~56~~0, as applicable.

(4) Application submissions that do not include information required in this division shall be deemed incomplete by the local government.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice in reviewing or approving an application for Oregon Homes Development.

(7) Nothing in this section precludes a local government from applying locally administered public facilities ~~standards~~plans, including but not limited to public works design standards, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) An Oregon Homes Development application shall be denied if the application does not meet the definitions of an Oregon Homes Lot and Oregon Homes Development as written in OAR 660-047-0010 and does not meet the requirements as outlined in OAR 660-047-0030 through OAR 660-047-0050.

(9) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS 197A.395 in approving an application for an Oregon Homes Development.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.400

660-047-0030 Design Standards

660-047-0030 Design Standards

Summary: This section establishes a set of design standards for an Oregon Homes Lot including entry orientation, street facing façade, garages and driveways, and waste storage facilities.

Commentary: The intent of the proposed design standards is to ensure quality development while not increasing development costs or permitting review times. DCLD has considered OAR 660-046



(Model Code) as reference in the design standards below. RAC members raised concerns that the proposed design standards should vary by dwelling unit type and by size of local government. DLCD considered these adjustments but determined this would not be in alignment with the legislative intent of Oregon Homes. -The 10% variance allowance from 660-047-0030 (2) and (3) has been added to this section.

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and people that interact with the right-of-way. A local government may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

(1) All units within the developmentdevelopment, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:

- (a) Face the street;
- (b) Be at an angle of up to 45 degrees from the street;
- (c) Face a common open space that is adjacent to the street ~~and is abutted by dwellings on at least two sides;~~ or
- (d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.

~~(2) Windows or pedestrian entrance doors must be provided on street-facing facades as follows:~~

~~(a) At least one street-facing façade must have a minimum of 15 percent windows or pedestrian entrance doors.~~

~~(b) All other street-facing facades must have a minimum of 10 percent windows or pedestrian entrance doors.~~

~~(c) The following facades are exempt from these standards:~~

~~(A) Facades separated from the street lot line by a dwelling, or by a buildable lot with a depth of at least 20 feet measured from the street lot line.~~

~~(B) Facades that are more than 40 feet from the street lot line.~~

~~(C) Facades facing an alley.~~

(23) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development



scenarios are excluded from **this standard**:

- (a) Accessible and **adaptable units**;
 - (b) Lots that receive vehicular access from an alley; and
 - (c) Off-street parking areas that are separated from the street lot line by a dwelling.
- (34)** Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:
- (a) The storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.
 - (b) The storage facility must be separated from the street lot line by at least 5 feet.
 - (c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.
- (4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the Garage, carports, or on street parking standards or the trash screening requirements within this section.**

Statutory/Other Authority: ORS 197.040

660-047-0040 Siting Standards

660-047-0040 Siting Standards

Summary: This section establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and outdoor areas.

Commentary: Through the RAC process, the approach to have siting standards for Oregon Homes Lots, regardless of the type of Oregon Homes Development, was decided. The above siting standards were chosen to ensure development feasibility and an expedited review process. DLCD has considered OAR 660-046 (Model Code) as reference. Similar to design standards, RAC members raised concerns that the proposed siting standards should vary by dwelling unit type and by size of local government. DLCD considered these adjustments but determined this would not be in alignment with the legislative intent of Oregon Homes. **—The 10% variance allowance from 660-047-0040 (1) and (3) has been added to this section.**

A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:



(1) Provide a setback of at least 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.

(2) Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(3) Provide outdoor area comprised of at least 15 percent of the gross site area –and containing one or more of the following features:

- (a) Areas planted with vegetation (including natural areas and existing trees);
- (b) Private open space, including balconies attached to individual dwelling units;
- (c) Pedestrian hardscape;
- (d) Usable open space being one of the following:
 - (A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
 - (B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
 - (C) Tree groves of existing mature trees;
 - (D) Turf or grass play fields;
 - (E) Children's play structure or play area;
 - (F) Sports courts;
 - (G) Swimming or wading pool or hot tub;
 - (H) Walking fitness course;
 - (I) Natural area with benches; or
 - (J) Gardening area with at least 50 square feet of planting area.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the setbacks or outdoor area characteristics requirements within this section.

Statutory/Other Authority: ORS 197.040

660-047-0050 Variances and Adjustments

660-047-0050 Variances and Adjustments

Summary: This section establishes when variations and adjustments may be allowed and to what extent.

Commentary: While the intention of the Oregon Homes program is to create standards to be applied



~~across the State, statute allows for rules to include consideration of circumstances to account for the variety and diversity of lots that may be suitable for Oregon Homes development, but for slight deviations from approval criteria. The policy intent for these variances is to avoid introducing discretion into any approval process. A blanket 10% deviation allowance keeps these reviews clear, objective, and measurable. The only change to this section is the introductory sentence.~~

~~Variations and adjustments may be allowed, only to the extent described in this section, for an Oregon Homes Development proposed on an Oregon Homes Lot.~~

~~(1) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS 197A.395 in approving an application for an Oregon Homes Development.~~

~~(2) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the following standards:~~

~~(a) Window and door coverage in OAR 660-047-0030 (2);~~

~~(b) Garages, carports, or on-site parking standards in OAR 660-047-0030 (3);~~

~~(c) Screening requirements for trash and recycling facilities OAR 660-047-0030 (4);~~

~~(d) Setbacks outlined in OAR 660-047-0040 (1); and~~

~~(e) Outdoor area characteristics in OAR 660-047-0040 (3).~~

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 456.270 to 456.295; 197A.395

660-047-00560 Tree Standards

660-047-00560 Tree Standards

Summary: This section establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Homes lots.

Commentary: As proposed, these rules do not add any additional tree removal requirements beyond those outlined in HB 2258. The list of trees that require mitigation if removed similarly does not add any additional requirements beyond statute. The proposed rules add an option for local governments to require a fee in lieu. RAC members expressed that these standards are more restrictive for some local governments and more permissive for other local governments. No edits were made to the standards so that the standards remain in conformity with HB 2258.

A local government must require the applicant to adhere to the following standards to guide the

preservation or replacement of trees on an Oregon Homes lot.

(1) Approval of an Oregon Home Development may not result in the removal of trees that are:

- (a) Designated by the local government as a heritage tree, or
- (b) 20 inches or greater DBH.

(2) An applicant for an Oregon Homes Development on an Oregon Homes Lot may propose to remove eligible tree(s) as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:

- (a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;
- (b) Not deemed unhealthy by a certified arborist; and
- (c) 12 inches or more DBH.

(3) If ~~one~~all of the criteria listed in 660-047-00~~5~~60 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:

- (a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;
- (b) The replacement of the removed tree with a tree of the same protected species; or
- (~~cb~~) A payment of a fee-in-lieu as established by local ordinance.

Statutory/Other Authority: ORS 197.040

From: [Jerry Lidz](#)
To: [DLCD Housing * DLCD](#); [STUCKMAYER Ethan * DLCD](#); [CAUDEL Ingrid * DLCD](#)
Subject: Comments on draft rules
Date: Thursday, May 28, 2026 2:49:45 PM

Hi Ethan and Ingrid —

I was sorry to have to leave the May 20 meeting early, but I was able to watch the rest of it on YouTube. I think the RAC and you are making good progress. The RAC discussion highlighted several key controversial issues, and the latest draft includes some good clarifications.

I'll start with a couple of general comments:

-1- I think one of the key obstacles to building consensus on setbacks, height and maybe some other standards for an Oregon Homes Lot is that we don't yet have any proposed designs for the housing. That makes it harder to visualize how the designs would impact a neighborhood. Of course, the commission will need to adopt some standards before DCBS can draft the housing plans, but it's a bit of a chicken & egg problem. Maybe we should plan to circle back after DCBS drafts its plans.

-2- As many of the local government members of the RAC commented at the May 20 meeting, there are many relevant differences among cities and counties and even within a city that should have a major impact on things like setbacks, height and perhaps other issues. Pick any Oregon city and drive through a few neighborhoods, and one will see a wide variety of street widths, setbacks, parking needs, building heights, etc. Two or three examples: (a) If an Oregon Homes design will be built on a narrow street with no on-street parking, it will need at least some off-street parking; if there's ample on-street parking, no or only a little off-street parking will be needed. (b) Setbacks: If city code mandates a 20-foot setback, having only five or even ten feet of setback for a multi-unit development in what otherwise is a single-family/duplex/ADU neighborhood will create a bunch of safety, aesthetic and practical problems. I think building height standards may also be an issue; several RAC members noted that fire protection for taller buildings may be a concern.

I lean toward deferring to the cities on siting standards, at least as to setbacks, parking and limits on height. I recognize that neighborhoods everywhere change over time and that long-term residents need to accept that, but I think we should be cautious about a state mandate for such change. It's better to reduce our hoped-for new housing goals a bit in exchange for safety and neighborhood acceptance. I think the best course is just to prohibit cities from applying stricter standards to an Oregon Homes Development than to other new home construction.

-3- Cottage clusters: As I mentioned at the RAC meeting, the maximum size for a "cottage" under the rules seems rather large to me. I note a recent article from the Sisters Nugget newspaper about family of five that is happily moving into a triplex unit of 1055 sq ft. While that seems very small to me for a full family, I think it should remind us that "cottages" usually will not be occupied by larger families, but mostly by singles, small single-parent families or older couples who desire a community. I know that several developers on the RAC were concerned that, with smaller homes, there's not enough profit to motivate development, but I think one of the reasons for the Oregon Homes legislation is to reduce development costs by expediting permitting processes and offering pre-approved housing plans. Reduced costs should yield lower prices.

-4- I may have some specific suggestions for clarity of the rules text, but I'll save those for later. Also, I hope that someone from DoJ is reviewing the text for consistency with the statutes and for rule organization and clarity. Thanks for considering these comments and for all you are doing to make Oregon Homes a reality.

Jerry

Draft Language: Oregon Administrative Rules Chapter 660, Division 047 – Oregon Homes

Updated May 2026, Version 2

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660-047-0000 Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

Statutory/Other Authority: ORS 197.040

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply.

In addition, the following definitions apply:

- (1) “Building Height” means the vertical distance from grade plane to the average height of the highest roof surface.
- (2) “DBH” means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.

- (3) “Design standard” means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site.

Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, façade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces

- (4) “Final Engineering Plans” means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.

(54) “Oregon Homes Development” means a residential development type that would be approved to be placed on an Oregon Homes Lot including:

- (a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;

- (b) Types with a buildable area of:

- (A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; and

- (B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling;

- (c) A multiunit dwelling with more than six and fewer than twelve units;

(d) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel; and

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ~~and~~ ORS 455.685, or housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.

~~(65)~~ “Oregon Homes Lot” means a lot or parcel that are:

(a) Lawfully established units of land;

(b) Within an urban growth boundary;

(c) Zoned to allow residential use;

(d) At least 1,500 square feet;

(e) Not larger than 20,000 square feet;

(f) Not covered by slopes averaging more than 15 percent; and

(g) Not within an area identified in an inventory or map that is part of the local government’s comprehensive plan as:

(A) Environmentally sensitive or containing significant natural resources;

(B) Open space or scenic areas; or

(C) Natural hazard areas, including floodplains, river greenways, landslide zones, or wildfire risk areas;

(i) if a lot or parcel is within an area as identified in 660-047-0010 (g) (A-C) but the developable area is wholly outside any such area, the lot may become eligible; and

(h) Vacant, including a lot or parcel:

(A) Created by any lawful division of land, regardless of when the division occurred.

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.

(C) For which residential units were demolished more than five years prior; or

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ~~and~~ ORS 455.685, or housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.

(7) “Public Facilities Plan” means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500.

(87) “Site Plan” means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:

- (a) All property lines with dimensions and total lot area;
- (b) North arrow and scale of drawing;
- (c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
- (d) Existing Goal Protected Resources, if any are present on the site;
- (e) Existing and proposed easements and on-site utilities;
- (f) Existing and proposed development with all dimensions, including floor area and building footprint;
- (g) Distances of all existing and proposed development to property lines;
- (h) Types and location of outdoor area(s) and usable open space (if required);
- (i) Percentage of the site proposed for outdoor area coverage;
- (j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
- (k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

(98) **Siting** standards” means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.

(10) “Traffic Impact Analysis” means a report prepared by a professional engineer that analyzes existing and future roadway conditions.

(119) “Usable outdoor space” means one of the following:

- (a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
- (b) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
- (c) Tree groves of existing mature trees;
- (d) Turf or grass play fields;
- (e) Children’s play structure or play area;
- (f) Sports courts;
- (g) Swimming or wading pool or hot tub;
- (h) Walking fitness course;
- (i) Natural area with benches; or
- (j) Gardening area with at least 50 square feet of planting area.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.420

660-047-0020 Local Government Review Process

660-047-0020 Local Government Review Process

Summary: This section creates the local government review process for the development of Oregon Homes Lots.

Commentary: Policy intent is to make clear local governments cannot apply additional standards to Oregon Homes. To ensure the fastest timeline for approval, a ministerial, also known as Type I review, is proposed. This allows the local jurisdiction to review applications for completeness using clear and objective approval criteria. The burden of proof to demonstrate application completeness is placed on the applicant to shorten the local government staff time required for the review.

Adjustments to 660-047-0020 (7) were made with the intention to add clarity for local governments that they may apply those plan standards to the Oregon Homes Development application. 660-047-0020 (8) was added to provide clear authorization for denial. With the removal of the variances and adjustments section, 660-047-0020 (9) was moved here.

A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

- (1) Local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in OAR 660-047-0030 through OAR 660-047-00~~56~~0.
- (2) **App**lications for Oregon Homes Development on an Oregon Homes Lot shall be reviewed by the local government as a ministerial review. Administration of this review shall only be to ensure compliance with standards outlined in OAR 660-047-0020 through OAR 660-047-00~~56~~0 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.
- (3) In a local government's review of an Oregon Homes Development, an application shall be deemed complete when the applicant provides the following information to the local government:
 - (a) Site plan and exhibits that address requirements as listed in 6600-047-0010, 6600-047-0030, 6600-047-0040, and 660-047-00~~56~~0;
 - (b) Building plans that are:
 - (A)
 - (b) Building plans approved by Building Codes Division that meet applicable building code standards;
 - or (B) Building plans that meet the requirements of an Oregon Homes Development as listed in

OAR 660-047-0010 (5):

~~(c) Written justification for any variations or adjustments from the requirements of OAR 660-047-0050;~~
~~and~~

~~(cd)~~ A tree mitigation plan that meets the standards outlined in OAR 660-047-00560, as applicable.

(4) Application submissions that do not include information required in this division shall be deemed incomplete by the local government.

(5) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(6) A local government shall not require a public notice in reviewing or approving an application for Oregon Homes Development.

(7) Nothing in this section precludes a local government from applying locally administered public facilities ~~standards~~ plans, including but not limited to public works design standards, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) An Oregon Homes Development application shall be denied if the application does not meet the definitions of an Oregon Homes Lot and Oregon Homes Development as written in OAR 660-0470010 and does not meet the requirements as outlined in OAR 660-047-0030 through OAR 660-0470050.

(9) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS 197A.395 in approving an application for an Oregon Homes Development.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.400

660-047-0030 Design Standards

660-047-0030 Design Standards

Summary: This section establishes a set of design standards for an Oregon Homes Lot including entry orientation, street facing façade, garages and driveways, and waste storage facilities.

Commentary: The intent of the proposed design standards is to ensure quality development while not increasing development costs or permitting review times. DCLD has considered OAR 660-046

(Model Code) as reference in the design standards below. RAC members raised concerns that the proposed design standards should vary by dwelling unit type and by size of local government. DLCD considered these adjustments but determined this would not be in alignment with the legislative intent of Oregon Homes. The 10% variance allowance from 660-047-0030 (2) and (3) has been added to this section.

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and people that interact with the right-of-way. **A** local government may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

(1) All units within the ~~development~~ development, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:

- (a) Face the street;
- (b) Be at an angle of up to 45 degrees from the street;
- (c) Face a common open space that is adjacent to the street ~~and is abutted by dwellings on at least two sides;~~ or
- (d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.

~~(2) Windows or pedestrian entrance doors must be provided on street facing facades as follows:~~

~~(a) At least one street facing façade must have a minimum of 15 percent windows or pedestrian entrance doors.~~

~~(b) All other street facing facades must have a minimum of 10 percent windows or pedestrian entrance doors.~~

~~(c) The following facades are exempt from these standards:~~

~~(A) — Facades separated from the street lot line by a dwelling, or by a buildable lot with a depth of at least 20 feet measured from the street lot line.~~

~~(B) — Facades that are more than 40 feet from the street lot line.~~

~~(C) — Facades facing an alley.~~

~~(23)~~ Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development

scenarios are excluded from this standard:

- (a) Accessible and adaptable units;
- (b) Lots that receive vehicular access from an alley; and
- (c) Off-street parking areas that are separated from the street lot line by a dwelling.

(34) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:

- (a) The storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.
- (b) The storage facility must be separated from the street lot line by at least 5 feet.
- (c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the Garage, carports, or on street parking standards or the trash screening requirements within this section.

Statutory/Other Authority: ORS 197.040

660-047-0040 Siting Standards

660-047-0040 Siting Standards

Summary: This section establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and outdoor areas.

Commentary: Through the RAC process, the approach to have siting standards for Oregon Homes Lots, regardless of the type of Oregon Homes Development, was decided. The above siting standards were chosen to ensure development feasibility and an expedited review process. DLCD has considered OAR 660-046 (Model Code) as reference. Similar to design standards, RAC members raised concerns that the proposed siting standards should vary by dwelling unit type and by size of local government. DLCD considered these adjustments but determined this would not be in alignment with the legislative intent of Oregon Homes. The 10% variance allowance from 660-047-0040 (1) and (3) has been added to this section.

A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

- (1) Provide a setback of at least 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.
- (2) Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.
- (3) Provide outdoor area comprised of at least 15 percent of the gross site area and containing one or more of the following features:
 - (a) Areas planted with vegetation (including natural areas and existing trees);
 - (b) Private open space, including balconies attached to individual dwelling units;
 - (c) Pedestrian hardscape;
 - (d) Usable open space being one of the following:
 - (A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be contiguous and able to fit a 10-foot by 10-foot square;
 - (B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;
 - (C) Tree groves of existing mature trees;
 - (D) Turf or grass play fields;
 - (E) Children's play structure or play area;
 - (F) Sports courts;
 - (G) Swimming or wading pool or hot tub;
 - (H) Walking fitness course;
 - (I) Natural area with benches; or
 - (J) Gardening area with at least 50 square feet of planting area.
- (4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the setbacks or outdoor area characteristics requirements within this section.

Statutory/Other Authority: ORS 197.040

660-047-0050 Variances and Adjustments

660-047-0050 Variances and Adjustments

Summary: This section establishes when variations and adjustments may be allowed and to what extent.

Commentary: While the intention of the Oregon Homes program is to create standards to be applied

~~across the State, statute allows for rules to include consideration of circumstances to account for the variety and diversity of lots that may be suitable for Oregon Homes development, but for slight deviations from approval criteria. The policy intent for these variances is to avoid introducing discretion into any approval process. A blanket 10% deviation allowance keeps these reviews clear, objective, and measurable. The only change to this section is the introductory sentence.~~

~~Variations and adjustments may be allowed, only to the extent described in this section, for an Oregon Homes Development proposed on an Oregon Homes Lot.~~

- ~~(a) A local government is not required to grant a request for adjustment under sections 38 to 41 of ORS (b) 197A.395 in approving an application for an Oregon Homes Development.~~
- ~~(c) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10% from the following standards:~~
- ~~(d) Window and door coverage in OAR 660-047-0030 (2);~~
- ~~(e) Garages, carports, or on site parking standards in OAR 660-047-0030 (3);~~
- ~~(f) Screening requirements for trash and recycling facilities OAR 660-047-0030 (4);~~
- ~~(g) Setbacks outlined in OAR 660-047-0040 (1); and~~
- ~~(h) Outdoor area characteristics in OAR 660-047-0040 (3).~~

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ~~ORS 456.270 to 456.295; 197A.395~~

660-047-00560 Tree Standards

660-047-00560 Tree Standards

Summary: This section establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Homes lots.

Commentary: As proposed, these rules do not add any additional tree removal requirements beyond those outlined in HB 2258. The list of trees that require mitigation if removed similarly does not add any additional requirements beyond statute. The proposed rules add an option for local governments to require a fee in lieu. RAC members expressed that these standards are more restrictive for some local governments and more permissive for other local governments. No edits were made to the standards so that the standards remain in conformity with HB 2258.

A local government must require the applicant to adhere to the following standards to guide the

preservation or replacement of trees on an Oregon Homes lot.

(1) Approval of an Oregon Home Development may not result in the removal of trees that are:

- (a) Designated by the local government as a heritage tree, or
- (b) 20 inches or greater DBH.

(2) An applicant for an Oregon Homes Development on an Oregon Homes Lot may propose to remove eligible tree(s) as part of the development application. The applicant shall take mitigating measures outlined in this section for each tree proposed to be removed that is:

(a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;

(b) Not deemed unhealthy by a certified arborist; and

(c) 12 inches or more DBH.

(3) If ~~one~~all of the criteria listed in 660-047-00560 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:

(a) ~~The~~ replanting of the removed tree on or adjacent to the Oregon Homes Lot;

(b) ~~The~~ replacement of the removed tree with a tree of the same protected species; or

~~(c)~~ (c) A payment of a fee-in-lieu as established by local ordinance.

Statutory/Other Authority: ORS 197.040

Current text of the rules appears in italics, major concerns are in red. Alternative text or suggestions appear in bold.

I would like to highlight some underlying issues that are common to DLCD rules that these exemplify. The rules themselves are vague, unclear and subject to different interpretations, rather than clear and objective. While DLCD is not required to meet clear and objective standards, our cities and counties are in implementing these rules. All vagueness and inconsistency directly effects local jurisdictions' abilities to create clear and objective codes based off these rules.

I will additionally draw attention to some of the problems with the drafting of the bill itself that have led to the misunderstandings and frustrations I the RAC. The bill lacks proper ands or ors in its lists of requirements and does not align if proper ands/ors are added. Additionally, aspects of the program that would better live at BCD, like building height and glazing etc., that instead are within the purview of DLCD. These are ultimately things that if they are a barrier to creating functional rules that cities can implement will need legislative fixes.

660-047-0010 Definitions Comments

*(1) “**Building Height**” means the vertical distance from **grade** plane to the average height of the highest roof surface.*

Building Height: The building height definition needs additional information as different definitions are used by different jurisdictions and the current definition leaves variability and opens jurisdictions up to possible HAPO action if they are not seen as complying with it correctly. A better definition requires where at the base of the building you are measuring from (example from street level or the middle point in the slope) to where you are measuring to (example the tallest point on the building like a chimney or the tallest point of core of the building).

Also, this definition should use slope (which is the term used in the bill), rather than grade.

Additionally, there will need to be an example diagram included in the rules to meet clear and objective standards. There is an alternative to

Grade: The key issue here is when is the grade being measured and how. There is no consistent definition of grade in statute or rule for a situation such as this. We would suggest clarifying that it is the “**slope prior to development on the site,**” as compared to the grade after development activity begins. The reasoning being that this is a baseline qualifying criteria for the lot and this is what will be used to identify if the lot is eligible.

Additionally, there will need to be an example diagram included in the rules to meet clear and objective standards.

There is no definition for buildable area or developable area.

We would suggest using only one and eliminating the other. We would suggest the follow definition: **Buildable area means the space on the lot not including setbacks, public utility easements, right of way, and any required open space.**

*(i) if a lot or parcel is within an area as identified in 660-047-0010 (g) (A-C) but **the developable area is wholly outside any such area**, the lot may become eligible; and*

We would propose the following language options: **...the area proposed to be developed is wholly... or the buildable area is wholly outside**

(A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse;

Place holder

(7) “Public Facilities Plan” means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500.

We appreciate the addition of public facilities plan considerations, for clarity and consistency across jurisdictions **Engineering Master Plans also need to be included.**

*(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, and ORS 455.685, **or housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.***

The LOCs members struggle with this portion of the base bill and found through out the rules. We understand the intent is to give a local path in this program so jurisdictions can retain greater control. For many of our members it is seen as a wholesale overturning of local land use control for these lots, and problematic in jurisdictions where land use regulations or tree codes are more permissive than those found in this bill. There is a concern that this provision will require jurisdictions to inventory all lots that meet the base requirements of this program and offer this program to all applicants that come in with one of those lots. That is not feasible.

This needs to be clarified that this third option is an applicant driven process and not on the local government

*(23) **Garages, carports, or on-site parking or vehicle maneuvering areas are not required.***

However, if proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development scenarios are excluded from this standard

While we understand that this is already the case in some jurisdictions across Oregon, the vast majority of cities in Oregon are not prohibited from requiring parking, and for good reason, small cities do not have the same level of public infrastructure for on-street parking or public transit, in some cases not having either. Language needs to be more permissive or be set at a population threshold.

*(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement **and a setback of 20 feet from the garage entrance if applicable.** For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010*

Require garages, if provided, to be setback a minimum of 20-ft to facilitate a driveway that can accommodate one car parked in front of the garage. This will discourage cars from parking in a way that impacts the abutting sidewalk for pedestrian safety.

660-047-0030 Design Standards

The rules should specify “design standards” that apply to the 3-dimensional aspects of the structure itself – e.g. building height, structure size, main entry orientation, façade window requirement, garage placement and width. **These are all requirements that should lie within the building code review, with the Building Codes Division’s portion of this program (under ORS 455.062 or ORS455.685).** It makes little sense to govern these aspects after the building plan has been reviewed as part of another program again but with possibly different requirements at the land use stage. This will only cause frustration for the developer and those doing the local review.

660-047-0040 Siting Standards

On the other side of the line are the 2-dimensional “siting standards”. These could specify the eligible housing types on the eligible lots (in conformance with the bill), and defer to the

local jurisdiction the specific setback, building coverage, outdoor area, driveway access width and location. To enable greater flexibility, the rules could specify that adjustments to those dimensional requirements must be approved up to a specified percentage.

Create a specific opportunity in the review process for service providers (like sanitary services) and the fire bureau to identify potential pitfalls sooner in the process.

This approach also preserves the ability to regulate cottage clusters, in conformance with the state model code and prior OAR, to which these draft rules do not conform, but would simply supersede.

Creation of Non-Conforming Residences – Once an Oregon Home is placed on a lot in a configuration that does not meet local zoning ordinances, it will immediately become non-conforming. Buyers of Oregon Homes may face immediate limitations on their ability to maintain, improve, or replace their homes in a manner consistent with local ordinances. The local government would have to change the underlying zoning for the lot prior to the building of an Oregon Home on that lot.

TO: DLCD Housing Staff
FROM: Morgan Tracy, Senior Planner – City of Portland Bureau of Planning and Sustainability
DATE: June 8, 2026
SUBJECT: Division 47 “Oregon Homes” Draft Rules

Thank you for the opportunity to participate in and contribute to the rulemaking advisory committee discussions for the Oregon Homes program, and HB 2138 rules. We offer these comments as suggestions for improvements to the draft Oregon Homes rules, and to register our concerns earlier in the process, before the rules are finalized for the Land Conservation and Development Commission’s consideration. We recognize that the City of Portland represents one perspective on the committee, and that DLCD’s charge is to develop rules that clarify and facilitate implementation of the legislation in a manner that works for all cities and counties to promote more housing. Our hope is that these comments will help staff to thread that needle in a way that recognizes the diversity and range of communities across the state.

GENERAL COMMENTS:

The rules should clarify, not create legislation.

The rules should focus on clarifying aspects of the legislation that are ambiguous, or subject to widely varying interpretation, but should not attempt to invent new programs or eligibility parameters that are not specified in the statute. The rules as drafted do little to clarify aspects of the bill that are currently confusing, often repeating bill language verbatim, while veering into interpretations that exceed statutory authority.

The rules should establish an efficient and workable system.

These rules attempt to superimpose a new permitting system on top of local review. The results of which will create confusion, introduce surprises late in the review process, and generate frustration for applicants. Local siting rules were developed in conjunction with internal and external development stakeholders. Utility providers, emergency services, public works and infrastructure reviewers have all participated and developed their requirements in concert with locally adopted land use rules. To the extent possible, the rules should rely on established siting requirements and not attempt to reinvent the wheel.

The rules should result in attainable, less-expensive housing.

While the rules attempt to create as much flexibility as possible for Oregon Homes development, the result of the rules as drafted is potentially very large, and very expensive housing. While there remains a need for housing at nearly every income level, the State should not be creating systems that thwart local regulations for the benefit of affluent households.

SPECIFIC COMMENTS:

- **“Walk-in” Oregon Homes plans.** At the 5th RAC meeting, a “programmatic interpretation” was proffered. In addition to expanding the state’s current “pre-approved” plan program (ORS 455.062) or “pre-certified plan” program (ORS 455.685), this third “walk-in” option serves as an end-run around the very notion of a streamlined pre-approval and simply creates a path to ignoring local land use requirements, through a regular building permit

application process. We do not believe the legislation was crafted with that intent, nor do we believe the statutory language supports it.

RECOMMENDATION: Remove the programmatic interpretation and language in 660-047-0010 pertaining to “housing types that meet the criteria as listed in 660-047-0010 (5) and approved through local building code review.”

- **Oregon Homes lots.** The May version of the draft rules included language that allowed for lots that would otherwise be ineligible as Oregon Homes lots to be reconsidered if the “buildable area” was located outside the Goal 5 resource or Goal 7 hazard area. This presents several problems. First and foremost, there is nothing in HB 2258 that indicates that this is a valid interpretation: SEC 2,(3) A rule issued under this section may only pertain to lots or parcels that are (g) Not within an area identified ... as: (A) Environmentally sensitive or containing significant natural resources; (B) Open space or scenic areas; or (C) Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas”. The bill does not say that the rule can be expanded to those lots or parcels under certain circumstances, nor does it say that it pertains to buildable areas that are not within those areas. Beyond that primary concern, from a practitioner viewpoint, natural hazard mapping is an expression of risk, rather than a certainty. In addition to the development of the housing, disturbance from utility trenching, access driveways, septic fields, landscaping, irrigation, retaining walls and general grading can all potentially impact the level of risk. Careful consideration by both the builder and the local jurisdiction is needed to lessen that risk, even when the location of the building falls outside the specific confines of a mapped area. That is why lots that are wholly or even partially encumbered by these areas should not be eligible for this program.

RECOMMENDATION: Remove the programmatic interpretation and language in 660-047-0010 specifying “if a lot or parcel is within an area as identified in 660- 047-0010 (g) (A -C) but the developable area is wholly outside any such area, the lot may become eligible.”

- **Siting standards.** Per HB 2258 LCDC may specify the approval process, the applicable design standards, allowable variations from those design standards, standards for tree removal, and “limits on land use”. Examples of those limits include setbacks, parking, FAR, and [oddly] minimum density. The bill does not specify “siting standards”.

We appreciate DLCD staff attempting to offer clarity on those land use limitations. However, in so doing, the draft rules have interpreted them as “siting standards that [regulate the] placement of structures on a lot or parcel including setbacks, height, bulk, scale, lot coverage, perimeter setbacks, dimensions, bulk [sic], scale [sic], coverage, minimum and maximum parking requirements, utilities, and public facilities.” The rules go on to provide standards only for setbacks, minimum density, and outdoor area, and state that no other siting standards shall apply. The RAC during the May 20th meeting identified numerous considerations that make such siting limitations infeasible and potentially unsafe, and

members acknowledged the wide variation between cities and geographies that make complete standardization of these limits impractical.

We don't believe that was what this bill was seeking to do. Development standards reflect careful vetting and negotiation with service providers, emergency services, public infrastructure, as well as the public and development community. They create certainty for applicants that move through the development process so that they know that what they intend to build, what they've spent their time and effort on, will be buildable on a particular lot. The system being created by these rules ironically jeopardizes that certainty. By bypassing established land use limits, this puts applications at risk of running straight into the net of other development requirements, such as emergency access, staging for fire response, space for utilities, or future infrastructure needs.

RECOMMENDATION: As an alternative, we suggest a brighter line distinction in the program. The rules should specify "design standards" that apply to the 3-dimensional aspects of the structure itself – e.g. building height, structure size, main entry orientation, façade window requirement, garage placement and width. These would be reviewed in conjunction with the structural and life safety review as part of the Building Codes Division established programs (under ORS 455.062 or ORS 455.685).

On the other side of that bright line are the 2-dimensional "siting standards". These would specify the eligible housing types on the eligible lots (in conformance with the bill), and defer to the local jurisdiction the specific setback, building coverage, outdoor area, driveway access width and location. To enable greater flexibility, the rules could specify that adjustments to those dimensional requirements must be approved up to a specified percentage. This approach relies on long-established locally tailored development standards and signals to builders that if they meet the base requirements, the potential for other conflicting development standards is reduced or eliminated. If an adjustment is needed, that review process offers the opportunity for service providers and the fire bureau to identify potential pitfalls sooner in the process.

This approach also preserves the ability to regulate cottage clusters, in conformance with the state model code and prior OAR, to which these draft rules do not conform, but would simply supersede.

- **Size does matter.** The success of the Residential Infill Project in delivering homes built by for-profit builders at entry level and workforce household sales prices is the result of controlling for excess size, while enabling market diversity. Fourplex units on typical 5,000 square foot lots in Portland are generally 900-1,000 square feet and sell for roughly \$300,000-\$325,000. At a sales price average of \$300 per square foot means that for each additional 500 square foot increase in home size, the sales price increases by \$150,000. The draft rules would more than double the allowed size of a fourplex unit to 2,200 square feet, resulting in units that would be priced at around \$660,000. We recognize that there is a need for homes at differing price levels, and our rules provide for that, by allowing larger

homes (2,500 square feet) or mid size duplexes (1,500 square feet) or cottages that range between 900 and 1,800 square feet when averaged together. The builder can choose which path makes the most sense based on the demand and type of housing market they are seeking to serve.

Conversely the draft rules are monolithic and heavy handed, creating the largest possible building envelope. It adds that the 2,200 square foot buildable area should be measured “per dwelling unit”. In addition to the fact that this interpretation is not supported by the bill language, there are serious equity considerations to ponder. Who is benefitted and who is burdened by this approach? While there are vacancy provisions in the bill intended to limit displacement, all it takes to demolish a house is to replace it with two large single family houses. This creates a market dynamic that could quickly exacerbate housing instability.

RECOMMENDATION: Remove the rule language in 660-047-0010 specifying “A size of not more than 2,200 square feet per dwelling unit for a single- unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; “

Revert to the language prescribed in the bill. The bill cites a “buildable area” but does not define it. The bill also gives the commission the option to address floor area limits. The rules could add that clarity, by describing the buildable area as the total maximum lot coverage specific to the housing type, and provide the commission with greater latitude to establish a sliding scale size limit for eligible housing types as follows:

The following would be reviewed by BCD/DLCD program as part of the “design” approval.

Maximum buildable area: Buildable area is the total area that is covered by buildings or other roofed structures more than 6 feet above grade. Eaves that are 2 feet or less in depth are not included in buildable area.

2,200 square feet for a house, house with an ADU, a duplex, triplex or fourplex.

1,400 square feet per each cottage unit

1,400 square feet per each unit in a multi unit building. Only one multi unit building is allowed per an Oregon Homes lot.

Maximum building size: Building size is defined as the total square footage of a dwelling unit measuring all interior floor space, including attached garages.

Note that building size is not the same as FAR, as it has no relationship to the size of the lot, which would be unknown at the time of building structure review. The purpose is to create a replicable standard regardless of the specific lot dimension.

1,400 square feet per cottage unit *(averaging unit size under this program is impossible since the units will have to be pre-approved individually)*

1,000 square feet per unit in a multi unit building *(measured as an average of all unit sizes)*

2,250 square feet for a house

3,000 square feet for the combined area of a house with an ADU
3,000 square feet for the combined area of all units in a duplex
3,500 square feet for the combined area of all units in a triplex
4,000 square feet for the combined area of all units in a fourplex

Maximum building height: Measured from the foundation sill plate, top of slab, or finished floor as applicable. *(since the grading specifics of the lot are unknown, this determination of height can be applied to the structure itself without site context.)*

24 feet for a cottage unit

24 feet for a detached ADU

28 feet for a house, duplex, triplex, fourplex

38 feet for a 7-11 unit building

- **The process.** The bill states that “The Land Conservation and Development Commission may adopt rules requiring local governments to issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of specified residential development types on certain lots or parcels under specified conditions.” and gives the commission the ability to specify “processes that the local governments may apply to the development...”

The draft rules propose a “Ministerial review. Administration of this review shall only be to ensure compliance with standards...and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.” Notice may not be provided, either of the application or the decision. The rules provide for a “completeness check” but do not specify timelines for either the completeness determination nor the review. It is not clear whether the items in that completeness checklist are intended as additionally required or as an exhaustive list. If exhaustive, they omit some crucial information necessary to review a development permit.

There are multiple conflicts that put cities at risk of an administrative error. ORS 197.015 defines a land use decision as not including: “a decision of a local government: (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment; (B) That approves or denies a building permit issued under clear and objective land use standards.” Secondly, for decisions that are made pertaining to clear and objective review, HB4037 (2025), SEC17, (5) establishes the noticing parameters for that review that potentially conflict with the proposed rules. It also seems outside rulemaking authority to override legislation (without clear legislative direction to do so).

RECOMMENDATION: This may require a legislative fix since the origin of the issue is in the bill itself. As a potential interim solution, the rules could specify that local governments review applications for Oregon Homes ministerially in a manner consistent with ORS 197A.400(5) [as amended by HB4037].

- **Failing to meet in the middle.** We observe several provisions in these rules that are aimed at minimizing/streamlining/reducing planning and zoning standards as a means of expediting the permitting process for a range of housing types including middle housing up to 11-unit multi dwelling buildings. Following the passage of the Residential Infill Project and subsequent changes as part of HB 2001, we have seen great interest and increased production of middle housing. The State Residential Building Code currently covers one- and two-family dwellings and townhouses. Everything with three or more units that isn't configured as townhouses falls under the Commercial Code. The result is that the entirety of the middle housing we've seen built to date is townhouse style plexes or detached cottage units. For context see: <https://www.cnu.org/publicsquare/2026/04/01/your-city-legalized-triplexes-building-code-said-no?>

Since the building code is adopted by the state and preempts local rules, there is little local governments can do to move this needle. This lies squarely in the state's hands to address. Other states (Washington, Alaska, Utah, North Carolina) have identified this as a hurdle and are advancing legislation to expand the residential code thresholds to include more types of middle housing. We appreciate that the Oregon Building Codes Division (BCD) adopted a narrow rule allowing attached, stacked two-family dwellings, but this has seen little builder interest with just three projects permitted since January 2025. We urge staff to use this process to identify opportunities to evaluate further building code reforms or pinpoint potential additional state legislation necessary to expand the applicability of the residential code or modifications tailored to middle housing.

City of Sherwood

Draft Comments on Oregon Homes Rulemaking

June 5, 2026

Fire Access – the rules do not allow local fire departments to require changes to the plans during land use review if their standards are not met. Additionally, it is not clear when review for fire access would occur. Most concerning is that the rules do not consider how to address potential fire access issues should they arise based on the specific Oregon Home and Oregon Lot configuration that is proposed. i.e. most fire departments require aerial access for buildings over a certain height. At times, that access needs to be provided on-site. This issue has been raised throughout the RAC process but has not been resolved. The RAC also does not include representation from any local fire departments in Oregon.

Solid Waste Management – the rules do not allow local solid waste providers to require changes to the plan during land use review if their standards are not met. This may lead to additional cost to the service providers to purchase special equipment or modify operations. It may also lead to a burdensome on-site waste management system for residents. This issue has been raised throughout the RAC process but has not been resolved. The RAC also does not include representation from any local waste haulers in Oregon.

Creation of Non-Conforming Residences – once an Oregon Home is placed on a lot in a configuration that does not meet local zoning ordinances, it will immediately become non-conforming. Buyers of Oregon Homes may face immediate limitations on their ability to maintain, improve, or replace their homes in a manner consistent with local ordinances. Owners may encounter additional permitting requirements, restrictions on expansion or reconstruction, and challenges related to financing, insurance, and long-term investment in their property.

Public Notice – it is unclear whether the the local government be permitted to provide voluntary notice under 660-047-0020(6). There seemed to be consensus amongst the RAC that voluntary notice should be left up to the local jurisdiction. Sherwood is committed to transparency and strong communication with it's community members and would like to have the opportunity to send notice about proposed development. City of Sherwood staff has requested clarification from DLCD staff on this issue but has not received a response.

From: [Jerika Ferguson](#)
To: [CAUDEL Ingrid * DLCD](#)
Cc: [STUCKMAYER Ethan * DLCD](#)
Subject: Re: MHOR Homes RAC 5 Follow up
Date: Saturday, June 6, 2026 11:23:42 AM

Hello,

Thank you for sending this information over, and providing the former material. I will be in attendance on July 9.

Here are my written comments/suggestions for Version 2, as follows:

1. **Overall language:** There is multiple uses of the words, such as "shall" and "*may" throughout this version, particularly with the new added language. This is ambiguous, that will create issues of interpretation later down the line, particularly with a multitude of local jurisdictions working to interpret a state law. More federal and state's across the country are working to retire this outdated language. My suggestion:
 - Determine what the intent of that line/sentence is trying to imply. Examples:
 - **To impose an obligation or duty (most common):**
 - When the law or policy requires someone to take action, use "must" or "is required to"
 - **To establish a prohibition (An obligation not to act)**
 - When the law forbids an action, use "must not" or "is not permitted to"
 - Instead of: (On Page 6, Version 2), (6) A local government shall not require a public notice in reviewing or approving an application for Oregon Homes Development.
 - Use: (6) A local government is not permitted to require a public notice in reviewing or approving an application for Oregon Homes Development.
 - *Note: When I was reviewing, I kept asking myself, does that mean a local government could require public notice, with the words 'shall not' - to mean it meant they aren't required, but a local government could if they determined it, due tot the word shall.*
 - ***(when you could use may) To grant a right or discretion**
 - When the law gives permission or discretion to do something, use "may".
 - Instead of: The committee shall have the power to review the application.
 - Use: The committee may review the application.
 - **To state a future event (Not an obligation)**
 - When the law is simply stating a future occurrence or outcome, use "will".
 - Instead of: The new policy shall take effect on January 1.
 - Use: The new policy will take effect on January 1.
 - **To grant entitlement**
 - When an entity has a specific right to something, use "is entitled to".
 - Instead of: The employee shall receive severance pay.
 - Use: The employee is entitled to severance pay.

2. **On Page 9**, for the Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel....(3) Provide outdoor area comprised of at least 15 percent of the gross site area and containing one or more of the following features:
- (a) Areas planted with vegetation (including natural areas and existing trees);
 - And (D) Turf or grass play fields;
 - **Suggestion:** If a builder/developer is designing these homes, my suggestion is that we require that any vegetation that is to be planted, must meet a standard of native plants in their local area, or are [fire resistant plants](https://extension.oregonstate.edu/catalog/pnw-590-fire-resistant-plants-home-landscapes) (hyperlink: <https://extension.oregonstate.edu/catalog/pnw-590-fire-resistant-plants-home-landscapes>). It is not right for a new homeowner to deal with unnatural plants, and for our state, we should be working to push more native plants in general, it is good for our lands.
 - **Suggestion:** Remove "turf" from play fields. Turf leads to [hotter temperatures](https://pmc.ncbi.nlm.nih.gov/articles/PMC2265067/) (hyperlink: <https://pmc.ncbi.nlm.nih.gov/articles/PMC2265067/>), "synthetic turf fields can get up to 60° hotter than grass, with surface temperatures reaching 160°F on summer days". Climate change is going to continue to cause heat waves, and we already know urban areas are at risk for urban heat islands. In cities across the US, like Salt Lake are realizing the issues of implementing turf, and are course correcting. These families and children using these areas deserve a place to play in the summer, not have to spend money in the future to remove a product that causes more harm.
 - *Note: We have an opportunity here, for Oregon Homes to be the leading example of how we want our homes and neighborhoods to look, feel, and be for the next decades to come.*

Thank you!

Jerika

On Thu, May 21, 2026 at 2:24 PM CAUDEL Ingrid * DLCD
<Ingrid.CAUDEL@dlcd.oregon.gov> wrote:

Hello Middle Housing Oregon Homes (MHOR Homes) Rulemaking Advisory Committee (RAC) Members,

Thank you for your engagement and the robust discussion at our fifth MHOR Homes RAC meeting yesterday. A detailed meeting summary will be provided in the packet in advance of our July 9 meeting.

As requested, please see the attached:

- Red-lined version of the rules
- RAC 5 meeting presentation
- Feedback received since 5.15.26

Action Items:

- RAC members: Submit written comments on Version 2 draft rules and impact statements to DLCD by June 8
- All to attend the next meeting from 9:00 am – 10:30 am on July 9
 - If there are any issues with the meeting invite, please contact Ingrid.caudel@dlcd.oregon.gov

Please reach out to housing.dlcd@dlcd.oregon.gov with questions or feedback. If you have any process or facilitation questions or requests, please contact Ben Duncan (bduncan@kearnswest.com) and Ariella Dahlin (adahlin@kearnswest.com).

Thank you again for your continued input and engagement.

Best,

Ethan Stuckmayer, AICP

Manager | Housing Division



Pronouns: he/him/his

Oregon Department of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

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Jerika Ferguson
jerikaferguson@gmail.com
509-981-0467



June 8, 2026

Department of Land Conservation and Development
Housing Services Division
635 Capitol St NE
Suite 150
Salem, OR 97301

Re: Oregon Homes Program Rulemaking

Dear Rulemaking Committee Members,

Thank you for the opportunity to provide comments on the proposed Oregon Homes Program rulemaking. The City of Happy Valley shares DLCD's commitment to increasing housing supply and affordability. Our community has grown rapidly over the past two decades, from a population of 7,200 to more than 28,000, and we remain committed to supporting housing development that meets Oregon's needs. We are concerned, however, that the proposed rules extend beyond the scope of the underlying legislation and do not adequately account for local interests and jurisdictional differences.

Last year, House Bill 2258 was passed into law. The bill directed DLCD to create a program for pre-approved structures on qualifying properties. The proposed rules go beyond that purpose by superseding local design standards and imposing a single set of state-defined dimensional standards, rather than allowing jurisdictions to continue applying locally crafted setbacks, lot coverage requirements, and related tools used to support neighborhood cohesion. The amendments also appear to broaden the program so that dwellings need not be approved by the State, with the result that nearly any dwelling of 11 units or fewer could qualify and avoid local design, setback, or siting standards. In our view, this departs substantially from the Legislature's program of pre-approved house plans.

The prescribed design standards also exclude minimum parking requirements in communities that lack sufficient infrastructure for safe on-street parking and viable transit alternatives. Our local standards are tailored to our community's needs and context. Even where parking is provided, the draft rules' 4.5-foot setback is not sufficient to accommodate the length of a typical automobile, which in our experience can result in vehicles blocking sidewalks and streets and creating unsafe conditions for drivers and pedestrians alike.

The draft rules also raise significant fire safety concerns because they do not require adequate fire access, sufficient separation between buildings, or other basic site design measures that help protect residents and neighboring properties. In many circumstances, reduced setbacks, narrow driveways, slope constraints, and higher unit counts can create conditions in which firefighting equipment cannot safely or efficiently reach structures, turnarounds are not provided, and buildings may be placed too

close together without additional mitigation. As identified in the attachment, the rules also do not provide a clear mechanism to require fire suppression measures where needed. These omissions create

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happyvalleyor.gov

avoidable public safety risks and further demonstrate why local jurisdictions must retain the ability to apply standards that address access, spacing, and emergency response conditions on the ground.

Local jurisdictions have adopted standards and regulations in response to on-the-ground experience and community needs that may not be fully reflected at the state level. The draft rules extend beyond the parameters of the legislation and raise significant home-rule concerns, without sufficient consideration of the differing contexts and consequences across jurisdictions.

The draft language appears to require local jurisdictions to approve development based on broad and, in several respects, unclear parameters. As discussed in Attachment A, the standards are not consistently clear and objective and include conflicting provisions that make implementation difficult. The proposed rules also add complexity to the land use system by introducing additional alternate processes to existing local variance and tree-removal procedures. Taken together, the draft language appears to exceed the legislative intent of HB 2258 and to reduce the ability of local jurisdictions to address neighborhood safety and cohesion.

Local standards exist for important reasons. Our concerns are not limited to the substantial administrative burden these rules would create; as drafted, they also introduce safety risks, add unnecessary complexity to the development process, and extend beyond the apparent legislative intent. For these reasons, we believe the draft language should be revised before adoption.

At a minimum we urge you to:

- 1. Remove the proposed redlines that broaden the program to no longer require approval by the State and to allow development on environmentally constrained lots.**
- 2. Revise the language so that it is clear, internally consistent, and capable of lawful implementation.**
- 3. Remove the proposed siting standards and allow local dimensional standards to apply to Oregon Homes developments.**

We urge the Department to revise its draft rules to focus on implementing the legislation as enacted. The draft code amendments are unclear, contain internal conflicts, and are not workable in their current form. There is no need to broaden the scope of review in ways that diminish local authority and create a one-size-fits-none approach. Happy Valley has demonstrated that it can support housing development quickly and efficiently while responding to local needs, which differ substantially from those of jurisdictions such as Portland, Government Camp, or Seaside. We therefore urge the Department to consider safe harbors for local design standards that are already functioning effectively.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Ellis', with a stylized, cursive flourish at the end.

Tom Ellis
Mayor
City of Happy Valley

A few examples of places where the proposed code language is unclear, unable to be implemented or presents conflicts is identified below.

660-047-0010(1). The definition of “Building Height” is discretionary and does not specify how height is calculated. For example, if the lot is sloped the measurement is different depending on where the height is taken. There is no mention of averaging the grade. So it appears to be measured at the location which results in the tallest height but that is a discretionary determination. The “average height of the highest roof surface” is unclear and discretionary as to how that is measured. The implementation is unclear on how a building measured that is stepped for each attached dwelling, such as an attached triplex. It is unclear whether it measured from the lowest grade to the highest grade along the structure or if it is measured for each unit. The result is unclear and discretionary.

660-047-0010(3). The revised definition of “design standard” includes siting standards such as driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.

660-047-0010(4). The revised definition of “final engineering plans” assumes that all development will occur after a tentative plat, which is not the case. We have many existing lots created prior to adoption of a platting process as well as a design review process that requires final engineering review. Presumably the program only applies to lots created through a plat, but that is unclear.

660-047-0010(5). The definition of “Oregon Homes Development” includes the standards for qualification which are unclear:

- “Types with a buildable area” is unclear. It implies the buildable area of the lot, but the subsections appear to be a maximum unit size, though when read together could imply maximum footprint or development area including driveways, etc.
- The language implies all subsections (a) through (e) must be met, but subsection (c) can only be met by multiunit developments.
- Subsection (a) would be clearer if it were to list all of the allowable housing types rather than just some.
- Accessory dwelling units do not appear to be a feasible housing type because the lot must be vacant and it is not clear that multiple unit types could be constructed at the same time. The addition of a new dwelling unit could not occur over time due to that limitation.
- Placing the development standards in the definition is inconsistent with existing language formats.
- Subsection (e) expands the program beyond the legislative intent to essentially exempt nearly all residential development across the state. The amendments broaden the program so that the dwellings do not have to be approved by the State and as a result nearly any dwelling of 11 units or less likely qualifies and would not be subject to local design standards, setbacks, or local siting standards. This is far afield from the Legislative program of pre-approved house plans.

660-047-0010(6). The definition of “Oregon Homes Lot” includes the standards for qualification which are unclear and infeasible.

- Subsection (f) is unclear, as the slopes on the lot may not average more than 15% but the parameters on how to calculate the slopes are not identified. It is unclear if the slope is calculated as the total rise over run for the lot as a whole or is it an average of all smaller areas. Much of Happy Valley is sloped with significant drop-offs as well as gradual slopes. This methodology would affect eligibility of a vast number of Happy Valley lots.
- Subsection (g) is unclear, as it implies the lot must be completely free of the constraints as opposed to the development location, but the language is not explicit. “Environmentally

sensitive” and “significant” natural resources are undefined, so it is unclear how a local jurisdiction would implement them.

- Subsection (g)(C)(i) broadens the parameters of an eligible lot to allow homes lots that have environmental constraints, provided the “developable area” is outside of the constrained areas. “Developable” is undefined so it is unclear if ancillary grading, landscaping, driveways, etc. are included.
- Subsection (h) combines the use of the lot with how the lot was created. The subsection could be rewritten to separate these issues. Subsection (h)(A) is unnecessary as it is redundant with (a). This could be replaced by clarification that “vacant” includes lots with no structures. It is unclear why additional residential development should be added to a commercial structure (nonconforming nonresidential structure) in subsection (h)(B) or how “suitable for any lawful use” is defined.

60-047-0010(11). “Usable outdoor area” is unclear.

- There are a number of discretionary elements in identifying what qualifies as a usable outdoor space. A tree grove of mature trees is identified, but it is not clear the minimum number of trees required for a grove or what defines a mature tree. Turf or grass fields are identified but there is no minimum square footage to describe adequacy of the field. Children’s play structures and play areas are identified but are undefined. It is unclear what the minimum length or material needed for a walking fitness course is. A natural area is undefined and a 50 square foot gardening area is undefined as it does not appear to need to be planted.

660-047-0020(2). Local jurisdictions are not allowed to exercise discretion, interpretation, policy, or legal judgment but the draft requirements are not clear and objective and as demonstrated in these comments, they include an abundance of discretion, interpretation, policy, or legal judgment. This puts jurisdictions in an impossible position.

660-047-0030. The design standards are not clear and objective.

- Subsection (1)(d) is unnecessary as it requires an entrance face the street, which complies with (a).
- Section (2) does not identify how the limitation to onsite parking, garages, carports, or vehicle maneuvering is measured. Though the language identifies the measurement is taken at the widest dimension, it is unclear if that is a single cross section at the same plane or if it is essentially measured at the property line and would count any portion of the lot which has a qualifying element. There are a number of irregular shaped lots where there is qualifying area but that is not aligned with the frontage or the vehicle maneuvering area is oriented in a way that differs from a short driveway on a small lot.
- The City typically does not regulate the location of trash and recycling areas as is the case in Subsection (3). This standard is more restrictive than existing regulations and should be vetted with service providers to verify it is not problematic for haulers.
- The 10% variance that is required to be approved is misleading as it complicates the regulations and creates a lower bar for development which cannot be denied.

660-047-0040. The siting standards go beyond legislative intent.

- Overriding the dimensional standards of local jurisdictions unnecessarily exceed the legislative intent of providing pre-approved homes on qualifying lots. Local setbacks, lot coverage, or other dimensional standards are not prohibiting development and should be utilized as a tool that already effectively provides opportunities for development as well as infrastructure and neighborhood continuity. The mandatory minimum setbacks of 4.5 feet or 9 feet (with the variance) and the lack of utilization of local height, lot coverage, or other dimensional standards is inappropriate. Local dimensional standards have not been proven to be a barrier to

development, they support a cohesive sense of place, and they facilitate critical infrastructure like our 8-foot public utility easement. Many local jurisdiction also have standards which allow the projection of roof eaves two feet into the setbacks, making buildings effectively five feet apart, which likely conflicts with building code regulations for fire separation. Since the homes do not have to have extra fire protection to account for this, or even adequate access for fire trucks to reach the homes, this is a significant public safety hazard. The siting and design standards do not account for adequate fire protection, including structure spacing, access for fire equipment and personnel (such as on slopes or driveways, maximum number of dwellings without turnarounds) and do not provide an avenue for fire suppression systems as mitigation.

- Subsection (3) is highly discretionary and as identified earlier ineffective as it could be met with the setbacks and no other improvements, or simply a driveway falling under an outdoor recreation area. The same issues defining the features in the definitions section are repeated here. Further, local jurisdictions do not have the capacity to track and regulate the benches, or gardens of our residents. What happens when these features are removed, as they commonly are over time? Local jurisdictions are required to track and force properties back into compliance. This is an incredible lift for regulations which are unnecessary if we honor and rely on local siting standards.

660-047-0050. The tree standards are not effective and exceed legislative intent.

- The tree removal process is separate from the home construction or grading processes, and the proposed language treats those processes as if they are reliant on each other. It is unclear when the standards apply since the processes are distinctly separate. Could applicants simply remove trees prior to submitting an application for a dwelling? Creating a new process for a narrow circumstance further complicates the development process.
- Local jurisdictions should be allowed to apply our own local tree mitigation requirements. The requirements associated with residential development must legally be clear and objective. Adding different standards adds unnecessary confusion to the development process.
- A certified arborist report is not required to be submitted and is highly discretionary to the extent to which an arborist identifies trees as “not healthy.” Many communities value the benefit of trees and discourage their removal by requiring proportionate and meaningful mitigation. These provisions unnecessarily remove our ability to govern.



June 8, 2026

To: Ethan Stuckmayer, Manager, Housing Division
Department of Land Conservation & Development

From: Mary Kyle McCurdy, Associate Director
1000 Friends of Oregon

Re: Oregon Homes proposed rules, version 2

1000 Friends of Oregon supported passage of HB 2258 (2025). We felt that the provisions requiring local government approval of pre-approved residential building plans - the "Oregon Home" - was an excellent concept. Other jurisdictions in the United States are implementing similar concepts. It has not been as clear to us how easy it would be to define the type of lots on which these homes should be allowed - the "Oregon Lot" part of the legislation.

The RAC conversations to date have led us to conclude that version 2 is not likely to deliver what it seems our shared goal is: a clear definition and workable process for where and how "Oregon Homes" should be allowed. We are concerned that the diverse local governments in the RAC are all finding that the rules as proposed will be less efficient and might actually result in fewer homes being produced than under their current processes. Finally, it is not clear that the proposed rules will increase the likelihood that relatively more affordable homes will be built. We recommend that the faster and less expensive process intended by this legislation be limited to homes under a certain size.

In addition, certain aspects of the proposed rules seem to be contrary to HB 2258. For example, HB 2258 specifies that it does not apply to lots or parcels that are identified as in:

- “(A) Environmentally sensitive or containing significant natural resources;
- (B) Open space or scenic areas; or
- (C) Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas.”

Yet proposed section 660-047-0010(6)(i) seems to bring these lots, at least in part, into the rules: “i) if a lot or parcel is within an area as identified in 660-047-0010 (g) (A-C) but the developable area is wholly outside any such area, the lot may become eligible.”

We are also concerned that some language in version 2 could be interpreted to turn these decisions into land use decisions, when we believe the intent was that these should be ministerial decisions. Proposed OAR 660-047-0020 states:

“(1) Local governments must issue a land use decision approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards outlined in....”

In addition, if a local government already uses a ministerial decision process for reviewing building permits, it should be allowed to retain that process.

We urge that the next version of the proposed rules focus on ensuring that the rules focus on smaller and relatively more affordable housing types, that building code aspects are streamlined, and the process by which to approve and site Oregon Homes on lots is clear and results in a faster and less expensive process than what currently exists. It might take a bit more time and intensive conversations with the RAC local governments to reach these shared outcomes, but it seems doable and worthwhile.