

Table 4. Assessment for Compliance with Housing-Related Statutes/Rules

Summary of State Statute/Rule	BDC Audit Findings and Analysis	Recommendation
Requirement to Approve Needed Housing If an application is inconsistent with the comprehensive plan and land use regulations, the local government shall allow applicants to offer an amendment or to propose conditions of approval. If the applicant amends the proposal, the city may extend the 120-day time limit for a final decision. ORS 197.522 Amended by HB 3222 (2015)	Codification Recommended No provisions in the BDC directly address this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.
Reduced Density or Height as Condition of Approval Approval or denial of permits must be based on clear and objective standards outlined in the development ordinance and cities may not condition reductions in density or height for housing, except to resolve a health, safety, or habitability issue or to comply with a statewide land use planning goal. ORS 227.175 Amended by HB 2003 (2019)	Codification Recommended No provisions in the BDC directly address this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.
Opting-In to Amended Housing Regulations An applicant may “opt in” to new standards adopted by a city after the applicant submitted an application. This enables an applicant to apply a city’s new development standards and criteria if they choose to, without having to withdraw and resubmit their application. ORS 227.178 Amended by SB 1537 (2024)	Codification Recommended No provisions in the BDC directly address this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.
Limited Land Use Decisions A city must apply a limited land use decision procedure (usually called “Type II” or “Administrative”) to tentative subdivision or partitions, site design review, replats, property line adjustments, and the extension/alteration/expansion of a non-conforming use. ORS 197.195 and 197.015 Amended by SB 1537 (2024)	Partially Complies The following applications are subject to a Type II or Type I procedure in compliance with this statute: Partitions, Lot Line Adjustments, Non-Conforming Use or Development Confirmation (Table 4.1.200). Subdivision Preliminary Plat applications are subject to a Type III procedure, not in compliance with this statute (4.3.120.A). All Subdivision Preliminary Plat	Modify applicable sections of Chapter 4 so that the following applications are only subject to a Type II or Type I procedure: • Subdivision Preliminary Plat • Replat • Site Design Review As necessary, modify approval criteria for all relevant applications to ensure they are clear and objective pursuant to ORS 197A.400.

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	applications must be subject to a Type II or Type I procedure under this statute. Replat applications must be processed under the same procedure as the original subdivision or partition (4.3.200.B). This may result in some replats being subject to a Type III procedure, not in compliance with this statute. Site Design Review applications meeting certain thresholds are subject to Type III procedure (4.2.400.B). All Site Design Review applications must be subject to a Type II or Type I procedure under this statute.	
Occupancy Limit Based on Familial Relationship City may not enforce a maximum occupancy limit for any residential dwelling unit if the restriction is based on the familial or nonfamilial relationships among any occupants. ORS 90.112 Amended by HB 2583 (2021)	Does Not Comply The definition of a dwelling unit limits a dwelling unit to be used by one “family”. Family is not defined but can be assumed to be defined as related members of a household. Therefore, by definition, unrelated members of a household would be prohibited from occupying the same dwelling unit.	Replace the use of the term “family” with “household” in the definition of a dwelling unit. If a limit on the number of members of a household that may live in one dwelling unit is preferred, then establish that limit without regard to if the members are related. Replace all terms that use “family” (such as “single-family dwelling”) with “unit” or “household” for consistency.
Accessory Dwelling Units A city above a population of 2,500 may not prohibit the development of at least one accessory dwelling unit per detached single-family dwelling. Cities must: ● Allow at least 1 ADU for each detached single-family dwelling in zones that allow single family ● Not apply owner occupancy requirements to either the primary or accessory dwelling. ● Not require additional parking for the ADU ORS 197A.425 Amended by SB 1051 (2017)	Partially Complies “Accessory dwelling” is a defined term in Chapter 1.2, but it is unclear if it is a permitted use in the Residential districts. It is not listed in the table of permitted uses (Table 2.1.110.A). “Accessory structures and uses” is listed, but the applicable special use standards do not clarify if that term includes accessory dwellings. The definition of accessory dwelling references section 2.1.200.B for applicable standards but that section does not address accessory dwellings. Parking requirements do not address accessory dwellings (3.3.300.A). It is unclear if an additional parking space would be required.	Clarify that ADUs are a permitted use/building type in all districts that allow for a single-family dwelling. Clarify the development standards that apply to ADUs if they differ from base standards that apply to other uses. Consider providing exceptions to setback, lot coverage, and other standards that may be a barrier to ADU development. Clarify which, if any of the special use standards that apply to accessory structures apply to ADUs (2.1.190.F). Fix cross-references that are incorrect. Clarify that no additional parking space is required for an ADU (3.3.300.A).

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Duplexes A city with a population between 2,500 and 25,000 must allow duplexes on each lot or parcel zoned for residential use that allows for single family dwellings. Cities may regulate the siting and design of duplexes provided that the regulations do not, individually or cumulatively, discourage the development of duplexes through unreasonable costs or delay. OAR 660-046 provides detailed requirements for siting and design standards. ORS 197A.420 Amended by HB 2001 (2019) and HB 3395 (2023)	Partially Complies Duplexes are a permitted use in Residential districts under the category of “Two- and three-family housing (duplex and triplex)”. Below is an analysis of compliance with allowed siting standards for duplexes: ● Density: Complies because there is no maximum density standard applicable to duplexes. ● Lot size/width: Does not comply. Single-family dwellings have smaller minimum lot size and lot width. ● Setbacks: Complies because setbacks for duplexes are equivalent to setbacks for single-family dwellings. ● Lot coverage: Complies because lot coverage higher for duplexes than single-family dwellings. ● Height: Complies because max height is equivalent to that allowed for single-family dwellings. ● Parking: Does not comply. Two spaces per unit required, must be limited to two spaces total per duplex. The following design standards do not comply because they apply to duplexes but not to single-family dwellings: ● Building form, articulation, eyes on the street, detailed design (2.1.180.1-3) ● Alley access and street access (2.1.190.D.2-3) ● Pedestrian access and circulation (3.1.300) The following standards comply because they apply equally to duplexes and single-family dwellings. ● Building orientation (2.1.170) ● Garages and carports (2.1.180.4)	Modify siting and design standards to ensure compliance with OAR 660-046-0120 and OAR 660-046-0125: ● Equivalent lot size/width standards as single-family dwellings. ● Minimum parking requirement of no more than two spaces (total per duplex). ● Any design standards must apply equally to duplexes and single-family dwellings. Additionally, clarify the following are permitted: ● Any existing, legally created lot where a single-family dwelling is permitted would be permitted for a duplex (regardless of minimum lot size requirement). (OAR 660-046-0120(1)). ● Ensure any exceptions to public works standards granted to single-family dwellings are also granted to duplexes. (OAR 660-046-0120(7)). ● Clarify the existing single-family dwellings may be converted to duplexes so long as conversion does not increase nonconformance with applicable standards. Clarify that design standards do not apply to conversions of single-family dwellings to duplexes. (OAR 660-046-0130).

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Middle Housing Land Divisions (MHL D) Land divisions creating separate lots for units in a middle housing project must be approved via an expedited land division process if they meet certain criteria, including: ● Development on the original (parent) lot meets all standards applicable to that middle housing type. ● Separate utilities are provided to each unit ● Necessary easements are provided for each unit. ● No more than one (1) unit per resulting lot. ● Compliance with building code. City may apply requirements that: ● Prohibit further division of resulting (child) lots. ● Require notation indicating the resulting (child) lots were created via a middle housing land division. ● Prohibit an ADU on resulting (child) lots. ● Require right-of-way dedication or frontage improvements Cities cannot require each lot or parcel to have driveways, vehicle access, parking or street frontage. ORS 92.031 Amended by SB 458 (2021)	Does Not Comply The BDC includes no applicable provisions that implement this requirement. A MHL D must be allowed as an alternative to a conventional partition or subdivision for a duplex, which is the only middle housing type that is required by statute to be allowed in Boardman.	Codify this allowance for a MHL D for duplex developments. Consider using the applicable language from the Housing Model Code from DLCD (under development).
Manufactured Homes Cities must allow manufactured homes in single-family residential zones. ● Exceptions allowed for historic districts or land adjacent to historic landmarks. ● May not apply design or development standards that would not apply to single-family dwelling, except: ● Protective measure under statewide goal ● Thermal envelope performance standard ORS 197.478 Amended by HB 4064 (2022)	Does Not Comply Manufactured homes are permitted on individual lots in the Residential district where single-family dwellings are permitted. However, the BDC includes several design standards for manufactured homes that do not apply to single-family dwellings. This includes general standards in 2.1.190.B and standards specific to the Sunridge Terrace Sub-District in 2.1.600. This is generally not in compliance with this statute.	All of the special use standards in 2.1.190.B and 2.1.600 will need to be removed or applied equally to single-family dwellings, with the exception of the thermal envelope standard (2.1.190.B.5) and the prohibition in historic districts (2.1.190.B.8).

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Manufactured Home Parks Cities must allow manufactured home parks: ● In all zones with density of 6-12 units per acre ● On enough land sufficient to meet the need as identified in an adopted Housing Needs/Capacity Analysis. ● The projection of need must be based on both population projections/demographics and to accommodate the potential displacement of residents of current manufactured home parks. Cities may apply clear and objective standards to manufactured home parks and may require a hearing prior to approval, but clear and objective standards must be the sole issue reviewed at the hearing. Cities must allow siting of prefabricated structures (“tiny homes”, etc. that do not meet definition of manufactured home) in manufactured home parks. ORS 197.480 Amended by HB 4064 (2022) Cities cannot apply a minimum lot size greater than one (1) acre to manufactured home parks. ORS 197.478(5)	Partially Complies Manufactured home parks are permitted only in the MH Subdistrict. It is unclear if this subdistrict has sufficient buildable land to meet the projected need for manufactured home parks. The 2019 HNA, developed prior to this statute being revised by HB 4064 in 2022, did not estimate the need for manufactured homes in parks separately from manufactured homes on individual lots. Additionally, the HNA did not account for the potential displacement of residents in existing parks in estimating the need. The HNA did estimate a total need for 522 mobile homes. The BLI found there is approximately 25 acres of buildable land in the MH Subdistrict. Additional analysis is necessary to determine if these 25 acres are sufficient to meet the projected need. The standards that apply to manufactured home parks are clear and objective, in compliance with this statute. The BDC does not address if a prefabricated structure could be sited in a manufactured home park. The minimum lot size for a manufactured home park is one acre, in compliance with this statute.	Evaluate the projected need and land supply for manufactured home parks in accordance with these statutory requirements as part of the ongoing Housing Capacity Analysis. Update the BDC to clarify that prefabricated dwellings that do not meet HUD standards for manufactured homes are permitted to be sited in a manufactured home park.
Manufactured Home Park Subdivisions Cities must approve subdivisions for manufactured home parks established prior to July 2nd, 2001, that meet following requirements: ● Park complies with local code standards or is an approved nonconforming use. ● No changes to the site plan or increasing number of lots. ● Lots continue to be used for manufactured homes.	Codification Recommended There are no provisions in the BDC that directly implement this requirement. There is a special exception to certain standards for an existing manufactured home park subdivision (Desert Springs Estate, 2.1.500.5), but it does not address whether other manufactured home parks could be subdivided.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.

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Property owner signs a waiver of right of remonstrance to formation of Local Improvement District (LID). Cities cannot apply new conditions of approval outside those conditions applied to original manufactured home park application. Tenants must be notified of subdivision application and must be offered the right to purchase their lot. ORS 92.835-845 Amended by HB 3245 (2003)		
Occupancy of Recreational Vehicles (RV) Cities must allow RV to be occupied as a residential dwelling, with no time limit, in RV parks and manufactured home parks, if lawfully connected to water and electrical supply systems and a sewage disposal system. If a manufactured home or single-family home was made uninhabitable due to damages from a natural disaster, then RV may be occupied without connection to utilities while rebuilding occurs. ORS 197.493 Established by HB 2247 (2005)	Does Not Comply The definition of “Mobile Home Park” and “Manufactured Structure” lists recreational vehicles; however, those terms are not used in the list of permitted uses in Chapter 2.1. The term “Manufactured Home Park” is used but not defined in the code. The term “manufactured dwelling park” is defined, and it limits the types of structures that can be used to “manufactured dwellings”. The definition of manufactured dwelling excludes RVs. Therefore, it can be assumed that RVs are not permitted to be sited in a manufactured dwelling park, but the BDC is unclear. No provisions in the BDC state that an RV may be sited on a single-family lot during rebuilding after a natural disaster.	Clarify that RVs are permitted to be sited in a RV park and manufactured dwelling park, and occupied as a residential dwelling, with no time limit, if lawfully connected to utilities. Add a provision that allows RVs to be occupied on a single-family lot during rebuilding after a natural disaster.
Single Room Occupancies (SRO) Cities must allow up to six (6) SRO units on each lot or parcel zoned to allow single-family dwellings with the number of units consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five (5) or more units. SRO means a development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.	Does Not Comply There are no defined uses/building types that are consistent with the definition of an SRO under this statute. The definition of a “dwelling unit” would allow for up to 10 individuals to live in a congregate household, but it is unclear if that would permit for an SRO development with multiple individual living units, as required by this law.	Define SROs as a distinct use/housing type separate from single-unit or multi-unit dwellings and allow in all residential districts at the density levels required by this statute.

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197A.430 Amended by HB 3395 (2023)		
Residential Homes and Facilities Residential home means a residential treatment or training home, a residential facility, or an adult foster home, that provides residential care for five (5) or fewer individuals who need not be related. Residential homes must be: - Allowed in any residential or commercial zone where a single-family dwelling is allowed. - Not subject to any standard that is more restrictive than standards applied to single-family dwelling. Residential facility means a residential care, residential training or residential treatment facility, that provides residential care for six to fifteen (6-15) individuals who need not be related. Residential facilities must be: - A permitted use in any residential or commercial zone where a multi-family dwelling is a permitted use. - A conditional use in any residential or commercial zone where a multi-family dwelling is a conditional use. ORS 197.660 to 197.670	Complies Residential care homes and facilities are permitted in the Residential and Commercial districts. In the Residential districts, special use standards apply. These standards require the facility/home to be licensed and to be approved through a development review process. Development review is also required for single-family dwellings.	Confirm that definitions of “residential care home” and “residential care facility” align with state law. If residential uses are permitted in any commercial or mixed-use zone with BDC updates, ensure residential care homes/facilities are permitted as applicable.
Affordable Housing: General Siting Allowances Cities must allow affordable housing outright, with no zone change or conditional use permit required, if it is located on a site that meets any one of three criteria: - Owned by a public body, religious non-profit, affordable housing non-profit. - Zoned for commercial uses, religious assembly, or as public lands. If land is zoned for industrial uses, additional limitations apply. - Conversion of an existing commercial building from a commercial use to affordable housing. Additional limitations:	Codification Recommended There are no provisions in the BDC that directly implement this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.

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- City must exempt development from SDC charges or reduce SDC charges. Must limit parking requirements to the lesser of spaces required for existing commercial use or spaces required in residential zones. Lands are exempt if they are not served by urban services, on steep slopes, floodplains, or protected due to natural hazards/resources. Affordable housing means: - All units are affordable to families with incomes of 80% or less of AMI. - Average of all units affordable to families with incomes of 60% or less of AMI. - Manufactured dwelling park affordable to households with incomes of 120% or less of AMI. ORS 197A.445(1-8) Amended 2021, 2022, 2023		
Affordable Housing: Redevelopment of Commercial Land Cities must allow affordable housing on land zoned for commercial uses (not industrial). Qualifying affordable housing projects must meet one of two criteria: - All units are affordable to families with incomes of 60% or less of AMI. - Mixed use development with ground floor commercial and units affordable to families with moderate income (80-120% of AMI). City may only apply standards of the residential zone that are most comparable in density to the commercial zone. Exemptions: - Vacant land - Land added to the UGB in the last 15 years. - Lands not served by urban services, on steep slopes, floodplains, or protected due to natural hazards/resources. ORS 197A.460 Amended by HB 3395 (2023)	Codification Recommended There are no provisions in the BDC that directly implement this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.

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Affordable Housing: Density and Height Bonus Cities must provide a density and height bonus for affordable housing projects that is at least as follows: <table border="1"> <thead> <tr> <th><u>Existing Density</u></th><th><u>Density Bonus</u></th><th><u>Height Bonus</u></th></tr> </thead> <tbody> <tr> <td>16 units/acre or less</td><td>200%</td><td>+12 feet</td></tr> <tr> <td>17-45 units/acre</td><td>150%</td><td>+24 feet</td></tr> <tr> <td>46 units/acre or more</td><td>125%</td><td>+36 feet</td></tr> </tbody> </table> Density bonus does not apply to properties not zoned for residential uses. City may reduce density or height bonus to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Affordable housing means: • 100% of units affordable to families with incomes of 80 percent or less of AMI. • Average of all units affordable to families with incomes of 60 percent or less of AMI • Manufactured dwelling park affordable to households with incomes of 120 percent or less of AMI. ORS 197A.445(9-10) Amended by SB 8 (2021)	<u>Existing Density</u>	<u>Density Bonus</u>	<u>Height Bonus</u>	16 units/acre or less	200%	+12 feet	17-45 units/acre	150%	+24 feet	46 units/acre or more	125%	+36 feet	Codification Recommended There are no provisions in the BDC that directly implement this requirement.	Local codification of this requirement is not strictly required but recommended for transparency and clarity for applicants.
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Affordable Housing: Expedited Review Cities above 5,000 in population (or counties with a population over 25,000) must take final action on qualifying affordable housing applications within 100 days after an application is deemed complete (120 days for all other applications). ORS 197A.470 Amended by HB 2008 (2021)	Does Not Comply There are no provisions in the BDC that directly implement this requirement.	City must allow for an expedited review of qualifying affordable housing applications, so they are decided within the 100-day timeframe. It is recommended this be codified in the code for clarity.												