PLANNING COMMISSION WORK SESSION AGENDA
Monday, July 14, 2025 - 6:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to the City Recorder at 541.574.0613, or cityrecorder@newportoregon.gov.

All meetings are live-streamed at https://newportoregon.gov, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. Call to Order
Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, Robert Bare, and Dustin Capri.

2. New Business

2.A Zoning Ordinance Housekeeping Amendment Package.
Memorandum
NMC Chapter 14-Housekeeping Code Amendments, 7.14.25 Draft
Housekeeping Amendment Scoping Memo, 1.23.25
ORS 197A Needed Housing Provisions
HB 2138 (2025) with Highlights

2.B Wastewater Treatment Master Plan Amendments.
Memorandum
Draft Wastewater Treatment Plan Amendments, 7.14.25

OAR 660-011-045

3. Adjournment

City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: July 10, 2025

Re: Zoning Ordinance Housekeeping Amendment Package

Enclosed is a package of code revisions that address the housekeeping amendments outlined in the scoping memo the Planning Commission reviewed in January (enclosed). The firm Municodes, now under Civic Plus, is close to posting an updated version of the Newport Municipal Code to its website , and I have a proof copy of the updated code that I used as a point of reference when preparing the revisions.

The ORS 308A tax incentive program is still in place, so I didn't put together any changes for the South Beach Open Space Overlay. I believe that is the only topic area specifically referenced in the scoping memo where there were no edits.

Newport Municipal Code Chapter 14.41, related to assisted living facilities, must be amended as these types of facilities are a form of needed housing, which means that the City must offer a set of clear and objective standards for approval. Changes included with the draft set of code revisions accomplish that objective. Alternatively, the Commission could elect to prohibit assisted living facilities in R-2 zones. It is a discussion point for the work session.

In addition to the housekeeping items, I took the time to incorporate changes in HB 2138, which was approved this legislative session. It is a housing bill that touches on a number of topic areas. The legislation was supported by the Governor's office, and appears to be the only bill with language that we will need to incorporate into the Zoning Ordinance. Enclosed is a copy of the bill and I highlighted and commented on a number of the particularly relevant provisions.

For this work session, I will be prepared to explain each of the proposed changes and welcome your feedback on how the package can be improved. If the revisions appear to be reasonably complete, then the Commission can initiate the legislative amendment process, by motion, at its regular meeting.

Attachments
NMC Chapter 14 -Housekeeping Code Amendments, 7.14.25 Draft
Housekeeping Amendment Scoping Memo, 1.23.25
ORS 197A Needed Housing Provisions
HB 2138 (2025) with Highlights

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 14.01 GENERAL PROVISIONS**

14.01.005 Official Names

The official name of this Title is "Title XIV, Zoning Ordinance" of the Newport Municipal Code and it may be referred to as "Title XIV," "Ordinance," or the "Code."

Staff: Chapter heading changed to general provisions. This subsection is intended to cover the range of names that Title XIV may be referred to throughout the document.

14.01.010 Purpose

The several purposes of Title XIV are to implement the Comprehensive Plan; to encourage the most appropriate use of the land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open spaces for light and air; to lessen the congestion on streets; to allow for orderly growth in the city; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and, in general, to promote public health, safety, convenience, and general welfare.

Staff: Section amended to remove ordinance reference, since naming of the document is addressed under NMC 14.01.005. The last sentence reads like a finding, and is not really a part of the purpose clause, so it is being deleted.

14.01.010 Applicability

The rules, requirements, and provisions of Title XIV, are in addition and not in lieu of any prior ordinance, resolution, rule, requirement, or procedure previously adopted by the City of Newport except as may have been expressly repealed, provided, however, that the provisions of this ordinance shall be controlling in cases where there may be conflicting provisions.

Staff: Edits are non-substantive and are for clarity.

14.01.015 Rules of Construction

A. The Community Development Director, or designee, shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Title. Persons may request an interpretation in writing as outlined in Chapter 14.52, with such interpretations being subject to appeal to the Planning Commission and City Council.

B. The terms or words used in this Title shall be interpreted as follows where the context demands; words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; and references to this "Title" "code" or "ordinance" shall be deemed to include the full text of the document, the accompanying zoning map(s) and all appurtenant amendments.

C. This Title shall be read literally. Regulations are not more or less strict than is stated.

D. Terms not defined in this Title shall be understood to have their ordinary or natural meaning.

E. Heading for sections and subsections of this Title are for convenience and reference purposes only, and do not affect in any way the meaning of the underlying provisions.

Staff: New subsection that includes direction for how language in Title XIV is to be interpreted. Concepts in subsection (B) are included in the existing Definitions chapter, which is too restrictive as they should be generally applicable throughout the document.

14.01.020 Definitions

The following words and phrases shall be construed to have the specific meaning assigned to them by definition.
Staff: Language providing direction for terms are to be interpreted has been deleted in favor of the "Rules of Construction" section above.

***

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 state building code.

Staff: New statutory definition from HB 2138 (2025) that is relevant to the number of permissible dwelling units in residential areas.

***

Affordable Housing. Means residential property in which:

A. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

B. At least half of the units on the property are made available to own or rent to families with incomes of 60 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

C. Affordability under (A) and (B) is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

D. A unit of housing that is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295 that:

1. 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

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

Staff: Definition amended to include changes contained in HB 2138 (2025).

***

Staff: Term no longer has meaning, as it has been replaced with the single room occupancy definition and density provisions in state law. Density allowance included with HB 2138 (2025) is essentially equivalent to what was allowed under these rules, rendering the definition redundant.

***

Cottage cluster. Means a grouping of dwelling units that are detached or attached in subgroupings of up to four units in any configuration; have a common courtyard; and each has a footprint or floor area that is less than 900 square feet.

Staff: Definition modified with HB 2138 (2025). The stature mentions "small" footprint or floor area, which is vague, thus the updated definition retains the 900 sq. ft. size limit.

***

Staff: Terms are legacy definitions that were applicable when the City of Newport regulated land uses by Standard Industrial Code classifications. They are not used elsewhere in the Chapter.

***

Single Room Occupancy. A residential development with no fewer than four attached or detached units that are independently rented and lockable and providing 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.

Staff: Definition modified with HB 2138 (2025).

Townhouse. 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.

Staff: Definition is being modified to align with the current statutory definition contained in ORS Chapter 197A.420.

14.01.025 Compliance Required

No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance.

Staff: Existing clause that is relocated within the Chapter.

14.01.030 Relationship to Easements, Covenants and Agreements

It is not the intent of this Title to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where language in this Title imposes a greater restriction upon the use of land than such easements, covenants, or agreements, the provisions of this Title shall govern.

Staff: A common provision in codes that speaks to the relationship between this Title and other regulatory instruments.

14.01.035 Rights-of-Way

Land within public and private rights-of-way are subject to the provisions of Title XIV. Permitting of earthwork, tree clearing and development activities within public rights-of-way is further regulated under Title IX.

Staff: Clarifies that rights-of-way are regulated just like private lots and parcels. The language also notes that there is a relationship between Titles IX and XIV of the Newport Municipal Code with respect to development activities in public rights-of-way.

14.01.040 County, Regional, State, and Federal Laws

References in this Title to county, regional, state or federal regulations are for informational purposes, and do not constitute a complete list of such regulations. The City is not responsible for enforcing cited county, regional, state or federal regulations unless the language in Title XIV explicitly conveys the City's intent to enforce the regulations.

Staff: A common provision in codes that makes it clear that references in the Title to county, regional, state, or federal regulations do not imply that the City will enforce those regulations.

CHAPTER 14.02 ZONING MAP

Staff: Table is being deleted because it is redundant.

14.02.010 Establishment of a Zoning Map

A. The location and boundaries of the zone districts designated in Section 14.03.020 and Overlays designated in Section 14.03.030 are shown on a map entitled: "Zoning Map of the City of Newport", which, together with all explanatory matter thereon, is hereby adopted by reference and designed to be a part of this Title.

B. Amendments to the Zoning Map of the City of Newport may be made in accordance with Chapter 14.36 of this Title. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting document, on file in the office of the City Recorder.

C. The Community Development Director shall maintain an up-to-date copy of the Zoning Map of the City of Newport to be revised from time to time so that it accurately portrays changes of zoning boundaries. The Zoning Map may be maintained in a digital form.

D. Regardless of the existence of purported copies of the Zoning Map of the City of Newport which may from time to time be made or published, the map amendments and adoption documents located in the office of the City Recorder, shall be the final authority as to current zoning

status of land and water areas, buildings, and other structures in the city.

E. Replacement of Zoning Map of the City of Newport. In the event that the map amendments and adoption documents on file with the City Recorder become damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by ordinance, adopt a new Zoning Map of the City of Newport which shall supersede the prior Zoning Map. T

F.

Staff: Changes eliminate redundant language related to establishing zones, eliminates references to maintenance of an official paper map, identifies party responsible for maintaining maps, clarifies where the official adoption documents are to be kept, and allows maps to be maintained digitally.

14.02.030 Zone Boundaries

Where uncertainty exists as to the boundaries of zone districts as shown on the Zoning Map of the City of Newport, the following rules may apply:

A. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following city limits.

D. Boundaries indicated as following shore lines shall be construed to follow the mean higher high water line of such shore lines, and, in the event of change in the shore line, shall be construed as moving with the actual shore line;

boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines. Areas below the mean higher high water or the line of non-aquatic vegetation in the estuarine area shall be considered to be in the estuarine management unit rather than the adjacent shore land zone.

E. Boundaries indicated as parallel to or extensions of geographic features indicated in Subsections A through D above, shall be so construed. Distances not specifically indicated on the Zoning Map of the City of Newport shall be determined by the scale of the Map.

F. Where a zone boundary divides a lot between two zones, the entire lot shall be placed in the zone that accounts for a greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet.

Staff: Changes eliminate reference to railroad tracks since none exist in Newport. All other revisions are for clarification.

CHAPTER 14.03 ZONING DISTRICTS

14.03.010 Purpose.

This Chapter establishes zoning districts for the City of Newport and delineates uses for each district. Each zoning district is intended to service a general land use category that has common location, development, and use characteristics. The quantity and availability of lands within each zoning district shall be based on the community's need as determined by the Comprehensive Plan. Establishing the zoning districts also implements the Comprehensive Plan Map as set forth in the Comprehensive Plan.

14.03.020 Establishment of Zoning Districts.

This section separates the City of Newport into five (5) basic classifications and eighteen (18) use districts as follows:

A. Districts zoned for residential use(s).

1. R-1 Low Density Single-Family Residential.
2. R-2 Medium Density Single-Family Residential.
3. R-3 Medium Density Multi-Family Residential.
4. R-4 High Density Multi-Family Residential.

B. Districts zoned for commercial use(s).

1. C-1 Retail and Service Commercial.
2. C-2 Tourist Commercial.
3. C-3 Heavy Commercial.

C. Districts zoned for industrial use(s).

1. I-1 Light Industrial.
2. I-2 Medium Industrial.
3. I-3 Heavy Industrial.
4. W-1 Water Dependent.
5. W-2 Water Related.

D. Districts zoned for public use(s).

1. P-1 Public Structures.
2. P-2 Public Parks.
3. P-3 Public Open Space.

E. Districts zoned for estuary use(s).

1. E-C Estuary Conservation
2. E-D Estuary Development
3. E-N Estuary Natural

14.03.030 Zoning Overlays

Zoning Overlays establish additional regulations beyond those established with zoning districts. In some cases, a Zoning Overlay may provide exceptions to or supersede regulations in the zone districts. Zoning Overlays may be maintained in a digital form, and those applicable to land within the City of Newport are identified as follows: A. Flood Hazard Overlay (NMC Chapter 14.20)

B. Geologic Hazards Overlay (NMC Chapter 14.21)

C. Airport Restricted Area (NMC Chapter 14.22)

D. Beach and Sand Dune Areas (NMC Chapter 14.24)

E. Vacation Rental Overlay (NMC Chapter 14.25)

F. Iron Mountain Impact Area (NMC Chapter 14.28)

G. Design Review Districts (NMC Chapter 14.30)

H. Ocean Shorelands Overlay (NMC Chapter 14.38)

I. South Beach Open Space Overlay (NMC Chapter 14.42)

J. South Beach Transportation Overlay (NMC Chapter 14.43)

K. Tsunami Hazard Overlay (NMC Chapter 14.50)

Staff: Paragraph in 14.03.030 related to zoning maps has been removed as redundant. It has been replaced with language capturing the fact that the City utilizes zoning overlays in certain circumstances, and lists those that are applicable within the City.

14.03.040 Intent of Zoning Districts.

Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

***

W-2/"Water-Related." The intent of the W-2 district is to provide areas within and adjacent to the Yaquina Bay Shorelands for water-dependent, water-related, and other uses that are compatible or in conjunction with water-dependent and water-related uses. In determining whether or not a use is water-related, the following shall be uses:

A. The proposed use is directly associated with a water-dependent use by supplying materials or services, or by using products of water-dependent uses; and

Staff: Change corrects an incorrect word choice.

***

14.03.050 Residential Uses.

The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted uses in the City of Newport's R-1, R-2, R-3 and R-4 zone districts subject to requirements of Section 14.25.

"P" = Permitted uses.
"C" = Conditional uses; permitted subject to the approval of a conditional use permit.
"X" = Not allowed.

A.	Residential	R-1	R-2	R-3	R-4
	1. Single-Family	P	P	P	P
	2. Two-family [7]	P	P	P	P
	3. Townhouse	X	P	P	P
	4. Single Room Occupancy [4, 6]	P	P	P	P
	5. Cottage Cluster	X	X	P	P
	6. Multi-family	X	X	P	P
	7. Manufactured Homes [1]	P	P	P	P
	8. Manufactured Dwelling Park	X	P	P	P
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				
C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P

	2.Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4.Utility Substations	C	C	C	C
	5.Public or Private Schools	C	C	C	P
	6. Family Child Care Home	P	P	P	P
	7. Child Care Center	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
	9. Emergency Shelter [5]	P	P	P	P
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Motels and Hotels [3.]	X	X	X	C
I.	Professional Offices	X	X	X	C
J.	Beauty and Barber Shops	X	X	X	C
K.	Colleges and Universities	C	C	C	C
L.	Hospitals	X	X	X	P
M.	Membership Organizations	X	X	X	p
N.	Museums	X	X	X	P
O.	Condominiums [2]	X	P	P	P
P.	Hostels	X	X	X	C
Q.	Golf Courses	C	C	C	X
R.	Recreational Vehicle Parks	X	X	X	C
S.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
T.	Residential Facility*	X	X	P	P
U.	Movies Theaters**	X	X	X	C
V.	Assisted Living Facilities***	X	C	P	P
W.	Bicycle Shop****	X	X	X	C
X.	Short-Term Rentals (subject to requirements of Chapter 14.25)	P	P	P	P
Y.	Transportation Facilities	P	P	P	P

[1] Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

[2] Condominiums are a form of ownership allowed in all zones within dwelling types otherwise permitted pursuant to subsection (A).

[3] Hotels/motels units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone.

[4] A building with four to six units on a lot or parcel in an R-1 or R-2 zone district, or a combination of buildings of at least four units each subject to the density limitations of an R-3 or R-4 zone district.

[5.] Subject to a public hearing before the Newport City Council to establish compliance with the requirements of ORS 197.782.

[6.] Density limit shall be three time the maximum number of multi-family units for lots or parcels where five or more multi-family units are allowed.

Staff: Implements single room occupancy allowed use amendments contained in HB 2138 (2025). Changes negate the need for rooming and boarding house use classification, as it is now effectively the same as a Single Room Occupancy use.

[7] If one or more of the units is an accessible or affordable unit, then one additional attached or detached dwelling unit shall be permitted notwithstanding the density limits of the zone district.

Staff: Implements statutory requirements contained in HB 2138 (2025).

***

14.03.080 Water-dependent and Water-related Uses.

The following list sets forth the uses allowed with the water-dependent and water-related land use classifications. Uses not identified herein are not allowed.

"P" = Permitted uses.

"C" = Conditional uses permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

***

19.	Manufacturing in Conjunction with Uses Permitted Outright in a C-2 District	X	C

Staff: Change corrects typographical error.

***

CHAPTER 14.10 HEIGHT LIMITATIONS AND COMMUNICATION FACILITY STANDARDS

***

14.10.040 Communication Facilities

New communication facilities shall satisfy the following standards:

***

D. Freestanding communication facilities that exceed the maximum building height of the zone district, as set forth in Section 14., Table A, shall be enclosed by security fencing not less than six feet in height.

Staff: Revision corrects a bad cross-reference.

***

CHAPTER 14.11 REQUIRED YARD, SETBACKS, AND SOLID WASTE/RECYCLABLE MATERIALS STORAGE AND ACCESS REQUIREMENTS

14.11.010 Required Yards

A building, or portion thereof, hereafter erected shall not intrude into the required yard listed in this chapter for the zone indicated.

Staff: Change is needed because required yards are not limited to those listed in Table A. In addition to Table A, Chapter 14.11 includes required yards for grouped buildings, garage setbacks, and certain exceptions to yard requirements. Therefore, it is prudent to reference the overarching chapter as opposed to just Table A.

***

14.11.050 General Exceptions to Required Yard

C. Dwelling Units Above Stores. Yards are not required for dwellings above businesses unless the dwelling area exceeds 50% of the floor area of the business or dwelling.

Staff: Add missing word.

***

E. No-Build Easements. In circumstances where a recorded no-build easement exists along a common property line, the easement area shall be construed as being a portion of the easement holder's required yard, provided no portion of a building extends beyond the property line.

Staff: Codifies existing practice, often used to facilitate redevelopment on infill properties that cannot meet modern setback requirements. Use of no-build easements is also an alternative to a property line adjustment, which might not be palatable to all parties.

F. Any person seeking an exception to required yard limitations of this chapter shall do so by applying for an adjustment or variance as described in Section 14.33 of this Code, and consistent with Section 14.52, Procedural Requirements.**

Staff: This subsection makes it clear that yard requirements can be reduced via adjustment or variance.

***

CHAPTER 14.12 MINIMUM LOT SIZE

14.12.010 Minimum Size

All lots hereafter created within the City of Newport shall have a minimum lot area and width as listed in Table A of NMC 14.13.020 for the zone indicated.

Staff: Deleted language shifts into substandard lots and parcels, which are regulated under the non-conforming use code (NMC 14.32.050). It is redundant and should be removed.

14.12.020 Exceptions to Lot Size Requirements

A. Lots or parcels created on or before September 7, 1982, the effective date of this ordinance, that do not meet the minimum lot area and width requirements listed in Table A of NMC 14.13.020 for the zone may be developed as non-conforming lots, as provided in Section 14.32.050.

B. Any person seeking an exception to the lot size requirements of this chapter shall do so by applying for an adjustment or variance as described in Section 14.33 of this Code, and consistent with Section 14.52, Procedural Requirements.

Staff: This legacy language conflicts with the provisions of NMC 14.32.050, which allows non-conforming lots to be developed as if they were conforming provided they satisfy the regulations applicable to the intended use. New sub-section (B) notes that lot sizes can be reduced below minimums with an approved adjustment or variance, an allowance that was added with Ordinance No. 2222.

***

CHAPTER 14.13 DENSITY LIMITATIONS

14.13.010 Density Limitations

A residential building structure or portion thereof hereafter erected shall not exceed the maximum living unit density listed in Table A, as hereinafter set forth, for the zone indicated, unless an exception is granted via an adjustment or variance as described in Section 14.33 of this Code, and consistent with Section 14.52, Procedural Requirements.

Staff: Like Chapter 14.12, the legacy language being removed conflicts with the provisions of NMC 14.32.050, which allows non-conforming lots to be developed as if they were conforming provided they satisfy the regulations applicable to the intended use.

***

CHAPTER 14.14 PARKING AND LOADING REQUIREMENTS

***

14.14.030 Number of Parking Spaces Required

F. Parking shall be required at the following rate. All calculations shall be based on gross floor area unless otherwise stated.

***

26. Single Room Occupancy, 1 space for every 3 rooms

Staff: Implements parking limit imposed in HB 2138 (2025).

***

14.14.100 Special Area Parking Requirements

A. The boundary of the special areas are defined as follows:

***

1. City Center. That area bounded by SW Fall Street, SW 7th Street, SW Neff Way, SW Alder Street, SW 2nd Street, SW Nye Street, Olive Street, SE Benton Street, SW 10th Street, SW Angle Street, SW 11th Street, SW Hurbert Street, and SW 10th Street.

   Staff: Corrected bad street reference.

CHAPTER 14.16 ACCESSORY USES AND STRUCTURES

***

14.16.020 General Provisions

A. Accessory uses and structures are those of a nature customarily incidental and subordinate to the primary use of a property. Typical accessory structures include detached garages, sheds, workshops, greenhouses, gazebos, and similar structures that, with the exception of Accessory Dwelling Units, are not intended for habitation by people. The Community Development Director, or the Director's designee, shall determine if a proposed accessory use is customarily associated with, and subordinate to, a primary use and may at his/her discretion elect to defer the determination to the Planning Commission. A determination by the Planning Commission shall be processed and authorized under a

Type III decision making procedure as provided by Section 14.52, Procedural Requirements.

Staff: Code interpretations are initially made by the Community Development Director with an appeal option to the Planning Commission. This option is intended to be a direct deferral to the Commission, which would field the proposal using a Type III (public hearing) process.

CHAPTER 14.17 CLEAR VISION AREAS

***

14.17.030 Clear Vision Area Requirements

A. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees located within a clear vision area shall have their branches and foliage removed to the height of eight feet above the grade.

B. Notwithstanding subsection (A), a fence within a clear vision area may be up to four feet in height if it is required to comply with state requirements for outdoor activity areas associated with a Family Child Care Home or Child Care Center.

Staff: Change allows a narrow exception to provide flexibility for child care providers that are required to have four foot fences around the perimeter of their outdoor activity areas per state law, such as OAR 414-305-0920.

CHAPTER 14.19 LANDSCAPING REQUIREMENT

***

14.19.030 Applicability

The provisions of this chapter shall apply to all new commercial, industrial, public/institutional, and multi-family development, including additions to existing development or remodels.

Staff: Reference to ordinance is overly broad. Proper reference is chapter.

***

14.19.060 Landscaping Requirements for Additions and Remodels

For purposes of this section, addition means any development that increases the floor area of a building. Remodel is any work requiring a building permit. For additions and remodels, landscaping shall be provided as follows:

A. Area. If the subject development after completion complies with the requirements for new development, no additional landscaping is required. If the subject development does not comply with the requirement for new development, landscaping shall be installed when there is a substantial improvement to the development.

In the case where a second addition or remodel is commenced within one year of the first addition or remodel, the two projects shall be counted as one with regard to determining whether or not the threshold for substantial improvement is met.

Staff: This chapter does not apply to single family detached and attached housing (NMC 14.19.030). The existing scaled valuation with a CPI-U adjustment is onerous to implement, requiring annual recalculation. Alternatively, the City can require landscaping with a remodel when the project constitutes a substantial improvement. The term "substantial improvement" is used in the City's design districts and flood Hazard areas. It is a defined term that, with some exceptions, is an improvement that equals or exceeds 50% of the market value of the structure.

***

CHAPTER 14.23 HISTORIC BUILDINGS AND SITES

***

14.23.020 Notice

Notice of intent shall be published for two consecutive weeks in a print format or digital newspaper of general circulation in the city prior to a hearing by the Planning Commission.

Staff: Reference to "News-Times" replaced with print/digital format language added to NMC Chapter 14.52 in 2024 (Ord. 2216).

***

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who need housing for a limited duration.

Staff: The code currently has two 14.25.010 citations. This change remedies the problem. The other change is grammatical in nature.

***

14.25.020 Establishment of a Vacation Rental Overlay Zone

A Vacation Rental Overlay Zone is hereby established to identify areas within the city limits where vacation rentals are compatible uses and, by exclusion from the overlay, areas where vacation rentals are prohibited in order to protect the City's supply of needed housing and character of its residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are

permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.

The Vacation Rental Overlay Zone shall be indicated on the Zoning Map of the City of Newport with the letters VROZ and is the area described as follows:

Real property lying within the corporate limits of the City of Newport beginning at the southwest corner of the intersection of NW 12th Street and US 101; thence west along the south line of NW 12th Street to the statutory beach line of the Pacific Ocean; thence southerly along the statutory beach line of the Pacific Ocean to the north line of SW 95th Street; thence east along the north line of SW 95th Street to its intersection with US 101; thence south along the west line of US 101 to a point opposite the south line of SE 98th Street; thence east across US 101 to the southeast corner of the intersection of US 101 and SE 98th Street, such point being coterminous with the Wolf Tree Destination Resort Site incorporated into the Newport Urban Growth Boundary pursuant to City of Newport Ordinance No. 1520; thence southerly, easterly, northerly, and westerly around the perimeter of the Wolf Tree Destination Resort Site to a point at the northeast corner of the intersection of SE 98th Street and US 101; thence north along the east line of US 101 to its intersection with SW Naterlin Drive; thence north and east along the south line of SW Naterlin Drive to SW Bay Street; thence south and east along the south line of SW Bay Street to the Mean Higher High Water(MHHW) line of Yaquina Bay; thence easterly and northerly along the MHHW line to its intersection with the Newport Urban Growth Boundary; thence northerly along the Urban Growth Boundary line to the south line of the Yaquina Bay Road; thence west along the south line of the Yaquina Bay Road to the point where it transitions into SE Bay Boulevard; thence west along the south line of SE Bay Boulevard to SE Moore Drive; thence north and west along the east line of SE Moore Drive to US 20; thence west along the south line of US 20 to the west line of SE Grant Street; thence north across US 20 to the west line of NE Grant Street; thence north along the west line of NE Grant Street to NE 1st Street; thence west along the north line of NE 1st Street to US 101; thence north along the east line of US 101 to the north line of NE 12th Street; thence west across US 101 to the point of beginning.

Staff: Change corrects a typographical error in a street address.

***

CHAPTER 14.28 IRON MOUNTAIN IMPACT AREA

***

14.28.070 Uses Prohibited in an R-4/"High Density Multi-Family Residential" Zoning District*

The following uses are prohibited in the Iron Mountain Impact Area:

A. Hospitals.

B. Schools, Libraries, Colleges, Churches, Clubs, Lodge Halls, and Museums.

C. Motels, Hotels, and Time-Share Projects.

D. Bed and Breakfast Facilities.

E. Single Room Occupancies.

F. Golf Courses.

G. Recreational Vehicle Parks.

H. Hostels.

I. Any other use not listed in the permitted list contained in Section 14.28.060 of this Code.

Staff: Single room occupancies is replacing boarding, lodging, or rooming houses, as they are the same use and the city is required to regulate for single room occupancies under state law.

CHAPTER 14.31 TOWNHOUSES AND COTTAGE CLUSTERS

***

14.31.090 Subdivision Required

Townhouse and cottage cluster projects will require a segregation of lots, a partition, or subdivision, subject to the provisions of Chapter 14.48, as applicable.

Staff: Change removes outdated reference to the Subdivision Ordinance when it was separate from the Zoning Ordinance.

CHAPTER 14.35 PD, PLANNED DEVELOPMENTS

***

14.35.070 Criteria for Approval of a Preliminary Development Plan

The approval authority may approve an application for a Preliminary Development Plan when it finds that the application complies with the following criteria:

***

G. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval as for a subdivision (see Chapter 14.48).

Staff: Old reference to the subdivision standards is being replaced with the correct citation.

CHAPTER 14.38 OCEAN SHORELANDS OVERLAY ZONE

***

14.38.040 Procedure

Upon receipt of a request for a land use action or a building permit for property within the Ocean Shorelands, the Planning Director shall determine which natural resource is applicable. Applicants requesting approval of land use actions or building permits within areas subject to the provisions of this section shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to applicable standards in the section.

Upon acceptance of the application, the Community Development Department shall process the request in accordance with a Type II Land Use Action decision process consistent with Section 14.52, Procedural Requirements.**

14.38.050 Standards for Review

The following standards for the applicable natural resource shall be used in considering the findings required in Section 14.38.040:

Staff: Change corrects outdated code citation.

***

CHAPTER 14.41 ASSISTED LIVING FACILITIES IN R-2 ZONES

14.41.010 Applicability

The requirements for an assisted living facility in an R-2 zone set forth in this section are in addition to other applicable provisions of this Title. In the event of a conflict, the requirements of this Chapter shall govern.
For the purpose of this section, an assisted living facility is defined in Section 14.01.010 "Definitions" of this Ordinance.

Staff: Edits eliminate conditional use requirement because assisted living appears to fit within the statutory definition of "needed housing" under ORS 197A.018. This means that if the use is allowed, the City must provide a set of clear and objective standards for approval (ORS 197A.400). Requiring discretionary review via a conditional use process is not an option. Changes also note that other provisions of the Title apply, such as parts of Chapter 14.14, Parking and Chapter 14.19, Landscaping.

14.41.020 Purpose

The purpose of this section is to provide for assisted living facilities in the R-2 zoning districts. It is also the intent of this section to require development criteria so as to minimize the impacts of assisted living facilities on surrounding properties.

14.41.030 Standards

Assisted living facilities in an R-2 zone shall comply with the following:

A. The minimum lot size shall be two (2) acres.

B. Parking requirements shall be 0.8 spaces per unit, or greater, as may be required by the reviewing body to meet the needs of the proposal. Parking shall be provided on-site, and it shall not be allowed in a required front yard.

C. The total number of units shall not exceed one (1) unit per 3,750 square feet of lot area.

D. The parking area shall be screened from adjoining properties by a sight-obscuring fence or landscaping.

Staff: Standard is deleted because it is discretionary.

E. One (1) on-premise sign is allowed. Such sign may be a wall sign or a pole/ground sign as defined in the City of Newport Sign Ordinance. The sign shall be limited to 10 square feet and shall not be internally illuminated. External illumination shall be so directed as to not shine directly onto any adjacent building. Pole/ground signs shall be no higher than five (5) feet in height and shall be so placed as to not create a vision clearance at street intersections or at street and driveway intersections.

F. An assisted living facility in an R-2 zone shall comply with the width, frontage, lot coverage, and building height requirements of the R-2 zone.

G. Buildings, structures, or portions thereof shall comply with the required yards and setbacks of the R-2 zone, except that side and rear setbacks shall be a minimum of one (1) foot per unit, and all setbacks shall additionally be increased by one (1) foot for every foot by which the building exceeds a height of 25 feet.

Staff: Standard is deleted because it is discretionary. Non-discretionary landscape standards in Chapter 14.19 apply if the development is multi-family or commercial in nature.

Staff: Provision is not needed. Chapters 14.14, Parking, 14.19, Landscaping, and 14.52, Procedures include provisions requiring these types of site plan components.

H. Deliveries of food and the like to an assisted living facility in an R-2 zone shall be allowed only during the hours between 8:00 A.M. and 5:00 P.M.

***

CHAPTER 14.47 PEDESTRIAN ACCESS

***

14.47.020 Applicability

The provisions of this chapter shall apply to all new or substantial improvements to commercial, industrial, public/institutional, and multifamily development. Where the provisions of this chapter conflict with facilities identified in the Newport Parks and Recreation Master Plan, the Newport Parks and Recreation Master Plan shall govern.

Staff: All of those terms are not defined in the code, so the cross-reference to the definitions section is being removed.

***

CHAPTER 14.48 LAND DIVISIONS

***

14.48.030 Lots and Parcels

***

G. Development Constraints. No lot or parcel shall be created with more than 50 % of its land area containing wetlands or lands where the city restricts development to protect significant Statewide Land Use Planning Goal 5 or Goal 17 resources, except that areas designated as open space within a land division may contain up to 100% of a protected resource. Modifications to this requirement may be made by the approval authority if the approval authority determines that the proposed lot or parcel contains sufficient land area to allow for construction on the lot or parcel without impacting the resource or that a variance or other permit has been obtained to allow for impacts on the identified resource.

Staff: Edit removes footer that was inadvertently included in the text of the standard.

***

14.48.050 Minor Replats and Partitions

A. Approval Criteria. The criteria for approval are as follows:

1. The tentative plan complies with the definition of a replat or partition, as appropriate.

2. All lots or parcels within the tentative plan meet the requirements of Section 14.48.030. Alternatively, if the original lots or parcels were nonconforming, the resultant lots or parcels may be allowed without a variance if they are less nonconforming.

3. Approval of the tentative plan does not interfere with the provision of key public facilities.

4. The applicant has agreed to sign a consent to participate in sewer, water, or street local improvement districts that the subject lots or parcels would be part of once those districts are formed. The consent shall be a separate document recorded upon the lots or parcels subject to the partition. The document shall be recorded prior to final plat approval.

5. Public facilities serving the minor replat or partition are adequate under Section 14.48.040. Proposed streets within the minor replat or partition comply with the standards under Section 14.48.015, including any allowed modifications.

Staff: Edit clarifies the last sentence of the standard.

***

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

***

14.52.020 Description of Land Use Actions/Decision-Making Procedures

***

C. Type III Land Use Actions. Type III decisions are considered quasi-judicial land use actions and generally are made by the Planning Commission after public notice and a public hearing. Type III decisions generally use discretionary criteria or involve land use actions with larger impacts than those reviewed under a Type I or Type II procedure. Examples of Type III actions include Conditional Use Permits that generate more than 50 trips per day, variances, and preliminary and final planned development applications. An appeal of a Type III permit decision is heard by the City Council.

Staff: Change is needed to reflect that staff makes the initial interpretation of the code, and if a party is unhappy with that interpretation, they can ask for that in writing via a Type II staff decision that is appealable to the Commission.

14.52.030 Approving Authorities

The approving authority for the various land use and ministerial actions shall be as follows:

***

B. Planning Commission. A public hearing before the Commission is required for all land use actions identified below. Items with an "*" are subject to Planning Commission review as defined in the section of the ordinance containing the standards for that particular type of land use action. Planning Commission decisions may be appealed to the City Council.

1. Conditional use permits*.

2. Planned destination resorts - preliminary and final development plans*.

3. Planned developments.

4. Variances.

5. Adjustments*.

6. Design review*.

7. Any land use decision defined as a Type III action.

8. Any land use action seeking to modify any action or conditions on actions above previously approved by the Planning Commission where no other modification process is identified.

9. Appeal of the Community Development Director decision under a Type I or Type II action.

C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an "*" are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action. Decisions made by the Community Development Director may be appealed to the Planning Commission.

1. Conditional use permits*.

2. Subdivision.

3. Partitions.

4. Replats.

5. Estuarine review.

6. Adjustments*.

7. Nonconforming use changes or expansions.

8. Design review*.

9. Ocean shorelands review.

10. Interpretations of provisions of the Comprehensive Plan or Zoning Ordinance that require factual, policy, or legal discretion.

11. Any land use decision or limited land use decision defined as a Type I or Type II action.

12. Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development Director where no other modification process is identified.

13. Ministerial actions necessary to implement Title XIV of the Newport Municipal Code, including final plats, property line adjustment conveyance documents, public improvement agreements, temporary uses (unless an alternative process is provided), and confirmation that building permits satisfy clear and objective approval standards.

    Staff: Revision reflects that staff makes the initial code interpretation, appealable to the Commission.

City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: January 23, 2025

Re: Scope of the Zoning Ordinance Housekeeping Amendment Package

---

Below are sections of the Zoning Ordinance, codified as Title 14 of the Newport Municipal Code, that I have identified as potential candidates for inclusion in the housekeeping package of amendments. If the Planning Commission is comfortable with the scope of the effort, then I will prepare a draft set of amendments for review at an upcoming work session. If there are sections of Title 14 that I have not flagged that you would like to see included then this work session is an opportunity for you to put them on the table for discussion.

NMC Section 14.01.020, Definitions. Confirm accuracy of legal citations, delete any terms not used elsewhere in the code, eliminate references to Standard Industrial Classifications (SIC) codes since that method of identifying land uses was eliminated several years ago. Consolidate definitions from other chapters into this section where feasible.

NMC Section 14.02.020, Establishment of a Zoning Map. Redraft section to account for the fact that the City no longer maintains an official paper zoning map (rather it is a compilation of ordinances). No changes will be made to any zoning boundaries. Add language clarifying relationship between this title and Title 9 which governs permitting within the right-of-way. Code is currently silent on that topic.

NMC Section 14.03.030, City of Newport Zoning Map. Revise language such that it does not reference a single official map. Clarify boundary language to ensure that it picks up estuary management areas.

NMC Section 14.11.010, Required Yard. Provide alternative language to allow setback to be measured from the farthest edge of a no-build easement as opposed to a property line.

NMC Chapter 14.12. Minimum Lot Size. Reconcile language with changes recently adopted with Ordinance No. 2222 that allow modest density bonuses and lot sizes to drop below minimums in certain circumstances.

NMC Section 14.13.010, Density Limits, same as the above.

NMC Section 14.17.030, Clear Vision Areas. Consider adding language to allow 4-foot height for certified child care centers per OAR 414-305-0920.

NMC Section 14.19.060, Landscaping Requirements for Additions and Remodels. Consider alternative to CPI-U adjusted project valuation method for determining required landscaping (onerous). Look to replace with more straightforward approach with equivalent results.

NMC Section 14.23.020, Notice. Eliminate reference to the News-Times.

NMC Section 14.31.090, Subdivision Required. Correct reference to subdivision ordinance.

NMC Section 14.35.070, Criteria for Approval of a Preliminary Development Plan. Correct reference to subdivision ordinance, as it is no longer Chapter 13.05.

NMC Section 14.38.050, Standards for Review. Correct cross reference to old code citation (i.e. Section 2-5-7.040 no longer exists).

NMC Chapter 14.41, Assisted Living Facilities in R-2 Zones. Evaluate for compliance with existing state law and determine if provisions are adequately addressed elsewhere in Title 14.

NMC Chapter 14.42, South Beach Open Space Overlay Zone. Assess whether ORS 308A tax incentive structure exists such that the provisions of the chapter are viable.

NMC Section 14.47.020, Applicability. Eliminate reference to Section 14.01.020 as all of the referenced terms are not defined in that section.

General (throughout Title 14)

- Correct remaining old code citations (e.g. Section 2-1-3)
- Verify all statutory and administrative rule citations and update as needed.
- Check cross-references and correct any that are inaccurate.
- Fix any discrepancies between the Title 14 code sections and procedural chapter as it relates to required level of review.
- Check for incomplete sentences or standards that contain missing language and correct.

197A.018 Definition of "needed housing." (1) As used in ORS chapter 197A, and except as provided in subsection (2) of this section:

(a) "Needed housing" means housing by affordability level, as described in ORS 184.453 (4), type, characteristics and location that is necessary to accommodate the city's allocated housing need over the 20-year planning period in effect when the city's housing capacity is determined.

(b) "Needed housing" includes the following housing types:

(A) Detached single-family housing, middle housing types as described in ORS 197A.420 and multifamily housing that is owned or rented;

(B) Government assisted housing;

(C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.493;

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

(E) Housing for agricultural workers;

(F) Housing for individuals with a variety of disabilities, related to mobility or communications that require accessibility features;

(G) Housing for older persons, as defined in ORS 659A.421;

(H) Housing for college or university students, if relevant to the region; and

(I) Single room occupancies as defined in ORS 197A.430.

(2) Subsection (1)(b)(A) and (D) of this section does not apply to:

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

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

(3) At the time that a city is required to inventory its buildable lands under ORS 197A.270, 197A.280 or 197A.335 (1), the city shall determine its needed housing under this section.

(4) In determining needed housing the city must demonstrate that the projected housing types, characteristics and locations are:

(a) Attainable for the allocated housing need by income, including consideration of publicly supported housing;

(b) Appropriately responsive to current and projected market trends; and

(c) Responsive to the factors in ORS 197A.100 (2)(b) to (d). [2023 c.13 §23; 2023 c.223 §19]

***

197A.400 Clear and objective approval criteria required; alternative approval process. (1) 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 the development of housing, including needed housing, on land within an urban growth boundary. The standards, conditions and procedures:

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

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

(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. [Formerly subsections (4) to (7) of 197.307]

Note: The amendments to 197A.400 (formerly 197.307) by section 2, chapter 533, Oregon Laws 2023, become operative July 1, 2025. See section 4, chapter 533, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user's convenience.

Enrolled
House Bill 2138

Introduced and printed pursuant to House Rule 12.00. Presession 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 of 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 nonconforming 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 nonresidential 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

Repassed by House June 26, 2025

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

.....
Julie Fahey, Speaker of House

Passed by Senate June 24, 2025

.....
Rob Wagner, President of Senate

Received by Governor:

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

Approved:

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

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

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

.....
Tobias Read, Secretary of State

City of Newport

Community Development Department

Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director

Date: July 10, 2025

Re: Wastewater Treatment Master Plan Amendments

The City contracted updates to its Wastewater Master Plan in two phases, with the first phase being the collections system and the second focused on the treatment plant. The consulting firm Brown and Caldwell completed both plans. The Wastewater Collections Master Plan was completed in 2018 and it has been adopted into the City's Comprehensive Plan. Brown and Caldwell completed the Wastewater Treatment Master Plan in May of this year.

The document is large, so instead of attaching it to this memo, we have uploaded it to the Community Development Department webpage. Here are links to a copy of the plan, and plan appendices.

Wastewater Treatment Plan Update Report

Wastewater Treatment Plan Appendices

Per OAR 660-011-0045 (enclosed), cities must incorporate master plans by reference into their Comprehensive Plans. This includes a brief summary of the existing facilities, proposed capital projects, and any relevant policy amendments. Attached is a draft plan update for your review. Incorporating the Wastewater Treatment Master Plan into the City's Comprehensive Plan is also required in order for the City to be eligible for state construction funding. The City is coordinating with the Oregon Department of Environment Quality about the possibility of obtaining low interest loans for the listed capital projects (a portion of which is forgivable).

Please take a moment to review the attached amendments. If they appear to be reasonably complete, then the Planning Commission can initiate the formal amendment process, by motion, at its regular meeting. Oregon DEQ will receive a draft of the amendments, and will have an opportunity to comment before a public hearing is held.

Attachments
Draft Wastewater Treatment Plan Amendments, 7.14.25
OAR 660-011-0045

WASTEWATER FACILITIES

The City of Newport (City) provides wastewater collection system services for more than 10,000 people and businesses spread across an area of approximately 11.2 square miles. The City owns over 62.5 miles of gravity pipelines ranging in size from approximately 3 to 36 inches in diameter, 1,400 manholes, 9 major pump stations, 16 minor pump stations, and 12 miles of sanitary force mains. A majority of the sewer system was built after 1950 and is concrete, while much of the newer pipe is polyvinyl chloride (PVC).

Detailed information on the historical, functional, and environmental factors relevant to the City's wastewater system can be found in the documents entitled, "Final ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan, by Brown and Caldwell, dated February 9, 2018" (hereinafter, the "~~Sanitary Sewer~~Wastewater Collections Master Plan") and "Wastewater Treatment Master Plan, by Brown and Caldwell, dated May 2025" (hereafter, the "Wastewater Treatment Master Plan).

Existing Wastewater System:

The primary components of the wastewater system are the Wastewater Treatment Plant (WWTP), gravity sewer mains, force mains, and pump stations. The WWTP was built by the City of Newport in 2002 at an initial cost of $42 million dollars. The plant is located in South Beach, and has the hydraulic capacity to bypass 15 million gallons of wastewater per day (untreated). The WWTP is permitted to treat up to 5 million gallons per day, and typically receives flows of 2 million gallons per day. The plant uses a biological process to treat wastes known as activated sludge. This process creates two products from wastewater. The main product is clean water, which is treated and pumped into the ocean off Nye Beach. The other product produced at the plant is Class A Biosolids. The ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan evaluated the condition and future needs of the wastewater distribution system (i.e. gravity lines, force mains and pump stations). A separate ~~facility master plan~~Wastewater Treatment Master Plan ~~is being~~has been prepared for the WWTP.

The topography of Newport has required that pump stations be used to serve a number of areas throughout the city. Major pump stations are those that are critical to the operation of the entire collection system. Minor pump stations and individual septic tank effluent pump (STEP) systems serve targeted populations. Should minor facilities fail, the immediate population they serve would be impacted; however, the balance of the collection system would be operational. Table 1 below summarizes the design data for the City's major pump stations.

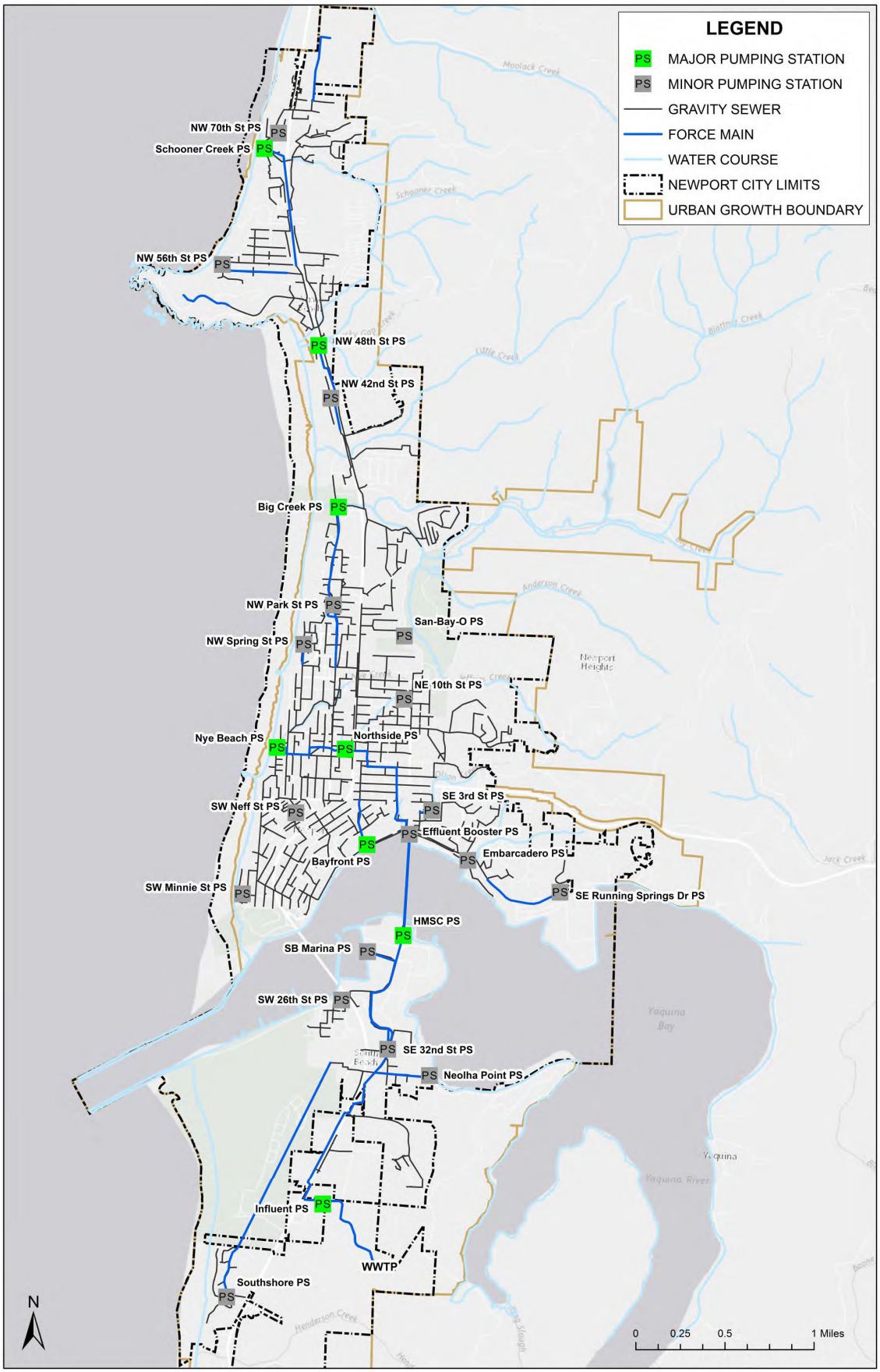
Table 1: Pump Station Summary

Pump Station	Capacity (gpm)[a]	Number of Pumps	Force Main Size (in)	Force Main Material	Force Main Length	Year Upgraded[b]
Bayfront	1,200	2	8	PVC	1,370	2001
Big Creek	2,430	3	14	HDPE	5,040	2016
HMSC	1,390	2	8		35	2001
Influent	850	2	24	HDPE	3,000	2001
	3,500	4				
Northside	3,000	3	20-24	Steel / DI / HDPE	142,000	2001
NW 48th St[c]	1,215	2	10	PVC	1,564	2018
Nye Beach	1,400	2	12	PVC / AC	2,200	-
Schooner Creek[c]	660	2	8	PVC	3,779	2018
SE Running Springs Dr	153	2	4	PVC	2,505	-

Note: gpm = gallons per minute.

a. Figures represent firm pumping capacity, and are based upon pump station operation without use of redundant pumps.
b. Year upgraded is based upon record drawings where available.
c. The NW 48th Street pump station, Schooner Creek Pump Station, and Schooner Creek force main are currently being upgraded as part of the Agate Beach Wastewater Improvement Project. Values listed represent planned improvements.

Figure 1: Existing Wastewater Distribution System



Development Assumptions:

Land use and zoning provide the basis for developing future unit wastewater flows and overall wastewater flow projections for buildout conditions. Understanding the nature and distribution of the various land use classifications is important for accurate identification of future wastewater flow rates and the phasing of required improvements. This section describes both the existing and proposed future land uses for the study area. Land use and zoning are largely governed by the local topography and by decisions made by the City, its citizens, and the Oregon Department of Land Conservation and Development (DLCD). Expansion of the Urban Growth Boundary (UGB) must be approved by the DLCD before such actions can be adopted.

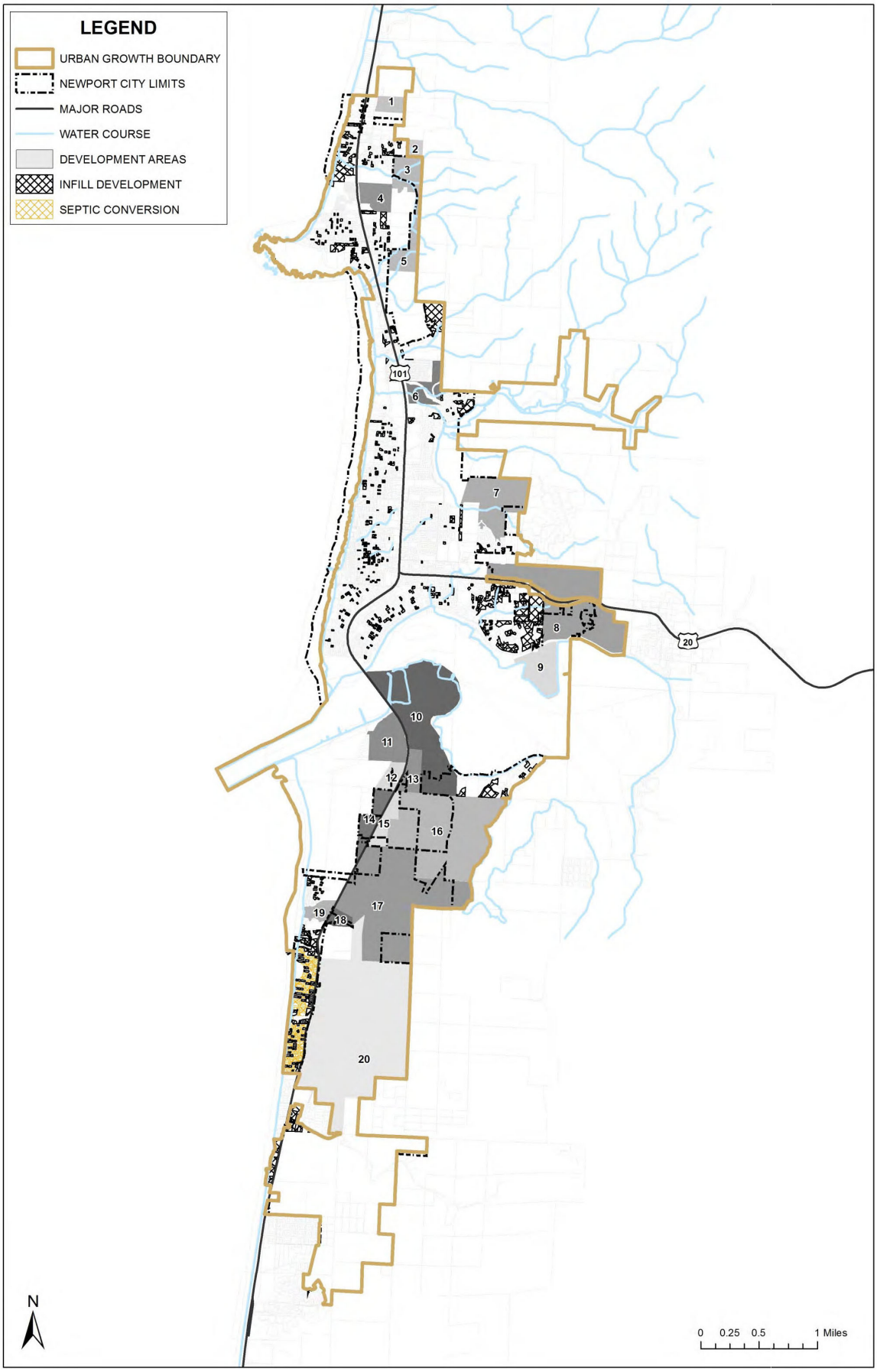
Information on current land use was obtained from GIS data provided by the City. In addition, the City maintains a buildable lands inventory (BLI). The BLI was developed in two parts. A Housing Needs and Buildable Lands Study provides land capacity estimates for low, medium and high density residential development (ECONorthwest, 2011 and 2014). An Economic Opportunities Analysis includes the same information for commercial and industrial properties, estimate land capacity in terms of dwelling unit equivalencies (ECONorthwest 2012). Buildable parcels are identified as "infill development" in Figure 2, below. The City's Community Development Department provided 20-year and buildout development conditions considering these studies. That information is listed in Table 2 below. The development identifier (ID) corresponds to the development area on Figure 2. Detailed views of the development areas are provided in Appendix B of the ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan.

Table 2: Development Assumptions

Development ID	20-year Development Conditions	Buildout Development Conditions [c]
1	30-acre light industrial development [a]	
2	6-acre annexation for 48-unit assisted living facility	
3	50 Low Density Residential (LDR) units	50 LDR units
4	170 Medium Density Residential Units 120-unit assisted living facility	
5	50 LRD units	50 LDR units
6	22.5 acres High Density Residential (HDR) development [a]	12.5 acres HDR development [a]
7	38.5 acres LDR development [a]	38.5 acres LDR development [a]
8	135 acres LDR development [b]	135-acres LDR development [b]
9	9-acre log yard, 1.1 acre light industrial, 1.2 acre water dependent industrial	12-acre water dependent industrial
10	1.4 acre industrial, 3.4 acre research/classroom, 0.2 acre commercial	
11	2.3 acre commercial, OMSI 250 occupants, 60 MDR units	
12	0.2 acres commercial, 0.2 acres light industrial	
13	4.1 acres commercial development	
14	1.1 acres light industrial, 1.1 acres commercial	
15	1.0 acre commercial	
16	9.3 acres commercial, 350 LDR units, OSU (500 students)	3 acres commercial, 650 LDR units
17	1.1 acres light industrial development	2.2 acres light industrial development
18	0.5 acres commercial, 3 LDR units	
19	18 LDR units	
20	0.5 acres light industrial, 5 acres airport commercial	
Infill Development	215 residential parcels	501 residential parcels
Septic Conversion	184 LDR units	

a. Assume 80% infill to account for roads and right-of-way.
b. Assume 40% infill to account for steep sloped terrain, roads, and right-of-way
c. 20-year development conditions not are not included in buildout conditions.

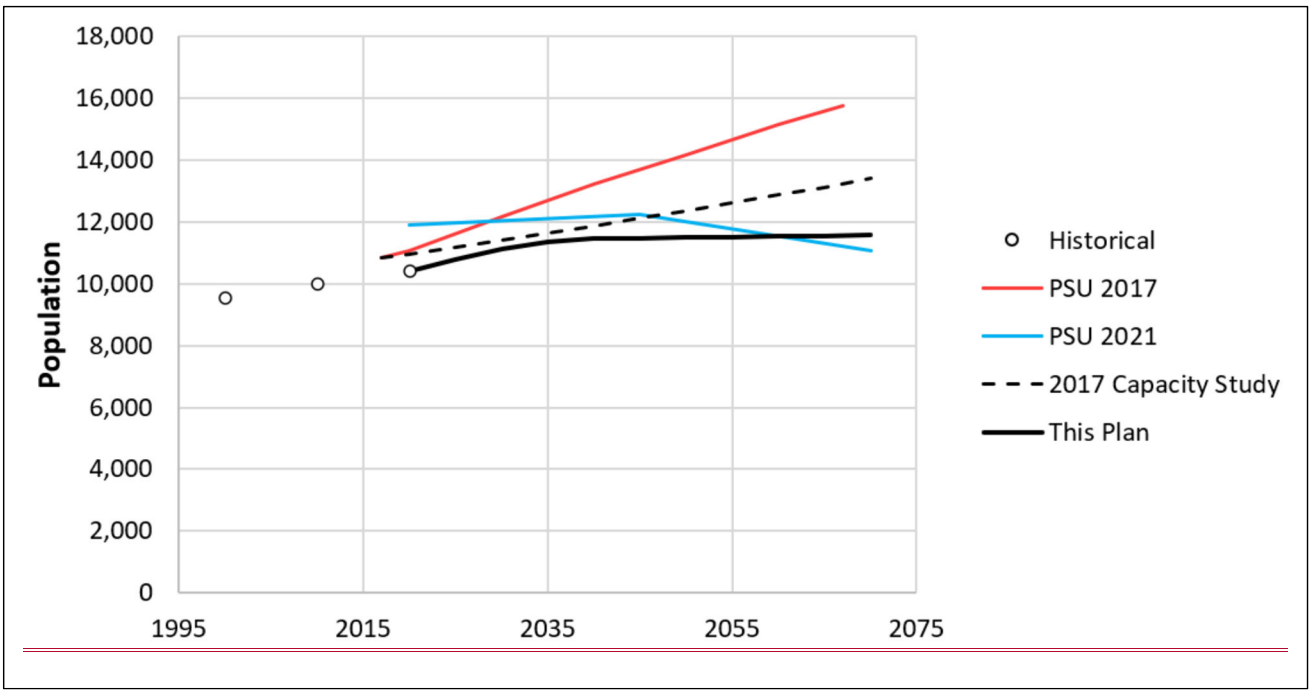
Figure 2: 20-year and Buildout Conditions



Population projections for Newport and Lincoln County are periodically developed by Portland State University (PSU). The Wastewater Collections Master Plan relied upon PSU's 2017 projection that estimated a 0.91 percent annual growth rate for the city between 2017 and 2067. From 2004 to 2017, water use within the city increased at an annual rate of approximately 0.1 percent. While some of this reflects water conservation, the water-use data suggested that PSU projections could overestimate development. As a compromise, the 2017 capacity study used a set of projections with a 0.45 percent annual growth rate.

PSU updated its population forecasts in 2021, and the new forecasts were much lower than those developed in 2017. The 2021 PSU projections forecast an overall reduction in population within the city from 2020 to 2070, and only a small incremental increase (0.2 percent annual growth) in Lincoln County as a whole. Actual population growth within the city averaged 0.96 percent between 2000 and 2020, with a 1.39 percent annual growth rate from 2010 to 2020. A new set of population projections were developed for Wastewater Treatment Master Plan to rationalize the available data. The new projections start with the 2000-2020 annual growth rate of 0.96 percent and gradually reduce to 0.03 percent, which is the annual growth rate projected for Lincoln County after 2040 in the PSU 2021 forecast. Figure 2-1 presents the new projections alongside those from the 2017 capacity report, the two PSU projections, and the historical population for Newport.

Figure 2-1: Updated Population Forecast



Recommended ~~Sanitary Sewer~~Wastewater System Projects:

Chapters 4 and 5 of the ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan include flow projections, system modeling and hydraulic analysis to forecast anticipated demand based upon the 20-year and buildout scenarios. The results of that future condition assessment informed the development of a list of recommended capital improvements listed in the tables and figures below. Where capital projects are recommended from other facility plans, the source documents are noted.

Wastewater Treatment Master Plan capital project recommendations were informed by Capacity and Condition Assessments in Sections 3 and 4 of the document, in conjunction with detailed recommendations regarding the WWTP Headworks (Section 5), Liquids Process (Section 6), Solids Process (section 7), and Northside Pump Station Recommendations (Section 8). Table 2-1 below lists the recommended WWTP related capital projects.

Table 2-1: Recommended WWTP Improvements

Capital Projects (2025 dollars)			
Project	Estimated Cost [b]	Schedule	Reference
Near-Term Improvements			
NSPS Interim Improvements	$7,230,000	2027-2029	Appendix H
NSPS Dechlorination	$3,930,000	2027-2029	Appendix I
WWTP Disinfection Upgrades	$5,880,000	2027-2029	Appendix E
WWTP Disinfection Upgrades	$270,000	2027-2029	Appendix L
IPS Pipe Replacement [a]	$370,000	2029	See Note a.
WWTP Headworks Upgrades	$4,670,000	2029-2031	Appendix B
Liquids/Solids Process Selected Alternative and Longer-Term Improvements			
WWTP 3rd Secondary Clarifier [c]	$21,640,000	2029-2032	Appendix C
WWTP Solids Upgrades	$34,130,000	2032-2035	Appendix D
IPS Upgrades [a]	$1,050,000	2034	See Note a.
WWTP 2nd Oxidation Ditch	$18,760,000	2035-2038	Appendix C
NSPS Buildout Facility	$49,180,000	2039-2041	Appenndix H

a. Detailed cost estimates for the Influent Pump Station (IPS) have not yet been developed. Costs shown are for reference only and based on improvements described by the City.
b. Additional engineering and administrative costs have been applied to projects for which this was not applied during capital cost development.
c. The 3rd secondary clarifier project cost was estimated assuming incorporation of pump stations and flow distribution improvements to prepare for the future 2nd oxidation ditch.

Gravity Main Replacement

Sections of the existing gravity sewer mains along NE Avery Street and NW Nye Street lack capacity for 20-year buildout, and must be upsized to prevent excessive surcharging that could lead to basement backups and/or flooding. Individual sewer replacements are broken out into distinct sub-projects so that they can be designed bid and constructed incrementally or collectively based upon available funding, as outlined in Table 3 and graphically depicted in Figure 3.

Table 3: Recommended Gravity Main Replacements

Gravity Sewer Mains (2016 dollars)						
Pipe ID	Length,(lf)	Existing Diameter (in)	Recommended Diameter (in) [a]	Solution	Estimated Cost [b]	Total Project Cost
NE Avery Street (Upsize gravity sewer from the Bayfront force main to the Northside pump station)						
7504 – 7045	258	14	18	Open cut	$137,000	$1,230,000
7045 – 7043	234	14	18	Open cut	$124,000	
7043 – 7040	264	14	18	Open cut	$140,000	
7040 – 7028	251	12	18	Open cut	$133,000	
7028 – 7026	140	12	18	Open cut	$74,000	
7026 – 7027	170	12	18	Open cut	$90,000	
7027 – 7011	293	10	18	Open cut	$155,000	
7011 – 7010	268	12	18	Open cut	$142,000	
7010 – 7059	345	12	18	Open cut	$183,000	
7059 – 7060	80	12	18	Open cut	$42,000	
7060 - 7058	23	12	18	Open cut	$12,000	
NW Nye Street (Upsize and rehabilitate gravity sewer from the Big Creek force main to the Northside pump station)						
5023 – 5037	330	15	13.5	CIPP	$109,000	$1,140,000
5037 – 5040	122	15	13.5	CIPP	$40,000	
5040 – 5043	204	15	13.5	CIPP	$67,000	
5043 – 5513	329	15	13.5	CIPP	$109,000	
5513 – 5520	340	15	18	Pipe burst	$163,000	

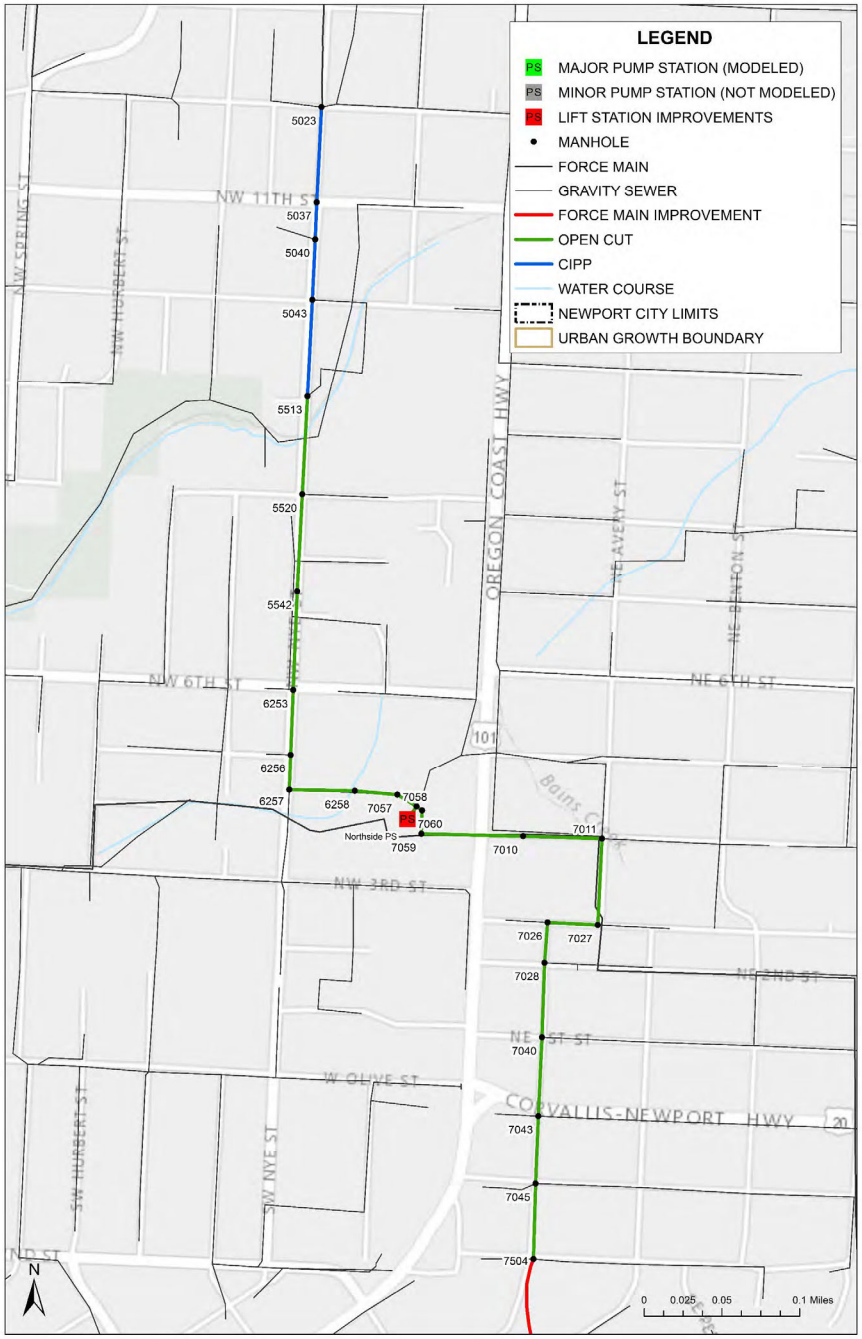
5520 – 5542	328	15	18	Pipe burst	$157,000	
5542 – 6253	333	15	18	Pipe burst	$159,000	
6253 – 6256	225	15	18	Pipe burst	$108,000	
6256 – 6257	109	15	18	Pipe burst	$52,000	
6257 – 6258	80	16	18	Pipe burst	$38,000	
6258 – 7057	145	16	18	Pipe burst	$69,000	
7057 – 7058	76	16	18	Pipe burst	$36,000	
7058 – Northside	53	20	21	Open cut	$31,000	

Note: CIPP = cured in place pipe.

a. Pipe diameter reduction of 10% assumed for CIPP rehabilitation

b. Estimated costs include a 30% allowance for construction contingencies and a 20% allowance for engineering design and administration. Appendix E to the ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan includes unit costs tables. Assumes a depth of 10-feet per cost condition and 2-feet for gravity sewers.

Figure 3: NE Avery and NW Nye Street Gravity Sewer Replacement



Pump Station and Force Main Improvements

Four of the nine major pump stations were found to lack firm capacity for conveying the future buildout conditions peak flows: Nye Beach, Bayfront, Northside, and SE Running Springs. One pump station was identified to be at risk from unstable soil conditions.

The force main along the Bayfront will require upsizing, and replacing the force main and pump station at the same time would be beneficial from economy of scale pricing. Alternatively, the City may want to postpone installation of the new force main until later in the planning period once the buildout condition is met. Currently, the Bayfront force main is appropriately sized but nearing the upper limit of acceptable peak velocities. The HMSC force main appears to be undersized; however, flow is expected to be reduced in this area, which may mitigate concerns related to elevated force main velocities. A summary of the costs required to provide the necessary improvements is listed below.

Table 4: Recommended Pump Station and Force Main Improvements

Pump Station	Description of Improvements	Source	Estimated Cost (2016 dollars)
Nye Beach	Upgrade pump station firm capacity to 2.74 mgd	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$2,828,000
Bayfront	Upgrade pump station firm capacity to 3.24 mgd	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$3,224,000
Bayfront	Upgrade force main capacity to 14-inches	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$490,000
Northside	Upgrade pump station firm capacity to 9.2 mgd	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$2,780,000
SE Running Springs Dr	Upgrade pump station firm capacity to 9.2 mgd	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$1,178,000
SE Running Springs Dr	Realign 4-inch force main	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$330,000
NW 56th Street	Study pump station and upgrade	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$1,347,000
SE 62nd Street	Construct new pump station	2006 South Beach Nbhd Plan	$1,000,000

Note: MGD = millions of gallons per day.

New Gravity Mains (i.e. Sewer Extensions)

Sewer extensions are required to provide service to those areas that do not have City sewer service. Areas without sewer service include homes on septic systems, areas within the current UGB to be developed, and miscellaneous properties inside the city boundary that are not located near existing sewers. Generally, sewer extensions are not funded by rates. Instead, most sewer extensions are funded by developers with potentially some of the costs being SDC-reimbursable. In partially developed areas of the city not currently connected to the sewer, Local Improvement Districts (LIDs) and special assessment districts may need to be formed to fund the projects. New gravity mains needed to serve new development areas include:

Table 5: Gravity Mains Needed to Serve New Development

New Gravity Sewer Mains (2016 dollars)				
Project	Length,(lf)	Recommended Diameter (in)	Source Document	Total Project Cost
NE Harney Street	1,400	8	1990 Public Facilities Plan	$740,000
NE 52nd Street	4,000	8	1990 Public Facilities Plan	$259,000

NE 70th Place	1,400	8	1990 Public Facilities Plan	$371,000
Yaquina Heights Dr	5,800	8	1990 Public Facilities Plan	$1,426,000
Benson Road	4,400	8	1990 Public Facilities Plan	$1,722,600
Harborton to SE 50th	3,400	12	2006 South Beach Neighborhood Plan	$754,800
SE 50th to SE 62nd	3,000 / 2,900	12 / 6	2006 South Beach Neighborhood Plan	$1,979,500
Wilder Phase 5	2,800	8	2006 South Beach Neighborhood Plan	$1,206,000

Septic Conversion and Airport Sewer

In the southern portion of the city, the Newport Municipal Airport and the Surfland neighborhood are currently served by septic sewer systems. The City plans on extending its sewer service out to the Surfland neighborhood and the Newport Municipal Airport. The scope and extent of the improvements are listed in the table below.

Table 6: Surfland Septic Conversion – Airport Sewer Extension

Description of Improvements	Source	Estimated Cost (2016 dollars) [a]
Gravity sewer distribution system	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$4,620,000
Sewer force main	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$612,000
Sewer pump station	2018 ~~Sanitary Sewer Master Plan~~Wastewater Collections Master Plan	$1,000,000

a. Estimated costs include a 30% allowance for contingency and a 20% allowance for engineering design and administration.

Rehabilitation and Replacement Program:

As a collection system ages, the structural and operational condition of the sewer system will decline as the number and type of defects in the piped system increase. If unattended, the severity and number of defects will increase along with an increased potential of sewer failure. Sewer failure is defined as an inability of the sewer to convey the design flow. It is manifested by hydraulic and/or structural failure modes. Hydraulic failures can result from inadequate hydraulic capacity in the sewer. Loss of hydraulic capacity can result from a reduction of pipe area because of accumulations of sediment, gravel, debris, roots, fats, oil, and grease, and structural failure. Also, a major loss of hydraulic capacity can be the result of excessive infiltration/inflow (I/I) or inappropriate planning for future growth that results in flows in excess of pipe capacity. Structural defects left unattended can lead to catastrophic failures that can have a significant negative impact on the community and the environment.

The City should implement a repair and rehabilitation (R&R) program to address its aging collection system. While the focus of many R&R programs is to restore the structural integrity of existing sewers, such activities will also help reduce the amount of infiltration that finds its way into the collection system. Elements of the collection system should be repaired or replaced based upon their structural condition with Grade 1 lines being in the best condition and Grade 5 being in the poorest condition. Factors used to determine the condition grade of the collection system are shown in the table below.

Table 7: Structural and Operational Condition Grades of Sewers

Condition Grade	Grade Description	Defect Description	Structural Condition Grade Implication	Operational Condition Grade Implication
5	Immediate Attention	Defects have led to failure	Collapsed or collapse imminent	Unacceptable infiltration or blockages; surcharging of pipe during high flow with possible overflows
4	Poor	Severe defects that will continue to degrade with likely failure in 5-10 years	Collapse likely in 5-10 years	Pipe at or near surcharge condition during high flow; overflows still possible at high flows
3	Fair	Moderate defects that will continue to deteriorate	Collapse unlikely in near future; further deterioration likely	Surcharge or overflows unlikely but increased maintenance required

2	Good	Minor and few moderate defects	Minimal near-term risk of collapse, potential for further deterioration	Routine maintenance only
1	Excellent	No defects, condition is like new	Good structural condition	Good operational condition

The City should budget approximately $1M per year in 2016 dollars to the R&R program, assuming that 2 percent of its system per year will be rehabilitated. The table below presents a more detailed break-down of the recommended R&R implementation strategy. The assumption that 2 percent will be re-habilitated is an approximate estimate based on information gathered from existing condition assessment information.

Table 8: Recommended R&R Schedule

Work Item	R&R Pipe (LF)	2016 – 2031 R&R Activities (2016 dollars)			
		2016 - 2019	2020 - 2023	2024 - 2027	2028 - 2031
Grade 5 (known)	4,990	$1,248,000	-	-	-
Grade 4 (known)	2,395	$359,000	-	-	-
Grade 5 (assumed)	22,954	$1,081,000	$2,329,000	$2,329,000	-
Grade 4 (assumed)	11,017	$311,000	$671,000	$671,000	-
Grade 1, 2 or 3 [a]	288,644	-	-	-	$3,464,000
Force Mains [b]	46,500	$930,000	$930,000	$930,000	$930,000
Total Cost		$3,929,000	$3,930,000	$3,930,000	$4,394,000
Annual Cost		$982,000	$983,000	$983,000	$1,099,000

a. Over time, pipes that are currently grade 1, 2, or 3 will escalate to being a Grade 4 pipe. It is estimated that the City will need to rehabilitate 2% of current Grade 1-3 pipes to maintain a sustainable inspection program. This is an estimated value; it is recommended that the City continues to evaluate the results of their inspection program to determine a refined R&R rate.

b. The force main R&R scope does not include the cost of replacing the Big Creek FM, NW 48th St FM, or Schooner Creek FM. These force mains were recently evaluated as part of the Agate Beach Improvement Project. In addition, the Northside, SE Running Springs Dr, and Bayfront force mains were excluded, as they are included as individual CIPs.

Years 1 through 16 should focus on the most severely deteriorated sewers, the Grade 5 sewers identified by the closed-circuit television (CCTV) inspections. The less deteriorated Grade 4 sewers should be addressed during years 5 through 16. As future inspections are conducted, additional Grade 4 and Grade 5 sewers will be identified. The LF listed in Table 6-8 for the unknown (i.e., yet to be inspected) Grade 4 and 5 sewers are estimated based on the distribution of grades for sewers inspected to date. These sewers are identified for R&R during years 1 through 16. The future inspections may find that the actual LF for each grade may vary from these projections. Also, the City should anticipate that additional R&R will be required in the future as the collection system ages. A recommended annual inspection and minor pump station repair program is outlined in the table below.

Table 9: Recommended Annual Inspection Pump Station Repair Program

Work Item	Quantity	Assumptions	Annual Estimated Cost (2016 dollars)
CCTV Inspections	47,000 LF per year	7-year inspection cycle. Assumes an average of $2.50/LF	$117,000
Pump Station Inspections	25 total	Inspect pump stations (excluding SE 3rd Street PS), with smaller stations costing $10,000 and large stations costing $20,000. Assume an average of $15,000 per station.	$15,000
Force Main Inspections	9,300 LF per year	7-year inspection cycle. Assume an average of $20/LF	$186,000
Minor Pump Station Repair and Rehabilitation Program	20 years	A schedule should be established to conduct these improvements on an annual basis. Priority pump stations include, but are not limited to Embarcadero, SW Minnie, Bayfront, and NE 10th Street.	$200,000
Total			$518,000

(Note: Recommended changes to existing comprehensive plan policies are shown in red, with new language being depicted in underline and deleted language in ~~strikethrough~~.

GOALS AND POLICIES
PUBLIC FACILITIES ELEMENT

WASTEWATER

Goal 1: To provide a wastewater collection and treatment system with sufficient capacity to meet the present and future needs of the Newport urbanizable area in compliance with State and Federal regulations.

Policy 1: Improve and maintain the wastewater collection system as identified in the 1990 Public Facilities Plan for the City of Newport, by CH2MHILL, as amended by the following updates:

A. Wastewater Facilities Plan, by Fuller & Morris Engineering & CH2MHILL, dated May 1996
B. 2006 South Beach Neighborhood Plan (Ord. No. 1899)
C. Wastewater Collections Master Plan, by Brown and Caldwell, dated February 9, 2018
D. Wastewater Treatment Master Plan, by Brown and Caldwell, dated May 2025

Policy 2: On-site sewer systems or holding tanks shall not be allowed unless the city's sanitary sewer system is greater than 250 feet away. In any case, a subsurface permit from the Lincoln County Sanitarian must be obtained prior to any development that will rely on an on-site sewer system or holding tank.

Policy 3: Existing structures within the city limits that contain sanitary facilities shall connect to the city's sanitary sewer system at such time as a gravity main or equivalent wastewater collection system is extended to within 250 feet of the property.

Policy 4: City wastewater services may be extended to any property within the urban growth boundary. Except for the very limited circumstances allowed by state law and regulations, the city will not generally provide wastewater services outside the urban growth boundary. The city may require a consent to annexation as a condition of providing wastewater service outside the city limits and shall require a property to annex before providing wastewater service if it is contiguous to the city limits. Nothing in this policy obligates the City to provide wastewater services outside of the city limits. For property outside the city limits but within the urban growth boundary, wastewater services may be provided at the City's discretion only for:

A. residentially zoned lands as allowed by county zoning without urban services, and

B. commercial and industrial zoned lands as allowed by county zoning at the scale of development in existence on September 4, 2007.

Policy 5: When designing the wastewater collection and treatment system to ensure there is sufficient capacity to meet current and future needs of the community, the City shall consider the demands of various users under normal and predictable daily and seasonal patterns of use.

Policy 6: When undertaking capital improvement planning, priority shall be given to projects that will repair, replace or upsize wastewater infrastructure with known condition or capacity limitations in order to minimize discharges that could compromise public health and safety, damage real property, or harm the environment.

Land Conservation and Development Department

Chapter 660

Division 11
PUBLIC FACILITIES PLANNING

660-011-0045
Adoption and Amendment Procedures for Public Facility Plans

(1) The governing body of the city or county responsible for development of the public facility plan shall adopt the plan as a supporting document to the jurisdiction's comprehensive plan and shall also adopt as part of the comprehensive plan:

(a) The list of public facility project titles, excluding (if the jurisdiction so chooses) the descriptions or specifications of those projects;

(b) A map or written description of the public facility projects' locations or service areas as specified in sections (2) and (3) of this rule; and

(c) The policy(ies) or urban growth management agreement designating the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated.

(2) Certain public facility project descriptions, location or service area designations will necessarily change as a result of subsequent design studies, capital improvement programs, environmental impact studies, and changes in potential sources of funding. It is not the intent of this division to:

(a) Either prohibit projects not included in the public facility plans for which unanticipated funding has been obtained;

(b) Preclude project specification and location decisions made according to the National Environmental Policy Act; or

(c) Subject administrative and technical changes to the facility plan to ORS 197.610(1) and (2) or 197.835(4).

(3) The public facility plan may allow for the following modifications to projects without amendment to the public facility plan:

(a) Administrative changes are those modifications to a public facility project which are minor in nature and do not significantly impact the project's general description, location, sizing, capacity, or other general characteristic of the project;

(b) Technical and environmental changes are those modifications to a public facility project which are made pursuant to "final engineering" on a project or those that result from the findings of an Environmental Assessment or Environmental Impact Statement conducted under regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508) or any federal or State of Oregon agency project development regulations consistent with that Act and its regulations.

(c) Public facility project changes made pursuant to subsection (3)(b) of this rule are subject to the administrative procedures and review and appeal provisions of the regulations controlling the study (40 CFR Parts 1500–1508 or similar regulations) and are not subject to the administrative procedures or review or appeal provisions of ORS Chapter 197, or OAR chapter 660 division 18.

(4) Land use amendments are those modifications or amendments to the list, location or provider of, public facility projects, which significantly impact a public facility project identified in the comprehensive plan and which do not qualify

under subsection (3)(a) or (b) of this rule. Amendments made pursuant to this subsection are subject to the administrative procedures and review and appeal provisions accorded "land use decisions" in ORS Chapter 197 and those set forth in OAR chapter 660 division 18.

Statutory/Other Authority: ORS 183 & 197
Statutes/Other Implemented: ORS 197.712
History:
LCDC 4-1984, f. & ef. 10-18-84

Please use this link to bookmark or link to this rule.