

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
SENATE BILL 1051**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete line 3 and insert “197.178, 197.303, 197.307, 197.312, 215.416,
3 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.”.

4 Delete lines 5 through 30 and delete pages 2 through 10 and insert:

5 **“SECTION 1. (1) As used in this section:**

6 **“(a) ‘Affordable housing’ means housing that is affordable to**
7 **households with incomes equal to or less than 60 percent of the median**
8 **family income for the county in which the development is built or for**
9 **the state, whichever is greater.**

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

13 **“(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city with**
14 **a population greater than 5,000 or a county with a population greater**
15 **than 25,000 shall take final action on an application qualifying under**
16 **subsection (3) of this section, including resolution of all local appeals**
17 **under ORS 215.422 or 227.180, within 100 days after the application is**
18 **deemed complete.**

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

21 **“(a) The application is submitted to the city or the county under**

1 **ORS 215.416 or 227.175;**

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

5 **“(c) At least 50 percent of the residential units included in the de-**
6 **velopment will be sold or rented as affordable housing; and**

7 **“(d) The development is subject to a covenant appurtenant that**
8 **restricts the owner and each successive owner of the development or**
9 **a residential unit within the development from selling or renting any**
10 **residential unit described in paragraph (c) of this subsection as hous-**
11 **ing that is not affordable housing for a period of 60 years from the date**
12 **of the certificate of occupancy.**

13 **“(4) A city or a county shall take final action within the time al-**
14 **lowed under ORS 215.427 or 227.178 on any application for a permit,**
15 **limited land use decision or zone change that does not qualify for re-**
16 **view and decision under subsection (3) of this section, including re-**
17 **solution of all appeals under ORS 215.422 or 227.180, as provided by ORS**
18 **215.427 and 215.435 or by ORS 227.178 and 227.181.**

19 **“SECTION 2. ORS 215.416 is amended to read:**

20 **“215.416. (1) When required or authorized by the ordinances, rules and**
21 **regulations of a county, an owner of land may apply in writing to such per-**
22 **sons as the governing body designates, for a permit, in the manner prescribed**
23 **by the governing body. The governing body shall establish fees charged for**
24 **processing permits at an amount no more than the actual or average cost**
25 **of providing that service.**

26 **“(2) The governing body shall establish a consolidated procedure by which**
27 **an applicant may apply at one time for all permits or zone changes needed**
28 **for a development project. The consolidated procedure shall be subject to the**
29 **time limitations set out in ORS 215.427. The consolidated procedure shall be**
30 **available for use at the option of the applicant no later than the time of the**

1 first periodic review of the comprehensive plan and land use regulations.

2 “(3) Except as provided in subsection (11) of this section, the hearings
3 officer shall hold at least one public hearing on the application.

4 “(4)(a) [*The application shall not be approved*] **A county may not ap-
5 prove an application** if the proposed use of land is found to be in conflict
6 with the comprehensive plan of the county and other applicable land use
7 regulation or ordinance provisions. The approval may include such condi-
8 tions as are authorized by statute or county legislation.

9 “(b)(A) **A county may not deny an application for a housing devel-
10 opment located within the urban growth boundary if the development
11 complies with clear and objective standards, including but not limited
12 to clear and objective design standards contained in the county com-
13 prehensive plan or land use regulations.**

14 “(B) **This paragraph does not apply to:**

15 “(i) **Applications or permits for residential development in areas
16 described in ORS 197.307 (5); or**

17 “(ii) **Applications or permits reviewed under an alternative approval
18 process adopted under ORS 197.307 (6).**

19 “(c) **A county may not reduce the density of an application for a
20 housing development if:**

21 “(A) **The density applied for is at or below the authorized density
22 level under the local land use regulations; and**

23 “(B) **At least 75 percent of the floor area applied for is reserved for
24 housing.**

25 “(d) **A county may not reduce the height of an application for a
26 housing development if:**

27 “(A) **The height applied for is at or below the authorized height
28 level under the local land use regulations;**

29 “(B) **At least 75 percent of the floor area applied for is reserved for
30 housing; and**

1 **“(C) Reducing the height has the effect of reducing the authorized**
2 **density level under local land use regulations.**

3 **“(e) Notwithstanding paragraphs (c) and (d) of this subsection, a**
4 **county may reduce the density or height of an application for a**
5 **housing development if the reduction is necessary to resolve a health,**
6 **safety or habitability issue or to comply with a protective measure**
7 **adopted pursuant to a statewide land use planning goal.**

8 **“(f) As used in this subsection:**

9 **“(A) ‘Authorized density level’ means the maximum number of lots**
10 **or dwelling units or the maximum floor area ratio that is permitted**
11 **under local land use regulations.**

12 **“(B) ‘Authorized height level’ means the maximum height of a**
13 **structure that is permitted under local land use regulations.**

14 **“(C) ‘Habitability’ means being in compliance with the applicable**
15 **provisions of the state building code under ORS chapter 455 and the**
16 **rules adopted thereunder.**

17 “(5) Hearings under this section shall be held only after notice to the
18 applicant and also notice to other persons as otherwise provided by law and
19 shall otherwise be conducted in conformance with the provisions of ORS
20 197.763.

21 “(6) Notice of a public hearing on an application submitted under this
22 section shall be provided to the owner of an airport defined by the Oregon
23 Department of Aviation as a ‘public use airport’ if:

24 “(a) The name and address of the airport owner has been provided by the
25 Oregon Department of Aviation to the county planning authority; and

26 “(b) The property subject to the land use hearing is:

27 “(A) Within 5,000 feet of the side or end of a runway of an airport de-
28 termined by the Oregon Department of Aviation to be a ‘visual airport’; or

29 “(B) Within 10,000 feet of the side or end of the runway of an airport
30 determined by the Oregon Department of Aviation to be an ‘instrument air-

1 port.’

2 “(7) Notwithstanding the provisions of subsection (6) of this section, no-
3 tice of a land use hearing need not be provided as set forth in subsection (6)
4 of this section if the zoning permit would only allow a structure less than
5 35 feet in height and the property is located outside the runway ‘approach
6 surface’ as defined by the Oregon Department of Aviation.

7 “(8)(a) Approval or denial of a permit application shall be based on stan-
8 dards and criteria which shall be set forth in the zoning ordinance or other
9 appropriate ordinance or regulation of the county and which shall relate
10 approval or denial of a permit application to the zoning ordinance and com-
11 prehensive plan for the area in which the proposed use of land would occur
12 and to the zoning ordinance and comprehensive plan for the county as a
13 whole.

14 “(b) When an ordinance establishing approval standards is required under
15 ORS 197.307 to provide only clear and objective standards, the standards
16 must be clear and objective on the face of the ordinance.

17 “(9) Approval or denial of a permit or expedited land division shall be
18 based upon and accompanied by a brief statement that explains the criteria
19 and standards considered relevant to the decision, states the facts relied
20 upon in rendering the decision and explains the justification for the decision
21 based on the criteria, standards and facts set forth.

22 “(10) Written notice of the approval or denial shall be given to all parties
23 to the proceeding.

24 “(11)(a)(A) The hearings officer or such other person as the governing
25 body designates may approve or deny an application for a permit without a
26 hearing if the hearings officer or other designated person gives notice of the
27 decision and provides an opportunity for any person who is adversely af-
28 fected or aggrieved, or who is entitled to notice under paragraph (c) of this
29 subsection, to file an appeal.

30 “(B) Written notice of the decision shall be mailed to those persons de-

1 scribed in paragraph (c) of this subsection.

2 “(C) Notice under this subsection shall comply with ORS 197.763 (3)(a),
3 (c), (g) and (h) and shall describe the nature of the decision. In addition, the
4 notice shall state that any person who is adversely affected or aggrieved or
5 who is entitled to written notice under paragraph (c) of this subsection may
6 appeal the decision by filing a written appeal in the manner and within the
7 time period provided in the county’s land use regulations. A county may not
8 establish an appeal period that is less than 12 days from the date the written
9 notice of decision required by this subsection was mailed. The notice shall
10 state that the decision will not become final until the period for filing a local
11 appeal has expired. The notice also shall state that a person who is mailed
12 written notice of the decision cannot appeal the decision directly to the Land
13 Use Board of Appeals under ORS 197.830.

14 “(D) An appeal from a hearings officer’s decision made without hearing
15 under this subsection shall be to the planning commission or governing body
16 of the county. An appeal from such other person as the governing body des-
17 ignates shall be to a hearings officer, the planning commission or the gov-
18 erning body. In either case, the appeal shall be to a de novo hearing.

19 “(E) The de novo hearing required by subparagraph (D) of this paragraph
20 shall be the initial evidentiary hearing required under ORS 197.763 as the
21 basis for an appeal to the Land Use Board of Appeals. At the de novo hear-
22 ing:

23 “(i) The applicant and other parties shall have the same opportunity to
24 present testimony, arguments and evidence as they would have had in a
25 hearing under subsection (3) of this section before the decision;

26 “(ii) The presentation of testimony, arguments and evidence shall not be
27 limited to issues raised in a notice of appeal; and

28 “(iii) The decision maker shall consider all relevant testimony, arguments
29 and evidence that are accepted at the hearing.

30 “(b) If a local government provides only a notice of the opportunity to

1 request a hearing, the local government may charge a fee for the initial
2 hearing. The maximum fee for an initial hearing shall be the cost to the local
3 government of preparing for and conducting the appeal, or \$250, whichever
4 is less. If an appellant prevails at the hearing or upon subsequent appeal, the
5 fee for the initial hearing shall be refunded. The fee allowed in this para-
6 graph shall not apply to appeals made by neighborhood or community or-
7 ganizations recognized by the governing body and whose boundaries include
8 the site.

9 “(c)(A) Notice of a decision under paragraph (a) of this subsection shall
10 be provided to the applicant and to the owners of record of property on the
11 most recent property tax assessment roll where such property is located:

12 “(i) Within 100 feet of the property that is the subject of the notice when
13 the subject property is wholly or in part within an urban growth boundary;

14 “(ii) Within 250 feet of the property that is the subject of the notice when
15 the subject property is outside an urban growth boundary and not within a
16 farm or forest zone; or

17 “(iii) Within 750 feet of the property that is the subject of the notice when
18 the subject property is within a farm or forest zone.

19 “(B) Notice shall also be provided to any neighborhood or community
20 organization recognized by the governing body and whose boundaries include
21 the site.

22 “(C) At the discretion of the applicant, the local government also shall
23 provide notice to the Department of Land Conservation and Development.

24 “(12) A decision described in ORS 215.402 (4)(b) shall:

25 “(a) Be entered in a registry available to the public setting forth:

26 “(A) The street address or other easily understood geographic reference
27 to the subject property;

28 “(B) The date of the decision; and

29 “(C) A description of the decision made.

30 “(b) Be subject to the jurisdiction of the Land Use Board of Appeals in

1 the same manner as a limited land use decision.

2 “(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

3 “(13) At the option of the applicant, the local government shall provide
4 notice of the decision described in ORS 215.402 (4)(b) in the manner required
5 by ORS 197.763 (2), in which case an appeal to the board shall be filed within
6 21 days of the decision. The notice shall include an explanation of appeal
7 rights.

8 “(14) Notwithstanding the requirements of this section, a limited land use
9 decision shall be subject to the requirements set forth in ORS 197.195 and
10 197.828.

11 **“SECTION 3.** ORS 227.175 is amended to read:

12 “227.175. (1) When required or authorized by a city, an owner of land may
13 apply in writing to the hearings officer, or such other person as the city
14 council designates, for a permit or zone change, upon such forms and in such
15 a manner as the city council prescribes. The governing body shall establish
16 fees charged for processing permits at an amount no more than the actual
17 or average cost of providing that service.

18 “(2) The governing body of the city shall establish a consolidated proce-
19 dure by which an applicant may apply at one time for all permits or zone
20 changes needed for a development project. The consolidated procedure shall
21 be subject to the time limitations set out in ORS 227.178. The consolidated
22 procedure shall be available for use at the option of the applicant no later
23 than the time of the first periodic review of the comprehensive plan and land
24 use regulations.

25 “(3) Except as provided in subsection (10) of this section, the hearings
26 officer shall hold at least one public hearing on the application.

27 “(4)(a) [*The application shall not be approved*] **A city may not approve**
28 **an application** unless the proposed development of land would be in com-
29 pliance with the comprehensive plan for the city and other applicable land
30 use regulation or ordinance provisions. The approval may include such

1 conditions as are authorized by ORS 227.215 or any city legislation.

2 **“(b)(A) A city may not deny an application for a housing develop-**
3 **ment located within the urban growth boundary if the development**
4 **complies with clear and objective standards, including but not limited**
5 **to clear and objective design standards contained in the city compre-**
6 **hensive plan or land use regulations.**

7 **“(B) This paragraph does not apply to:**

8 **“(i) Applications or permits for residential development in areas**
9 **described in ORS 197.307 (5); or**

10 **“(ii) Applications or permits reviewed under an alternative approval**
11 **process adopted under ORS 197.307 (6).**

12 **“(c) A city may not reduce the density of an application for a**
13 **housing development if:**

14 **“(A) The density applied for is at or below the authorized density**
15 **level under the local land use regulations; and**

16 **“(B) At least 75 percent of the floor area applied for is reserved for**
17 **housing.**

18 **“(d) A city may not reduce the height of an application for a**
19 **housing development if:**

20 **“(A) The height applied for is at or below the authorized height**
21 **level under the local land use regulations;**

22 **“(B) At least 75 percent of the floor area applied for is reserved for**
23 **housing; and**

24 **“(C) Reducing the height has the effect of reducing the authorized**
25 **density level under local land use regulations.**

26 **“(e) Notwithstanding paragraphs (c) and (d) of this subsection, a**
27 **city may reduce the density or height of an application for a housing**
28 **development if the reduction is necessary to resolve a health, safety**
29 **or habitability issue or to comply with a protective measure adopted**
30 **pursuant to a statewide land use planning goal.**

1 **“(f) As used in this subsection:**

2 **“(A) ‘Authorized density level’ means the maximum number of lots**
3 **or dwelling units or the maximum floor area ratio that is permitted**
4 **under local land use regulations.**

5 **“(B) ‘Authorized height level’ means the maximum height of a**
6 **structure that is permitted under local land use regulations.**

7 **“(C) ‘Habitability’ means being in compliance with the applicable**
8 **provisions of the state building code under ORS chapter 455 and the**
9 **rules adopted thereunder.**

10 “(5) Hearings under this section may be held only after notice to the ap-
11 plicant and other interested persons and shall otherwise be conducted in
12 conformance with the provisions of ORS 197.763.

13 “(6) Notice of a public hearing on a zone use application shall be provided
14 to the owner of an airport, defined by the Oregon Department of Aviation
15 as a ‘public use airport’ if:

16 “(a) The name and address of the airport owner has been provided by the
17 Oregon Department of Aviation to the city planning authority; and

18 “(b) The property subject to the zone use hearing is:

19 “(A) Within 5,000 feet of the side or end of a runway of an airport de-
20 termined by the Oregon Department of Aviation to be a ‘visual airport’; or

21 “(B) Within 10,000 feet of the side or end of the runway of an airport
22 determined by the Oregon Department of Aviation to be an ‘instrument air-
23 port.’

24 “(7) Notwithstanding the provisions of subsection (6) of this section, no-
25 tice of a zone use hearing need only be provided as set forth in subsection
26 (6) of this section if the permit or zone change would only allow a structure
27 less than 35 feet in height and the property is located outside of the runway
28 ‘approach surface’ as defined by the Oregon Department of Aviation.

29 “(8) If an application would change the zone of property that includes all
30 or part of a mobile home or manufactured dwelling park as defined in ORS

1 446.003, the governing body shall give written notice by first class mail to
2 each existing mailing address for tenants of the mobile home or manufac-
3 tured dwelling park at least 20 days but not more than 40 days before the
4 date of the first hearing on the application. The governing body may require
5 an applicant for such a zone change to pay the costs of such notice.

6 “(9) The failure of a tenant or an airport owner to receive a notice which
7 was mailed shall not invalidate any zone change.

8 “(10)(a)(A) The hearings officer or such other person as the governing
9 body designates may approve or deny an application for a permit without a
10 hearing if the hearings officer or other designated person gives notice of the
11 decision and provides an opportunity for any person who is adversely af-
12 fected or aggrieved, or who is entitled to notice under paragraph (c) of this
13 subsection, to file an appeal.

14 “(B) Written notice of the decision shall be mailed to those persons de-
15 scribed in paragraph (c) of this subsection.

16 “(C) Notice under this subsection shall comply with ORS 197.763 (3)(a),
17 (c), (g) and (h) and shall describe the nature of the decision. In addition, the
18 notice shall state that any person who is adversely affected or aggrieved or
19 who is entitled to written notice under paragraph (c) of this subsection may
20 appeal the decision by filing a written appeal in the manner and within the
21 time period provided in the city’s land use regulations. A city may not es-
22 tablish an appeal period that is less than 12 days from the date the written
23 notice of decision required by this subsection was mailed. The notice shall
24 state that the decision will not become final until the period for filing a local
25 appeal has expired. The notice also shall state that a person who is mailed
26 written notice of the decision cannot appeal the decision directly to the Land
27 Use Board of Appeals under ORS 197.830.

28 “(D) An appeal from a hearings officer’s decision made without hearing
29 under this subsection shall be to the planning commission or governing body
30 of the city. An appeal from such other person as the governing body desig-

1 nates shall be to a hearings officer, the planning commission or the govern-
2 ing body. In either case, the appeal shall be to a de novo hearing.

3 “(E) The de novo hearing required by subparagraph (D) of this paragraph
4 shall be the initial evidentiary hearing required under ORS 197.763 as the
5 basis for an appeal to the Land Use Board of Appeals. At the de novo hear-
6 ing:

7 “(i) The applicant and other parties shall have the same opportunity to
8 present testimony, arguments and evidence as they would have had in a
9 hearing under subsection (3) of this section before the decision;

10 “(ii) The presentation of testimony, arguments and evidence shall not be
11 limited to issues raised in a notice of appeal; and

12 “(iii) The decision maker shall consider all relevant testimony, arguments
13 and evidence that are accepted at the hearing.

14 “(b) If a local government provides only a notice of the opportunity to
15 request a hearing, the local government may charge a fee for the initial
16 hearing. The maximum fee for an initial hearing shall be the cost to the local
17 government of preparing for and conducting the appeal, or \$250, whichever
18 is less. If an appellant prevails at the hearing or upon subsequent appeal, the
19 fee for the initial hearing shall be refunded. The fee allowed in this para-
20 graph shall not apply to appeals made by neighborhood or community or-
21 ganizations recognized by the governing body and whose boundaries include
22 the site.

23 “(c)(A) Notice of a decision under paragraph (a) of this subsection shall
24 be provided to the applicant and to the owners of record of property on the
25 most recent property tax assessment roll where such property is located:

26 “(i) Within 100 feet of the property that is the subject of the notice when
27 the subject property is wholly or in part within an urban growth boundary;

28 “(ii) Within 250 feet of the property that is the subject of the notice when
29 the subject property is outside an urban growth boundary and not within a
30 farm or forest zone; or

1 “(iii) Within 750 feet of the property that is the subject of the notice when
2 the subject property is within a farm or forest zone.

3 “(B) Notice shall also be provided to any neighborhood or community
4 organization recognized by the governing body and whose boundaries include
5 the site.

6 “(C) At the discretion of the applicant, the local government also shall
7 provide notice to the Department of Land Conservation and Development.

8 “(11) A decision described in ORS 227.160 (2)(b) shall:

9 “(a) Be entered in a registry available to the public setting forth:

10 “(A) The street address or other easily understood geographic reference
11 to the subject property;

12 “(B) The date of the decision; and

13 “(C) A description of the decision made.

14 “(b) Be subject to the jurisdiction of the Land Use Board of Appeals in
15 the same manner as a limited land use decision.

16 “(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

17 “(12) At the option of the applicant, the local government shall provide
18 notice of the decision described in ORS 227.160 (2)(b) in the manner required
19 by ORS 197.763 (2), in which case an appeal to the board shall be filed within
20 21 days of the decision. The notice shall include an explanation of appeal
21 rights.

22 “(13) Notwithstanding other requirements of this section, limited land use
23 decisions shall be subject to the requirements set forth in ORS 197.195 and
24 197.828.

25 “**SECTION 4.** ORS 197.303 is amended to read:

26 “197.303. (1) As used in ORS 197.307, ‘needed housing’ means **all** housing
27 [*types*] **on land zoned for residential use or mixed residential and com-**
28 **mercial use that is** determined to meet the need shown for housing within
29 an urban growth boundary at [*particular*] price ranges and rent levels[, *in-*
30 *cluding*] **that are affordable to households within the county with a**

1 **variety of incomes, including but not limited to households with low**
2 **incomes, very low incomes and extremely low incomes, as those terms**
3 **are defined by the United States Department of Housing and Urban**
4 **Development under 42 U.S.C. 1437a. ‘Needed housing’ includes [at**
5 *least*] the following housing types:

6 “(a) Attached and detached single-family housing and multiple family
7 housing for both owner and renter occupancy;

8 “(b) Government assisted housing;

9 “(c) Mobile home or manufactured dwelling parks as provided in ORS
10 197.475 to 197.490;

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

14 “(e) Housing for farmworkers.

15 “(2) Subsection (1)(a) and (d) of this section [*shall*] **does** not apply to:

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

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

18 “(3) A local government may take an exception under ORS 197.732 to the
19 definition of ‘needed housing’ in subsection (1) of this section in the same
20 manner that an exception may be taken under the goals.

21 **“SECTION 5.** ORS 197.307 is amended to read:

22 “197.307. (1) The availability of affordable, decent, safe and sanitary
23 housing opportunities for persons of lower, middle and fixed income, includ-
24 ing housing for farmworkers, is a matter of statewide concern.

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

28 “(3) When a need has been shown for housing within an urban growth
29 boundary at particular price ranges and rent levels, needed housing shall be
30 permitted in one or more zoning districts or in zones described by some

1 comprehensive plans as overlay zones with sufficient buildable land to satisfy
2 that need.

3 “(4) Except as provided in subsection (6) of this section, a local govern-
4 ment may adopt and apply only clear and objective standards, conditions and
5 procedures regulating the development of **housing, including** needed hous-
6 ing [*on buildable land described in subsection (3) of this section*]. The stan-
7 dards, conditions and procedures:

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

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

12 “(5) The provisions of subsection (4) of this section do not apply to:

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

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

19 “(6) In addition to an approval process for needed housing based on clear
20 and objective standards, conditions and procedures as provided in subsection
21 (4) of this section, a local government may adopt and apply an alternative
22 approval process for applications and permits for residential development
23 based on approval criteria regulating, in whole or in part, appearance or
24 aesthetics that are not clear and objective if:

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

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

29 “(c) The approval criteria for the alternative approval process authorize
30 a density at or above the density level authorized in the zone under the ap-

1 proval process provided in subsection (4) of this section.

2 “(7) Subject to subsection (4) of this section, this section does not infringe
3 on a local government’s prerogative to:

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

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

8 “(c) Establish approval procedures.

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

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

15 “(b) The manufactured home shall be placed on an excavated and back-
16 filled foundation and enclosed at the perimeter such that the manufactured
17 home is located not more than 12 inches above grade.

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

21 “(d) The manufactured home shall have exterior siding and roofing which
22 in color, material and appearance is similar to the exterior siding and roof-
23 ing material commonly used on residential dwellings within the community
24 or which is comparable to the predominant materials used on surrounding
25 dwellings as determined by the local permit approval authority.

26 “(e) The manufactured home shall be certified by the manufacturer to
27 have an exterior thermal envelope meeting performance standards which re-
28 duce levels equivalent to the performance standards required of single-family
29 dwellings constructed under the state building code as defined in ORS
30 455.010.

1 “(f) The manufactured home shall have a garage or carport constructed
2 of like materials. A jurisdiction may require an attached or detached garage
3 in lieu of a carport where such is consistent with the predominant con-
4 struction of immediately surrounding dwellings.

5 “(g) In addition to the provisions in paragraphs (a) to (f) of this sub-
6 section, a city or county may subject a manufactured home and the lot upon
7 which it is sited to any development standard, architectural requirement and
8 minimum size requirement to which a conventional single-family residential
9 dwelling on the same lot would be subject.

10 **“SECTION 6.** ORS 197.312 is amended to read:

11 “197.312. (1) A city or county may not by charter prohibit from all resi-
12 dential zones attached or detached single-family housing, multifamily hous-
13 ing for both owner and renter occupancy or manufactured homes. A city or
14 county may not by charter prohibit government assisted housing or impose
15 additional approval standards on government assisted housing that are not
16 applied to similar but unassisted housing.

17 “(2)(a) A single-family dwelling for a farmworker and the farmworker’s
18 immediate family is a permitted use in any residential or commercial zone
19 that allows single-family dwellings as a permitted use.

20 “(b) A city or county may not impose a zoning requirement on the estab-
21 lishment and maintenance of a single-family dwelling for a farmworker and
22 the farmworker’s immediate family in a residential or commercial zone de-
23 scribed in paragraph (a) of this subsection that is more restrictive than a
24 zoning requirement imposed on other single-family dwellings in the same
25 zone.

26 “(3)(a) Multifamily housing for farmworkers and farmworkers’ immediate
27 families is a permitted use in any residential or commercial zone that allows
28 multifamily housing generally as a permitted use.

29 “(b) A city or county may not impose a zoning requirement on the estab-
30 lishment and maintenance of multifamily housing for farmworkers and

1 farmworkers' immediate families in a residential or commercial zone de-
2 scribed in paragraph (a) of this subsection that is more restrictive than a
3 zoning requirement imposed on other multifamily housing in the same zone.

4 “(4) A city or county may not prohibit a property owner or developer from
5 maintaining a real estate sales office in a subdivision or planned community
6 containing more than 50 lots or dwelling units for the sale of lots or dwelling
7 units that remain available for sale to the public.

8 “(5)(a) **A city with a population greater than 2,500 or a county with**
9 **a population greater than 15,000 shall allow in areas zoned for detached**
10 **single-family dwellings the development of at least one accessory**
11 **dwelling unit for each detached single-family dwelling, subject to rea-**
12 **sonable local regulations relating to siting and design.**

13 “(b) **As used in this subsection, ‘accessory dwelling unit’ means an**
14 **interior, attached or detached residential structure that is used in**
15 **connection with or that is accessory to a single-family dwelling.**

16 “**SECTION 7.** ORS 215.441 is amended to read:

17 “215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting
18 house or other nonresidential place of worship is allowed on real property
19 under state law and rules and local zoning ordinances and regulations, a
20 county shall allow the reasonable use of the real property for activities
21 customarily associated with the practices of the religious activity, including
22 [*worship services, religion classes, weddings, funerals, child care and meal*
23 *programs, but not including private or parochial school education for*
24 *prekindergarten through grade 12 or higher education.]:*

25 “(a) **Worship services.**

26 “(b) **Religion classes.**

27 “(c) **Weddings.**

28 “(d) **Funerals.**

29 “(e) **Meal programs.**

30 “(f) **Child care, but not including private or parochial school edu-**

1 **cation for prekindergarten through grade 12 or higher education.**

2 **“(g) Providing housing or space for housing in a building that is**
3 **detached from the place of worship, provided:**

4 **“(A) At least 50 percent of the residential units provided under this**
5 **paragraph are affordable to households with incomes equal to or less**
6 **than 60 percent of the median family income for the county in which**
7 **the real property is located;**

8 **“(B) The real property is in an area zoned for residential use that**
9 **is located within the urban growth boundary; and**

10 **“(C) The housing or space for housing complies with applicable land**
11 **use regulations and meets the standards and criteria for residential**
12 **development for the underlying zone.**

13 **“(2) A county may:**

14 **“(a) Subject real property described in subsection (1) of this section to**
15 **reasonable regulations, including site review or design review, concerning**
16 **the physical characteristics of the uses authorized under subsection (1) of**
17 **this section; or**

18 **“(b) Prohibit or restrict the use of real property by a place of worship**
19 **described in subsection (1) of this section if the county finds that the level**
20 **of service of public facilities, including transportation, water supply, sewer**
21 **and storm drain systems is not adequate to serve the place of worship de-**
22 **scribed in subsection (1) of this section.**

23 **“(3) Notwithstanding any other provision of this section, a county may**
24 **allow a private or parochial school for prekindergarten through grade 12 or**
25 **higher education to be sited under applicable state law and rules and local**
26 **zoning ordinances and regulations.**

27 **“(4) Housing and space for housing provided under subsection (1)(g)**
28 **of this section must be subject to a covenant appurtenant that re-**
29 **stricts the owner and each successive owner of the building or any**
30 **residential unit contained in the building from selling or renting any**

1 residential unit described in subsection (1)(g)(A) of this section as
2 housing that is not affordable to households with incomes equal to or
3 less than 60 percent of the median family income for the county in
4 which the real property is located for a period of 60 years from the
5 date of the certificate of occupancy.

6 **“SECTION 8.** ORS 227.500 is amended to read:

7 “227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting
8 house or other nonresidential place of worship is allowed on real property
9 under state law and rules and local zoning ordinances and regulations, a city
10 shall allow the reasonable use of the real property for activities customarily
11 associated with the practices of the religious activity, including [*worship*
12 *services, religion classes, weddings, funerals, child care and meal programs,*
13 *but not including private or parochial school education for prekindergarten*
14 *through grade 12 or higher education.*]:

15 **“(a) Worship services.**

16 **“(b) Religion classes.**

17 **“(c) Weddings.**

18 **“(d) Funerals.**

19 **“(e) Meal programs.**

20 **“(f) Child care, but not including private or parochial school edu-**
21 **cation for prekindergarten through grade 12 or higher education.**

22 **“(g) Providing housing or space for housing in a building that is**
23 **detached from the place of worship, provided:**

24 **“(A) At least 50 percent of the residential units provided under this**
25 **paragraph are affordable to households with incomes equal to or less**
26 **than 60 percent of the median family income for the county in which**
27 **the real property is located;**

28 **“(B) The real property is in an area zoned for residential use that**
29 **is located within the urban growth boundary; and**

30 **“(C) The housing or space for housing complies with applicable land**

1 **use regulations and meets the standards and criteria for residential**
2 **development for the underlying zone.**

3 “(2) A city may:

4 “(a) Subject real property described in subsection (1) of this section to
5 reasonable regulations, including site review and design review, concerning
6 the physical characteristics of the uses authorized under subsection (1) of
7 this section; or

8 “(b) Prohibit or regulate the use of real property by a place of worship
9 described in subsection (1) of this section if the city finds that the level of
10 service of public facilities, including transportation, water supply, sewer and
11 storm drain systems is not adequate to serve the place of worship described
12 in subsection (1) of this section.

13 “(3) Notwithstanding any other provision of this section, a city may allow
14 a private or parochial school for prekindergarten through grade 12 or higher
15 education to be sited under applicable state law and rules and local zoning
16 ordinances and regulations.

17 “(4) **Housing and space for housing provided under subsection (1)(g)**
18 **of this section must be subject to a covenant appurtenant that re-**
19 **stricts the owner and each successive owner of the building or any**
20 **residential unit contained in the building from selling or renting any**
21 **residential unit described in subsection (1)(g)(A) of this section as**
22 **housing that is not affordable to households with incomes equal to or**
23 **less than 60 percent of the median family income for the county in**
24 **which the real property is located for a period of 60 years from the**
25 **date of the certificate of occupancy.**

26 “**SECTION 9.** ORS 197.178 is amended to read:

27 “197.178. (1) Local governments with comprehensive plans or functional
28 plans that are identified in ORS 197.296 (1) shall compile and report annually
29 to the Department of Land Conservation and Development the following in-
30 formation for all applications received under ORS 227.175 for residential

1 permits and residential zone changes:

2 “(a) The **total** number of **complete** applications received for residential
3 development, [*including the net residential density proposed in the application*
4 *and the maximum allowed net residential density for the subject zone*] **and**
5 **the number of applications approved;**

6 “[*(b) The number of applications approved, including the approved net*
7 *density; and*]

8 “[*(c) The date each application was received and the date it was approved*
9 *or denied.*]

10 “(b) **The total number of complete applications received for devel-**
11 **opment of housing containing one or more housing units that are sold**
12 **or rented below market rate as part of a local, state or federal housing**
13 **assistance program, and the number of applications approved; and**

14 “(c) **For each complete application received:**

15 “(A) **The date the application was received;**

16 “(B) **The date the application was approved or denied;**

17 “(C) **The net residential density proposed in the application;**

18 “(D) **The maximum allowed net residential density for the subject**
19 **zone; and**

20 “(E) **If approved, the approved net residential density.**

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

22 “**SECTION 10.** ORS 215.427 is amended to read:

23 “215.427. (1) Except as provided in subsections (3), (5) and (10) of this
24 section, for land within an urban growth boundary and applications for
25 mineral aggregate extraction, the governing body of a county or its designee
26 shall take final action on an application for a permit, limited land use deci-
27 sion or zone change, including resolution of all appeals under ORS 215.422,
28 within 120 days after the application is deemed complete. The governing body
29 of a county or its designee shall take final action on all other applications
30 for a permit, limited land use decision or zone change, including resolution

1 of all appeals under ORS 215.422, within 150 days after the application is
2 deemed complete, except as provided in subsections (3), (5) and (10) of this
3 section.

4 “(2) If an application for a permit, limited land use decision or zone
5 change is incomplete, the governing body or its designee shall notify the
6 applicant in writing of exactly what information is missing within 30 days
7 of receipt of the application and allow the applicant to submit the missing
8 information. The application shall be deemed complete for the purpose of
9 subsection (1) of this section **and section 1 of this 2017 Act** upon receipt
10 by the governing body or its designee of:

11 “(a) All of the missing information;

12 “(b) Some of the missing information and written notice from the appli-
13 cant that no other information will be provided; or

14 “(c) Written notice from the applicant that none of the missing informa-
15 tion will be provided.

16 “(3)(a) If the application was complete when first submitted or the appli-
17 cant submits additional information, as described in subsection (2) of this
18 section, within 180 days of the date the application was first submitted and
19 the county has a comprehensive plan and land use regulations acknowledged
20 under ORS 197.251, approval or denial of the application shall be based upon
21 the standards and criteria that were applicable at the time the application
22 was first submitted.

23 “(b) If the application is for industrial or traded sector development of a
24 site identified under section 12, chapter 800, Oregon Laws 2003, and proposes
25 an amendment to the comprehensive plan, approval or denial of the applica-
26 tion must be based upon the standards and criteria that were applicable at
27 the time the application was first submitted, provided the application com-
28 plies with paragraph (a) of this subsection.

29 “(4) On the 181st day after first being submitted, the application is void
30 if the applicant has been notified of the missing information as required

1 under subsection (2) of this section and has not submitted:

2 “(a) All of the missing information;

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

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

6 “(5) The period set in subsection (1) of this section **or the 100-day period**
7 **set in section 1 of this 2017 Act** may be extended for a specified period of
8 time at the written request of the applicant. The total of all extensions, ex-
9 cept as provided in subsection (10) of this section for mediation, may not
10 exceed 215 days.

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

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

14 “(b) Unless the parties have agreed to mediation as described in sub-
15 section (10) of this section or ORS 197.319 (2)(b).

16 “(7) Notwithstanding subsection (6) of this section, the period set in sub-
17 section (1) of this section **and the 100-day period set in section 1 of this**
18 **2017 Act do** [does] not apply to a decision of the county making a change
19 to an acknowledged comprehensive plan or a land use regulation that is
20 submitted to the Director of the Department of Land Conservation and De-
21 velopment under ORS 197.610.

22 “(8) Except when an applicant requests an extension under subsection (5)
23 of this section, if the governing body of the county or its designee does not
24 take final action on an application for a permit, limited land use decision
25 or zone change within 120 days or 150 days, as applicable, after the applica-
26 tion is deemed complete, the county shall refund to the applicant either the
27 unexpended portion of any application fees or deposits previously paid or 50
28 percent of the total amount of such fees or deposits, whichever is greater.
29 The applicant is not liable for additional governmental fees incurred subse-
30 quent to the payment of such fees or deposits. However, the applicant is re-

1 sponsible for the costs of providing sufficient additional information to
2 address relevant issues identified in the consideration of the application.

3 “(9) A county may not compel an applicant to waive the period set in
4 subsection (1) of this section or to waive the provisions of subsection (8) of
5 this section or ORS 215.429 **or section 1 of this 2017 Act** as a condition for
6 taking any action on an application for a permit, limited land use decision
7 or zone change except when such applications are filed concurrently and
8 considered jointly with a plan amendment.

9 “(10) The periods set forth in [*subsection (1)*] **subsections (1) and (5)** of
10 this section **and section 1 of this 2017 Act** [*and the period set forth in*
11 *subsection (5) of this section*] may be extended by up to 90 additional days,
12 if the applicant and the county agree that a dispute concerning the applica-
13 tion will be mediated.

14 **“SECTION 11.** ORS 227.178 is amended to read:

15 “227.178. (1) Except as provided in subsections (3), (5) and (11) of this
16 section, the governing body of a city or its designee shall take final action
17 on an application for a permit, limited land use decision or zone change,
18 including resolution of all appeals under ORS 227.180, within 120 days after
19 the application is deemed complete.

20 “(2) If an application for a permit, limited land use decision or zone
21 change is incomplete, the governing body or its designee shall notify the
22 applicant in writing of exactly what information is missing within 30 days
23 of receipt of the application and allow the applicant to submit the missing
24 information. The application shall be deemed complete for the purpose of
25 subsection (1) of this section **or section 1 of this 2017 Act** upon receipt by
26 the governing body or its designee of:

27 “(a) All of the missing information;

28 “(b) Some of the missing information and written notice from the appli-
29 cant that no other information will be provided; or

30 “(c) Written notice from the applicant that none of the missing informa-

1 tion will be provided.

2 “(3)(a) If the application was complete when first submitted or the appli-
3 cant submits the requested additional information within 180 days of the date
4 the application was first submitted and the city has a comprehensive plan
5 and land use regulations acknowledged under ORS 197.251, approval or de-
6 nial of the application shall be based upon the standards and criteria that
7 were applicable at the time the application was first submitted.

8 “(b) If the application is for industrial or traded sector development of a
9 site identified under section 12, chapter 800, Oregon Laws 2003, and proposes
10 an amendment to the comprehensive plan, approval or denial of the applica-
11 tion must be based upon the standards and criteria that were applicable at
12 the time the application was first submitted, provided the application com-
13 plies with paragraph (a) of this subsection.

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

17 “(a) All of the missing information;

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

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

21 “(5) The 120-day period set in subsection (1) of this section **or the 100-day**
22 **period set in section 1 of this 2017 Act** may be extended for a specified
23 period of time at the written request of the applicant. The total of all ex-
24 tensions, except as provided in subsection (11) of this section for mediation,
25 may not exceed 245 days.

26 “(6) The 120-day period set in subsection (1) of this section applies:

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

29 “(b) Unless the parties have agreed to mediation as described in sub-
30 section (11) of this section or ORS 197.319 (2)(b).

1 “(7) Notwithstanding subsection (6) of this section, the 120-day period set
2 in subsection (1) of this section **and the 100-day period set in section 1**
3 **of this 2017 Act do** [does] not apply to a decision of the city making a
4 change to an acknowledged comprehensive plan or a land use regulation that
5 is submitted to the Director of the Department of Land Conservation and
6 Development under ORS 197.610.

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

19 “(9)(a) To obtain a refund under subsection (8) of this section, the appli-
20 cant may either:

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

23 “(B) Include the amount claimed in a mandamus petition filed under ORS
24 227.179. The court shall award an amount owed under this section in its final
25 order on the petition.

26 “(b) Within seven calendar days of receiving a request for a refund, the
27 city or its designee shall determine the amount of any refund owed. Payment,
28 or notice that no payment is due, shall be made to the applicant within 30
29 calendar days of receiving the request. Any amount due and not paid within
30 30 calendar days of receipt of the request shall be subject to interest charges

1 at the rate of one percent per month, or a portion thereof.

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

10 “(10) A city may not compel an applicant to waive the 120-day period set
11 in subsection (1) of this section or to waive the provisions of subsection (8)
12 of this section or ORS 227.179 **or section 1 of this 2017 Act** as a condition
13 for taking any action on an application for a permit, limited land use deci-
14 sion or zone change except when such applications are filed concurrently and
15 considered jointly with a plan amendment.

16 “(11) The [*period*] **periods** set forth in [*subsection (1)*] **subsections (1)**
17 **and (5)** of this section **and section 1 of this 2017 Act** [*and the period set*
18 *forth in subsection (5) of this section*] may be extended by up to 90 additional
19 days, if the applicant and the city agree that a dispute concerning the ap-
20 plication will be mediated.

21 **“SECTION 12. The amendments to ORS 197.312, 215.416 and 227.175**
22 **by sections 2, 3 and 6 of this 2017 Act become operative on July 1, 2018.**

23 **“SECTION 13. (1) Section 1 of this 2017 Act and the amendments to**
24 **ORS 197.178, 197.303, 197.307, 215.427, 215.441, 227.178 and 227.500 by**
25 **sections 4, 5 and 7 to 11 of this 2017 Act apply to permit applications**
26 **submitted for review on or after the effective date of this 2017 Act.**

27 **“(2) The amendments to ORS 215.416 and 227.175 by sections 2 and**
28 **3 of this 2017 Act apply to applications for housing development sub-**
29 **mitted for review on or after July 1, 2018.**

30 **“(3) The amendments to ORS 197.312 by section 6 of this 2017 Act**

1 apply to permit applications for accessory dwelling units submitted for
2 review on or after July 1, 2018.

3 **“SECTION 14. This 2017 Act being necessary for the immediate**
4 **preservation of the public peace, health and safety, an emergency is**
5 **declared to exist, and this 2017 Act takes effect on its passage.”.**

6
