CHAPTER 575

AN ACT HB 2254

Relating to the urban growth boundary; creating new provisions; amending ORS 197.015 and 197.298; appropriating money; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 8 of this 2013 Act:

(1) "Buildable lands" means land in urban or urbanizable areas that are suitable for urban uses.

(2) "Serviceable" means, with respect to land, that:

(a) Adequate sewer, water and transportation capacity for planned urban development is available or can be either provided or made subject to committed financing; or

(b) Committed financing can be in place to provide adequate sewer, water and transportation capacity for planned urban development.

SECTION 2. The purpose of sections 1 to 8 of this 2013 Act is to direct the Land Conservation and Development Commission to develop and adopt simplified methods for a city that is outside Metro to evaluate or amend the urban growth boundary of the city. The commission should design the methods to:

(1) Become, as a result of reduced costs, complexity and time, the methods that are used by most cities with growing populations to manage the urban growth boundaries of the cities;

(2) Encourage, to the extent practicable given market conditions, the development of urban areas in which individuals desire to live and work and that are increasingly efficient in terms of land uses and in terms of public facilities and services;

(3) Encourage the conservation of important farm and forest lands, particularly lands that are needed to sustain agricultural and forest products industries;

(4) Encourage cities to increase the development capacity within the urban growth boundaries of the cities;

(5) Encourage the provision of an adequate supply of serviceable land that is planned for needed urban residential and industrial development; and

(6) Assist residents in understanding the major local government decisions that are likely to determine the form of a city's growth.

SECTION 3. (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and the statewide land use planning goals, the Land Conservation and Development Commission shall adopt by rule methods by which a city that is outside Metro may evaluate or amend the urban growth boundary of the city.

(2) A city outside Metro may use the methods adopted pursuant to:

(a) Section 4 of this 2013 Act if the city has a population of less than 10,000.

(b) Section 5 of this 2013 Act if the city has a population of 10,000 or more.

(3) A city that elects to include land within the urban growth boundary of the city under a method established pursuant to section 4 or 5 of this 2013 Act:

(a) May use the method again when:

(A) The population of the city has grown by at least 50 percent of the amount of growth forecast to occur in conjunction with the previous use of the method by the city; or

(B) At least one-half of the lands identified as buildable lands during the previous use of the method by the city have been developed.

(b) Shall evaluate whether the city needs to include within the urban growth boundary additional land for residential or employment uses before the population of the city has grown by 100 percent of the population growth forecast to occur in conjunction with the previous use of the method by the city.

(4) A city that elects to use a method established pursuant to section 4 or 5 of this 2013 Act shall notify the Department of Land Conservation and Development of the election in the manner required by ORS 197.610 for notice of a post-acknowledgment plan amendment. The city may revoke the election until the city makes a final decision whether to amend the urban growth boundary of the city. A city that has initiated, but not completed, an amendment of its urban growth boundary before January 1, 2014, may withdraw the proposed amendment and use a method established pursuant to section 4 or 5 of this 2013 Act by filing notice of the election with the department in the manner required by ORS 197.610 and 197.615 for notice of a post-acknowledgment plan amendment.

(5) Beginning on or before January 1, 2023, the commission shall:

(a) Evaluate, every five years, the impact of the implementation of sections 4 (2) and 5 (2) of this 2013 Act on the population per square mile, livability in the area, the provision and cost of urban facilities and services, the rate of conversion of agriculture and forest lands and other considerations;

(b) Consider changes to the statewide land use planning goals or rules to address adverse outcomes; and

(c) Make recommendations to the Legislative Assembly, as necessary, for statutory changes.

SECTION 4. (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to

197.314 and the statewide land use planning goals, the Land Conservation and Development Commission shall adopt a method by which a city outside Metro that has a population of less than 10,000 may evaluate or amend its urban growth boundary.

(2) The commission shall design the method so that:

(a) A city using the method:

(A) Will have within its boundaries sufficient buildable lands and other development capacity, including land and capacity for needed housing and employment opportunities, to meet the growth in population and employment forecast to occur over a 14-year period.

(B) Will not become less efficient in its use of land as a result of a change to the urban growth boundary.

(b) The urban population per square mile will continue, subject to market conditions, to increase over time on a statewide basis and in major regions of the state, including that portion of the Willamette Valley outside of Metro.

(c) The rate of conversion of agricultural and forest lands to urban uses does not increase over time in any major region of the state.

(3) Under the method adopted by the commission:

(a) A city's determination of the amount of buildable lands needed for housing, employment and other urban uses must be based on the population and employment growth forecast to occur over a 14-year period.

(b) A city's determination of the supply and development capacity of lands within its urban growth boundary must be based on:

(A) A simple inventory of vacant and partially vacant buildable lands within the urban growth boundary;

(B) The comprehensive plan designation and the zoning of the portion of the buildable lands that is urban; and

(C) Simple factors established by the commission for forecasting:

(i) The development and redevelopment capacity of urbanizable lands within the urban growth boundary; and

(ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

(c) A city's determination of the supply and development capacity of lands the city proposes to include within the urban growth boundary must be based on:

(A) A simple inventory of vacant and partially vacant lands; and

(B) Simple factors established by the commission for forecasting the development and redevelopment capacity of the lands.

(d) A city shall demonstrate that lands included within the urban growth boundary:

(A) Include sufficient serviceable land for at least a seven-year period.

(B) Can all be serviceable over a 14-year period.

(e) Lands included within the urban growth boundary:

(A) Must be planned and zoned for categories of land uses in amounts that are roughly proportional to the land need determined for each category of use;

(B) Must be planned and zoned for an intensity of use that is generally consistent with the estimates that were used to determine the amount of land needed;

(C) Must be planned and zoned to meet the requirements for needed housing, and those requirements must be specified by rule of the commission in a manner that is as objective as practicable; and

(D) May be either:

(i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan; or

(ii) Allowed to significantly affect a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the commission, if the lands are planned and zoned for compact urban development or industrial uses.

(4) For purposes of subsection (3)(a) of this section, population growth must be forecast as provided in ORS 195.034 or 195.036. Employment growth must be forecast based on the population growth forecast for the city or the employment growth forecast issued by the Employment Department for the county or region. The commission shall establish factors, by rule, for converting the forecasted population and employment growth into forecasts of land need for housing, employment and other categories of uses. The factors must:

(a) Be based on an empirical evaluation of the relation between population and employment growth and the rate and trends of land utilization in the recent past in the applicable major region of the state;

(b) Reflect consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Be designed to encourage an increase in the land use efficiency of a city, subject to market conditions; and

(d) Provide a range of policy choices for a city about the form of its future growth.

(5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for supply and development capacity that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in each major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(7) For lands that are included within an urban growth boundary pursuant to this section and not made serviceable within 20 years after the date of their inclusion, the commission may provide by rule that:

(a) The lands must be removed from within the urban growth boundary the next time the city evaluates the urban growth boundary; or

(b) The planned development capacity of the lands must be reduced if there are significant increases in the cost of making the lands serviceable.

(8) When lands included within the urban growth boundary pursuant to this section are planned and zoned for industrial or residential uses, the lands must remain planned and zoned for the use unless a rule of the commission allows a change in planning and zoning based on a significant change in circumstance.

<u>SECTION 5.</u> (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and the statewide land use planning goals, the Land Conservation and Development Commission shall adopt a method by which a city outside Metro that has a population of 10,000 or more may evaluate or amend its urban growth boundary.

(2) The commission shall design the method so that:

(a) A city using the method:

(A) Will have within its boundaries sufficient buildable lands and other development capacity, including land and capacity for needed housing and employment opportunities, to meet the growth in population and employment forecast to occur over a 14-year period.

(B) Will not become less efficient in its use of land as a result of a change to the urban growth boundary.

(b) The urban population per square mile will continue to increase over time on a statewide basis and in major regions of the state, including that portion of the Willamette Valley outside of Metro.

(c) The rate of conversion of agricultural and forest lands to urban uses does not increase over time in any major region of the state.

(3) Under the method adopted by the commission:

(a) A city's determination of the amount of buildable lands needed for housing, employment and other urban uses must be based on the population and employment growth forecast to occur over a 14-year period.

(b) A city's determination of the supply and development capacity of lands within its urban growth boundary must be based on:

(A) An inventory of vacant and partially vacant buildable lands within the urban growth boundary;

(B) The comprehensive plan designation and the zoning of the portion of the buildable lands that is urban; and

(C) Factors established by the commission for forecasting:

(i) The development and redevelopment capacity of urbanizable lands within the urban growth boundary; and

(ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

(c) A city shall consider a range or combination of measures identified by rule of the commission to accommodate future need for land within the urban growth boundary and implement at least one measure or satisfy an alternate performance standard established by the commission. The commission shall design the alternate performance standard so that the standard is satisfied when the city:

(A) Has a development code that contains specified provisions designed to encourage the development of needed housing; and

(B) Demonstrates that, during the preceding planning period, the city:

(i) If located in the Willamette Valley, exceeded the median rate of redevelopment and infill for cities with a population of 10,000 or more in the Willamette Valley that are outside of the boundaries of Metro by an amount set by commission rule; and

(ii) If located outside of the Willamette Valley, exceeded the median rate of redevelopment and infill for cities with a population of 10,000 or more that are outside the Willamette Valley by an amount set by commission rule.

(d) A city shall demonstrate that lands included within the urban growth boundary:

(A) Include sufficient serviceable land for at least a seven-year period.

(B) Can all be serviceable over a 14-year period.

(e) Lands included within the urban growth boundary:

(A) Must be planned and zoned for categories of land uses in amounts that are roughly proportional to the land need determined for each category of use;

(B) Must be planned and zoned for an intensity of use that is generally consistent with the estimates that were used to determine the amount of land needed;

(C) Must be planned and zoned to meet the requirements for needed housing, and those requirements must be specified by rule of the commission in a manner that is as objective as practicable; and

(D) May be either:

(i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan; or

(ii) Allowed to significantly affect a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the commission, if the lands are planned and zoned for compact urban development or industrial uses.

(4) For purposes of subsection (3)(a) of this section, population growth must be forecast as provided in ORS 195.034 or 195.036. Employment growth must be forecast based on the population growth forecast for the city or the employment growth forecast issued by the Employment Department for the county or region. The commission shall establish factors, by rule, for converting the forecasted population and employment growth into forecasts of land need for housing, employment and other categories of uses. The factors must:

(a) Be based on an empirical evaluation of the relation between population and employment growth and the rate and trends of land utilization in the recent past in the applicable major region of the state;

(b) Reflect consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Be designed to encourage an increase in the land use efficiency of a city, subject to market conditions; and

(d) Provide a range of policy choices for a city about the form of its future growth.

(5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for supply and development capacity that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in each major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(7) For lands that are included within an urban growth boundary pursuant to this section and not made serviceable within 20 years after the date of their inclusion, the commission may provide by rule that:

(a) The lands must be removed from within the urban growth boundary the next time the city evaluates the urban growth boundary; or

(b) The planned development capacity of the lands must be reduced if there are significant increases in the cost of making the lands serviceable.

(8) When lands included within the urban growth boundary pursuant to this section are planned and zoned for industrial or residential uses, the lands must remain planned and zoned for the use unless a rule of the commission allows a change in planning and zoning based on a significant change in circumstance.

<u>SECTION 6.</u> (1) As used in this section, "district" means:

(a) A domestic water supply district organized under ORS chapter 264.

(b) A parks and recreation district organized under ORS chapter 266.

(c) A sanitary district organized under ORS 450.005 to 450.245.

(d) A rural fire protection district organized under ORS chapter 478.

(2) When a city evaluates or amends the urban growth boundary of the city under section 5 of this 2013 Act, the city shall notify:

(a) Each district that has territory within the study area established under section 7 of this 2013 Act.

(b) Each county that has land use jurisdiction over any portion of the study area.

(3) The notification must:

(a) Include a map showing the study area; and

(b) State that, in order to execute or amend an urban services agreement concerning the study area, the district shall respond to the notice within 60 days of the date the notice is mailed if the district enters into or amends an urban services agreement concerning the study area.

(4) An urban services agreement executed under this section must satisfy the requirements of ORS 195.065 (1)(a) to (f). When a city and a district execute an urban services agreement pursuant to this section, the city and the district are not required to participate in the negotiation of an urban service agreement under ORS 195.065 to 195.085.

(5) Before executing the urban service agreement, the city and the district shall consult with community planning organizations that are recognized by the governing body of the city and whose boundaries include territory in the study area that may be affected by the urban service agreement.

(6) If the special district chooses not to negotiate an urban service agreement or does not respond to the notice within 60 days, the city may withdraw from the service territory of the district any portion of the study area that is included within the urban growth boundary of the city and annexed to the city.

(7) If the district responds in writing to the notice within 60 days and requests to execute an urban service agreement for the study area with the city, the city and the district shall meet to develop the agreement within 60 days after the district responds.

(8) If the city and district are unable to develop the agreement within 180 days after the date of the first meeting, the city or the district may require mediation. If mediation is required, the city and the district shall each designate an individual to work with the city and the district to develop an agreement. The city and the district are each responsible for the costs of the mediator it selects.

(9) If the city and the district are unable to develop the agreement after an additional 180 days, the city or the district may require arbitration. The mediators selected under subsection (8) of this section shall jointly select a third individual, and the three individuals shall constitute an arbitration panel to develop the urban services agreement. If the mediators are unable to agree on the third individual, the Director of the Department of Land Conservation and Development shall select an individual from a list of qualified arbitrators provided by the Land Conservation and Development Commission. The city and the district shall bear the cost of the third individual equally. The arbitration panel:

(a) Shall consider the provisions of ORS 222.460, 222.465, 222.510 to 222.570, 222.575 and 222.580; and

(b) May not:

(A) Require the city or the district to pay the other party as part of the urban services agreement unless:

(i) The urban services agreement requires a transfer of physical assets, in which case the agreement may require the payment of fair market value for the assets; or

(ii) A party has offered a payment as part of prior negotiations and the arbitrators incorporate all or a portion of the negotiated payment in the agreement;

(B) Prevent a city from including land within the urban growth boundary of the city; or

(C) Prohibit a city from annexing territory that is within the urban growth boundary of the city.

(10) A city may not withdraw territory from the service territory of a district:

(a) Unless the district does not respond to the notice required by subsection (2) of this section; or

(b) Until the city and the district develop an urban services agreement under this section.

(11) Decisions related to the execution of an urban service agreement under this section are not land use decisions subject to the jurisdiction of the Land Use Board of Appeals.

<u>SECTION 7.</u> (1) Notwithstanding the priority in ORS 197.298 for inclusion of land within an urban growth boundary, a city outside of Metro shall comply with this section when determining which lands to include within the urban growth boundary of the city pursuant to ORS 197.295 to 197.314 or section 4 or 5 of this 2013 Act.

(2) The Land Conservation and Development Commission shall provide, by rule, that:

(a) When evaluating lands for inclusion within the urban growth boundary, the city shall establish a study area that includes all land that is contiguous to the urban growth boundary and within a distance specified by commission.

(b) The city shall evaluate all land in the study area for inclusion in the urban growth boundary as provided in subsection (4) of this section, except for land excluded from the study area because:

(A) It is impracticable, as provided in subsection (3) of this section, to provide necessary public facilities or services to the land.

(B) The land is subject to significant development hazards, including a risk of land slides, a risk of flooding because the land is within the

100-year floodplain or is subject to inundation during storm surges or tsunamis, and other risks determined by the commission.

(C) The long-term preservation of significant scenic, natural, cultural or recreational resources requires limiting or prohibiting urban development of the land that contains the resources.

(D) The land is owned by the federal government and managed primarily for rural uses.

(c) When evaluating the priority of land for inclusion under paragraph (b) of this subsection:

(A) The city shall evaluate the land within the study area that is designated as an urban reserve under ORS 195.145 in an acknowledged comprehensive plan, land that is subject to an acknowledged exception under ORS 197.732 or land that is nonresource land and select as much of the land as necessary to satisfy the need for land using criteria established by the commission and criteria in an acknowledged comprehensive plan and land use regulations.

(B) If the amount of land appropriate for selection under subparagraph (A) of this paragraph is not sufficient to satisfy the need for land, the city shall evaluate the land within the study area that is designated as marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive plan and select as much of the land as necessary to satisfy the need for land using criteria established by the commission and criteria in an acknowledged comprehensive plan and land use regulations.

(C) If the amount of land appropriate for selection under subparagraphs (A) and (B) of this paragraph is not sufficient to satisfy the amount of land needed, the city shall evaluate land within the study area that is designated for agriculture or forest uses in the acknowledged comprehensive plan that is not predominantly high-value farmland, as defined in ORS 195.300, or does not consist predominantly of prime or unique soils, as determined by the United States Department of Agriculture Natural Resources Conservation Service, and select as much of that land as necessary to satisfy the need for land:

(i) Using criteria established by the commission and criteria in an acknowledged comprehensive plan and land use regulations; and

(ii) Using the predominant capability classification system or the predominant cubic site class, as appropriate for the acknowledged comprehensive plan designation, to select lower capability or cubic site class lands first.

(D) If amount of land appropriate for selection under subparagraphs (A) to (C) of this paragraph is not sufficient to satisfy the need for land, the city shall evaluate land within the study area that is designated as agricultural land in an acknowledged comprehensive plan and is predominantly high value farmland and select as much of that land as necessary to satisfy the need for land. A local government may not select land that is predominantly made up of prime or unique farm soils, as defined by the United States Department of Agriculture Natural Resources Conservation Service, unless there is an insufficient amount of other land to satisfy its land need.

(3) For purposes of subsection (2)(b)(A) of this section, the commission shall determine impracticability by rule, considering the likely amount of development that could occur on the lands within the planning period, the likely cost of facilities and services, physical, topographical or other impediments to service provision and whether urban development has occurred on similarly situated lands such that it is likely that the lands will be developed at an urban level during the planning period. When impracticability is primarily a result of existing development patterns, the rules of the commission shall require that the lands be included within the study area, but may allow the development capacity forecast for the lands to be specified at a lower level over the planning period. The rules of the commission must be based on an evaluation of how similarly situated lands have, or have not, developed over time.

(4) For purposes of subsection (2)(b)(C) of this section, the commission by rule shall determine the circumstances in which and the resources to which this exclusion will apply.

(5) Notwithstanding subsection (2)(c)(D) of this section, the rules must allow land that would otherwise be excluded from an urban growth boundary to be included if:

(a) The land contains a small amount of resource land that is not important to the commercial agricultural enterprise in the area and the land must be included to connect a nearby and significantly larger area of land of higher priority for inclusion within the urban growth boundary; or

(b) The land contains a small amount of resource land that is not predominantly high-value farmland or predominantly made up of prime or unique farm soils and the land is completely surrounded by land of higher priority for inclusion into the urban growth boundary.

(6) When the primary purpose for expansion of the urban growth boundary is to accommodate a particular industry use that requires specific site characteristics, or to accommodate a public facility that requires specific site characteristics and the site characteristics may be found in only a small number of locations, the city may limit the study area to land that has, or could be improved to provide, the required site characteristics. Lands included within an urban growth boundary for a particular industrial use, or a particular public facility, must remain planned and zoned for the intended use:

(a) Except as allowed by rule of the commission that is based on a significant change in circumstance or the passage of time; or

(b) Unless the city removes the land from within the urban growth boundary.

(7) Notwithstanding any other provision of this section, the commission may adopt rules that specify circumstances under which a city may exchange land within the urban growth boundary of the city for land that is outside of the urban growth boundary and that is designed to avoid adverse effects of an exchange on agricultural or forest operations in the surrounding area.

SECTION 8. (1) Notwithstanding ORS 197.626, when a city evaluates or amends the urban growth boundary of the city pursuant to section 4 or 5 of this 2013 Act, the Land Use Board of Appeals has jurisdiction for review of a final decision of the city.

(2) The board shall review the final decision of the city under sections 1 to 8 of this 2013 Act as provided in ORS 197.805 to 197.855, except that:

(a) In circumstances in which the Land Conservation and Development Commission has specified by rule a number or a range of numbers that the city may use:

(A) The city is not required to adopt findings to support the use of the number or a number within the range of numbers; and

(B) The board's review of the number may determine only that the city has used a number that is allowed by the rule.

(b) The board shall affirm an interpretation by a local government of its comprehensive plan or land use regulations unless that interpretation is clearly erroneous.

(3) Notwithstanding ORS 197.628 and 197.629, when a city evaluates or amends the urban growth boundary of the city pursuant to section 4 or 5 of this 2013 Act, the city is not required to commence or complete periodic review. The commission shall, by rule, specify alternate means to ensure that the comprehensive plan and land use regulations of the city comply with the statewide land use planning goals and are updated over time to reflect changing conditions and needs.

SECTION 9. If House Bill 2253 becomes law, section 4 of this 2013 Act is amended to read:

Sec. 4. (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and the statewide land use planning goals, the Land Conservation and Development Commission shall adopt a method by which a city outside Metro that has a population of less than 10,000 may evaluate or amend its urban growth boundary.

(2) The commission shall design the method so that:

(a) A city using the method:

(A) Will have within its boundaries sufficient buildable lands and other development capacity, including land and capacity for needed housing and employment opportunities, to meet the growth in population and employment forecast to occur over a 14-year period.

(B) Will not become less efficient in its use of land as a result of a change to the urban growth boundary.

(b) The urban population per square mile will continue, subject to market conditions, to increase over time on a statewide basis and in major regions of the state, including that portion of the Willamette Valley outside of Metro.

(c) The rate of conversion of agricultural and forest lands to urban uses does not increase over time in any major region of the state.

(3) Under the method adopted by the commission:

(a) A city's determination of the amount of buildable lands needed for housing, employment and other urban uses must be based on the population and employment growth forecast to occur over a 14-year period.

(b) A city's determination of the supply and development capacity of lands within its urban growth boundary must be based on:

(A) A simple inventory of vacant and partially vacant buildable lands within the urban growth boundary;

(B) The comprehensive plan designation and the zoning of the portion of the buildable lands that is urban; and

(C) Simple factors established by the commission for forecasting:

(i) The development and redevelopment capacity of urbanizable lands within the urban growth boundary; and

(ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

(c) A city's determination of the supply and development capacity of lands the city proposes to include within the urban growth boundary must be based on:

(A) A simple inventory of vacant and partially vacant lands; and

(B) Simple factors established by the commission for forecasting the development and redevelopment capacity of the lands.

(d) A city shall demonstrate that lands included within the urban growth boundary:

(A) Include sufficient serviceable land for at least a seven-year period.

(B) Can all be serviceable over a 14-year period.

(e) Lands included within the urban growth boundary:

(A) Must be planned and zoned for categories of land uses in amounts that are roughly proportional to the land need determined for each category of use;

(B) Must be planned and zoned for an intensity of use that is generally consistent with the estimates

that were used to determine the amount of land needed;

(C) Must be planned and zoned to meet the requirements for needed housing, and those requirements must be specified by rule of the commission in a manner that is as objective as practicable; and

(D) May be either:

(i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan; or

(ii) Allowed to significantly affect a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the commission, if the lands are planned and zoned for compact urban development or industrial uses.

(4) For purposes of subsection (3)(a) of this section, population growth must be forecast as provided in [*ORS 195.034 or 195.036*] **section 2, chapter 574, Oregon Laws 2013 (Enrolled House Bill 2253)**. Employment growth must be forecast based on the population growth forecast for the city or the employment growth forecast issued by the Employment Department for the county or region. The commission shall establish factors, by rule, for converting the forecasted population and employment growth into forecasts of land need for housing, employment and other categories of uses. The factors must:

(a) Be based on an empirical evaluation of the relation between population and employment growth and the rate and trends of land utilization in the recent past in the applicable major region of the state;

(b) Reflect consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Be designed to encourage an increase in the land use efficiency of a city, subject to market conditions; and

(d) Provide a range of policy choices for a city about the form of its future growth.

(5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for supply and development capacity that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in each major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(7) For lands that are included within an urban growth boundary pursuant to this section and not made serviceable within 20 years after the date of their inclusion, the commission may provide by rule that:

(a) The lands must be removed from within the urban growth boundary the next time the city evaluates the urban growth boundary; or

(b) The planned development capacity of the lands must be reduced if there are significant increases in the cost of making the lands serviceable.

(8) When lands included within the urban growth boundary pursuant to this section are planned and zoned for industrial or residential uses, the lands must remain planned and zoned for the use unless a rule of the commission allows a change in planning and zoning based on a significant change in circumstance.

SECTION 10. If House Bill 2253 becomes law, section 5 of this 2013 Act is amended to read:

Sec. 5. (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and the statewide land use planning goals, the Land Conservation and Development Commission shall adopt a method by which a city outside Metro that has a population of 10,000 or more may evaluate or amend its urban growth boundary.

(2) The commission shall design the method so that:

(a) A city using the method:

(A) Will have within its boundaries sufficient buildable lands and other development capacity, including land and capacity for needed housing and employment opportunities, to meet the growth in population and employment forecast to occur over a 14-year period.

(B) Will not become less efficient in its use of land as a result of a change to the urban growth boundary.

(b) The urban population per square mile will continue to increase over time on a statewide basis and in major regions of the state, including that portion of the Willamette Valley outside of Metro.

(c) The rate of conversion of agricultural and forest lands to urban uses does not increase over time in any major region of the state.

(3) Under the method adopted by the commission:

(a) A city's determination of the amount of buildable lands needed for housing, employment and other urban uses must be based on the population

and employment growth forecast to occur over a 14-year period.

(b) A city's determination of the supply and development capacity of lands within its urban growth boundary must be based on:

(A) An inventory of vacant and partially vacant buildable lands within the urban growth boundary;

(B) The comprehensive plan designation and the zoning of the portion of the buildable lands that is urban; and

(C) Factors established by the commission for forecasting:

(i) The development and redevelopment capacity of urbanizable lands within the urban growth boundary; and

(ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

(c) A city shall consider a range or combination of measures identified by rule of the commission to accommodate future need for land within the urban growth boundary and implement at least one measure or satisfy an alternate performance standard established by the commission. The commission shall design the alternate performance standard so that the standard is satisfied when the city:

(A) Has a development code that contains specified provisions designed to encourage the development of needed housing; and

(B) Demonstrates that, during the preceding planning period, the city:

(i) If located in the Willamette Valley, exceeded the median rate of redevelopment and infill for cities with a population of 10,000 or more in the Willamette Valley that are outside of the boundaries of Metro by an amount set by commission rule; and

(ii) If located outside of the Willamette Valley, exceeded the median rate of redevelopment and infill for cities with a population of 10,000 or more that are outside the Willamette Valley by an amount set by commission rule.

(d) A city shall demonstrate that lands included within the urban growth boundary:

(A) Include sufficient serviceable land for at least a seven-year period.

(B) Can all be serviceable over a 14-year period.

(e) Lands included within the urban growth boundary:

(A) Must be planned and zoned for categories of land uses in amounts that are roughly proportional to the land need determined for each category of use;

(B) Must be planned and zoned for an intensity of use that is generally consistent with the estimates that were used to determine the amount of land needed;

(C) Must be planned and zoned to meet the requirements for needed housing, and those requirements must be specified by rule of the commission in a manner that is as objective as practicable; and

(D) May be either:

(i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan; or

(ii) Allowed to significantly affect a state highway, a state highway interchange or a freight route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the commission, if the lands are planned and zoned for compact urban development or industrial uses.

(4) For purposes of subsection (3)(a) of this section, population growth must be forecast as provided in [*ORS 195.034 or 195.036*] **section 2, chapter 574, Oregon Laws 2013 (Enrolled House Bill 2253)**. Employment growth must be forecast based on the population growth forecast for the city or the employment growth forecast issued by the Employment Department for the county or region. The commission shall establish factors, by rule, for converting the forecasted population and employment growth into forecasts of land need for housing, employment and other categories of uses. The factors must:

(a) Be based on an empirical evaluation of the relation between population and employment growth and the rate and trends of land utilization in the recent past in the applicable major region of the state;

(b) Reflect consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Be designed to encourage an increase in the land use efficiency of a city, subject to market conditions; and

(d) Provide a range of policy choices for a city about the form of its future growth.

(5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for supply and development capacity that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in that major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that are:

(a) Based on an empirical evaluation of the population and employment growth that has occurred on similarly situated lands through development and redevelopment;

(b) Based on consideration by the commission of any significant changes occurring or expected to occur in the markets for urban land uses in each major region of the state;

(c) Designed to encourage an increase in the land use efficiency of the city, subject to market conditions; and

(d) Designed to provide a range of policy choices for a city about the form of its future growth.

(7) For lands that are included within an urban growth boundary pursuant to this section and not made serviceable within 20 years after the date of their inclusion, the commission may provide by rule that:

(a) The lands must be removed from within the urban growth boundary the next time the city evaluates the urban growth boundary; or

(b) The planned development capacity of the lands must be reduced if there are significant increases in the cost of making the lands serviceable.

(8) When lands included within the urban growth boundary pursuant to this section are planned and zoned for industrial or residential uses, the lands must remain planned and zoned for the use unless a rule of the commission allows a change in planning and zoning based on a significant change in circumstance.

SECTION 11. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196 and 197 **and sections 1 to 8 of this 2013 Act**, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

(10) "Land use decision":

(a) Includes:

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

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

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

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

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

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

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

(C) That is a limited land use decision;

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

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

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

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

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

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

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

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

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

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

(e) Does not include:

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

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

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

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

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

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

(12) "Limited land use decision":

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

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

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

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

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

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

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

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

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

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

(19) "Special district" means any unit of local government, other than a city, county, metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

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

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

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

SECTION 12. ORS 197.298 is amended to read:

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

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

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

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

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

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

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

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

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

(4) When a city includes land within the urban growth boundary of the city pursuant to ORS 197.295 to 197.314, the city shall prioritize lands for inclusion as provided in section 7 of this 2013 Act.

SECTION 13. (1) Sections 1 to 8 of this 2013 Act and the amendments to ORS 197.015 and 197.298 by sections 11 and 12 of this 2013 Act become operative January 1, 2016.

(2) Notwithstanding subsection (1) of this section, the Land Development and Conservation Commission shall adopt rules before the operative date specified in subsection (1) of this section that are necessary to implement this 2013 Act.

SECTION 14. If House Bill 2253 becomes law, section 13 of this 2013 Act is amended to read:

Sec. 13. (1) Sections 1 to 8 of this 2013 Act and the amendments to ORS 197.015 and 197.298 **and sections 4 and 5 of this 2013 Act** by sections **9, 10,** 11 and 12 of this 2013 Act become operative January 1, 2016.

(2) Notwithstanding subsection (1) of this section, the Land Development and Conservation Commission shall adopt rules before the operative date specified in subsection (1) of this section that are necessary to implement this 2013 Act.

SECTION 15. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2013, out of the General Fund, the amount of $250,000 for the purpose of carrying out the provisions of sections 1 to 8 of this 2013 Act.

SECTION 16. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Approved by the Governor July 1, 2013
Filed in the office of Secretary of State July 1, 2013
Effective date July 1, 2013