

# House Bill 2997

Sponsored by Representative NOBLE (at the request of City of McMinnville Affordable Housing Task Force)

## SUMMARY

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

Defines "housing development." Authorizes cities and counties to impose affordable housing conditions on housing developments.

## A BILL FOR AN ACT

1 Relating to affordable housing conditions on housing developments; amending ORS 197.309.

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

3 **SECTION 1.** ORS 197.309 is amended to read:

4 197.309. (1) As used in this section:

5 (a) "Affordable housing" means housing that is affordable to households with incomes equal to  
6 or higher than 80 percent of the median family income for the county in which the housing is built.

7 (b) "**Housing development**" means **multifamily housing or a collection of residential**  
8 **housing units planned, owned or constructed together through one or more applications or**  
9 **development projects under ORS 215.416 or 227.175 or a development agreement under ORS**  
10 **94.504 to 94.528.**

11 [(b)] (c) "Multifamily [*structure*] **housing**" means a structure that contains three or more hous-  
12 ing units sharing at least one wall, floor or ceiling surface in common with another unit within the  
13 same structure.

14 (2) Except as provided in subsection (3) of this section, a metropolitan service district may not  
15 adopt a land use regulation or functional plan provision, or impose as a condition for approving a  
16 permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or  
17 rental price for a housing unit or residential building lot or parcel, or that requires a housing unit  
18 or residential building lot or parcel to be designated for sale or rent to a particular class or group  
19 of purchasers or renters.

20 (3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan  
21 service district to:

22 (a) Adopt or enforce a use regulation, provision or requirement creating or implementing an  
23 incentive, contract commitment, density bonus or other voluntary regulation, provision or require-  
24 ment designed to increase the supply of moderate or lower cost housing units; or

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

26 (4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional  
27 plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a re-  
28 quirement, that has the effect of establishing the sales or rental price for a new [*multifamily struc-*  
29 *ture*] **housing development**, or that requires a new [*multifamily structure*] **housing development** to  
30 be designated for sale or rent as affordable housing.  
31

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

1 (5) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-  
 2 tion:

3 (a) May not require more than 20 percent of housing units within a [*multifamily structure*]  
 4 **housing development** to be sold or rented as affordable housing;

5 (b) May apply only to [*multifamily structures*] **housing developments** containing at least 20  
 6 housing units;

7 (c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city  
 8 or county, in exchange for providing the requisite number of housing units within the [*multifamily*  
 9 *structure*] **housing development** to be sold or rented at below-market rates; and

10 (d) Must require the city or county to offer a developer of [*multifamily structures*] **a housing**  
 11 **development**, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of  
 12 this subsection, at least one of the following incentives:

13 (A) Whole or partial fee waivers or reductions.

14 (B) Whole or partial waivers of system development charges or impact fees set by the city or  
 15 county.

16 (C) Finance-based incentives.

17 (D) Full or partial exemption from ad valorem property taxes on the terms described in this  
 18 subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem  
 19 property taxes that uses a definition of “low income” to mean income at or below 60 percent of the  
 20 area median income and for which the [*multifamily structure*] **housing development** is otherwise  
 21 eligible, the city or county shall allow the [*multifamily structure*] **housing development** of the de-  
 22 veloper to qualify using a definition of “low income” to mean income at or below 80 percent of the  
 23 area median income.

24 (6) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-  
 25 tion may offer developers one or more of the following incentives:

26 (a) Density adjustments.

27 (b) Expedited service for local permitting processes.

28 (c) Modification of height, floor area or other site-specific requirements.

29 (d) Other incentives as determined by the city or county.

30 (7) Subsection (4) of this section does not restrict the authority of a city or county to offer de-  
 31 velopers voluntary incentives, including incentives to:

32 (a) Increase the number of affordable housing units in a development.

33 (b) Decrease the sale or rental price of affordable housing units in a development.

34 (c) Build affordable housing units that are affordable to households with incomes equal to or  
 35 lower than 80 percent of the median family income for the county in which the housing is built.

36 (8)(a) A city or county that adopts or imposes a regulation, provision or requirement described  
 37 in subsection (4) of this section may not apply the regulation, provision or requirement to any  
 38 [*multifamily structure*] **housing development** for which an application for a permit, as defined in  
 39 ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a  
 40 permit is not required, a building permit application has been submitted to the city or county prior  
 41 to the effective date of the regulation, provision or requirement.

42 (b) If a [*multifamily structure*] **housing development** described in paragraph (a) of this sub-  
 43 section has not been completed within the period required by the permit issued by the city or  
 44 county, the developer of the [*multifamily structure*] **housing development** shall resubmit an appli-  
 45 cation for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3),

1 or, if such a permit is not required, a building permit application under the regulation, provision or  
 2 requirement adopted by the city or county under subsection (4) of this section.

3 (9)(a) A city or county that adopts or imposes a regulation, provision or requirement under  
 4 subsection (4) of this section shall adopt and apply only clear and objective standards, conditions  
 5 and procedures regulating the development of affordable housing units within its jurisdiction. The  
 6 standards, conditions and procedures may not have the effect, either individually or cumulatively,  
 7 of discouraging development of affordable housing units through unreasonable cost or delay.

8 (b) Paragraph (a) of this subsection does not apply to:

9 (A) An application or permit for residential development in an area identified in a formally  
 10 adopted central city plan, or a regional center as defined by Metro, in a city with a population of  
 11 500,000 or more.

12 (B) An application or permit for residential development in historic areas designated for pro-  
 13 tection under a land use planning goal protecting historic areas.

14 (c) In addition to an approval process for affordable housing based on clear and objective stan-  
 15 dards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county  
 16 may adopt and apply an alternative approval process for applications and permits for residential  
 17 development based on approval criteria regulating, in whole or in part, appearance or aesthetics  
 18 that are not clear and objective if:

19 (A) The developer retains the option of proceeding under the approval process that meets the  
 20 requirements of paragraph (a) of this subsection;

21 (B) The approval criteria for the alternative approval process comply with applicable statewide  
 22 land use planning goals and rules; and

23 (C) The approval criteria for the alternative approval process authorize a density at or above  
 24 the density level authorized in the zone under the approval process provided in paragraph (a) of this  
 25 subsection.

26 (10) If a regulation, provision or requirement adopted or imposed by a city or county under  
 27 subsection (4) of this section requires that a percentage of housing units in a new [*multifamily*  
 28 *structure*] **housing development** be designated as affordable housing, any incentives offered under  
 29 subsection (5)(d) or (6) of this section [*shall be related in a manner determined by the city or county*]  
 30 **must relate** to the required percentage of affordable housing units **in a manner determined by**  
 31 **the city or county**.

32