

House Bill 3446

Sponsored by Representative WEIDNER, Senator OLSEN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Eliminates role of metropolitan service district in statewide land use planning.

Eliminates statutory authority of metropolitan service district to adopt regional land use planning goals, regional framework plans and land use regulations, including provisions of plans or regulations that establish urban growth boundaries, urban reserves and rural reserves, and to serve as metropolitan planning organization.

A BILL FOR AN ACT

1
2 Relating to land use planning within Metro; creating new provisions; amending ORS 195.020, 195.025,
3 195.060, 195.065, 195.110, 195.141, 195.143, 195.145, 195.300, 195.314, 195.324, 197.015, 197.178,
4 197.254, 197.296, 197.298, 197.299, 197.301, 197.302, 197.307, 197.309, 197.319, 197.320, 197.626,
5 197.633, 197.646, 197.651, 199.705, 215.213, 221.034, 221.036, 267.020, 268.020, 268.347, 268.354,
6 268.370, 268.380, 268.390, 268.710, 285A.010, 285C.050, 285C.115, 285C.500, 308A.350, 308A.700,
7 391.120, 451.010, 459A.005 and 459A.050 and sections 6 and 7, chapter 844, Oregon Laws 2005,
8 and section 6, chapter 636, Oregon Laws 2009; and repealing ORS 197.274 and 268.385.

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

10 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 268.**

11 **SECTION 2. A district may not:**

12 **(1) Adopt regional land use planning goals or objectives;**

13 **(2) Adopt ordinances to implement statewide or regional land use planning goals or ob-**
14 **jectives; or**

15 **(3) Serve as a metropolitan planning organization for the purpose of coordinating trans-**
16 **portation planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c).**

17 **SECTION 3. (1) On and after the operative date specified in section 66 of this 2015 Act,**
18 **until cities adopt changes, the urban growth boundary of Metro in effect immediately prior**
19 **to the operative date specified in section 66 of this 2015 Act is the urbanizable area of the**
20 **cities that have incorporated territory within the corporate boundaries of Metro.**

21 **(2) Within _____ months after the operative date specified in section 66 of this 2015**
22 **Act, the City of Portland and Multnomah County shall initiate a collaborative regional**
23 **problem-solving process under ORS 197.652 to 197.658 for the purpose of redesignating all of**
24 **the territory within the urban growth boundary of Metro as territory within the urban**
25 **growth boundary of one or more of the cities that have incorporated territory within the**
26 **corporate boundaries of Metro.**

27 **(3) Within _____ months after the operative date specified in section 66 of this 2015**
28 **Act, the governing bodies of local governments that have incorporated territory within the**
29 **corporate boundaries of Metro shall adopt changes to their comprehensive plans or land use**
30 **regulations to designate specific portions of the urban growth boundary of Metro, as deter-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **mined in the regional problem-solving process, to be the urban growth boundary of a specific**
 2 **city.**

3 **SECTION 4.** ORS 268.020 is amended to read:

4 268.020. As used in this chapter:

5 (1) "District" means a metropolitan service district established under this chapter.

6 (2) "District charter" means a home rule charter enacted by the electors of a district under
 7 [section 14,] Article XI, **section 14**, Oregon Constitution.

8 (3) "Metropolitan area" means that area which on October 4, 1997, lies within the boundaries
 9 of Clackamas, Multnomah and Washington Counties.

10 (4) "Improvement" means the facilities and other property constructed, erected or acquired by
 11 and to be used in the performance of services authorized to be performed by a district.

12 (5) "Metropolitan significance" means having major or significant district-wide impact.

13 (6) "Person" means a public body as defined in ORS 174.109, individual, corporation, partnership,
 14 association, firm, trust, estate or any other legal entity.

15 [(7) "*Regional framework plan*" means the Metro regional framework plan defined in ORS 197.015
 16 and any district ordinances that implement the plan.]

17 **SECTION 5.** ORS 268.347 is amended to read:

18 268.347. (1) Notwithstanding contrary provisions regarding jurisdiction under ORS chapters 198,
 19 221 and 222, a [metropolitan service] district shall exercise jurisdiction, as provided in this section
 20 and ORS 268.351 and 268.354, over a boundary change within the boundaries of the district and
 21 within all territory designated as urban reserves [by] **within** the district.

22 (2) For purposes of ad valorem taxation, a boundary change must be filed in final approved form
 23 with the county assessor and the Department of Revenue as provided in ORS 308.225.

24 **SECTION 6.** ORS 268.354 is amended to read:

25 268.354. (1) In addition to the requirements established by ORS chapters 198, 221 and 222 for a
 26 boundary change, [a metropolitan service district] **Metro**, in consultation with the Metro Policy Ad-
 27 visory Committee, may establish requirements for a boundary change that is subject to the juris-
 28 diction of the district [pursuant to ORS 268.347].

29 (2) For a boundary change that is subject to the jurisdiction of [the] a district pursuant to ORS
 30 268.347, the district shall:

31 (a) Establish a uniform hearing and notification process.

32 (b) Establish an expedited process for uncontested boundary changes.

33 (c) Establish clear and objective criteria for a boundary change.

34 [(d) *Ensure that a boundary change is in compliance with the Metro regional framework plan, as*
 35 *defined in ORS 197.015, and cooperative agreements and urban service agreements adopted pursuant*
 36 *to ORS chapter 195.*]

37 (3) The role of a [metropolitan service] district in the boundary determination process [shall be]
 38 **is ministerial only.**

39 (4) Except as provided in this section and ORS 268.347 and 268.351, for a boundary change
 40 subject to the jurisdiction of the [metropolitan service] district:

41 (a) Proceedings for annexation of territory to a city and for all other changes in city boundaries
 42 [shall] **must** be conducted as provided in ORS chapter 222.

43 (b) Proceedings for annexation of territory to a district, and for all other changes to the
 44 boundaries of a district, [shall] **must** be conducted as provided in ORS chapter 198. Notwithstanding
 45 ORS 268.020, as used in this paragraph, "district" has the meaning given that term in ORS 268.351.

1 (c) Proceedings for annexation of territory to the [*metropolitan service*] district[, *including*
2 *annexation of territory not within the urban growth boundary of the district,*] and for all other changes
3 to the boundaries of the district [*shall*] **must** be conducted as provided in ORS chapter 198.

4 (d) Notwithstanding contrary provisions regarding the party responsible for conducting hearings
5 under ORS chapter 198, the [*metropolitan service*] district is the governing body responsible for
6 conducting proceedings for a minor boundary change to the district. [*Except for a change to the*
7 *district boundary by adoption of an urban growth boundary under ORS 268.390,*] Proceedings for a
8 minor boundary change to the boundaries of a district [*shall*] **must** be conducted as provided in ORS
9 chapter 198.

10 **SECTION 7.** ORS 268.370 is amended to read:

11 268.370. Subject to the provisions of a district charter, when a metropolitan service district or-
12 ganized under this chapter functions in a mass transit district organized under ORS 267.010 to
13 267.390, the governing body of the metropolitan **service** district may at any time order transfer of
14 the transit system of the transit district to the metropolitan **service** district, whereupon:

15 (1) The governing body of the transit district shall transfer title to, and possession of, the transit
16 system and of all books, records, files, documents, and other property of the district to the metro-
17 politan **service** district.

18 (2) The metropolitan **service** district shall be responsible for all the liabilities and obligations
19 imposed upon or assumed by the transit district.

20 (3) For purposes of mass transit, the metropolitan **service** district shall have all the rights,
21 powers, privileges[,] and immunities, and be subject to all the duties and obligations, of a mass
22 transit district under ORS 267.010 to 267.390, insofar as those rights, powers, privileges, immunities,
23 duties[,] and obligations are consistent with this chapter.

24 (4) The boundaries of the metropolitan **service** district shall, for purposes of mass transit, be
25 extended to encompass all the territory of the transit district.

26 (5) The transit district shall be dissolved and the offices of its directors terminated.

27 **SECTION 8.** ORS 268.380 is amended to read:

28 268.380. [(1) A district may:]

29 [(a) Adopt land-use planning goals and objectives for the district consistent with goals adopted
30 under ORS chapters 195, 196 and 197;]

31 [(b) Review the comprehensive plans in effect on January 1, 1979, or subsequently adopted by the
32 cities and counties within the district and recommend that cities and counties, as the district considers
33 necessary, make changes in any plan to ensure that the plan conforms to the district's metropolitan area
34 goals and objectives and the statewide goals;]

35 [(c) Coordinate the land-use planning activities of that portion of the cities and counties within the
36 district; and]

37 [(d)] **A district may** coordinate its activities and the related activities of the cities and counties
38 within the district with the land-use planning development activities of the federal government,
39 other local governmental bodies situated within this state or within any other state and any agency
40 of this state or another state.

41 [(2) When a district is required by a district charter to adopt a regional framework plan, the re-
42 gional framework plan shall include and be consistent with land use planning goals and objectives
43 adopted by the district.]

44 **SECTION 9.** ORS 268.390 is amended to read:

45 268.390. (1) A district may [*define and apply a planning procedure that identifies and designates*]

1 **identify and designate** areas and activities having significant impact upon the orderly and respon-
 2 sible development of the metropolitan area, including, but not limited to, impact on:

- 3 (a) Air quality;
- 4 (b) Water quality; and
- 5 (c) Transportation.

6 (2) A district may [*prepare and adopt functional plans for those*] **encourage cities and counties**
 7 **within the district to make a coordinated response for the** areas designated under subsection
 8 (1) of this section to control metropolitan area impact on air and water quality, transportation and
 9 other aspects of metropolitan area development the district may identify.

10 [(3)(a) *A district shall adopt an urban growth boundary for the district in compliance with appli-*
 11 *cable goals adopted under ORS chapters 195, 196 and 197. When a district includes land designated*
 12 *as urban reserve under ORS 195.145 (1)(b) within an urban growth boundary pursuant to ORS 197.298*
 13 *(1), the district is not required to consider the capability classification system or the cubic foot site class*
 14 *of the land as described in ORS 197.298 (2).]*

15 [(b) *Notwithstanding the procedural requirements for boundary changes under ORS 268.354, when*
 16 *the district adopts an urban growth boundary, the urban growth boundary becomes the boundary of*
 17 *the district.*]

18 [(4)] (3) A district may review the comprehensive plans adopted by the cities and counties within
 19 the district that affect areas designated by the district under subsection (1) of this section **and re-**
 20 **commend that cities and counties makes changes to provide for the coordinated response**
 21 **described in subsection (2) of this section.** [*or the urban growth boundary adopted under sub-*
 22 *section (3) of this section and recommend or require cities and counties, as it considers necessary, to*
 23 *make changes in any plan to ensure that the plan and any actions taken under the plan substantially*
 24 *comply with the district's functional plans adopted under subsection (2) of this section and its urban*
 25 *growth boundary adopted under subsection (3) of this section.*]

26 [(5) *Pursuant to a regional framework plan, a district may adopt implementing ordinances that:*]

27 [(a) *Require local comprehensive plans and implementing regulations to substantially comply with*
 28 *the regional framework plan within two years after compliance acknowledgment.*]

29 [(b) *Require adjudication and determination by the district of the consistency of local comprehen-*
 30 *sive plans with the regional framework plan.*]

31 [(c) *Require each city and county within the jurisdiction of the district and making land use deci-*
 32 *sions concerning lands within the land use jurisdiction of the district to make those decisions consistent*
 33 *with the regional framework plan. The obligation to apply the regional framework plan to land use*
 34 *decisions shall not begin until one year after the regional framework plan is acknowledged as com-*
 35 *plying with the statewide land use planning goals adopted under ORS chapters 195, 196 and 197.*]

36 [(d) *Require changes in local land use standards and procedures if the district determines that*
 37 *changes are necessary to remedy a pattern or practice of decision-making inconsistent with the regional*
 38 *framework plan.*]

39 [(6) *A process established by the district to enforce the requirements of this section must provide:*]

40 [(a) *Notice of noncompliance to the city or county.*]

41 [(b) *Opportunity for the city or county to be heard.*]

42 [(c) *Entry of an order by the district explaining its findings, conclusions and enforcement remedies,*
 43 *if any.*]

44 [(7) *Enforcement remedies ordered under subsection (6) of this section may include, but are not*
 45 *limited to:*]

1 *[(a) Direct application of specified requirements of functional plans to land use decisions by the city*
 2 *or county;]*

3 *[(b) Withholding by the district of discretionary funds from the city or county; and]*

4 *[(c) Requesting an enforcement action pursuant to ORS 197.319 to 197.335 and withholding moneys*
 5 *pursuant to an enforcement order resulting from the enforcement action.]*

6 *[(8) An order issued under subsection (6) of this section:]*

7 *[(a) Must provide for relief from enforcement remedies upon action by the city or county that brings*
 8 *the comprehensive plan and implementing regulations into substantial compliance with the*
 9 *requirement.]*

10 *[(b) Is subject to review under ORS 197.830 to 197.845 as a land use decision.]*

11 *[(9) The regional framework plan, ordinances that implement the regional framework plan and any*
 12 *determination by the district of consistency with the regional framework plan are subject to review*
 13 *under ORS 197.274.]*

14 **SECTION 10.** ORS 195.020 is amended to read:

15 195.020. (1) Special districts shall exercise their planning duties, powers and responsibilities and
 16 take actions that are authorized by law with respect to programs affecting land use, including a city
 17 or special district boundary change as defined in ORS 197.175 (1), in accordance with goals approved
 18 pursuant to ORS chapters 195, 196 and 197.

19 (2) A county assigned coordinative functions under ORS 195.025 (1)*[, or the metropolitan service*
 20 *district, which is assigned coordinative functions for Multnomah, Washington and Clackamas counties*
 21 *by ORS 195.025 (1),]* shall enter into a cooperative agreement with each special district that provides
 22 an urban service within the boundaries of the county *[or the metropolitan district]*. A county *[or the*
 23 *metropolitan service district]* may enter into a cooperative agreement with any other special district
 24 operating within the boundaries of the county *[or the metropolitan district]*.

25 (3) The appropriate city and county *[and, if within the boundaries of the metropolitan service*
 26 *district, the metropolitan service district,]* shall enter into a cooperative agreement with each special
 27 district that provides an urban service within an urban growth boundary. The appropriate city and
 28 county*[, and the metropolitan service district,]* may enter into a cooperative agreement with any other
 29 special district operating within an urban growth boundary.

30 (4) The agreements described in subsection (2) of this section shall conform to the requirements
 31 of paragraphs (a) to (d)*[, (f) and (g)]* **and (f)** of this subsection. The agreements described in sub-
 32 section (3) of this section shall:

33 (a) Describe how the city or county will involve the special district in comprehensive planning,
 34 including plan amendments, periodic review and amendments to land use regulations;

35 (b) Describe the responsibilities of the special district in comprehensive planning, including plan
 36 amendments, periodic review and amendments to land use regulations regarding provision of urban
 37 services;

38 (c) Establish the role and responsibilities of each party to the agreement with respect to city
 39 or county approval of new development;

40 (d) Establish the role and responsibilities of the city or county with respect to district interests
 41 including, *[where]* **when** applicable, water sources, capital facilities and real property, including
 42 rights of way and easements;

43 (e) Specify the units of local government *[which shall be]* **that are** parties to an urban service
 44 agreement under ORS 195.065; **and**

45 *[(f) If a metropolitan service district is a party to the agreement, describe how the metropolitan*

1 *service district will involve the special district in the exercise of the metropolitan service district's re-*
 2 *gional planning responsibilities; and]*

3 [(g)] (f) Contain [such] other provisions [as] the Land Conservation and Development Commis-
 4 sion may require by rule.

5 (5) Agreements required under subsections (2) and (3) of this section are subject to review by
 6 the commission. The commission may provide by rule for periodic submission and review of cooper-
 7 ative agreements to [insure that they] **ensure that the agreements** are consistent with acknowl-
 8 edged comprehensive plans.

9 **SECTION 11.** ORS 195.025 is amended to read:

10 195.025. (1) In addition to the responsibilities stated in ORS 197.175, each county, through its
 11 governing body, [shall be] **is** responsible for coordinating all planning activities affecting land uses
 12 within the county, including planning activities of the county, cities, special districts and state
 13 agencies, to [assure] **ensure** an integrated comprehensive plan for the entire area of the county.
 14 [In addition to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city
 15 or special district boundary changes, as defined by ORS 197.175 (1), the governing body of the metro-
 16 politan service district shall be considered the county review, advisory and coordinative body for
 17 Multnomah, Clackamas and Washington Counties for the areas within that district.]

18 (2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily
 19 join together with adjacent counties as authorized in ORS 190.003 to 190.620.

20 (3) Whenever counties and cities representing 51 percent of the population in their area petition
 21 the Land Conservation and Development Commission for an election in their area to form a regional
 22 planning agency to exercise the authority of the counties under subsection (1) of this section in the
 23 area, the commission shall review the petition. If it finds that the area described in the petition
 24 forms a reasonable planning unit, it shall call an election in the area on a date specified in ORS
 25 203.085, to form a regional planning agency. The election [shall] **must** be conducted in the manner
 26 provided in ORS chapter 255. The county clerk shall [be considered] **serve as** the elections officer
 27 and the commission shall [be considered] **serve as** the district elections authority. The agency [shall
 28 be considered] **is** established if the majority of votes favor the establishment.

29 (4) If a voluntary association of local governments adopts a resolution, ratified by each partic-
 30 ipating county and a majority of the participating cities [therein which] **in the participating**
 31 **counties, that** authorizes the association to perform the review, advisory and coordination func-
 32 tions assigned to the counties under subsection (1) of this section, the association may perform
 33 [such] **the** duties.

34 **SECTION 12.** ORS 195.060 is amended to read:

35 195.060. As used in ORS 195.020, 195.065 to 195.085 and 197.005, unless the context requires
 36 otherwise:

37 (1) "District" has the meaning given that term in ORS 198.010. In addition, the term includes a
 38 county service district organized under ORS chapter 451.

39 (2) "Urban growth boundary" means an acknowledged urban growth boundary contained in a
 40 city or county comprehensive plan [or an acknowledged urban growth boundary that has been adopted
 41 by a metropolitan service district council under ORS 268.390 (3)].

42 (3) "Urban service" has the meaning given that term in ORS 195.065.

43 **SECTION 13.** ORS 195.065 is amended to read:

44 195.065. (1) Under ORS 190.003 to 190.130, units of local government and special districts that
 45 provide an urban service to an area within an urban growth boundary that has a population greater

1 than 2,500 persons, and that are identified as appropriate parties by a cooperative agreement under
 2 ORS 195.020, shall enter into urban service agreements that:

3 (a) Specify whether the urban service will be provided in the future by a city, county, district,
 4 authority or a combination of one or more cities, counties, districts or authorities.

5 (b) Set forth the functional role of each service provider in the future provision of the urban
 6 service.

7 (c) Determine the future service area for each provider of the urban service.

8 (d) Assign responsibilities for:

9 (A) Planning and coordinating provision of the urban service with other urban services;

10 (B) Planning, constructing and maintaining service facilities; and

11 (C) Managing and administering provision of services to urban users.

12 (e) Define the terms of necessary transitions in provision of urban services, ownership of facili-
 13 ties, annexation of service territory, transfer of moneys or project responsibility for projects pro-
 14 posed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service
 15 providers or other measures for enhancing the cost efficiency of providing urban services.

16 (f) Establish a process for review and modification of the urban service agreement.

17 (2)(a) Each county shall have responsibility for convening representatives of all cities and spe-
 18 cial districts that provide or declare an interest in providing an urban service inside an urban
 19 growth boundary within the county, for the purpose of negotiating an urban service agreement. A
 20 county may establish two or more subareas inside an urban growth boundary for the purpose of such
 21 agreements. *[If an urban service is to be provided within the boundaries of a metropolitan service*
 22 *district, a county shall notify the metropolitan service district in advance of the time for cities and*
 23 *special districts to meet for the purpose of negotiating an urban service agreement, and the metropolitan*
 24 *service district shall exercise its review, advisory and coordination functions under ORS 195.025.]*

25 (b) When negotiating for an urban service agreement, a county shall consult with recognized
 26 community planning organizations within the area affected by the urban service agreement.

27 (3) Decisions on a local government structure to be used to deliver an urban service under ORS
 28 195.070 are not land use decisions under ORS 197.015.

29 (4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section, “urban services”
 30 means:

31 (a) Sanitary sewers;

32 (b) Water;

33 (c) Fire protection;

34 (d) Parks;

35 (e) Open space;

36 (f) Recreation; and

37 (g) Streets, roads and mass transit.

38 (5) Whether the requirement of subsection (1) of this section is met by a single urban service
 39 agreement among multiple providers of a service, by a series of agreements with individual providers
 40 or by a combination of multiprovider and single-provider agreements shall be a matter of local dis-
 41 cretion.

42 **SECTION 14.** ORS 195.110 is amended to read:

43 195.110. (1) As used in this section, “large school district” means a school district that has an
 44 enrollment of over 2,500 students based on certified enrollment numbers submitted to the Depart-
 45 ment of Education during the first quarter of each new school year.

- 1 (2) A city or county containing a large school district shall:
- 2 (a) Include as an element of its comprehensive plan a school facility plan prepared by the dis-
- 3 trict in consultation with the affected city or county.
- 4 (b) Initiate planning activities with a school district to accomplish planning as required under
- 5 ORS 195.020.
- 6 (3) The provisions of subsection (2)(a) of this section do not apply to a city or a county that
- 7 contains less than 10 percent of the total population of the large school district.
- 8 (4) The large school district shall select a representative to meet and confer with a represen-
- 9 tative of the city or county, as described in subsection (2)(b) of this section, to accomplish the
- 10 planning required by ORS 195.020 and shall notify the city or county of the selected representative.
- 11 The city or county shall provide the facilities and set the time for the planning activities. The rep-
- 12 resentatives shall meet at least twice each year, unless all representatives agree in writing to an-
- 13 other schedule, and make a written summary of issues discussed and proposed actions.
- 14 (5)(a) The school facility plan must cover a period of at least 10 years and must include, but
- 15 need not be limited to, the following elements:
- 16 (A) Population projections by school age group.
- 17 (B) Identification by the city or county and by the large school district of desirable school sites.
- 18 (C) Descriptions of physical improvements needed in existing schools to meet the minimum
- 19 standards of the large school district.
- 20 (D) Financial plans to meet school facility needs, including an analysis of available tools to en-
- 21 sure facility needs are met.
- 22 (E) An analysis of:
- 23 (i) The alternatives to new school construction and major renovation; and
- 24 (ii) Measures to increase the efficient use of school sites including, but not limited to, multiple-
- 25 story buildings and multipurpose use of sites.
- 26 (F) Ten-year capital improvement plans.
- 27 (G) Site acquisition schedules and programs.
- 28 (b) Based on the elements described in paragraph (a) of this subsection and applicable laws and
- 29 rules, the school facility plan must also include an analysis of the land required for the 10-year pe-
- 30 riod covered by the plan that is suitable, as a permitted or conditional use, for school facilities in-
- 31 side the urban growth boundary.
- 32 (6) If a large school district determines that there is an inadequate supply of suitable land for
- 33 school facilities for the 10-year period covered by the school facility plan, the city or county, or
- 34 both, and the large school district shall cooperate in identifying land for school facilities and take
- 35 necessary actions, including, but not limited to, adopting appropriate zoning, aggregating existing
- 36 lots or parcels in separate ownership[,] **and** adding one or more sites designated for school facilities
- 37 to an urban growth boundary[, *or petitioning a metropolitan service district to add one or more sites*
- 38 *designated for school facilities to an urban growth boundary pursuant to applicable law*].
- 39 (7) The school facility plan shall provide for the integration of existing city or county land
- 40 dedication requirements with the needs of the large school district.
- 41 (8) The large school district shall:
- 42 (a) Identify in the school facility plan school facility needs based on population growth
- 43 projections and land use designations contained in the city or county comprehensive plan; and
- 44 (b) Update the school facility plan during periodic review or more frequently by mutual agree-
- 45 ment between the large school district and the affected city or county.

1 (9)(a) In the school facility plan, the district school board of a large school district may adopt
 2 objective criteria to be used by an affected city or county to determine whether adequate capacity
 3 exists to accommodate projected development. Before the adoption of the criteria, the large school
 4 district shall confer with the affected cities and counties and agree, to the extent possible, on the
 5 appropriate criteria. After a large school district formally adopts criteria for the capacity of school
 6 facilities, an affected city or county shall accept those criteria as its own for purposes of evaluating
 7 applications for a comprehensive plan amendment or for a residential land use regulation amend-
 8 ment.

9 (b) A city or county shall provide notice to an affected large school district when considering
 10 a plan or land use regulation amendment that significantly impacts school capacity. If the large
 11 school district requests, the city or county shall implement a coordinated process with the district
 12 to identify potential school sites and facilities to address the projected impacts.

13 (10) A school district that is not a large school district may adopt a school facility plan as de-
 14 scribed in this section in consultation with an affected city or county.

15 (11) The capacity of a school facility is not the basis for a development moratorium under ORS
 16 197.505 to 197.540.

17 (12) This section does not confer any power to a school district to declare a building morato-
 18 rium.

19 (13) A city or county may deny an application for residential development based on a lack of
 20 school capacity if:

21 (a) The issue is raised by the school district;

22 (b) The lack of school capacity is based on a school facility plan formally adopted under this
 23 section; and

24 (c) The city or county has considered options to address school capacity.

25 **SECTION 15.** ORS 195.141 is amended to read:

26 195.141. (1) A county and a [*metropolitan service district established under ORS chapter 268 may*
 27 *enter into an intergovernmental agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to*
 28 *197.658 to*] **city may cooperatively** designate rural reserves pursuant to this section [*and urban*
 29 *reserves pursuant to ORS 195.145 (1)(b)*].

30 (2) Land designated as a rural reserve:

31 (a) Must be outside [*an urban growth boundary*] **the corporate boundaries of cities and out-**
 32 **side urban growth boundaries and urban reserves.**

33 (b) May not be designated as an urban reserve during the urban reserve planning period de-
 34 scribed in ORS 195.145 (4).

35 (c) May not be included within an urban growth boundary during the period of time described
 36 in paragraph (b) of this subsection.

37 (3) When designating a rural reserve under this section to provide long-term protection to the
 38 agricultural industry, a county **and a city** [*and a metropolitan service district*] shall base the desig-
 39 nation on consideration of factors including, but not limited to, whether land proposed for desig-
 40 nation as a rural reserve:

41 (a) Is situated in an area that is otherwise potentially subject to urbanization during the period
 42 described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary
 43 and to properties with fair market values that significantly exceed agricultural values;

44 (b) Is capable of sustaining long-term agricultural operations;

45 (c) Has suitable soils and available water where needed to sustain long-term agricultural oper-

1 ations; and

2 (d) Is suitable to sustain long-term agricultural operations, taking into account:

3 (A) The existence of a large block of agricultural or other resource land with a concentration
4 or cluster of farms;

5 (B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses
6 and the existence of buffers between agricultural operations and nonfarm uses;

7 (C) The agricultural land use pattern, including parcelization, tenure and ownership patterns;
8 and

9 (D) The sufficiency of agricultural infrastructure in the area.

10 (4) The Land Conservation and Development Commission shall, after consultation with the State
11 Department of Agriculture, adopt by goal or by rule a process and criteria for designating rural
12 reserves pursuant to this section.

13 **SECTION 16.** ORS 195.143 is amended to read:

14 195.143. (1) A county and a [*metropolitan service district*] **city** must consider simultaneously the
15 designation and establishment of:

16 (a) Rural reserves pursuant to ORS 195.141; and

17 (b) Urban reserves pursuant to ORS 195.145 [(1)(b)].

18 (2) An agreement between a county and a [*metropolitan service district*] **city** to establish rural
19 reserves pursuant to ORS 195.141 and urban reserves pursuant to ORS 195.145 [(1)(b)] must provide
20 for a coordinated and concurrent process for adoption by the county **and the city** of comprehensive
21 plan provisions [*and by the district of regional framework plan provisions*] to implement the agree-
22 ment. A [*district*] **city** may not designate urban reserves pursuant to ORS 195.145 [(1)(b)] in a county
23 until the county [*and the district have*] **has** entered into an agreement pursuant to ORS 195.145
24 [(1)(b)] that identifies the land to be designated by the [*district in the district's regional framework*]
25 **city in the city's comprehensive** plan as urban reserves. A county may not designate rural re-
26 serves pursuant to ORS 195.141 until the county and the [*district*] **city** have entered into an agree-
27 ment pursuant to ORS 195.141 that identifies the land to be designated as rural reserves by the
28 county in the county's comprehensive plan.

29 [(3) *A county and a metropolitan service district may not enter into an intergovernmental agreement*
30 *to designate urban reserves in the county pursuant to ORS 195.145 (1)(b) unless the county and the*
31 *district also agree to designate rural reserves in the county.*]

32 [(4)] (3) Designation and protection of rural reserves pursuant to ORS 195.141 or urban reserves
33 pursuant to ORS 195.145 [(1)(b)]:

34 (a) Is not a basis for a claim for compensation under ORS 195.305 unless the designation and
35 protection of rural reserves or urban reserves imposes a new restriction on the use of private real
36 property.

37 (b) Does not impair the rights and immunities provided under ORS 30.930 to 30.947.

38 **SECTION 17.** ORS 195.145 is amended to read:

39 195.145. (1) To ensure that the supply of land available for urbanization is maintained, [:]

40 [(a)] local governments may cooperatively designate lands outside urban growth boundaries as
41 urban reserves subject to ORS 197.610 to 197.625 and 197.626.

42 [(b) *Alternatively, a metropolitan service district established under ORS chapter 268 and a county*
43 *may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658*
44 *to designate urban reserves. A process and criteria developed pursuant to this paragraph are an al-*
45 *ternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.*]

1 (2)(a) The Land Conservation and Development Commission may require a local government to
 2 designate an urban reserve pursuant to [subsection (1)(a) of] this section during its periodic review
 3 in accordance with the conditions for periodic review under ORS 197.628.

4 (b) Notwithstanding paragraph (a) of this subsection, the commission may require a local gov-
 5 ernment to designate an urban reserve pursuant to [subsection (1)(a) of] this section outside of its
 6 periodic review if **the local government:**

7 (A) [The local government] Is located inside a Primary Metropolitan Statistical Area or a Met-
 8 ropolitan Statistical Area as designated by the Federal Census Bureau [upon] on November 4, 1993;
 9 and

10 (B) [The local government] Has been required to designate an urban reserve by rule prior to
 11 November 4, 1993.

12 (3) In carrying out subsections (1) and (2) of this section:

13 (a) Within an urban reserve, neither the commission nor any local government shall prohibit the
 14 siting on a [legal parcel of] **lot, parcel or lawfully established unit of land, as those terms are**
 15 **defined in ORS 92.010**, a single family dwelling that would otherwise have been allowed under law
 16 existing prior to designation as an urban reserve.

17 (b) The commission shall provide to local governments a list of options, rather than prescribing
 18 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-
 19 serves.

20 (4) Urban reserves [designated by a metropolitan service district and a county pursuant to sub-
 21 section (1)(b) of this section] must be planned to accommodate population and employment growth for
 22 at least 20 years, and not more than 30 years, after the 20-year period for which the [district] **city**
 23 has demonstrated a buildable land supply in the most recent inventory, determination and analysis
 24 performed under ORS 197.296.

25 (5) A [district] **city** and a county shall base the designation of urban reserves under [subsection
 26 (1)(b) of] this section upon consideration of factors including, but not limited to, whether land pro-
 27 posed for designation as urban reserves, alone or in conjunction with land inside the urban growth
 28 boundary:

29 (a) Can be developed at urban densities in a way that makes efficient use of existing and future
 30 public infrastructure investments;

31 (b) Includes sufficient development capacity to support a healthy urban economy;

32 (c) Can be served by public schools and other urban-level public facilities and services efficiently
 33 and cost-effectively by appropriate and financially capable service providers;

34 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-
 35 priate service providers;

36 (e) Can be designed to preserve and enhance natural ecological systems; and

37 (f) Includes sufficient land suitable for a range of housing types.

38 [(6) A county may take an exception under ORS 197.732 to a statewide land use planning goal to
 39 allow the establishment of a transportation facility in an area designated as urban reserve under sub-
 40 section (1)(b) of this section.]

41 [(7) The commission shall adopt by goal or by rule a process and criteria for designating urban
 42 reserves pursuant to subsection (1)(b) of this section.]

43 **SECTION 18. Section 19 of this 2015 Act is added to and made a part of ORS 195.137 to**
 44 **195.145.**

45 **SECTION 19. A county may take an exception under ORS 197.732 to a statewide land use**

1 **planning goal to allow the establishment of a transportation facility in an area designated**
 2 **as urban reserve under ORS 195.145 (1)(b) as that provision was in effect prior to the oper-**
 3 **ative date specified in section 66 of this 2015 Act.**

4 **SECTION 20.** ORS 195.300 is amended to read:

5 195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11,
 6 chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and
 7 sections 2 to 7, chapter 8, Oregon Laws 2010:

8 (1) "Acquisition date" means the date described in ORS 195.328.

9 (2) "Claim" means a written demand for compensation filed under:

10 (a) ORS 195.305, as in effect immediately before December 6, 2007; or

11 (b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.

12 (3) "Enacted" means enacted, adopted or amended.

13 (4) "Fair market value" means the value of property as determined under ORS 195.332.

14 (5) "Farming practice" has the meaning given that term in ORS 30.930.

15 (6) "Federal law" means:

16 (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity
 17 acting under authority delegated by the federal government;

18 (b) A requirement contained in a plan or rule enacted by a compact entity; or

19 (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal
 20 statute or regulation.

21 (7) "File" means to submit a document to a public entity.

22 (8) "Forest practice" has the meaning given that term in ORS 527.620.

23 (9) "Ground water restricted area" means an area designated as a critical ground water area
 24 or as a ground water limited area by the Water Resources Department or Water Resources Com-
 25 mission before December 6, 2007.

26 (10) "High-value farmland" means:

27 (a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone
 28 or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are
 29 December 6, 2007.

30 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class
 31 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and
 32 the following soils:

33 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;

34 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

35 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.

36 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June
 37 28, 2007, is:

38 (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation
 39 issued by the Water Resources Department;

40 (B) Within the boundaries of a district, as defined in ORS 540.505; or

41 (C) Within the boundaries of a diking district formed under ORS chapter 551.

42 (d) Land that contains not less than five acres planted in wine grapes.

43 (e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000
 44 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero
 45 and 15 percent, and that is located within:

- 1 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;
 2 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or
 3 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.
 4 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean
 5 sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent,
 6 and that is located within:
 7 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is
 8 within the State of Oregon;
 9 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;
 10 (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is
 11 within the State of Oregon;
 12 (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that
 13 is within the State of Oregon; or
 14 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that
 15 is within the State of Oregon.
 16 (11) "High-value forestland" means land:
 17 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon
 18 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per
 19 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-
 20 mercial tree species; or
 21 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon
 22 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year
 23 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial
 24 tree species.
 25 (12) "Home site approval" means approval of the subdivision or partition of property or approval
 26 of the establishment of a dwelling on property.
 27 (13) "Just compensation" means:
 28 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter
 29 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, for land use regulations
 30 enacted on or before January 1, 2007; and
 31 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.
 32 (14) "Land use regulation" means:
 33 (a) A statute that establishes a minimum lot or parcel size;
 34 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter
 35 215 that restricts the residential use of private real property;
 36 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that
 37 restricts the residential use of private real property zoned for residential use;
 38 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that
 39 restricts the residential use of private real property;
 40 (e) A provision, enacted or adopted on or after January 1, 2010, of:
 41 (A) The Oregon Forest Practices Act;
 42 (B) An administrative rule of the State Board of Forestry; or
 43 (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest prac-
 44 tice;
 45 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State

1 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933; **or**

2 (g) An administrative rule or goal of the Land Conservation and Development Commission[;
3 *or*].

4 *[(h) A provision of a Metro functional plan that restricts the residential use of private real prop-*
5 *erty.]*

6 (15) “Lawfully established unit of land” has the meaning given that term in ORS 92.010.

7 (16) “Lot” has the meaning given that term in ORS 92.010.

8 (17) “Measure 37 permit” means a final decision by [*Metro,*] a city or a county to authorize the
9 development, subdivision or partition or other use of property pursuant to a waiver.

10 (18) “Owner” means:

11 (a) The owner of fee title to the property as shown in the deed records of the county where the
12 property is located;

13 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force
14 for the property; or

15 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,
16 except that when the trust becomes irrevocable only the trustee is the owner.

17 (19) “Parcel” has the meaning given that term in ORS 92.010.

18 (20) “Property” means the private real property described in a claim and contiguous private real
19 property that is owned by the same owner, whether or not the contiguous property is described in
20 another claim, and that is not property owned by the federal government, an Indian tribe or a public
21 body, as defined in ORS 192.410.

22 (21) “Protection of public health and safety” means a law, rule, ordinance, order, policy, permit
23 or other governmental authorization that restricts a use of property in order to reduce the risk or
24 consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural
25 or human disaster or threat to persons or property including, but not limited to, building and fire
26 codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control
27 regulations.

28 (22) “Public entity” means the state, Metro, a county or a city.

29 (23) “Urban growth boundary” has the meaning given that term in ORS 195.060.

30 (24) “Waive” or “waiver” means an action or decision of a public entity to modify, remove or
31 not apply one or more land use regulations under ORS 195.305 to 195.336 and sections 5 to 11,
32 chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections
33 2 to 7, chapter 8, Oregon Laws 2010, or ORS 195.305, as in effect immediately before December 6,
34 2007, to allow the owner to use property for a use permitted when the owner acquired the property.

35 (25) “Zoned for residential use” means zoning that has as its primary purpose single-family res-
36 idential use.

37 **SECTION 21.** ORS 195.314 is amended to read:

38 195.314. (1) A public entity that receives a complete claim as described in ORS 195.312 shall
39 provide notice of the claim at least 30 days before a public hearing on the claim or, if there will
40 not be a public hearing, at least 30 days before the deadline for submission of written comments, to:

41 (a) All owners identified in the claim;

42 (b) All persons described in ORS 197.763 (2);

43 (c) The Department of Land Conservation and Development, unless the claim was filed with the
44 department;

45 (d) Metro, if the property is located within the urban growth boundary of **a city that has in-**

1 **corporated territory within the corporate boundaries of Metro;**

2 (e) The county in which the property is located, unless the claim was filed with the county; and

3 (f) The city, if the property is located within the urban growth boundary or adopted urban
4 planning area of the city.

5 (2) The notice required under subsection (1) of this section must describe the claim and state:

6 (a) Whether a public hearing will be held on the claim, the date, time and location of the hear-
7 ing, if any, and the final date for submission of written evidence and arguments relating to the claim;

8 (b) That judicial review of the final determination of a public entity on the claim is limited to
9 the written evidence and arguments submitted to the public entity; and

10 (c) That judicial review is available only for issues that are raised with sufficient specificity to
11 afford the public entity an opportunity to respond.

12 (3) Except as provided in subsection (4) of this section, written evidence and arguments in pro-
13 ceedings on the claim must be submitted to the public entity not later than:

14 (a) The close of the final public hearing on the claim; or

15 (b) If a public hearing is not held, the date that is specified by the public entity in the notice
16 required under subsection (1) of this section.

17 (4) The claimant may request additional time to submit written evidence and arguments in re-
18 sponse to testimony or submittals. The request must be made before the close of testimony or the
19 deadline for submission of written evidence and arguments.

20 (5) A public entity shall make the record on review of a claim, including any staff reports,
21 available to the public before the close of the record as described in subsections (3) and (4) of this
22 section.

23 (6) A public entity shall mail a copy of the final determination to the claimant and to any person
24 who submitted written evidence or arguments before the close of the record. The public entity shall
25 forward to the county, and the county shall record, a memorandum of the final determination in the
26 deed records of the county in which the property is located.

27 **SECTION 22.** ORS 195.324 is amended to read:

28 195.324. (1) If an owner submits an application for a [*comprehensive plan or zoning amendment,*
29 *or submits an application for an amendment to the Metro urban growth boundary, and Metro, a city*
30 *or a county*] **change to a comprehensive plan or a land use regulation, including provisions of**
31 **a plan or regulation related to an urban growth boundary, and the local government** approves
32 the [*amendment*] **change**, the owner is not entitled to relief under ORS 195.305 to 195.336 and
33 sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws
34 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, with respect to a land use regulation en-
35 acted before the date the application was filed.

36 (2) If an owner files a petition to initiate annexation to a city and the city or boundary com-
37 mission approves the petition, the owner is not entitled to relief under ORS 195.305 to 195.336 and
38 sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws
39 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, with respect to a land use regulation en-
40 acted before the date the petition was filed.

41 **SECTION 23.** ORS 197.015 is amended to read:

42 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

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

1 *ments to Metro planning goals and objectives or amendments to the Metro regional framework plan*
 2 *comply with the goals.] provision of a comprehensive plan or land use regulation complies with*
 3 **the goals.**

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

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

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

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

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

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

21 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-
 22 mission pursuant to ORS chapters 195, 196 and 197.

23 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
 24 adoption and implementation of comprehensive plans in compliance with goals and to aid state
 25 agencies and special districts in the preparation, adoption and implementation of plans, programs
 26 and regulations in compliance with goals. Guidelines *[shall be]* **are** advisory and *[shall]* **do** not limit
 27 state agencies, cities, counties *[and]* **or** special districts to a single approach.

28 (10) "Land use decision":

29 (a) Includes:

30 (A) A final decision or determination made by a local government or special district that con-
 31 cerns the adoption, amendment or application of:

32 (i) The goals;

33 (ii) A comprehensive plan provision; **or**

34 (iii) A land use regulation; *[or]*

35 *[(iv) A new land use regulation;]*

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

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

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

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

42 (B) That approves or denies a building permit issued under clear and objective land use stan-
 43 dards;

44 (C) That is a limited land use decision;

45 (D) That determines final engineering design, construction, operation, maintenance, repair or

1 preservation of a transportation facility that is otherwise authorized by and consistent with the
 2 comprehensive plan and land use regulations;

3 (E) That is an expedited land division as described in ORS 197.360;

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

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

10 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
 11 knowledged comprehensive plan and land use regulations implementing the plan, if:

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

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

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

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

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

24 (e) Does not include:

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

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

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

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

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

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

38 (12) "Limited land use decision":

39 (a) Means a final decision or determination made by a local government pertaining to a site
 40 within an urban growth boundary that concerns:

41 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
 42 92.040 (1).

43 (B) The approval or denial of an application based on discretionary standards designed to reg-
 44 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
 45 view and design review.

1 (b) Does not mean a final decision made by a local government pertaining to a site within an
 2 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
 3 that determines whether a final subdivision or partition plat substantially conforms to the tentative
 4 subdivision or partition plan.

5 (13) "Local government" means any city, county or [*metropolitan service district formed under*
 6 *ORS chapter 268 or an*] association of local governments performing land use planning functions
 7 under ORS 195.025.

8 (14) **"Lot" has the meaning given that term in ORS 92.010.**

9 [(14)] (15) "Metro" means [*a*] **the** metropolitan service district organized under ORS chapter 268.

10 [(15)] *"Metro planning goals and objectives" means the land use goals and objectives that a metro-*
 11 *politan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute*
 12 *a comprehensive plan.]*

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

16 [(17)] (16) "New land use regulation" means a land use regulation other than an amendment to
 17 an acknowledged land use regulation adopted by a local government that already has a compre-
 18 hensive plan and land regulations acknowledged under ORS 197.251.

19 (17) **"Parcel" has the meaning given that term in ORS 215.010.**

20 (18) "Person" means any individual, partnership, corporation, association, governmental subdivi-
 21 sion or agency or public or private organization of any kind. The Land Conservation and Devel-
 22 opment Commission or its designee is considered a person for purposes of appeal under ORS
 23 chapters 195 and 197.

24 (19) "Special district" means any unit of local government, **as defined in ORS 174.116**, other
 25 than a city, county[, *metropolitan service district formed under ORS chapter 268*] or an association
 26 of local governments performing land use planning functions under ORS 195.025, **that is** authorized
 27 and regulated by statute [*and*]. **"Special district"** includes but is not limited to water control dis-
 28 tricts, domestic water associations and water cooperatives, irrigation districts, port districts, re-
 29 gional air quality control authorities, fire districts, school districts, hospital districts, mass transit
 30 districts and sanitary districts.

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

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

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

39 **SECTION 24.** ORS 197.015, as amended by section 11, chapter 575, Oregon Laws 2013, is
 40 amended to read:

41 197.015. As used in ORS chapters 195, 196 and 197 and ORS 197A.300 to 197A.325, unless the
 42 context requires otherwise:

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

1 *ments to Metro planning goals and objectives or amendments to the Metro regional framework plan*
 2 *comply with the goals.] provision of a comprehensive plan or land use regulation complies with*
 3 **the goals.**

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

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

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

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

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

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

21 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-
 22 mission pursuant to ORS chapters 195, 196 and 197.

23 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
 24 adoption and implementation of comprehensive plans in compliance with goals and to aid state
 25 agencies and special districts in the preparation, adoption and implementation of plans, programs
 26 and regulations in compliance with goals. Guidelines *[shall be]* **are** advisory and *[shall]* **do** not limit
 27 state agencies, cities, counties *[and]* **or** special districts to a single approach.

28 (10) "Land use decision":

29 (a) Includes:

30 (A) A final decision or determination made by a local government or special district that con-
 31 cerns the adoption, amendment or application of:

32 (i) The goals;

33 (ii) A comprehensive plan provision; **or**

34 (iii) A land use regulation; *[or]*

35 *[(iv) A new land use regulation;]*

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

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

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

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

42 (B) That approves or denies a building permit issued under clear and objective land use stan-
 43 dards;

44 (C) That is a limited land use decision;

45 (D) That determines final engineering design, construction, operation, maintenance, repair or

1 preservation of a transportation facility that is otherwise authorized by and consistent with the
 2 comprehensive plan and land use regulations;

3 (E) That is an expedited land division as described in ORS 197.360;

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

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

10 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
 11 knowledged comprehensive plan and land use regulations implementing the plan, if:

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

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

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

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

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

24 (e) Does not include:

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

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

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

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

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

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

38 (12) "Limited land use decision":

39 (a) Means a final decision or determination made by a local government pertaining to a site
 40 within an urban growth boundary that concerns:

41 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
 42 92.040 (1).

43 (B) The approval or denial of an application based on discretionary standards designed to reg-
 44 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
 45 view and design review.

1 (b) Does not mean a final decision made by a local government pertaining to a site within an
 2 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
 3 that determines whether a final subdivision or partition plat substantially conforms to the tentative
 4 subdivision or partition plan.

5 (13) "Local government" means any city, county or [*metropolitan service district formed under*
 6 *ORS chapter 268 or an*] association of local governments performing land use planning functions
 7 under ORS 195.025.

8 (14) **"Lot" has the meaning given that term in ORS 92.010.**

9 [(14)] (15) "Metro" means [*a*] **the** metropolitan service district organized under ORS chapter 268.

10 [(15)] "*Metro planning goals and objectives*" means *the land use goals and objectives that a metro-*
 11 *politan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute*
 12 *a comprehensive plan.*]

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

16 [(17)] (16) "New land use regulation" means a land use regulation other than an amendment to
 17 an acknowledged land use regulation adopted by a local government that already has a compre-
 18 hensive plan and land regulations acknowledged under ORS 197.251.

19 (17) **"Parcel" has the meaning given that term in ORS 215.010.**

20 (18) "Person" means any individual, partnership, corporation, association, governmental subdivi-
 21 sion or agency or public or private organization of any kind. The Land Conservation and Devel-
 22 opment Commission or its designee is considered a person for purposes of appeal under ORS
 23 chapters 195 and 197.

24 (19) "Special district" means any unit of local government, **as defined in ORS 174.116**, other
 25 than a city, county[, *metropolitan service district formed under ORS chapter 268*] or an association
 26 of local governments performing land use planning functions under ORS 195.025, **that is** authorized
 27 and regulated by statute [*and*]. **"Special district"** includes but is not limited to water control dis-
 28 tricts, domestic water associations and water cooperatives, irrigation districts, port districts, re-
 29 gional air quality control authorities, fire districts, school districts, hospital districts, mass transit
 30 districts and sanitary districts.

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

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

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

39 **SECTION 25.** ORS 197.178 is amended to read:

40 197.178. (1) [*Local governments with comprehensive plans or functional plans that are*] **A city**
 41 identified in ORS 197.296 (1) shall compile and report annually to the Department of Land Conser-
 42 vation and Development the following information for all applications received under ORS 227.175
 43 for residential permits and residential zone changes:

44 (a) The number of applications received for residential development, including the net residential
 45 density proposed in the application and the maximum allowed net residential density for the subject

1 zone;

2 (b) The number of applications approved, including the approved net density; and

3 (c) The date each application was received and the date it was approved or denied.

4 (2) The report required by this section may be submitted electronically.

5 **SECTION 26.** ORS 197.254 is amended to read:

6 197.254. (1) A state agency is barred, after the date set for submission of programs by the Land
7 Conservation and Development Commission as provided in ORS 197.180 (4), from contesting a re-
8 quest for acknowledgment submitted by a local government under ORS 197.251 or from filing an
9 appeal of a post-acknowledgement change under ORS 197.610 to 197.625 to a comprehensive plan or
10 a land use regulation, if the commission finds that:

11 (a) The state agency has not complied with ORS 197.180; or

12 (b) The state agency has not coordinated its plans, programs or rules affecting land use with the
13 comprehensive plan or land use regulations of the city or county pursuant to a coordination program
14 approved by the commission under ORS 197.180.

15 (2) A state agency is barred from seeking a commission order under ORS 197.644 requiring
16 amendment of a local government comprehensive plan or a land use regulation in order to comply
17 with the agency's plan or program unless the agency has first requested the amendment from the
18 local government and has had its request denied.

19 (3) A special district is barred from contesting a request for initial compliance acknowledgment
20 submitted by a local government under ORS 197.251 or from filing an appeal of a post-
21 acknowledgement change under ORS 197.610 to 197.625 to a comprehensive plan or a land use reg-
22 ulation, if the county [*or metropolitan service district*] assigned coordinative functions under ORS
23 195.025 (1) finds that:

24 (a) The special district has not entered into a cooperative agreement under ORS 195.020; or

25 (b) The special district has not coordinated its plans, programs or regulations affecting land use
26 with the comprehensive plan or land use regulations of the local government pursuant to its coop-
27 erative agreement made under ORS 195.020.

28 (4) A special district is barred from seeking a commission order under ORS 197.644 requiring
29 amendment of a local government comprehensive plan or a land use regulation in order to comply
30 with the special district's plan or program unless the special district has first requested the
31 amendment from the local government and has had its request denied.

32 **SECTION 27.** ORS 197.296 is amended to read:

33 197.296. (1)(a) The provisions of this section apply to **cities that have incorporated territory**
34 **within the corporate boundaries of a metropolitan service district** [*regional framework plans and*
35 *local government comprehensive plans for lands within the urban growth boundary of a city that is*]
36 **and to cities that have all their incorporated territory** located outside **the corporate bounda-**
37 **ries** of a metropolitan service district and [*has*] **have** a population of 25,000 or more.

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

43 (2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
44 the comprehensive plan [*or regional plan*] that concerns the urban growth boundary and requires the
45 application of a [*statewide planning*] goal relating to buildable lands for residential use, a [*local*

1 *government*] **city** shall demonstrate that its comprehensive plan [*or regional plan*] provides sufficient
 2 buildable lands within the urban growth boundary established pursuant to [*statewide planning*] **the**
 3 goals to accommodate estimated housing needs for 20 years. The 20-year period [*shall commence*]
 4 **commences** on the date initially scheduled for completion of the periodic or legislative review.

5 (3) In performing the duties under subsection (2) of this section, a [*local government*] **city** shall:

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

8 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
 9 197.303 and [*statewide planning*] goals and rules relating to housing, to determine the number of
 10 units and amount of land needed for each needed housing type for the next 20 years.

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

13 (A) Vacant lands planned or zoned for residential use;

14 (B) Partially vacant lands planned or zoned for residential use;

15 (C) Lands that may be used for a mix of residential and employment uses under the existing
 16 planning or zoning; and

17 (D) Lands that may be used for residential infill or redevelopment.

18 (b) For the purpose of the inventory and determination of housing capacity described in sub-
 19 section (3)(a) of this section, the [*local government*] **city** must demonstrate consideration of:

20 (A) The extent that residential development is prohibited or restricted by local regulation and
 21 ordinance, state law and rule or federal statute and regulation;

22 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
 23 ties, if the written contract or easement is provided to the [*local government*] **city**; and

24 (C) The presence of a single family dwelling or other structure on a lot or parcel.

25 (c) Except for land that may be used for residential infill or redevelopment, a [*local*
 26 *government*] **city** shall create a map or document that may be used to verify and identify specific lots
 27 or parcels that have been determined to be buildable lands.

28 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
 29 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
 30 to land within the urban growth boundary that has been collected since the last periodic review or
 31 five years, whichever is greater. The data shall include:

32 (A) The number, density and average mix of housing types of urban residential development that
 33 have actually occurred;

34 (B) Trends in density and average mix of housing types of urban residential development;

35 (C) Demographic and population trends;

36 (D) Economic trends and cycles; and

37 (E) The number, density and average mix of housing types that have occurred on the buildable
 38 lands described in subsection (4)(a) of this section.

39 (b) A [*local government*] **city** shall make the determination described in paragraph (a) of this
 40 subsection using a shorter time period than the time period described in paragraph (a) of this sub-
 41 section if the [*local government*] **city** finds that the shorter time period will provide more accurate
 42 and reliable data related to housing capacity and need. The shorter time period may not be less than
 43 three years.

44 (c) A [*local government*] **city** shall use data from a wider geographic area or use a time period
 45 for economic cycles and trends longer than the time period described in paragraph (a) of this sub-

1 section if the analysis of a wider geographic area or the use of a longer time period will provide
 2 more accurate, complete and reliable data relating to trends affecting housing need than an analysis
 3 performed pursuant to paragraph (a) of this subsection. The [*local government*] **city** must clearly
 4 describe the geographic area, time frame and source of data used in a determination performed under
 5 this paragraph.

6 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
 7 the housing capacity determined pursuant to subsection (3)(a) of this section, the [*local government*]
 8 **city** shall take one or more of the following actions to accommodate the additional housing need:

9 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
 10 housing needs for the next 20 years. As part of this process, the [*local government*] **city** shall consider
 11 the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment
 12 [*shall*] **must** include sufficient land reasonably necessary to accommodate the siting of new public
 13 school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated
 14 process between the affected public school districts and the [*local government*] **city** that has
 15 the authority to approve the urban growth boundary;

16 (b) Amend its comprehensive plan[, *regional plan, functional plan*] or land use regulations to include
 17 new measures that demonstrably increase the likelihood that residential development will occur
 18 at densities sufficient to accommodate housing needs for the next 20 years without expansion
 19 of the urban growth boundary. A [*local government or metropolitan service district*] **city** that takes
 20 this action shall monitor and record the level of development activity and development density by
 21 housing type following the date of the adoption of the new measures; or

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

23 (7) Using the analysis conducted under subsection (3)(b) of this section, the [*local government*]
 24 **city** shall determine the overall average density and overall mix of housing types at which residential
 25 development of needed housing types must occur in order to meet housing needs over the next
 26 20 years. If that density is greater than the actual density of development determined under subsection
 27 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
 28 under subsection (5)(a)(A) of this section, the [*local government*] **city**, as part of its periodic
 29 review, shall adopt measures that demonstrably increase the likelihood that residential development
 30 will occur at the housing types and density and at the mix of housing types required to meet housing
 31 needs over the next 20 years.

32 (8)[*(a) A local government*] **A city** outside a metropolitan service district that takes any actions
 33 under subsection (6) or (7) of this section shall:

34 (a) Demonstrate that the comprehensive plan and land use regulations comply with goals and
 35 rules adopted by the commission and implement ORS 197.295 to 197.314.

36 (b) [*The local government shall*] Determine the density and mix of housing types anticipated as
 37 a result of actions taken under subsections (6) and (7) of this section and monitor and record the
 38 actual density and mix of housing types achieved. [*The local government shall*]

39 (c) Compare actual and anticipated density and mix. [*The local government shall*]

40 (d) Submit its comparison to the commission at the next periodic review or at the next legislative
 41 review of its urban growth boundary, whichever comes first.

42 (9) In establishing that actions and measures adopted under [*subsections*] **subsection** (6) or (7)
 43 of this section demonstrably increase the likelihood of higher density residential development, the
 44 [*local government*] **city** shall at a minimum ensure that land zoned for needed housing is in locations
 45 appropriate for the housing types identified under subsection (3) of this section and is zoned at

1 density ranges that are likely to be achieved by the housing market using the analysis in subsection
 2 (3) of this section. Actions or measures, or both, may include but are not limited to:

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

13 **SECTION 28.** ORS 197.298 is amended to read:

14 197.298. (1) In addition to any requirements established by rule addressing urbanization, land
 15 may not be included within an urban growth boundary except under the following priorities:

16 (a) First priority is land that is designated urban reserve [*land under ORS 195.145, rule or met-*
 17 *ropolitan service district action plan*], **as defined in ORS 195.137.**

18 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of
 19 land needed, second priority is land adjacent to an urban growth boundary that is identified in an
 20 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may
 21 include resource land that is completely surrounded by exception areas unless [*such*] **the** resource
 22 land is high-value farmland as described in ORS 215.710.

23 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the
 24 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247
 25 (1991 Edition).

26 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the
 27 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan
 28 for agriculture or forestry, or both.

29 (2) **A city shall give** higher priority [*shall be given*] to land of lower capability as measured by
 30 the capability classification system or by cubic foot site class, whichever is appropriate for the
 31 current use.

32 (3) **A city may include** land of lower priority under subsection (1) of this section [*may be in-*
 33 *cluded*] in an urban growth boundary if **the city finds that** land of higher priority is [*found to be*]
 34 inadequate to accommodate the amount of land estimated [*in*] **pursuant to** subsection (1) of this
 35 section for one or more of the following reasons:

36 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority
 37 lands;

38 (b) Future urban services could not reasonably be provided to the higher priority lands due to
 39 topographical or other physical constraints; or

40 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion
 41 of lower priority lands in order to include or to provide services to higher priority lands.

42 **SECTION 29.** ORS 197.298, as amended by section 12, chapter 575, Oregon Laws 2013, is
 43 amended to read:

44 197.298. (1) In addition to any requirements established by rule addressing urbanization, land
 45 may not be included within [*an urban growth boundary*] **the urban growth boundary of a city that**

1 **has incorporated territory within the corporate boundaries** of Metro except under the following
 2 priorities:

3 (a) First priority is land that is designated urban reserve [*land under ORS 195.145, rule or met-*
 4 *ropolitan service district action plan*], **as defined in ORS 195.137.**

5 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of
 6 land needed, second priority is land adjacent to an urban growth boundary that is identified in an
 7 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may
 8 include resource land that is completely surrounded by exception areas unless [*such*] **the** resource
 9 land is high-value farmland as described in ORS 215.710.

10 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the
 11 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247
 12 (1991 Edition).

13 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the
 14 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan
 15 for agriculture or forestry, or both.

16 (2) **A city shall give** higher priority [*shall be given*] to land of lower capability as measured by
 17 the capability classification system or by cubic foot site class, whichever is appropriate for the
 18 current use.

19 (3) **A city may include** land of lower priority under subsection (1) of this section [*may be in-*
 20 *cluded*] in an urban growth boundary if **the city finds that** land of higher priority is [*found to be*]
 21 inadequate to accommodate the amount of land estimated [*in*] **pursuant to** subsection (1) of this
 22 section for one or more of the following reasons:

23 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority
 24 lands;

25 (b) Future urban services could not reasonably be provided to the higher priority lands due to
 26 topographical or other physical constraints; or

27 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion
 28 of lower priority lands in order to include or to provide services to higher priority lands.

29 (4) When a city includes land within the urban growth boundary of the city pursuant to ORS
 30 197.295 to 197.314, the city shall prioritize lands for inclusion as provided in ORS 197A.320.

31 **SECTION 30.** ORS 197.299, as amended by section 5, chapter 92, Oregon Laws 2014, is amended
 32 to read:

33 197.299. (1) **A city that has incorporated territory within the corporate boundaries of a**
 34 metropolitan service district organized under ORS chapter 268 shall complete the inventory, deter-
 35 mination and analysis required under ORS 197.296 (3) not later than six years after completion of
 36 the previous inventory, determination and analysis.

37 (2)[*(a)*] The [*metropolitan service district*] **city shall:**

38 (a) Take [*such*] action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a
 39 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the
 40 analysis.

41 (b) [*The metropolitan service district shall*] Take all final action under ORS 197.296 (6)(a) neces-
 42 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two
 43 years of completing the analysis.

44 (c) [*The metropolitan service district shall*] Take action under ORS 197.296 (6)(b), within one year
 45 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land

1 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
 2 the time the actions are completed. The [*metropolitan service district*] **city** shall consider and adopt
 3 new measures that the governing body **of the city** deems appropriate under ORS 197.296 (6)(b).

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

8 (4)(a) The [*metropolitan service district*] **city** shall establish a process to expand the urban growth
 9 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
 10 dated within the existing urban growth boundary. The [*metropolitan service district*] **city** shall design
 11 the process to:

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

14 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
 15 months after submission of a complete application by a large school district as defined in ORS
 16 195.110.

17 (b) At the request of a large school district, the [*metropolitan service district*] **city** shall assist
 18 the large school district to identify school sites required by the school facility planning process de-
 19 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
 20 ORS 197.298 (3).

21 **SECTION 31.** ORS 197.301 is amended to read:

22 197.301. (1) A **city that has incorporated territory within the corporate boundaries of a**
 23 metropolitan service district organized under ORS chapter 268 shall compile and report to the De-
 24 partment of Land Conservation and Development on performance measures as described in this
 25 section at least once every two years. The information [*shall*] **must** be reported in a manner pre-
 26 scribed by the department.

27 (2) **The city shall adopt** performance measures [*subject to subsection (1) of this section shall be*
 28 *adopted by a metropolitan service district and shall include but are*] **including, but** not limited to,
 29 measures that analyze [*the following*]:

30 (a) The rate of conversion of vacant land to improved land;

31 (b) The density and price ranges of residential development, including both single family and
 32 multifamily residential units;

33 (c) The level of job creation within individual cities and the urban areas of a county inside the
 34 metropolitan service district;

35 (d) The number of residential units added to small sites assumed to be developed in the [*metro-*
 36 *politan service district's*] **city's** inventory of available lands but which can be further developed, and
 37 the conversion of existing spaces into more compact units with or without the demolition of existing
 38 buildings;

39 (e) The amount of environmentally sensitive land that is protected and the amount of environ-
 40 mentally sensitive land that is developed;

41 (f) The sales price of vacant land;

42 (g) Residential vacancy rates;

43 (h) Public access to open spaces; and

44 (i) Transportation measures including mobility, accessibility and air quality indicators.

45 **SECTION 32.** ORS 197.302 is amended to read:

1 197.302. (1) After gathering and compiling information on the performance measures as described
2 in ORS 197.301 but prior to submitting the information to the Department of Land Conservation and
3 Development, a **city that has incorporated territory within the corporate boundaries of a**
4 metropolitan service district shall determine if actions taken under ORS 197.296 (6) have established
5 the buildable land supply and housing densities necessary to accommodate estimated housing needs
6 determined under ORS 197.296 (3). If the [*metropolitan service district*] **city** determines that the
7 actions undertaken will not accommodate estimated need, the [*district*] **city** shall develop a correc-
8 tive action plan, including a schedule for implementation. The [*district*] **city** shall submit the plan
9 to the department along with the report on performance measures required under ORS 197.301.
10 Corrective action under this section may include [*amendment of the urban growth boundary,*]
11 **changes to the** comprehensive plan[, *regional framework plan, functional plan*] or land use regu-
12 lations as described in ORS 197.296.

13 (2) Within two years [*of*] **after** submitting a corrective action plan to the department, the [*met-*
14 *ropolitan service district*] **city** shall demonstrate by reference to the performance measures described
15 in ORS 197.301 that implementation of the plan has resulted in the buildable land supply and housing
16 density within the urban growth boundary necessary to accommodate the estimated housing needs
17 for each housing type as determined under ORS 197.296 (3).

18 (3) The failure of the [*metropolitan service district*] **city** to demonstrate the buildable land supply
19 and housing density necessary to accommodate housing needs as required under this section and
20 ORS 197.296 may be the basis for initiation of enforcement action pursuant to ORS 197.319 to
21 197.335.

22 **SECTION 33.** ORS 197.307 is amended to read:

23 197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for
24 persons of lower, middle and fixed income, including housing for farmworkers, is a matter of state-
25 wide concern.

26 (2) Many persons of lower, middle and fixed income depend on government assisted housing as
27 a source of affordable, decent, safe and sanitary housing.

28 (3) When a need has been shown for housing within an urban growth boundary at particular
29 price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or
30 in zones described by some comprehensive plans as overlay zones with sufficient buildable land to
31 satisfy that need.

32 (4) Except as provided in subsection (6) of this section, a local government may adopt and apply
33 only clear and objective standards, conditions and procedures regulating the development of needed
34 housing on buildable land described in subsection (3) of this section. The standards, conditions and
35 procedures may not have the effect, either in themselves or cumulatively, of discouraging needed
36 housing through unreasonable cost or delay.

37 (5) The provisions of subsection (4) of this section do not apply to[:]

38 [*(a) An application or permit for residential development in an area identified in a formally*
39 *adopted central city plan, or a regional center as defined by Metro, in a city with a population of*
40 *500,000 or more.*]

41 [*(b)*] an application or permit for residential development in historic areas designated for pro-
42 tection under a land use planning goal protecting historic areas.

43 (6) In addition to an approval process for needed housing based on clear and objective standards,
44 conditions and procedures as provided in subsection (4) of this section, a local government may
45 adopt and apply an alternative approval process for applications and permits for residential devel-

1 opment based on approval criteria regulating, in whole or in part, appearance or aesthetics that are
 2 not clear and objective if:

3 (a) The applicant retains the option of proceeding under the approval process that meets the
 4 requirements of subsection (4) of this section;

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

7 (c) The approval criteria for the alternative approval process authorize a density at or above
 8 the density level authorized in the zone under the approval process provided in subsection (4) of this
 9 section.

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

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

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

14 (c) Establish approval procedures.

15 (8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt
 16 any or all of the following placement standards, or any less restrictive standard, for the approval
 17 of manufactured homes located outside mobile home parks:

18 (a) The manufactured home shall be multisectional and enclose a space of not less than 1,000
 19 square feet.

20 (b) The manufactured home shall be placed on an excavated and back-filled foundation and en-
 21 closed at the perimeter such that the manufactured home is located not more than 12 inches above
 22 grade.

23 (c) The manufactured home shall have a pitched roof, except that no standard shall require a
 24 slope of greater than a nominal three feet in height for each 12 feet in width.

25 (d) The manufactured home shall have exterior siding and roofing which in color, material and
 26 appearance is similar to the exterior siding and roofing material commonly used on residential
 27 dwellings within the community or which is comparable to the predominant materials used on sur-
 28 rounding dwellings as determined by the local permit approval authority.

29 (e) The manufactured home shall be certified by the manufacturer to have an exterior thermal
 30 envelope meeting performance standards which reduce levels equivalent to the performance stan-
 31 dards required of single-family dwellings constructed under the state building code as defined in ORS
 32 455.010.

33 (f) The manufactured home shall have a garage or carport constructed of like materials. A ju-
 34 risdiction may require an attached or detached garage in lieu of a carport where such is consistent
 35 with the predominant construction of immediately surrounding dwellings.

36 (g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may
 37 subject a manufactured home and the lot upon which it is sited to any development standard, ar-
 38 chitectural requirement and minimum size requirement to which a conventional single-family resi-
 39 dential dwelling on the same lot would be subject.

40 **SECTION 34.** ORS 197.309 is amended to read:

41 197.309. (1) Except as provided in subsection (2) of this section, a [*city, county or metropolitan*
 42 *service district*] **local government** may not adopt a land use regulation [*or functional plan*
 43 *provision*], or impose [*as*] a condition for approving a permit under ORS 215.427 or 227.178, [*a re-*
 44 *quirement*] that has the effect of establishing the sales price for a housing unit or residential building
 45 lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated

1 for sale to any particular class or group of purchasers.

2 (2) This section does not limit the authority of a *[city, county or metropolitan service district]*
 3 **local government** to:

4 (a) Adopt or enforce a land use regulation, *[functional plan provision]* or condition of approval,
 5 creating or implementing an incentive, contract commitment, density bonus or other voluntary reg-
 6 ulation, provision or condition designed to increase the supply of moderate or lower cost housing
 7 units; or

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

9 **SECTION 35.** ORS 197.319 is amended to read:

10 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
 11 the person *[shall]* **must**:

12 (a) Present the reasons, in writing, for such an order to the affected local government; and

13 (b) Request:

14 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
 15 or urban service agreement or decision-making process which is the basis for the order; or

16 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
 17 cial district agreement or decision-making process that is the basis for the order.

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

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

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

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

30 **SECTION 36.** ORS 197.320 is amended to read:

31 197.320. The Land Conservation and Development Commission shall issue an order requiring a
 32 local government, state agency or special district to take action necessary to bring its compre-
 33 hensive plan, land use regulation, limited land use decisions or other land use decisions into compliance
 34 with the goals, acknowledged comprehensive plan provisions or land use regulations if the commis-
 35 sion has good cause to believe:

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

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

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

44 (4) A state agency is not making satisfactory progress in carrying out its coordination agree-
 45 ment or the requirements of ORS 197.180;

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

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

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

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

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

13 (10) A local government is applying approval standards, special conditions on approval of spe-
 14 cific development proposals or procedures for approval that do not comply with ORS 197.307 (6); **or**

15 (11) A local government is not making satisfactory progress toward meeting its obligations un-
 16 der ORS 195.065[; *or*].

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

21 **SECTION 37.** Section 6, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 5,
 22 Oregon Laws 2010, and section 1, chapter 144, Oregon Laws 2011, is amended to read:

23 **Sec. 6.** (1) There is established the Oregon Transfer of Development Rights Pilot Program in the
 24 Department of Land Conservation and Development. Working with the State Forestry Department,
 25 the State Department of Agriculture and local governments and with other state agencies, as ap-
 26 propriate, the Department of Land Conservation and Development shall implement the pilot pro-
 27 gram.

28 (2) The Land Conservation and Development Commission shall adopt rules to implement the pi-
 29 lot program. The commission, by rule, may:

30 (a) Establish a maximum ratio of transferable development rights to severed development inter-
 31 ests in a sending area for each pilot project. The maximum ratio:

32 (A) Must be calculated to protect lands planned and zoned for forest use and to create incen-
 33 tives for owners of land in the sending area to participate in the pilot project;

34 (B) May not exceed one transferable development right to one severed development interest if
 35 the receiving area is outside of urban growth boundaries and outside unincorporated communities;

36 (C) May not exceed two transferable development rights to one severed development interest if
 37 the receiving area is in an unincorporated community; and

38 (D) Must be consistent with plans for public facilities and services in the receiving area.

39 (b) Require participating owners of land in a sending area to grant conservation easements
 40 pursuant to ORS 271.715 to 271.795, or otherwise obligate themselves, to ensure that additional
 41 residential development of their property does not occur.

42 (3) The commission, by rule, shall establish a process for selecting pilot projects from among
 43 potential projects nominated by local governments. The process must require local governments to
 44 nominate potential projects by submitting a concept plan for each proposed pilot project, including
 45 proposed amendments, if any, to the comprehensive plan and land use regulations implementing the

1 plan that are necessary to implement the pilot project.

2 (4) When selecting a pilot project, the commission must find that the pilot project is:

3 (a) Reasonably likely to provide a net benefit to the forest economy or the agricultural economy
4 of this state;

5 (b) Designed to avoid or minimize adverse effects on transportation, natural resources, public
6 facilities and services, nearby urban areas and nearby farm and forest uses; and

7 (c) Designed so that new development authorized in a receiving area does not conflict with a
8 resource or area inventoried under a statewide land use planning goal relating to natural resources,
9 scenic and historic areas and open spaces, or with an area identified as a Conservation Opportunity
10 Area in the "Oregon Conservation Strategy" adopted by the State Fish and Wildlife Commission and
11 published by the State Department of Fish and Wildlife in September of 2006.

12 (5) The commission may select up to three pilot projects for the transfer of development rights
13 under sections 6 to 8, chapter 636, Oregon Laws 2009.

14 (6) A sending area for a pilot project under sections 6 to 8, chapter 636, Oregon Laws 2009:

15 (a) Must be planned and zoned for forest use;

16 (b) May not exceed 10,000 acres; and

17 (c) Must contain four or fewer dwelling units per square mile.

18 (7) The commission may establish additional requirements for sending areas.

19 (8)(a) Except as provided otherwise in paragraph (b) of this subsection, a local government par-
20 ticipating in a pilot project shall select a receiving area for the pilot project based on the following
21 priorities:

22 (A) First priority is lands within an urban growth boundary.

23 (B) Second priority is lands that are adjacent to an urban growth boundary and that are subject
24 to an exception from a statewide land use planning goal relating to agricultural lands or forestlands.

25 (C) Third priority is lands that are:

26 (i) Within an urban unincorporated community or a rural community; or

27 (ii) In a resort community, or a rural service center, that contains at least 100 dwelling units
28 at the time the pilot project is approved.

29 (D) Fourth priority is exception areas approved under ORS 197.732 that are adjacent to urban
30 unincorporated communities or rural communities, if the county agrees to bring the receiving area
31 within the boundaries of the community and to provide the community with water and sewer service.

32 (b) The commission may authorize a local government to select lower priority lands over higher
33 priority lands for a receiving area in a pilot project only if the local government has established,
34 to the satisfaction of the commission, that selecting higher priority lands as the receiving area is
35 not likely to result in the severance and transfer of a significant proportion of the development in-
36 terests in the sending area within five years after the receiving area is established.

37 (c) The minimum residential density of development allowed in receiving areas intended for
38 residential development is:

39 (A) For second priority lands described in paragraph (a)(B) of this subsection, at least five
40 dwelling units per net acre or 125 percent of the average residential density allowed within the ur-
41 ban growth boundary when the pilot project is approved by the commission, whichever is greater.

42 (B) For third priority and fourth priority lands described in paragraph (a)(C) and (D) of this
43 subsection, at least 125 percent of the average residential density allowed on land planned for resi-
44 dential use within the unincorporated community when the pilot project is approved by the com-
45 mission.

1 (d) For third and fourth priority lands described in paragraph (a)(C) and (D) of this subsection
 2 that are within one jurisdiction but adjacent to another jurisdiction, the written consent of the ad-
 3 jacent jurisdiction is required for designation of the receiving area.

4 (e) A receiving area may not be located within 10 miles of the [*Portland metropolitan area*] urban
 5 growth boundary **of a city that has incorporated territory within the corporate boundaries of**
 6 **Metro.**

7 (9) The commission may establish additional requirements for receiving areas.

8 (10) The commission, by rule, may provide a bonus in the form of a higher transfer ratio if a
 9 substantial portion of the new development in the receiving area of the pilot project is affordable
 10 housing within an urban growth boundary.

11 **SECTION 38.** ORS 197.626, as amended by section 6, chapter 92, Oregon Laws 2014, is amended
 12 to read:

13 197.626. (1) A local government shall submit for review and the Land Conservation and Devel-
 14 opment Commission shall review the following final land use decisions in the manner provided for
 15 review of a work task under ORS 197.633:

16 (a) An amendment of an urban growth boundary, by a **city that has incorporated territory**
 17 **within the corporate boundaries of a** metropolitan service district, that adds more than 100 acres
 18 to the area within [*its*] **the** urban growth boundary;

19 (b) An amendment of an urban growth boundary, by a city with a population of 2,500 or more
 20 within its urban growth boundary, that adds more than 50 acres to the area within the urban growth
 21 boundary;

22 (c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a **city that**
 23 **has incorporated territory within the corporate boundaries of a** metropolitan service district
 24 or by a city [*with*] **that has all of its incorporated territory located outside the corporate**
 25 **boundaries of a metropolitan service district and has** a population of 2,500 or more within [*its*]
 26 **the city's** urban growth boundary;

27 (d) An amendment of the boundary of an urban reserve by a **city that has incorporated ter-**
 28 **ritory within the corporate boundaries of** a metropolitan service district;

29 (e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban
 30 reserve by a city [*with*] **that has all of its incorporated territory located outside the corporate**
 31 **boundaries of a metropolitan service district and has** a population of 2,500 [*of*] or more within
 32 [*its*] **the city's** urban growth boundary; and

33 (f) A designation, or an amendment to the designation, of a rural reserve under ORS 195.137 to
 34 195.145 by a county[, *in coordination with a metropolitan service district, and the amendment of the*
 35 *designation*].

36 (2) When the commission reviews a final land use decision [*of a metropolitan service district*]
 37 under subsection (1)(a), (c), (d) or (f) of this section, the commission shall issue a final order in
 38 writing within 180 days after the commission votes whether to approve the decision.

39 (3) A final order of the commission under this section may be appealed to the Court of Appeals
 40 in the manner described in ORS 197.650 and 197.651.

41 **SECTION 39.** ORS 197.633 is amended to read:

42 197.633. (1) The periodic review process is divided into two phases. Phase one is the evaluation
 43 of the existing comprehensive plan, land use regulations and citizen involvement program and, if
 44 necessary, the development of a work program to make needed changes to the comprehensive plan
 45 or land use regulations. Phase two is the completion of work tasks outlined in the work program.

1 (2) The Land Conservation and Development Commission shall adopt rules for conducting peri-
 2 odic review that address:

- 3 (a) Initiating periodic review;
- 4 (b) Citizen participation;
- 5 (c) The participation of state agencies;
- 6 (d) The preparation, review and approval of a work program; and
- 7 (e) The preparation, review and approval of work tasks, including:
 - 8 (A) The amendment of an urban growth boundary.
 - 9 (B) The designation of, or withdrawal of territory from, urban reserves or rural reserves.

10 (3) The rules adopted by the commission under this section may include, but are not limited to,
 11 provisions concerning standing, requirements to raise issues before local government as a precon-
 12 dition to commission review and other provisions concerning the scope and standard for commission
 13 review to simplify or speed the review. The commission shall confine its review of evidence to the
 14 local record. The commission's standard of review:

15 (a) For evidentiary issues, is whether there is substantial evidence in the record as a whole to
 16 support the local government's decision.

17 (b) For procedural issues, is whether the local government failed to follow the procedures ap-
 18 plicable to the matter before the local government in a manner that prejudiced the substantial rights
 19 of a party to the proceeding.

20 (c) For issues concerning compliance with applicable laws, is whether the local government's
 21 decision on the whole complies with applicable statutes, statewide land use planning goals, admin-
 22 istrative rules, the comprehensive plan[, *the regional framework plan, the functional plan*] and land
 23 use regulations. The commission shall defer to a local government's interpretation of the compre-
 24 hensive plan or land use regulations in the manner provided in ORS 197.829. For purposes of this
 25 paragraph, "complies" has the meaning given the term "compliance" in the phrase "compliance with
 26 the goals" in ORS 197.747.

27 (4) A decision by the Director of the Department of Land Conservation and Development to
 28 approve a work program, that no work program is necessary or that no further work is necessary
 29 is final and not subject to appeal.

30 (5) The director:

31 (a) Shall take action on a work task not later than 120 days after the local government submits
 32 the work task for review unless the local government waives the 120-day deadline or the commission
 33 grants the director an extension. If the director does not take action within the time period required
 34 by this subsection, the work task is deemed approved. The department shall provide a letter to the
 35 local government certifying that the work task is approved unless an interested party has filed a
 36 timely objection to the work task consistent with administrative rules for conducting periodic re-
 37 view.

38 (b) May approve or remand a work task or refer the work task to the commission for a decision.
 39 A decision by the director to approve or remand a work task may be appealed to the commission.

40 (6) Except as provided in this subsection, the commission shall take action on the appeal or re-
 41 ferral of a work task within 90 days of the appeal or referral. Action by the commission in response
 42 to an appeal from a decision of the director or a referral is a final order subject to judicial review
 43 in the manner provided in ORS 197.650 and 197.651. The commission may extend the time for taking
 44 action on the appeal or referral if the commission finds that:

- 45 (a) The appeal or referral is appropriate for mediation;

1 (b) The appeal or referral raises new or complex issues of fact or law that make it unreasonable
 2 for the commission to give adequate consideration to the issues within the 90-day limit; or

3 (c) The parties to the appeal and the commission agree to an extension, not to exceed an addi-
 4 tional 90 days.

5 (7) The commission and a local government shall attempt to complete periodic review within
 6 three years after approval of a work program. To promote the timely completion of periodic review,
 7 the commission shall establish a system of incentives to encourage local government compliance
 8 with timelines in periodic review work programs.

9 **SECTION 40.** ORS 197.646 is amended to read:

10 197.646. (1) A local government shall amend its acknowledged comprehensive plan [*or acknowl-*
 11 *edged regional framework plan*] and land use regulations implementing [*either*] **the** plan by a self-
 12 initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with a new
 13 requirement in land use statutes, statewide land use planning goals or rules implementing the stat-
 14 utes or the goals.

15 (2)(a) The Department of Land Conservation and Development shall notify local governments
 16 when a new requirement in land use statutes, statewide land use planning goals or rules imple-
 17 menting the statutes or the goals requires changes to an acknowledged comprehensive plan[, *an*
 18 *acknowledged regional framework plan*] or land use regulations implementing [*either*] **the** plan.

19 (b) The Land Conservation and Development Commission shall establish, by rule, the time period
 20 within which an acknowledged comprehensive plan[, *an acknowledged regional framework plan*] and
 21 land use regulations implementing [*either*] **the** plan must be in compliance with:

22 (A) A new requirement in a land use statute, if the legislation does not specify a time period for
 23 compliance; and

24 (B) A new requirement in a land use planning goal or rule adopted by the commission.

25 (3) When a local government does not adopt amendments to an acknowledged comprehensive
 26 plan[, *an acknowledged regional framework plan*] or land use regulations implementing [*either*] **the**
 27 plan, as required by subsection (1) of this section, the new requirements apply directly to the local
 28 government's land use decisions. The failure to adopt amendments to an acknowledged compre-
 29 hensive plan[, *an acknowledged regional framework plan*] or land use regulations implementing [*either*]
 30 **the** plan required by subsection (1) of this section is a basis for initiation of enforcement action
 31 pursuant to ORS 197.319 to 197.335.

32 **SECTION 41.** ORS 197.651 is amended to read:

33 197.651. (1) Judicial review of a final order of the Land Conservation and Development Com-
 34 mission under ORS 197.626 concerning the designation of urban reserves [*under ORS 195.145 (1)(b)*
 35 *or rural reserves under ORS 195.141*] **or rural reserves under ORS 195.137 to 195.145** is as pro-
 36 vided in subsections (3) to (12) of this section.

37 (2) Judicial review of any other final order of the commission under ORS 197.626 or of a final
 38 order of the commission under 197.180, 197.251, 197.628 to 197.651, 197.652 to 197.658, 197.659,
 39 215.780 or 215.788 to 215.794 is as provided in subsections (3) to (7), (9), (10) and (12) of this section.

40 (3) A proceeding for judicial review under this section may be instituted by filing a petition in
 41 the Court of Appeals. The petition must be filed within 21 days after the date the commission de-
 42 livered or mailed the order upon which the petition is based.

43 (4) The filing of the petition, as set forth in subsection (3) of this section, and service of a peti-
 44 tion on the persons who submitted oral or written testimony in the proceeding before the commis-
 45 sion are jurisdictional and may not be waived or extended.

1 (5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies
 2 of the petition must be served by registered or certified mail upon the commission and the persons
 3 who submitted oral or written testimony in the proceeding before the commission.

4 (6) Within 21 days after service of the petition, the commission shall transmit to the Court of
 5 Appeals the original or a certified copy of the entire record of the proceeding under review. How-
 6 ever, by stipulation of the parties to the review proceeding, the record may be shortened. The Court
 7 of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the addi-
 8 tional costs. The Court of Appeals may require or permit subsequent corrections or additions to the
 9 record. Except as specifically provided in this subsection, the Court of Appeals may not tax the cost
 10 of the record to the petitioner or an intervening party. However, the Court of Appeals may tax the
 11 costs to a party that files a frivolous petition for judicial review.

12 (7) Petitions and briefs must be filed within time periods and in a manner established by the
 13 Court of Appeals by rule.

14 (8) The Court of Appeals shall:

15 (a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court
 16 of Appeals determines that the ends of justice served by holding oral argument on a later day out-
 17 weigh the best interests of the public and the parties. However, the Court of Appeals may not hold
 18 oral argument more than 49 days after the date of transmittal of the record because of general
 19 congestion of the court calendar or lack of diligent preparation or attention to the case by a member
 20 of the court or a party.

21 (b) Set forth in writing and provide to the parties a determination to hear oral argument more
 22 than 49 days from the date the record is transmitted, together with the reasons for the determi-
 23 nation. The Court of Appeals shall schedule oral argument as soon as is practicable.

24 (c) Consider, in making a determination under paragraph (b) of this subsection:

25 (A) Whether the case is so unusual or complex, due to the number of parties or the existence
 26 of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief
 27 the case and for the Court of Appeals to prepare for oral argument; and

28 (B) Whether the failure to hold oral argument at a later date likely would result in a miscar-
 29 riage of justice.

30 (9) The court:

31 (a) Shall limit judicial review of an order reviewed under this section to the record.

32 (b) May not substitute its judgment for that of the Land Conservation and Development Com-
 33 mission as to an issue of fact.

34 (10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section.
 35 The Court of Appeals shall reverse or remand the order only if the court finds the order is:

36 (a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal
 37 or remand unless the Court of Appeals determines that substantial rights of the petitioner were
 38 prejudiced.

39 (b) Unconstitutional.

40 (c) Not supported by substantial evidence in the whole record as to facts found by the commis-
 41 sion.

42 (11) The Court of Appeals shall issue a final order on the petition for judicial review with the
 43 greatest possible expediency.

44 (12) If the order of the commission is remanded by the Court of Appeals or the Supreme Court,
 45 the commission shall respond to the court's appellate judgment within 30 days.

SECTION 42. ORS 199.705 is amended to read:

199.705. In ORS 199.705 to 199.795:

(1) “City-county” means a city incorporated under ORS 199.705 to 199.795 and having both city and county functions.

(2) “City in the county” means a city having more than 50 percent of its population in the county.

(3) “Most populous city” means a city of not less than 300,000 population.

(4) “Unincorporated area” means the *[area of]* unincorporated territory within *[the]* a county that is outside the urban growth boundary *[adopted under ORS 268.390]* **of a city that has incorporated territory within the corporate boundaries of a metropolitan service district.**

SECTION 43. ORS 215.213 is amended to read:

215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.

(b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Nonresidential buildings customarily provided in conjunction with farm use.

(f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

1 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
2 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
3 hardship suffered by the existing resident or a relative of the resident. Within three months of the
4 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
5 ished or, in the case of an existing building, the building shall be removed, demolished or returned
6 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
7 view of the hardship claimed under this paragraph. A temporary residence approved under this
8 paragraph is not eligible for replacement under paragraph (q) of this subsection.

9 (j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

10 (k) Reconstruction or modification of public roads and highways, including the placement of
11 utility facilities overhead and in the subsurface of public roads and highways along the public right
12 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
13 would occur, or no new land parcels result.

14 (L) Temporary public road and highway detours that will be abandoned and restored to original
15 condition or use at such time as no longer needed.

16 (m) Minor betterment of existing public road and highway related facilities, such as maintenance
17 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
18 public-owned property utilized to support the operation and maintenance of public roads and high-
19 ways.

20 (n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
21 been listed in a county inventory as historic property as defined in ORS 358.480.

22 (o) Creation, restoration or enhancement of wetlands.

23 (p) A winery, as described in ORS 215.452 or 215.453.

24 (q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement
25 of a lawfully established dwelling.

26 (r) Farm stands if:

27 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
28 farm operation, or grown on the farm operation and other farm operations in the local agricultural
29 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
30 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
31 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
32 and

33 (B) The farm stand does not include structures designed for occupancy as a residence or for
34 activity other than the sale of farm crops or livestock and does not include structures for banquets,
35 public gatherings or public entertainment.

36 (s) An armed forces reserve center, if the center is within one-half mile of a community college.
37 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
38 Guard support facility.

39 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
40 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
41 area or placed on a permanent foundation unless the building or facility preexisted the use approved
42 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
43 the surface preexisted the use approved under this paragraph. An owner of property used for the
44 purpose authorized in this paragraph may charge a person operating the use on the property rent
45 for the property. An operator may charge users of the property a fee that does not exceed the

1 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
2 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
3 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
4 ground.

5 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
6 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
7 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
8 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
9 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
10 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
11 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
12 cable siting standards but the standards may not be applied in a manner that prohibits the siting
13 of the processing facility or establishment.

14 (v) Fire service facilities providing rural fire protection services.

15 (w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational
16 facilities, not including parks or other recreational structures and facilities, associated with a dis-
17 trict as defined in ORS 540.505.

18 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
19 cilities or structures that end at the point where the utility service is received by the customer and
20 that are located on one or more of the following:

21 (A) A public right of way;

22 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
23 jacent property owners has been obtained; or

24 (C) The property to be served by the utility.

25 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
26 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
27 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
28 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
29 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
30 exclusive farm use zone under this chapter.

31 (z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
32 farm buildings, when:

33 (A) The number of dogs participating in training does not exceed 10 dogs per training class and
34 the number of training classes to be held on-site does not exceed six per day; and

35 (B) The number of dogs participating in a testing trial does not exceed 60 and the number of
36 testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

37 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
38 the following uses may be established in any area zoned for exclusive farm use subject to ORS
39 215.296:

40 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
41 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
42 eration or woodlot:

43 (A) Consists of 20 or more acres; and

44 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
45 annual gross income from the crops, livestock or forest products to be raised on the farm operation

1 or woodlot.

2 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
3 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
4 quired under paragraph (a) of this subsection, if the lot or parcel:

5 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
6 years out of the three calendar years before the year in which the application for the dwelling was
7 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
8 in annual gross farm income; or

9 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
10 nual income.

11 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
12 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

13 (d) Operations conducted for:

14 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
15 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

16 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
17 sources subject to ORS 215.298;

18 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

19 (D) Processing of other mineral resources and other subsurface resources.

20 (e) Community centers owned by a governmental agency or a nonprofit community organization
21 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
22 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
23 county governing body or its designee, a private campground may provide yurts for overnight
24 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
25 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
26 Upon request of a county governing body, the Land Conservation and Development Commission may
27 provide by rule for an increase in the number of yurts allowed on all or a portion of the
28 campgrounds in a county if the commission determines that the increase will comply with the stan-
29 dards described in ORS 215.296 (1). A public park or campground may be established as provided
30 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
31 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
32 ance.

33 (f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

34 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

35 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
36 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
37 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
38 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
39 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
40 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
41 granted through waiver action by the Oregon Department of Aviation in specific instances. A
42 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
43 ject to any applicable rules of the Oregon Department of Aviation.

44 (i) A facility for the primary processing of forest products, provided that such facility is found
45 to not seriously interfere with accepted farming practices and is compatible with farm uses de-

1 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
 2 renewable. These facilities are intended to be only portable or temporary in nature. The primary
 3 processing of a forest product, as used in this section, means the use of a portable chipper or stud
 4 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
 5 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
 6 contiguous land where the primary processing facility is located.

7 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
 8 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
 9 mental Quality together with equipment, facilities or buildings necessary for its operation.

10 (k)(A) Commercial dog boarding kennels; or

11 (B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of
 12 this section.

13 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

14 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
 15 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
 16 shall not include any species under quarantine by the State Department of Agriculture or the United
 17 States Department of Agriculture. The county shall provide notice of all applications under this
 18 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
 19 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
 20 tive decision or initial public hearing on the application.

21 (n) Home occupations as provided in ORS 215.448.

22 (o) Transmission towers over 200 feet in height.

23 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
 24 but not resulting in the creation of new land parcels.

25 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
 26 placement of buildings but not resulting in the creation of new land parcels.

27 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
 28 stations and rest areas, where additional property or right of way is required but not resulting in
 29 the creation of new land parcels.

30 (s) A destination resort that is approved consistent with the requirements of any statewide
 31 planning goal relating to the siting of a destination resort.

32 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
 33 dences.

34 (u) A living history museum related to resource based activities owned and operated by a gov-
 35 ernmental agency or a local historical society, together with limited commercial activities and fa-
 36 cilities that are directly related to the use and enjoyment of the museum and located within
 37 authentic buildings of the depicted historic period or the museum administration building, if areas
 38 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
 39 the museum administration buildings and parking lot are located within one quarter mile of the
 40 *[metropolitan]* urban growth boundary **of a city that has incorporated territory within the cor-
 41 porate boundaries of a metropolitan service district.** As used in this paragraph:

42 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
 43 culture of some specific historic period using authentic buildings, tools, equipment and people to
 44 simulate past activities and events; and

45 (B) "Local historical society" means the local historical society, recognized as such by the

1 county governing body and organized under ORS chapter 65.

2 (v) Operations for the extraction and bottling of water.

3 (w) An aerial fireworks display business that has been in continuous operation at its current
4 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
5 permit to sell or provide fireworks.

6 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
7 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
8 with the growing and marketing of nursery stock on the land that constitutes farm use.

9 (y) Public or private schools for kindergarten through grade 12, including all buildings essential
10 to the operation of a school, primarily for residents of the rural area in which the school is located.

11 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
12 a single-family residential dwelling not provided in conjunction with farm use may be established
13 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
14 the Agricultural Capability Classification System in use by the United States Department of Agri-
15 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
16 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
17 showing all of the following:

18 (a) The dwelling or activities associated with the dwelling will not force a significant change in
19 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

20 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
21 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location
22 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
23 or location if it can reasonably be put to farm use in conjunction with other land.

24 (c) Complies with such other conditions as the governing body or its designee considers neces-
25 sary.

26 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
27 one single-family dwelling, not provided in conjunction with farm use, may be established in any
28 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
29 is not larger than three acres upon written findings showing:

30 (a) The dwelling or activities associated with the dwelling will not force a significant change in
31 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

32 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
33 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
34 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
35 applicable; and

36 (c) The dwelling complies with other conditions considered necessary by the governing body or
37 its designee.

38 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
39 body shall notify:

40 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
41 tablished; and

42 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
43 imposed by the county to cover the cost of such notice.

44 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
45 following the date of postmark of the notice to file a written objection on the grounds only that the

1 dwelling or activities associated with it would force a significant change in or significantly increase
2 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
3 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
4 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
5 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
6 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
7 this section.

8 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
9 1948, and July 1, 1983. For the purposes of this section:

10 (a) Only one lot or parcel exists if:

11 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
12 scribed in this section; and

13 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
14 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
15 or in tenancy in common.

16 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
17 but not limited to, lots, parcels or lots and parcels separated only by a public road.

18 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
19 retain a life estate in a dwelling on that property and in a tract of land under and around the
20 dwelling.

21 (9) No final approval of a nonfarm use under this section shall be given unless any additional
22 taxes imposed upon the change in use have been paid.

23 (10) Roads, highways and other transportation facilities and improvements not allowed under
24 subsections (1) and (2) of this section may be established, subject to the approval of the governing
25 body or its designee, in areas zoned for exclusive farm use subject to:

26 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
27 goal with which the facility or improvement does not comply; or

28 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
29 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

30 (11) The following agri-tourism and other commercial events or activities that are related to and
31 supportive of agriculture may be established in any area zoned for exclusive farm use:

32 (a) A county may authorize a single agri-tourism or other commercial event or activity on a
33 tract in a calendar year by an authorization that is personal to the applicant and is not transferred
34 by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event
35 or activity meets any local standards that apply and:

36 (A) The agri-tourism or other commercial event or activity is incidental and subordinate to ex-
37 isting farm use on the tract;

38 (B) The duration of the agri-tourism or other commercial event or activity does not exceed 72
39 consecutive hours;

40 (C) The maximum attendance at the agri-tourism or other commercial event or activity does not
41 exceed 500 people;

42 (D) The maximum number of motor vehicles parked at the site of the agri-tourism or other
43 commercial event or activity does not exceed 250 vehicles;

44 (E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

45 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary

1 structures, or in existing permitted structures, subject to health and fire and life safety require-
 2 ments; and

3 (G) The agri-tourism or other commercial event or activity complies with conditions established
 4 for:

- 5 (i) Planned hours of operation;
- 6 (ii) Access, egress and parking;
- 7 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-
 8 ipated use of public roads; and
- 9 (iv) Sanitation and solid waste.

10 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
 11 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
 12 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
 13 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
 14 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
 15 To approve an expedited, single-event license, the governing body of a county or its designee must
 16 determine that the proposed agri-tourism or other commercial event or activity meets any local
 17 standards that apply, and the agri-tourism or other commercial event or activity:

- 18 (A) Must be incidental and subordinate to existing farm use on the tract;
- 19 (B) May not begin before 6 a.m. or end after 10 p.m.;
- 20 (C) May not involve more than 100 attendees or 50 vehicles;
- 21 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- 22 (E) May not require or involve the construction or use of a new permanent structure in con-
 23 nection with the agri-tourism or other commercial event or activity;
- 24 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
 25 properties consent, in writing, to the location; and
- 26 (G) Must comply with applicable health and fire and life safety requirements.

27 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
 28 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
 29 use permit that is personal to the applicant and is not transferred by, or transferable with, a
 30 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
 31 local standards that apply, and the agri-tourism or other commercial events or activities:

- 32 (A) Must be incidental and subordinate to existing farm use on the tract;
- 33 (B) May not, individually, exceed a duration of 72 consecutive hours;
- 34 (C) May not require that a new permanent structure be built, used or occupied in connection
 35 with the agri-tourism or other commercial events or activities;
- 36 (D) Must comply with ORS 215.296;
- 37 (E) May not, in combination with other agri-tourism or other commercial events or activities
 38 authorized in the area, materially alter the stability of the land use pattern in the area; and
- 39 (F) Must comply with conditions established for:

- 40 (i) The types of agri-tourism or other commercial events or activities that are authorized during
 41 each calendar year, including the number and duration of the agri-tourism or other commercial
 42 events and activities, the anticipated daily attendance and the hours of operation;
- 43 (ii) The location of existing structures and the location of proposed temporary structures to be
 44 used in connection with the agri-tourism or other commercial events or activities;
- 45 (iii) The location of access and egress and parking facilities to be used in connection with the

1 agri-tourism or other commercial events or activities;

2 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
3 public roads; and

4 (v) Sanitation and solid waste.

5 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
6 or other commercial events or activities that occur more frequently or for a longer period or that
7 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
8 commercial events or activities comply with any local standards that apply and the agri-tourism or
9 other commercial events or activities:

10 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
11 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

12 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

13 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
14 and

15 (D) Do not exceed 18 events or activities in a calendar year.

16 (12) A holder of a permit authorized by a county under subsection (11)(d) of this section must
17 request review of the permit at four-year intervals. Upon receipt of a request for review, the county
18 shall:

19 (a) Provide public notice and an opportunity for public comment as part of the review process;
20 and

21 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
22 tions of approval required by the permit and the standards established by subsection (11)(d) of this
23 section.

24 (13) For the purposes of subsection (11) of this section:

25 (a) A county may authorize the use of temporary structures established in connection with the
26 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
27 tion. However, the temporary structures must be removed at the end of the agri-tourism or other
28 event or activity. The county may not approve an alteration to the land in connection with an
29 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
30 including, but not limited to, grading, filling or paving.

31 (b) The county may issue the limited use permits authorized by subsection (11)(c) of this section
32 for two calendar years. When considering an application for renewal, the county shall ensure com-
33 pliance with the provisions of subsection (11)(c) of this section, any local standards that apply and
34 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
35 authorized by the permit.

36 (c) The authorizations provided by subsection (11) of this section are in addition to other au-
37 thorizations that may be provided by law, except that “outdoor mass gathering” and “other gather-
38 ing,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial
39 events and activities.

40 **SECTION 44.** ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, is
41 amended to read:

42 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
43 Edition), the following uses may be established in any area zoned for exclusive farm use:

44 (a) Churches and cemeteries in conjunction with churches.

45 (b) The propagation or harvesting of a forest product.

1 (c) Utility facilities necessary for public service, including wetland waste treatment systems but
2 not including commercial facilities for the purpose of generating electrical power for public use by
3 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
4 may be established as provided in:

5 (A) ORS 215.275; or

6 (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and
7 469.300.

8 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
9 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
10 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
11 operator does or will require the assistance of the relative in the management of the farm use and
12 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
13 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
14 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
15 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
16 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
17 shall operate as a partition of the homesite to create a new parcel.

18 (e) Nonresidential buildings customarily provided in conjunction with farm use.

19 (f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction
20 with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as
21 part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum
22 lot size acknowledged under ORS 197.251.

23 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
24 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
25 compressors, separators and other customary production equipment for an individual well adjacent
26 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
27 an exception under ORS 197.732 (2)(a) or (b).

28 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
29 construction relating to such operations shall not be a basis for an exception under ORS 197.732
30 (2)(a) or (b).

31 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
32 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
33 hardship suffered by the existing resident or a relative of the resident. Within three months of the
34 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
35 ished or, in the case of an existing building, the building shall be removed, demolished or returned
36 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
37 view of the hardship claimed under this paragraph. A temporary residence approved under this
38 paragraph is not eligible for replacement under paragraph (q) of this subsection.

39 (j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

40 (k) Reconstruction or modification of public roads and highways, including the placement of
41 utility facilities overhead and in the subsurface of public roads and highways along the public right
42 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
43 would occur, or no new land parcels result.

44 (L) Temporary public road and highway detours that will be abandoned and restored to original
45 condition or use at such time as no longer needed.

1 (m) Minor betterment of existing public road and highway related facilities, such as maintenance
 2 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
 3 public-owned property utilized to support the operation and maintenance of public roads and high-
 4 ways.

5 (n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
 6 been listed in a county inventory as historic property as defined in ORS 358.480.

7 (o) Creation, restoration or enhancement of wetlands.

8 (p) A winery, as described in ORS 215.452 or 215.453.

9 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

10 (A) Has intact exterior walls and roof structure;

11 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
 12 a sanitary waste disposal system;

13 (C) Has interior wiring for interior lights;

14 (D) Has a heating system; and

15 (E) In the case of replacement:

16 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
 17 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
 18 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
 19 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
 20 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
 21 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
 22 deed records for the county where the property is located a deed restriction prohibiting the siting
 23 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
 24 a statement of release is placed in the deed records for the county. The release shall be signed by
 25 the county or its designee and state that the provisions of this paragraph regarding replacement
 26 dwellings have changed to allow the siting of another dwelling. The county planning director or the
 27 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
 28 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
 29 and release statements filed under this paragraph; and

30 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
 31 ished within three months after the deferred replacement permit is issued. A deferred replacement
 32 permit allows construction of the replacement dwelling at any time. If, however, the established
 33 dwelling is not removed or demolished within three months after the deferred replacement permit
 34 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
 35 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
 36 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
 37 or otherwise, except by the applicant to the spouse or a child of the applicant.

38 (r) Farm stands if:

39 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 40 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 41 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
 42 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
 43 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
 44 and

45 (B) The farm stand does not include structures designed for occupancy as a residence or for

1 activity other than the sale of farm crops or livestock and does not include structures for banquets,
2 public gatherings or public entertainment.

3 (s) An armed forces reserve center, if the center is within one-half mile of a community college.
4 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
5 Guard support facility.

6 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
7 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
8 area or placed on a permanent foundation unless the building or facility preexisted the use approved
9 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
10 the surface preexisted the use approved under this paragraph. An owner of property used for the
11 purpose authorized in this paragraph may charge a person operating the use on the property rent
12 for the property. An operator may charge users of the property a fee that does not exceed the
13 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
14 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
15 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
16 ground.

17 (u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS
18 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm
19 crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry
20 or poultry products pursuant to ORS 603.038. If a building is established or used for the processing
21 facility or establishment, the farm operator may not devote more than 10,000 square feet of floor
22 area to the processing facility or establishment, exclusive of the floor area designated for prepara-
23 tion, storage or other farm use. A processing facility or establishment must comply with all appli-
24 cable siting standards but the standards may not be applied in a manner that prohibits the siting
25 of the processing facility or establishment.

26 (v) Fire service facilities providing rural fire protection services.

27 (w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational
28 facilities, not including parks or other recreational structures and facilities, associated with a dis-
29 trict as defined in ORS 540.505.

30 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
31 cilities or structures that end at the point where the utility service is received by the customer and
32 that are located on one or more of the following:

33 (A) A public right of way;

34 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
35 jacent property owners has been obtained; or

36 (C) The property to be served by the utility.

37 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
38 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
39 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
40 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
41 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
42 exclusive farm use zone under this chapter.

43 (z) Dog training classes or testing trials, which may be conducted outdoors or in preexisting
44 farm buildings, when:

45 (A) The number of dogs participating in training does not exceed 10 dogs per training class and

1 the number of training classes to be held on-site does not exceed six per day; and

2 (B) The number of dogs participating in a testing trial does not exceed 60 and the number of
3 testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

4 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
5 the following uses may be established in any area zoned for exclusive farm use subject to ORS
6 215.296:

7 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
8 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
9 eration or woodlot:

10 (A) Consists of 20 or more acres; and

11 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
12 annual gross income from the crops, livestock or forest products to be raised on the farm operation
13 or woodlot.

14 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
15 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
16 quired under paragraph (a) of this subsection, if the lot or parcel:

17 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
18 years out of the three calendar years before the year in which the application for the dwelling was
19 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
20 in annual gross farm income; or

21 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
22 nual income.

23 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
24 crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

25 (d) Operations conducted for:

26 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
27 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

28 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
29 sources subject to ORS 215.298;

30 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

31 (D) Processing of other mineral resources and other subsurface resources.

32 (e) Community centers owned by a governmental agency or a nonprofit community organization
33 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
34 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
35 county governing body or its designee, a private campground may provide yurts for overnight
36 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
37 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
38 Upon request of a county governing body, the Land Conservation and Development Commission may
39 provide by rule for an increase in the number of yurts allowed on all or a portion of the
40 campgrounds in a county if the commission determines that the increase will comply with the stan-
41 dards described in ORS 215.296 (1). A public park or campground may be established as provided
42 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
43 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
44 ance.

45 (f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

1 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

2 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
3 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
4 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
5 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
6 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
7 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
8 granted through waiver action by the Oregon Department of Aviation in specific instances. A
9 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
10 ject to any applicable rules of the Oregon Department of Aviation.

11 (i) A facility for the primary processing of forest products, provided that such facility is found
12 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
13 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
14 renewable. These facilities are intended to be only portable or temporary in nature. The primary
15 processing of a forest product, as used in this section, means the use of a portable chipper or stud
16 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
17 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
18 contiguous land where the primary processing facility is located.

19 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
20 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
21 mental Quality together with equipment, facilities or buildings necessary for its operation.

22 (k)(A) Commercial dog boarding kennels; or

23 (B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of
24 this section.

25 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

26 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
27 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
28 shall not include any species under quarantine by the State Department of Agriculture or the United
29 States Department of Agriculture. The county shall provide notice of all applications under this
30 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
31 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
32 tive decision or initial public hearing on the application.

33 (n) Home occupations as provided in ORS 215.448.

34 (o) Transmission towers over 200 feet in height.

35 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
36 but not resulting in the creation of new land parcels.

37 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
38 placement of buildings but not resulting in the creation of new land parcels.

39 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
40 stations and rest areas, where additional property or right of way is required but not resulting in
41 the creation of new land parcels.

42 (s) A destination resort that is approved consistent with the requirements of any statewide
43 planning goal relating to the siting of a destination resort.

44 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
45 dences.

1 (u) A living history museum related to resource based activities owned and operated by a gov-
2 ernmental agency or a local historical society, together with limited commercial activities and fa-
3 cilities that are directly related to the use and enjoyment of the museum and located within
4 authentic buildings of the depicted historic period or the museum administration building, if areas
5 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
6 the museum administration buildings and parking lot are located within one quarter mile of the
7 [metropolitan] urban growth boundary **of a city that has incorporated territory within the cor-
8 porate boundaries of a metropolitan service district.** As used in this paragraph:

9 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
10 culture of some specific historic period using authentic buildings, tools, equipment and people to
11 simulate past activities and events; and

12 (B) "Local historical society" means the local historical society, recognized as such by the
13 county governing body and organized under ORS chapter 65.

14 (v) Operations for the extraction and bottling of water.

15 (w) An aerial fireworks display business that has been in continuous operation at its current
16 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
17 permit to sell or provide fireworks.

18 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
19 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
20 with the growing and marketing of nursery stock on the land that constitutes farm use.

21 (y) Public or private schools for kindergarten through grade 12, including all buildings essential
22 to the operation of a school, primarily for residents of the rural area in which the school is located.

23 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
24 a single-family residential dwelling not provided in conjunction with farm use may be established
25 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
26 the Agricultural Capability Classification System in use by the United States Department of Agri-
27 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
28 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
29 showing all of the following:

30 (a) The dwelling or activities associated with the dwelling will not force a significant change in
31 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

32 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
33 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location
34 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
35 or location if it can reasonably be put to farm use in conjunction with other land.

36 (c) Complies with such other conditions as the governing body or its designee considers neces-
37 sary.

38 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
39 one single-family dwelling, not provided in conjunction with farm use, may be established in any
40 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
41 is not larger than three acres upon written findings showing:

42 (a) The dwelling or activities associated with the dwelling will not force a significant change in
43 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

44 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
45 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating

1 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
 2 applicable; and

3 (c) The dwelling complies with other conditions considered necessary by the governing body or
 4 its designee.

5 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
 6 body shall notify:

7 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
 8 tablished; and

9 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
 10 imposed by the county to cover the cost of such notice.

11 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
 12 following the date of postmark of the notice to file a written objection on the grounds only that the
 13 dwelling or activities associated with it would force a significant change in or significantly increase
 14 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
 15 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
 16 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
 17 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
 18 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
 19 this section.

20 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
 21 1948, and July 1, 1983. For the purposes of this section:

22 (a) Only one lot or parcel exists if:

23 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
 24 scribed in this section; and

25 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
 26 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
 27 or in tenancy in common.

28 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
 29 but not limited to, lots, parcels or lots and parcels separated only by a public road.

30 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
 31 retain a life estate in a dwelling on that property and in a tract of land under and around the
 32 dwelling.

33 (9) No final approval of a nonfarm use under this section shall be given unless any additional
 34 taxes imposed upon the change in use have been paid.

35 (10) Roads, highways and other transportation facilities and improvements not allowed under
 36 subsections (1) and (2) of this section may be established, subject to the approval of the governing
 37 body or its designee, in areas zoned for exclusive farm use subject to:

38 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
 39 goal with which the facility or improvement does not comply; or

40 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
 41 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

42 (11) The following agri-tourism and other commercial events or activities that are related to and
 43 supportive of agriculture may be established in any area zoned for exclusive farm use:

44 (a) A county may authorize a single agri-tourism or other commercial event or activity on a
 45 tract in a calendar year by an authorization that is personal to the applicant and is not transferred

1 by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event
 2 or activity meets any local standards that apply and:

3 (A) The agri-tourism or other commercial event or activity is incidental and subordinate to ex-
 4 isting farm use on the tract;

5 (B) The duration of the agri-tourism or other commercial event or activity does not exceed 72
 6 consecutive hours;

7 (C) The maximum attendance at the agri-tourism or other commercial event or activity does not
 8 exceed 500 people;

9 (D) The maximum number of motor vehicles parked at the site of the agri-tourism or other
 10 commercial event or activity does not exceed 250 vehicles;

11 (E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

12 (F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary
 13 structures, or in existing permitted structures, subject to health and fire and life safety require-
 14 ments; and

15 (G) The agri-tourism or other commercial event or activity complies with conditions established
 16 for:

17 (i) Planned hours of operation;

18 (ii) Access, egress and parking;

19 (iii) A traffic management plan that identifies the projected number of vehicles and any antic-
 20 ipated use of public roads; and

21 (iv) Sanitation and solid waste.

22 (b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize,
 23 through an expedited, single-event license, a single agri-tourism or other commercial event or ac-
 24 tivity on a tract in a calendar year by an expedited, single-event license that is personal to the ap-
 25 plicant and is not transferred by, or transferable with, a conveyance of the tract. A decision
 26 concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015.
 27 To approve an expedited, single-event license, the governing body of a county or its designee must
 28 determine that the proposed agri-tourism or other commercial event or activity meets any local
 29 standards that apply, and the agri-tourism or other commercial event or activity:

30 (A) Must be incidental and subordinate to existing farm use on the tract;

31 (B) May not begin before 6 a.m. or end after 10 p.m.;

32 (C) May not involve more than 100 attendees or 50 vehicles;

33 (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

34 (E) May not require or involve the construction or use of a new permanent structure in con-
 35 nection with the agri-tourism or other commercial event or activity;

36 (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining
 37 properties consent, in writing, to the location; and

38 (G) Must comply with applicable health and fire and life safety requirements.

39 (c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to
 40 six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited
 41 use permit that is personal to the applicant and is not transferred by, or transferable with, a
 42 conveyance of the tract. The agri-tourism or other commercial events or activities must meet any
 43 local standards that apply, and the agri-tourism or other commercial events or activities:

44 (A) Must be incidental and subordinate to existing farm use on the tract;

45 (B) May not, individually, exceed a duration of 72 consecutive hours;

1 (C) May not require that a new permanent structure be built, used or occupied in connection
 2 with the agri-tourism or other commercial events or activities;

3 (D) Must comply with ORS 215.296;

4 (E) May not, in combination with other agri-tourism or other commercial events or activities
 5 authorized in the area, materially alter the stability of the land use pattern in the area; and

6 (F) Must comply with conditions established for:

7 (i) The types of agri-tourism or other commercial events or activities that are authorized during
 8 each calendar year, including the number and duration of the agri-tourism or other commercial
 9 events and activities, the anticipated daily attendance and the hours of operation;

10 (ii) The location of existing structures and the location of proposed temporary structures to be
 11 used in connection with the agri-tourism or other commercial events or activities;

12 (iii) The location of access and egress and parking facilities to be used in connection with the
 13 agri-tourism or other commercial events or activities;

14 (iv) Traffic management, including the projected number of vehicles and any anticipated use of
 15 public roads; and

16 (v) Sanitation and solid waste.

17 (d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism
 18 or other commercial events or activities that occur more frequently or for a longer period or that
 19 do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other
 20 commercial events or activities comply with any local standards that apply and the agri-tourism or
 21 other commercial events or activities:

22 (A) Are incidental and subordinate to existing commercial farm use of the tract and are neces-
 23 sary to support the commercial farm uses or the commercial agricultural enterprises in the area;

24 (B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

25 (C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
 26 and

27 (D) Do not exceed 18 events or activities in a calendar year.

28 (12) A holder of a permit authorized by a county under subsection (11)(d) of this section must
 29 request review of the permit at four-year intervals. Upon receipt of a request for review, the county
 30 shall:

31 (a) Provide public notice and an opportunity for public comment as part of the review process;
 32 and

33 (b) Limit its review to events and activities authorized by the permit, conformance with condi-
 34 tions of approval required by the permit and the standards established by subsection (11)(d) of this
 35 section.

36 (13) For the purposes of subsection (11) of this section:

37 (a) A county may authorize the use of temporary structures established in connection with the
 38 agri-tourism or other commercial events or activities authorized under subsection (11) of this sec-
 39 tion. However, the temporary structures must be removed at the end of the agri-tourism or other
 40 event or activity. The county may not approve an alteration to the land in connection with an
 41 agri-tourism or other commercial event or activity authorized under subsection (11) of this section,
 42 including, but not limited to, grading, filling or paving.

43 (b) The county may issue the limited use permits authorized by subsection (11)(c) of this section
 44 for two calendar years. When considering an application for renewal, the county shall ensure com-
 45 pliance with the provisions of subsection (11)(c) of this section, any local standards that apply and

1 conditions that apply to the permit or to the agri-tourism or other commercial events or activities
 2 authorized by the permit.

3 (c) The authorizations provided by subsection (11) of this section are in addition to other au-
 4 thorizations that may be provided by law, except that “outdoor mass gathering” and “other gather-
 5 ing,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial
 6 events and activities.

7 **SECTION 45.** ORS 221.034 is amended to read:

8 221.034. (1) As used in this section:

9 (a) “Neighboring city” means a city that has any part of its territory situated within three miles
 10 of the area proposed to be incorporated.

11 (b) “Rural unincorporated community” means a settlement with a boundary identified in an ac-
 12 knowledged comprehensive plan of a county and that:

13 (A) Is made up primarily of lands subject to an exception to statewide planning goals related to
 14 agricultural lands or forestlands;

15 (B) Either was identified in the acknowledged comprehensive plan of a county as a “rural com-
 16 munity,” “service center,” “rural center,” “resort community” or similar term before October 28,
 17 1994, or is listed in the Department of Land Conservation and Development’s “Survey of Oregon
 18 Unincorporated Communities” (January 30, 1997);

19 (C) Lies outside the urban growth boundary of a city [*or a metropolitan service district*]; and

20 (D) Is not incorporated as a city.

21 (c) “Urban reserve” has the meaning given that term in ORS 195.137.

22 (d) “Urban services” has the meaning given that term in ORS 195.065.

23 (2) When any of the area proposed to be incorporated as a city lies within an urbanized area,
 24 but outside the urban growth boundary of a city [*or a metropolitan service district*]:

25 (a) The area proposed to be incorporated must also be located entirely within a designated rural
 26 unincorporated community and contiguous lands subject to an exception to statewide planning goals
 27 related to agricultural lands or forestlands.

28 (b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief
 29 petitioner, stating that:

30 (A) Ten percent of the electors registered within the area proposed for incorporation favor the
 31 incorporation; and

32 (B) The chief petitioners have engaged the neighboring cities in discussions concerning the ef-
 33 fects of the proposed incorporation, including discussions specifically relating to how those cities
 34 and the proposed city will allow for expansion of urban growth boundaries and, where applicable,
 35 for creation or expansion of urban reserves.

36 (c) The economic feasibility statement required by ORS 221.035 must:

37 (A) Indicate that the proposed city must plan for and provide urban services in a cost-effective
 38 manner at the minimum level adequate to meet current needs and projected growth;

39 (B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban
 40 services; and

41 (C) Indicate that the proposed city must plan for residential development at or above the same
 42 urban density planned for an existing city, within the county, that has a similar geographic area
 43 within the existing city’s urban growth boundary or, for a proposed city within three miles of
 44 Metro’s [*boundary*] **corporate boundaries**, a minimum urban residential density in accordance with
 45 a statewide planning goal and rules pertaining to needed housing for cities [*within Metro’s urban*

1 *growth boundary*] **that have incorporated territory within the corporate boundaries of Metro.**

2 (d) If the proposed city will be required to complete a public facility plan and a transportation
 3 systems plan, the proposed city must demonstrate the ability to provide urban services to meet
 4 current needs and projected growth. The proposed city may meet this requirement, in whole or in
 5 part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060,
 6 to provide the urban services.

7 (3) If the governing body of a neighboring city determines that the proposed incorporation ad-
 8 versely affects that city, the governing body may ask the county court with which the petition for
 9 incorporation was filed to reject the petition and terminate the incorporation proceedings. The ob-
 10 jections by the city to the incorporation shall be heard and considered by the county court at a
 11 public hearing held under ORS 221.040.

12 (4) If, at the hearing held under ORS 221.040, the county court finds that any of the require-
 13 ments of subsection (2) of this section are not met or that the proposed incorporation will adversely
 14 affect a neighboring city, the county court shall provide by order for the termination of the incor-
 15 poration proceedings. The order shall contain the findings of the county court relating to the pro-
 16 posed incorporation and the reasons for terminating the incorporation proceedings.

17 (5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall re-
 18 view, upon the petition of a party to the incorporation proceedings, the order of the county court
 19 under subsection (4) of this section.

20 **SECTION 46.** ORS 221.036 is amended to read:

21 221.036. For an area that includes a rural unincorporated community, as defined in ORS 221.034,
 22 if a notice of intent to prepare an economic feasibility statement is filed under ORS 221.035 (1) or
 23 a petition for incorporation is filed under ORS 221.031 (1) before all or a part of the rural
 24 unincorporated community is included in the acknowledged urban growth boundary of a **city that**
 25 **has incorporated territory within the corporate boundaries of a** metropolitan service district
 26 organized under ORS chapter 268, the incorporation may continue under the statutory requirements
 27 that apply to the incorporation of a rural unincorporated community under ORS 221.034. However,
 28 the area proposed to be incorporated may include any lands that are included in the acknowledged
 29 urban growth boundary.

30 **SECTION 47.** Section 6, chapter 844, Oregon Laws 2005, is amended to read:

31 **Sec. 6.** An area of land within the urban growth boundary of [*the metropolitan service district*
 32 *established in the Portland metropolitan area*] **a city that has incorporated territory within the**
 33 **corporate boundaries of Metro** may not be annexed under ORS 222.750 if:

- 34 (1) The area of land is larger than seven acres and is zoned for industrial use;
- 35 (2) The land is owned by an Oregon-based business entity that has been in continuous operation,
 36 either directly or through a predecessor, for at least 60 years; and
- 37 (3) The business entity employs more than 500 individuals on the land.

38 **SECTION 48.** Section 7, chapter 844, Oregon Laws 2005, is amended to read:

39 **Sec. 7.** An area of land within the urban growth boundary of [*the metropolitan service district*
 40 *established in the Portland metropolitan area*] **a city that has incorporated territory within the**
 41 **corporate boundaries of Metro** may not be annexed under ORS 222.750 if:

- 42 (1) The area of land is larger than 14 acres and is zoned for industrial use;
- 43 (2) The land is owned by an Oregon-based business entity that has been in continuous operation
 44 on a portion of the land for at least 40 years; and
- 45 (3) The business entity employs more than 300 individuals on the land.

1 **SECTION 49.** ORS 267.020 is amended to read:

2 267.020. When a metropolitan service district organized under ORS chapter 268 functions in a
3 mass transit district organized under ORS 267.010 to 267.390, the governing body of the metropolitan
4 **service** district may at any time order transfer of the transit system of the transit district to the
5 metropolitan **service** district, whereupon:

6 (1) The governing body of the transit district shall transfer title to, and possession of, the transit
7 system and of all books, records, files, documents, and other property of the transit district to the
8 metropolitan **service** district.

9 (2) The metropolitan **service** district shall be responsible for all the liabilities and obligations
10 imposed upon or assumed by the transit district.

11 (3) For purposes of mass transit, the metropolitan **service** district shall have all the rights,
12 powers, privileges and immunities, and be subject to all the duties and obligations, of a mass transit
13 district under ORS 267.010 to 267.390, insofar as they are consistent with ORS chapter 268.

14 (4) The boundaries of the metropolitan **service** district shall, for purposes of mass transit, be
15 extended to encompass all the territory of the transit district.

16 (5) The transit district shall be dissolved and the offices of its directors terminated.

17 **SECTION 50.** ORS 268.710 is amended to read:

18 268.710. (1) The electors of any metropolitan service district, by majority vote of such electors
19 voting thereon at any legally called election, may adopt, amend, revise or repeal a charter for the
20 district. The charter, or legislation passed by the district pursuant thereto, shall provide a method
21 whereby the electors of the district, by majority vote of such electors voting thereon at any legally
22 called election, may amend, revise or repeal the charter.

23 (2) Provisions of a district charter and district legislation that relate to the amendment, revision
24 or repeal of a district charter are matters of metropolitan concern and shall prevail over conflicting
25 provisions of state law that are first effective after January 1, 1999, unless such law specifically
26 provides otherwise. After January 1, 1997, no person may commence or maintain an action to
27 challenge the validity of a district charter existing and effective on January 1, 1997, on the basis
28 of inconsistency or conflict between the district charter and ORS 268.030, 268.300, 268.310, 268.317,
29 268.318, 268.320, 268.330, 268.340, 268.345, 268.357, 268.360, 268.370, 268.500, 268.505, 268.507, 268.520,
30 268.525, 268.530, 268.590, 268.600 to 268.660 and 268.990. To the extent that provisions of a district
31 charter limit the exercise of a power granted by the statutes listed in this subsection, the provisions
32 of the district charter shall be given full force and effect. In addition to any authority expressly
33 granted to a metropolitan service district by the Legislative Assembly, a district charter is an in-
34 dependent grant of authority by the affected electorate pursuant to [section 1 (5),] Article IV, **sec-**
35 **tion 1 (5)** and [section 2,] Article XI, **section 2**, of the Oregon Constitution.

36 (3) A charter of a metropolitan service district shall prescribe the organization of the district
37 government and shall provide directly, or by its authority, for the number, election or appointment,
38 qualifications, tenure, compensation, powers and duties of such officers as the district considers
39 necessary. Such officers shall among them exercise all the powers and perform all the duties, as
40 granted to, imposed upon or distributed among district officers by the Constitution or laws of this
41 state, by the district charter or by its authority.

42 (4) Any reference to the executive officer of a metropolitan service district in statutes of this
43 state relating to elections or government ethics shall be construed to include any district officer
44 who serves in an elective office and performs executive functions. Any reference in a district charter
45 to a district court judge may be construed as referring to a judge of the circuit court.

1 (5) As used in this section, “legally called election” means an election held on the same date
2 as a primary election or general election held throughout this state.

3 (6) Consistent with ORS 197.013, the land use planning authority granted to a district under ORS
4 chapter 268 is a matter of statewide concern. Provisions of a district charter and implementing or-
5 dinances adopted and effective on January 1, 1997, that establish procedural requirements relating
6 to the exercise of land use planning authority of the district, including but not limited to require-
7 ments for local government advisory committees, are supplementary to ORS 268.380[, 268.385,] **and**
8 268.390 and ORS chapter 197. After January 1, 1997, no person may commence or maintain an action
9 to challenge the validity of such district charter provisions or implementing ordinances on the basis
10 of inconsistency or conflict with the procedural requirements of ORS 268.380[, 268.385] or 268.390
11 or the procedural requirements of ORS chapter 197 existing on January 1, 1997.

12 (7) If a district charter is repealed, the provisions of the charter providing for district officers,
13 their powers and duties and the election of such officers shall continue in effect until the Legislative
14 Assembly provides by law for the restructuring or dissolution of the district.

15 **SECTION 51.** ORS 285A.010 is amended to read:

16 285A.010. As used in ORS 284.101 to 284.146 and ORS chapters 285A, 285B and 285C, unless the
17 context requires otherwise:

18 (1) “Administrator” means the administrator of the Oregon Infrastructure Finance Authority.

19 (2) “Association” means a nonprofit, private, incorporated or unincorporated institution, foun-
20 dation, organization, entity or group, whether local, state, regional or national, that is operating or
21 doing business in Oregon.

22 (3) “Authority” means the Oregon Infrastructure Finance Authority.

23 (4) “Board” means the Oregon Infrastructure Finance Authority Board.

24 (5) “Commission” means the Oregon Business Development Commission.

25 (6) “Community” means an area or locality in which the body of inhabitants has common eco-
26 nomic or employment interests. The term is not limited to a city, county or other political subdivi-
27 sion and need not, but may be, limited by political boundaries.

28 (7) “Department” means the Oregon Business Development Department.

29 (8) “Director” means the Director of the Oregon Business Development Department.

30 (9) “Distressed area” means a county, city, community or other geographic area that is desig-
31 nated as a distressed area by the department, based on indicators of economic distress or dislo-
32 cation, including but not limited to unemployment, poverty and job loss.

33 (10) “International trade” means the export and import of products and services and the move-
34 ment of capital for the purpose of investment.

35 (11) “Local government” has the meaning given that term in ORS 174.116.

36 (12) “Municipality” means an Oregon city or county, the Port of Portland created by ORS
37 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS
38 198.010, a tribal council of a federally recognized Indian tribe in this state or an airport district
39 organized under ORS chapter 838.

40 (13) “Public body” has the meaning given that term in ORS 174.109.

41 (14) “Rural area” means an area located entirely outside of the acknowledged [*Portland Metro-*
42 *politan Area Regional Urban Growth Boundary*] **urban growth boundary of a city that has in-**
43 **corporated territory within the corporate boundaries of Metro** and the acknowledged urban
44 growth boundaries of **other** cities with populations of 30,000 or more.

45 (15) “Small business” means a business having 100 or fewer employees.

1 (16) "State agency" includes state officers, departments, boards and commissions.

2 (17) "Traded sector" means industries in which member firms sell their goods or services into
3 markets for which national or international competition exists.

4 **SECTION 52.** ORS 285C.050 is amended to read:

5 285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

6 (1) "Assessment date" and "assessment year" have the meanings given those terms in ORS
7 308.007.

8 (2) "Authorized business firm" means an eligible business firm that has been authorized under
9 ORS 285C.140.

10 (3) "Business firm" means a person operating or conducting one or more trades or businesses,
11 a people's utility district organized under ORS chapter 261 or a joint operating agency formed under
12 ORS chapter 262, but does not include any other governmental agency, municipal corporation or
13 nonprofit corporation.

14 (4) "County average annual wage" means:

15 (a) The most recently available average annual covered payroll for the county in which the en-
16 terprise zone is located, as determined by the Employment Department; or

17 (b) If the enterprise zone is located in more than one county, the highest county average annual
18 wage as determined under paragraph (a) of this subsection.

19 (5) "Electronic commerce" means engaging in commercial or retail transactions predominantly
20 over the Internet or a computer network, utilizing the Internet as a platform for transacting busi-
21 ness, or facilitating the use of the Internet by other persons for business transactions, and may be
22 further defined by the Oregon Business Development Department by rule.

23 (6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135
24 that may file an application for authorization under ORS 285C.140.

25 (7) "Employee" means a person who works more than 32 hours per week, but does not include
26 a person with a temporary or seasonal job or a person hired solely to construct qualified property.

27 (8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by
28 order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the
29 areas designated by the Director of the Oregon Business Development Department under ORS
30 285C.080, a federal enterprise zone area designated under ORS 285C.085, an area designated under
31 ORS 285C.250 or a reservation enterprise zone designated, or a reservation partnership zone
32 cosponsored, under ORS 285C.306.

33 (9) "Federal enterprise zone" means any discrete area wholly or partially within this state that
34 is designated as an empowerment zone, an enterprise community, a renewal community or some
35 similar designation for purposes of improving the economic and community development of the area.

36 (10) "First-source hiring agreement" means an agreement between an authorized business firm
37 and a publicly funded job training provider whereby the provider refers qualified candidates to the
38 firm for new jobs and job openings in the firm.

39 (11) "In service" means being used or occupied or fully ready for use or occupancy for com-
40 mercial purposes consistent with the intended operations of the business firm as described in the
41 application for authorization.

42 (12) "Modification" means modernization, renovation or remodeling of an existing building,
43 structure or real property machinery or equipment.

44 (13) "New employees hired by the firm":

45 (a) Includes only those employees of an authorized business firm engaged for a majority of their

1 time in eligible operations.

2 (b) Does not include individuals employed in a job or position that:

3 (A) Is created and first filled after December 31 of the first tax year in which qualified property
4 of the firm is exempt under ORS 285C.175;

5 (B) Existed prior to the submission of the relevant application for authorization; or

6 (C) Is performed primarily at a location outside of the enterprise zone.

7 (14) "Publicly funded job training provider" includes but is not limited to a community college,
8 a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or
9 a similar program.

10 (15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified
11 property of which is exempt from property tax under ORS 285C.175.

12 (16) "Qualified property" means property described under ORS 285C.180.

13 (17) "Rural enterprise zone" means:

14 (a) An enterprise zone located in an area of this state in which an urban enterprise zone could
15 not be located; or

16 (b) A reservation enterprise zone designated, or a reservation partnership zone cosponsored,
17 under ORS 285C.306.

18 (18) "Sparsely populated county" means a county with a density of 100 or fewer persons per
19 square mile, based on the most recently available population figure for the county from the Portland
20 State University Population Research Center.

21 (19) "Sponsor" means:

22 (a) The city, county or port, or any combination of cities, counties or ports, that received ap-
23 proval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS
24 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

25 (b) The tribal government, in the case of a reservation enterprise zone;

26 (c) The tribal government and the cosponsoring city, county or port, in the case of a reservation
27 partnership zone; or

28 (d) A city, county or port that joined the enterprise zone through a boundary change under ORS
29 285C.115 (7) or a port that joined the enterprise zone under ORS 285C.068.

30 (20) "Tax year" has the meaning given that term in ORS 308.007.

31 (21) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as
32 defined by the most recent federal decennial census, that is located [*inside a regional or*
33 *metropolitan*] **within an** urban growth boundary.

34 (22) "Year" has the meaning given that term in ORS 308.007.

35 **SECTION 53.** ORS 285C.115 is amended to read:

36 285C.115. (1) The sponsor of an enterprise zone may submit a request to the Oregon Business
37 Development Department to change the boundary of the enterprise zone. A request shall include:

38 (a) A copy of the resolution of the governing body of the sponsor requesting the change;

39 (b) If subsection (7) of this section applies, a copy of the resolution described in subsection (7)
40 of this section;

41 (c) A map clearly indicating the existing boundary and the proposed change thereto;

42 (d) A legal description of each area to be withdrawn from or added to the existing enterprise
43 zone; and

44 (e) Other information required by the department.

45 (2) The amended enterprise zone shall:

1 (a) Add land zoned for use by eligible business firms that has or will have infrastructure facili-
 2 ties, road access, on-site water, on-site sewage disposal and necessary utility services;

3 (b) Continue to include any authorized business firms within the enterprise zone;

4 (c) Add residential areas or nonresidential areas that are adjacent to residential areas only if
 5 the level of economic hardship in the areas to be added is at least as severe as the conditions that
 6 existed at the time the original enterprise zone was designated or that currently exist in the original
 7 enterprise zone;

8 (d) Retain at least 50 percent of the lands in the original enterprise zone; and

9 (e) Meet the applicable total area and greatest distance requirements set forth in ORS 285C.090.

10 (3) If the enterprise zone is a reservation enterprise zone or a reservation partnership zone and
 11 the land to be added to the zone is not described in ORS 285C.306, the request for a boundary
 12 change, and the resulting boundary of the zone, must fully satisfy the provisions of this section.

13 (4) A request under subsection (1) of this section may include a proposal to:

14 (a) Remove only the land that is residential or not zoned or available for use by eligible business
 15 firms; or

16 (b) Change the name of the enterprise zone.

17 (5) The boundary of an urban enterprise zone may not be modified to include land located out-
 18 side [a *regional or metropolitan*] **an** urban growth boundary.

19 (6) A request to modify the boundary of a rural enterprise zone to include land located outside
 20 an urban growth boundary shall satisfy the requirements of subsections (1) and (2) of this section
 21 and shall satisfy any other criteria that the department may adopt by rule.

22 (7) If an area to be added to an enterprise zone is under the jurisdiction of a city, county or port
 23 that is not a sponsor of the enterprise zone, the governing body of that city, county or port shall
 24 submit a resolution requesting the change and requesting that the city, county or port become a
 25 sponsor, or shall submit a resolution consenting to the change, as provided under ORS 285C.065 (1).
 26 The resolution of the joining city, county or port shall be submitted jointly with the resolution
 27 adopted by the governing body of the existing sponsor. The joining resolution of the city, county or
 28 port may:

29 (a) Include a binding proposal for enhanced local public services, local incentives or local reg-
 30 ulatory flexibility to be effective within the portion of the enterprise zone to be under the jurisdic-
 31 tion of that city, county or port; or

32 (b) Include a restriction described in ORS 285C.070 (4). A restriction made under this paragraph
 33 may be made without regard to the time limitation described in ORS 285C.070 (4)(c) and becomes
 34 final on the effective date of the boundary change.

35 (8) The department shall review the request for a boundary change. If the request is incomplete
 36 or does not satisfy the requirements of this section, the department shall seek additional information
 37 as necessary or shall return the request to the sponsor. If the request is returned, the sponsor may
 38 submit a revised request at any time. If the request is complete and does satisfy the requirements
 39 of this section, the Director of the Oregon Business Development Department shall order a change
 40 in the boundary of an enterprise zone based on the request of the sponsor and specify the effective
 41 date of the boundary change, which may not be earlier than the receipt of a completed request.

42 (9) A change in the boundary of an enterprise zone under this section does not change the ter-
 43 mination date of the enterprise zone under ORS 285C.245 (2).

44 **SECTION 54.** ORS 285C.500 is amended to read:

45 285C.500. As used in ORS 285C.500 to 285C.506:

1 (1) “Business firm” has the meaning given that term in ORS 285C.050.

2 (2) “County per capita personal income” means the per capita personal income level published
3 by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

4 (3) “County unemployment rate” means the most recently available unemployment rate for the
5 county, as determined by the Employment Department.

6 (4) “Facility” means the land, real property improvements and personal property that are used
7 by a business firm to conduct business operations, and that are the subject of an application for
8 preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

9 (5) “Qualified location” means any area that is:

10 (a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or
11 fewer residents; and

12 (b) Located in a county that, during either of the two years preceding the date an application
13 for preliminary certification is filed under ORS 285C.503, had both:

14 (A) A county unemployment rate that was in the top half of county unemployment rates in this
15 state; and

16 (B) A county per capita personal income that was in the bottom half of county per capita per-
17 sonal incomes in this state.

18 (6) “Urban growth boundary” means an urban growth boundary contained in a city or county
19 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
20 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
21 *politan service district under ORS 268.390 (3)*].

22 **SECTION 55.** ORS 308A.350 is amended to read:

23 308A.350. As used in ORS 308A.350 to 308A.383:

24 (1) “Owner” means the party or parties having the fee interest in land, except that where land
25 is subject to a real estate sales contract, “owner” means the contract vendee under a recorded
26 contract.

27 (2) “Department” means the State Department of Fish and Wildlife.

28 (3) “Designated riparian land” means the beds of streams, the adjacent vegetation communities,
29 and the land thereunder, which are predominantly influenced by their association with water, not
30 to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately
31 owned and which qualify for exemption under ORS 308A.350 to 308A.383.

32 (4) “Urban growth boundary” means an urban growth boundary contained in a city or county
33 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
34 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
35 *politan service district council under ORS 268.390 (3)*].

36 **SECTION 56.** ORS 308A.700 is amended to read:

37 308A.700. As used in ORS 308A.700 to 308A.733:

38 (1) “Disqualification” includes the removal of forestland designation under ORS 321.359, 321.712,
39 321.716 or 321.842.

40 (2) “Urban growth boundary” means an urban growth boundary contained in a city or county
41 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
42 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
43 *politan service district under ORS 268.390 (3)*].

44 **SECTION 57.** ORS 391.120 is amended to read:

45 391.120. (1) The Regional Light Rail Extension Construction Fund, separate and distinct from the

1 General Fund, is established in the State Treasury. All moneys in the fund are appropriated con-
 2 tinuously to the Department of Transportation for the purposes specified in this section. Interest
 3 received on moneys credited to the Regional Light Rail Extension Construction Fund shall accrue
 4 to and become part of the Regional Light Rail Extension Construction Fund.

5 (2) The Department of Transportation may expend moneys in the Regional Light Rail Extension
 6 Construction Fund to finance the preliminary engineering phase, final design phase, advanced right
 7 of way acquisition phase or construction and acquisition of equipment and facilities phase of
 8 projects for extensions to the Tri-County Metropolitan Transportation District's light rail system,
 9 as designated in the Regional Transportation Plan adopted by [*the metropolitan service district*]
 10 **Metro** in 1989, as amended from time to time. The Director of Transportation may enter into written
 11 agreements with the Tri-County Metropolitan Transportation District that commit the department
 12 to pay anticipated funds from the Regional Light Rail Extension Construction Fund to the district
 13 for the purpose of financing such costs of extending the district's light rail system, including ser-
 14 vicing any obligations entered into by the district to finance the costs of extending the district's
 15 light rail system, which written agreements may provide for the remittance of such funds on such
 16 periodic basis, in such amounts, over such period of years and with such priority over other com-
 17 mitments of such funds as the director shall specify in the commitment. Any such written agree-
 18 ments or commitments, when executed by the director and accepted by the district, shall be solely
 19 conditioned upon actual funds available in the Regional Light Rail Extension Construction Fund and
 20 shall be valid, binding and irrevocable in accordance with its terms, subject only to the requirements
 21 of subsection (3) of this section. The extensions to the light rail system for which projects may be
 22 authorized and financed from the Regional Light Rail Extension Construction Fund include:

- 23 (a) The Westside corridor.
- 24 (b) The Interstate 5 North corridor.
- 25 (c) The Interstate 205 corridor.
- 26 (d) The Milwaukie corridor.
- 27 (e) The Barbur corridor.
- 28 (f) The Lake Oswego corridor.
- 29 (g) Appropriate branches to the Banfield corridor.
- 30 (h) Appropriate branches to the corridors specified in paragraphs (a) to (f) of this subsection.

31 (3) Notwithstanding any written agreement entered into by the Director of Transportation under
 32 subsection (2) of this section, no moneys shall be expended from the Regional Light Rail Extension
 33 Construction Fund for the preliminary engineering phase, final design phase, advanced right of way
 34 acquisition phase or construction and acquisition phase of projects unless the Director of Trans-
 35 portation determines:

- 36 (a) That all state and local approvals are in place for the phase of the specific project for which
 37 funding is being sought;
- 38 (b) That assurances are in place for obtaining all moneys, other than moneys for which the de-
 39 termination is being made, necessary to enable completion of the phase of the specific project for
 40 which funding is being sought and that the Tri-County Metropolitan Transportation District has
 41 agreed to provide an amount of money equal to that being provided by the Regional Light Rail Ex-
 42 tension Construction Fund for the phase of the specific project for which money is being sought;
- 43 (c) With respect to the phase of the specific project for which funding is being sought, that the
 44 body of local officials and state agency representatives designated by [*the metropolitan service dis-*
 45 *trict which functions wholly or partially within the Tri-County Metropolitan Transportation District*]

1 **Metro** and known as the Joint Policy Advisory Committee on Transportation has certified that the
2 phase of the specific project is a regional priority; and

3 (d) With respect to construction phases of any project, the elements of the project that are
4 designated for state participation and an estimated total amount of the state's funding obligation.

5 (4) When the actual expenditures for a phase of a specific light rail project fall short of the es-
6 timated expenditures for the project, those moneys, other than federal moneys, that are not required
7 for that phase of the project shall remain in the Regional Light Rail Extension Construction Fund
8 for use in completing other projects described in subsection (2) of this section.

9 (5) On or before August 31 in each year, the Director of Transportation shall certify to the
10 Governor and the State Treasurer whether or not there existed, as of the end of the immediately
11 preceding fiscal year, an unobligated balance of moneys in the Regional Light Rail Extension Con-
12 struction Fund that was derived from the moneys required to be transferred to the Regional Light
13 Rail Extension Construction Fund under ORS 391.130. If the Director of Transportation certifies
14 that there existed such an unobligated balance of moneys derived from the moneys required to be
15 transferred to the Regional Light Rail Extension Construction Fund under ORS 391.130, an amount
16 equal to the unobligated balance as of the end of the immediately preceding fiscal year shall revert
17 to the Administrative Services Economic Development Fund created by ORS 461.540, and the State
18 Treasurer shall credit such amount to that fund on or before the September 15 next following the
19 date of the certification by the Director of Transportation.

20 (6) The Director of Transportation shall certify the unobligated balance of the Regional Light
21 Rail Extension Construction Fund, and that unobligated balance shall revert to the Administrative
22 Services Economic Development Fund created by ORS 461.540 if the Director of Transportation de-
23 termines that all projects referred to in subsection (2) of this section have been completed and the
24 projects have been accepted by the Director of Transportation and all claims, suits and actions
25 arising out of the projects have been resolved.

26 (7) For purposes of subsections (5) and (6) of this section, moneys in the Regional Light Rail
27 Extension Construction Fund derived from the moneys required to be transferred to the Regional
28 Light Rail Extension Construction Fund under ORS 391.130 shall be obligated to the extent such
29 moneys are needed to fund the amounts committed to be paid in the current or any future fiscal year
30 under any written agreement or commitment entered into by the Director of Transportation under
31 subsection (2) of this section or to pay any amounts owing under or with respect to any revenue
32 bonds issued under ORS 391.140.

33 (8) The Department of Transportation may deduct from the Regional Light Rail Extension Con-
34 struction Fund the costs associated with administering the fund.

35 **SECTION 58.** ORS 451.010 is amended to read:

36 451.010. (1) Master plans and service districts may be established as provided by this chapter
37 regarding:

38 (a) Sewage works, including all facilities necessary for collecting, pumping, treating and dispos-
39 ing of sanitary or storm sewage.

40 (b) Drainage works, including all facilities necessary for collecting, pumping and disposing of
41 storm and surface water.

42 (c) Street lighting works, including all facilities necessary for the lighting of streets and high-
43 ways.

44 (d) Public parks and recreation facilities, including land, structures, equipment, supplies and
45 personnel necessary to acquire, develop and maintain *[such]* **the** public park and recreation facilities

1 and to administer a program of supervised recreation services.

2 (e) Diking and flood control works, including all facilities necessary for diking and control of
3 watercourses.

4 (f) Water supply works and service, including all facilities necessary for tapping natural sources
5 of domestic and industrial water, treating and protecting the quality of the water and transmitting
6 it to the point of sale to any person, city, domestic water supply corporation or other public or
7 private agency for domestic, municipal and industrial water supply service.

8 (g) Solid waste disposal. This paragraph does not apply in Clackamas, Multnomah and
9 Washington Counties.

10 (h) Public transportation, including public depots, public parking and the motor vehicles and
11 other equipment necessary for the transportation of persons together with their personal property.

12 (i) Agricultural educational extension services.

13 (j) Emergency medical services, including ambulance services.

14 (k) Library services.

15 (L) Roads.

16 (m) Emergency communications services, including a 9-1-1 emergency reporting system estab-
17 lished under ORS 403.115.

18 (n) Law enforcement services.

19 (o) Human services.

20 (p) Cemetery maintenance.

21 (q) Animal control.

22 (2) Within the geographical jurisdiction of any local government boundary commission estab-
23 lished by or pursuant to ORS 199.410 to 199.519, in addition to the purposes described in subsection
24 (1) of this section, master plans and service districts may be established as provided by this chapter
25 regarding:

26 (a) Fire prevention and protection.

27 (b) Hospital and ambulance services.

28 (c) Vector control.

29 (d) Weather modification.

30 (3) Within the boundaries of any subdivision, service districts may be established as provided
31 by this chapter regarding:

32 (a) Fire prevention and protection.

33 (b) Security services provided by contract with an association of homeowners whose property
34 is located entirely within the boundaries of the service district, which services may include the
35 enforcement of the rules or regulations of the association dealing with public access to or the use
36 of the property of the association, routine patrolling and inspection of private areas located within
37 the jurisdiction of the association and matters of traffic and safety within such areas.

38 (c) Law enforcement services.

39 (d) Hospital and ambulance services.

40 (e) Vector control.

41 (f) Activities set forth in subsection (1)(a), (f), (g), (j) and (m) of this section.

42 (4) As used in subsection (3) of this section, "subdivision" means a subdivision as defined by ORS
43 92.010 or any contiguous group of *[such]* subdivisions that:

44 (a) Is a planned community within the meaning of ORS 94.550 without regard to whether
45 *[such]* **the** subdivision or group of subdivisions is subject to ORS 94.550 to 94.783;

1 (b) Is located entirely within an unincorporated area and is everywhere separated by a distance
 2 of five miles or more from an urban growth boundary described in an acknowledged comprehensive
 3 plan of a city *[or the urban growth boundary adopted by a metropolitan service district under ORS*
 4 *268.390 (3)]*; and

5 (c) Prior to the establishment of a service district under subsection (3) of this section, is desig-
 6 nated a subdivision for purposes of this subsection by the governing body of the county in which the
 7 subdivision or group of subdivisions is located.

8 (5) Within the boundaries of Washington County, master plans and service districts may be es-
 9 tablished as provided by this chapter regarding water resource management services that affect the
 10 quality and quantity of water within a single watershed, basin or planning area. As used in this
 11 subsection, “water resource management services” means:

12 (a) Planning for and provision of two or more services or facilities such as sewage works,
 13 drainage works, surface water management, endangered species recovery management, water quality
 14 management, diking and flood control works, river flow management, water supply works,
 15 wastewater reuse and irrigation facilities.

16 (b) Activities ancillary to the services and facilities listed in paragraph (a) of this subsection,
 17 including facilities for the production, sale or purchase of energy when *[such]* **the** facilities are in-
 18 tegrated in a master plan adopted under ORS 451.120.

19 **SECTION 59.** ORS 459A.005 is amended to read:

20 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the “opportunity to
 21 recycle” means at least that the city, county or metropolitan service district responsible for solid
 22 waste management:

23 (a)(A) Provides a place for collecting source separated recyclable material located either at a
 24 disposal site or at another location more convenient to the population being served and, if a city
 25 has a population of 4,000 or more, collection at least once a month of source separated recyclable
 26 material from collection service customers within the city’s urban growth boundary *[or, where ap-
 27 plicable, within the urban growth boundary established by a metropolitan service district]*; or

28 (B) Provides an alternative method which complies with rules of the Environmental Quality
 29 Commission; and

30 (b) Complies with the rates and program elements required under ORS 459A.010.

31 (2) The “opportunity to recycle” defined in subsection (1) of this section also includes a public
 32 education and promotion program that:

33 (a) Gives notice to each person of the opportunity to recycle; and

34 (b) Encourages source separation of recyclable material.

35 **SECTION 60.** ORS 459A.050 is amended to read:

36 459A.050. (1) On behalf of each wasteshed and the cities within each wasteshed, each county
 37 shall submit to the Department of Environmental Quality:

38 (a) A periodic report, as required by the department, but not more frequently than annually, that
 39 documents how the wasteshed and the cities within the wasteshed are implementing the opportunity
 40 to recycle, including the requirements of ORS 459A.010. A wasteshed is encouraged to report the
 41 results of the wasteshed’s commercial recycling program evaluations in the wasteshed’s periodic
 42 report to the Department of Environmental Quality.

43 (b) An annual report that states for the wasteshed the type of material and the weight of each
 44 type of material collected through the following means:

45 (A) On-route collection;

1 (B) Collection from commercial customers; and

2 (C) Collection at disposal site recycling depots.

3 (c) If solid waste generated in the wasteshed is disposed of outside of the state, the total weight
4 of the solid waste disposed of outside the state, which shall be included in the annual report.

5 (2) *[The metropolitan service district for Multnomah, Washington and Clackamas counties and the*
6 *cities therein in aggregate shall submit]* **Metro, as defined in ORS 197.015, and the cities that have**
7 **incorporated territory within the corporate boundaries of Metro shall submit in aggregate** to
8 the department annual reports that include the information required under subsection (1) of this
9 section.

10 (3) Except as provided in subsection (4) of this section and subject to the exclusions of ORS
11 459A.010 (4)(h), each solid waste disposal site that receives solid waste, except transfer stations,
12 shall report, for each wasteshed, the weight of in-state solid waste disposed of at the solid waste
13 disposal site that was generated in each wasteshed.

14 (4) *[The metropolitan service district for Multnomah, Washington and Clackamas counties and the*
15 *cities therein in aggregate shall submit]* **Metro, as defined in ORS 197.015, and the cities that have**
16 **incorporated territory within the corporate boundaries of Metro shall submit in aggregate** to
17 the department the weight of solid waste disposed of through the following facilities:

18 (a) *[Metropolitan service district]* **Metro's** central transfer station;

19 (b) *[Metropolitan service district]* **Metro's** south transfer station;

20 (c) Municipal solid waste compost facility; and

21 (d) Any disposal facility or transfer facility owned **by**, operated **by** or under contract *[by the*
22 *metropolitan service district]* **with Metro**.

23 (5) The cities and counties within each wasteshed shall share proportionally in the costs in-
24 curred for the preparation and submission of the annual report required under this section.

25 (6) At least annually, the department shall survey privately operated recycling and material re-
26 covery facilities, including but not limited to buy back centers, drop off centers, recycling depots
27 other than those at permitted land disposal facilities, manufacturers and distributors. The depart-
28 ment shall collect the following information:

29 (a) By type of material for each wasteshed, the weight of in-state material collected from other
30 than on-route collection programs, both residential and commercial.

31 (b) Any other information necessary to prevent double counting of material recovered or to de-
32 termine if a material is recyclable.

33 (7) Information collected under subsection (6) of this section, as it relates specifically to the
34 entity's customer lists or specific amounts and types of materials collected or marketed, shall be
35 maintained as confidential by the department and exempt from disclosure under ORS 192.410 to
36 192.505. The department may use and disclose such information in aggregated form.

37 (8) The information in subsections (1)(b) to (4) and (6) of this section shall be collected and re-
38 ported annually on a form provided by the department.

39 (9) Unless extended by the Environmental Quality Commission upon application under ORS
40 459A.055 after the affected persons show good cause for an extension, the affected persons within
41 the wasteshed shall implement the opportunity to recycle and submit the recycling report to the
42 department.

43 **SECTION 61. ORS 197.274 and 268.385 are repealed.**

44 **SECTION 62. Sections 18 and 19 of this 2015 Act, the amendments to ORS 195.020, 195.025,**
45 **195.060, 195.065, 195.110, 195.141, 195.143, 195.145, 195.300, 195.314, 195.324, 197.015, 197.178,**

1 197.254, 197.296, 197.298, 197.299, 197.301, 197.302, 197.307, 197.309, 197.319, 197.320, 197.626,
2 197.633, 197.646, 197.651, 199.705, 215.213, 221.034, 221.036, 267.020, 268.020, 268.347, 268.354,
3 268.370, 268.380, 268.390, 268.710, 285A.010, 285C.050, 285C.115, 285C.500, 308A.350, 308A.700,
4 391.120, 451.010, 459A.005 and 459A.050 and sections 6 and 7, chapter 844, Oregon Laws 2005,
5 and section 6, chapter 636, Oregon Laws 2009, by sections 4 to 17 and 20 to 60 of this 2015
6 Act and the repeal of ORS 197.274 and 268.385 by section 61 of this 2015 Act become operative
7 on _____.

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