

Senate Bill 750

Sponsored by Senator KNOPP

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**.

Requires local government to take final action on application for permit, limited land use decision or zone change within 60 days.

Sunsets provisions on January 2, 2020, or 30 days after Governor proclaims unemployment rate of State of Oregon is at or below six percent.

A BILL FOR AN ACT

1
2 Relating to conduct of quasi-judicial land use hearings; creating new provisions; and amending ORS
3 215.427, 215.429, 215.433, 215.435, 215.437, 227.178, 227.179, 227.181, 227.182 and 227.184.

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

5 **SECTION 1.** ORS 215.427 is amended to read:

6 215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an
7 urban growth boundary and applications for mineral aggregate extraction, the governing body of a
8 county or its designee shall take final action on an application for a permit, limited land use deci-
9 sion or zone change, including resolution of all appeals under ORS 215.422, within [120] **48** days after
10 the application is deemed complete. The governing body of a county or its designee shall take final
11 action on all other applications for a permit, limited land use decision or zone change, including
12 resolution of all appeals under ORS 215.422, within [150] **60** days after the application is deemed
13 complete, except as provided in subsections (3), (5) and (10) of this section.

14 (2) If an application for a permit, limited land use decision or zone change is incomplete, the
15 governing body or its designee shall notify the applicant in writing of exactly what information is
16 missing within [30] **12** days of receipt of the application and allow the applicant to submit the
17 missing information. The application shall be deemed complete for the purpose of subsection (1) of
18 this section upon receipt by the governing body or its designee of:

19 (a) All of the missing information;

20 (b) Some of the missing information and written notice from the applicant that no other infor-
21 mation will be provided; or

22 (c) Written notice from the applicant that none of the missing information will be provided.

23 (3)(a) If the application was complete when first submitted or the applicant submits additional
24 information, as described in subsection (2) of this section, within 180 days of the date the application
25 was first submitted and the county has a comprehensive plan and land use regulations acknowledged
26 under ORS 197.251, approval or denial of the application shall be based upon the standards and
27 criteria that were applicable at the time the application was first submitted.

28 (b) If the application is for industrial or traded sector development of a site identified under
29 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,
30 approval or denial of the application must be based upon the standards and criteria that were ap-

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 plicable at the time the application was first submitted, provided the application complies with
2 paragraph (a) of this subsection.

3 (4) On the 181st day after first being submitted, the application is void if the applicant has been
4 notified of the missing information as required under subsection (2) of this section and has not sub-
5 mitted:

6 (a) All of the missing information;

7 (b) Some of the missing information and written notice that no other information will be pro-
8 vided; or

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

10 (5) The period set in subsection (1) of this section may be extended for a specified period of time
11 at the written request of the applicant. The total of all extensions, except as provided in subsection
12 (10) of this section for mediation, may not exceed 215 days.

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

14 (a) Only to decisions wholly within the authority and control of the governing body of the
15 county; and

16 (b) Unless the parties have agreed to mediation as described in subsection (10) of this section
17 or ORS 197.319 (2)(b).

18 (7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section
19 does not apply to a decision of the county making a change to an acknowledged comprehensive plan
20 or a land use regulation that is submitted to the Director of the Department of Land Conservation
21 and Development under ORS 197.610.

22 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
23 governing body of the county or its designee does not take final action on an application for a
24 permit, limited land use decision or zone change within [120] 48 days or [150] 60 days, as applicable,
25 after the application is deemed complete, the county shall refund to the applicant either the unex-
26 pended portion of any application fees or deposits previously paid or 50 percent of the total amount
27 of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental
28 fees incurred subsequent to the payment of such fees or deposits. However, the applicant is re-
29 sponsible for the costs of providing sufficient additional information to address relevant issues
30 identified in the consideration of the application.

31 (9) A county may not compel an applicant to waive the period set in subsection (1) of this sec-
32 tion or to waive the provisions of subsection (8) of this section or ORS 215.429 as a condition for
33 taking any action on an application for a permit, limited land use decision or zone change except
34 when such applications are filed concurrently and considered jointly with a plan amendment.

35 (10) The periods set forth in subsection (1) of this section and the period set forth in subsection
36 (5) of this section may be extended by up to 90 additional days, if the applicant and the county agree
37 that a dispute concerning the application will be mediated.

38 **SECTION 2.** ORS 215.429 is amended to read:

39 215.429. (1) Except when an applicant requests an extension under ORS 215.427, if the governing
40 body of the county or its designee does not take final action on an application for a permit, limited
41 land use decision or zone change within [120] 48 days or [150] 60 days, as appropriate, after the
42 application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS
43 34.130 in the circuit court of the county where the application was submitted to compel the gov-
44 erning body or its designee to issue the approval.

45 (2) The governing body shall retain jurisdiction to make a land use decision on the application

1 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction
2 for all decisions regarding the application, including settlement, shall be with the circuit court.

3 (3) A person who files a petition for a writ of mandamus under this section shall provide written
4 notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any
5 person who participated orally or in writing in any evidentiary hearing on the application held prior
6 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
7 tion is filed.

8 (4) If the governing body does not take final action on an application within [120] **48** days or
9 [150] **60** days, as appropriate, of the date the application is deemed complete, the applicant may elect
10 to proceed with the application according to the applicable provisions of the county comprehensive
11 plan and land use regulations or to file a petition for a writ of mandamus under this section. If the
12 applicant elects to proceed according to the local plan and regulations, the applicant may not file
13 a petition for a writ of mandamus within 14 days after the governing body makes a preliminary de-
14 cision, provided a final written decision is issued within 14 days of the preliminary decision.

15 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
16 that the approval would violate a substantive provision of the county comprehensive plan or land
17 use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of ap-
18 proval that would otherwise be allowed by the county comprehensive plan or land use regulations.

19 **SECTION 3.** ORS 215.433 is amended to read:

20 215.433. (1) A person whose application for a permit is denied by the governing body of a county
21 or its designee under ORS 215.427 may submit to the county a supplemental application for any or
22 all other uses allowed under the county's comprehensive plan and land use regulations in the zone
23 that was the subject of the denied application.

24 (2) The governing body of a county or its designee shall take final action on a supplemental
25 application submitted under this section, including resolution of all appeals, within [240] **96** days
26 after the application is deemed complete. Except that [240] **96** days shall substitute for [120] **48** days
27 or [150] **60** days, as appropriate, all other applicable provisions of ORS 215.427 shall apply to a
28 supplemental application submitted under this section.

29 (3) A supplemental application submitted under this section shall include a request for any re-
30 zoning or zoning variance that may be required to issue a permit under the county's comprehensive
31 plan and land use regulations.

32 (4) The governing body of the county or its designee shall adopt specific findings describing the
33 reasons for approving or denying:

34 (a) A use for which approval is sought under this section; and

35 (b) A rezoning or variance requested in the application.

36 **SECTION 4.** ORS 215.435 is amended to read:

37 215.435. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-
38 manding a decision to a county, the governing body of the county or its designee shall take final
39 action on an application for a permit, limited land use decision or zone change within [90] **36** days
40 of the effective date of the final order issued by the board. For purposes of this subsection, the ef-
41 fective date of the final order is the last day for filing a petition for judicial review of a final order
42 of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under
43 ORS 197.830, the [90-day] **36-day** period established under this subsection shall not begin until final
44 resolution of the judicial review.

45 (2)(a) In addition to the requirements of subsection (1) of this section, the [90-day] **36-day** period

1 established under subsection (1) of this section shall not begin until the applicant requests in writing
2 that the county proceed with the application on remand.

3 (b) The [90-day] **36-day** period may be extended for a reasonable period of time at the request
4 of the applicant.

5 (3) The [90-day] **36-day** period established under subsection (1) of this section applies only to
6 decisions wholly within the authority and control of the governing body of the county.

7 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision
8 of the county making a change to an acknowledged comprehensive plan or a land use regulation that
9 is submitted to the Director of the Department of Land Conservation and Development under ORS
10 197.610.

11 **SECTION 5.** ORS 215.437 is amended to read:

12 215.437. (1) If the governing body of a county or its designee fails to take final action on an
13 application for a permit, limited land use decision or zone change within [90] **36** days as provided
14 in ORS 215.435, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105
15 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days
16 from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been ad-
17 vised by the parties that the matter has been settled.

18 (2) A writ of mandamus issued under this section shall order the governing body of the county
19 or its designee to make a final determination on the application. The court, in its discretion, may
20 order such remedy as the court determines appropriate.

21 (3) In a mandamus proceeding under this section the court shall award court costs and attorney
22 fees to an applicant who prevails on a petition under this section.

23 **SECTION 6.** ORS 227.178 is amended to read:

24 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body
25 of a city or its designee shall take final action on an application for a permit, limited land use de-
26 cision or zone change, including resolution of all appeals under ORS 227.180, within [120] **48** days
27 after the application is deemed complete.

28 (2) If an application for a permit, limited land use decision or zone change is incomplete, the
29 governing body or its designee shall notify the applicant in writing of exactly what information is
30 missing within [30] **12** days of receipt of the application and allow the applicant to submit the
31 missing information. The application shall be deemed complete for the purpose of subsection (1) of
32 this section upon receipt by the governing body or its designee of:

33 (a) All of the missing information;

34 (b) Some of the missing information and written notice from the applicant that no other infor-
35 mation will be provided; or

36 (c) Written notice from the applicant that none of the missing information will be provided.

37 (3)(a) If the application was complete when first submitted or the applicant submits the re-
38 quested additional information within 180 days of the date the application was first submitted and
39 the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, ap-
40 proval or denial of the application shall be based upon the standards and criteria that were appli-
41 cable at the time the application was first submitted.

42 (b) If the application is for industrial or traded sector development of a site identified under
43 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,
44 approval or denial of the application must be based upon the standards and criteria that were ap-
45 plicable at the time the application was first submitted, provided the application complies with

1 paragraph (a) of this subsection.

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

5 (a) All of the missing information;

6 (b) Some of the missing information and written notice that no other information will be pro-
7 vided; or

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

9 (5) The [120-day] **48-day** period set in subsection (1) of this section may be extended for a spec-
10 ified period of time at the written request of the applicant. The total of all extensions, except as
11 provided in subsection (11) of this section for mediation, may not exceed 245 days.

12 (6) The [120-day] **48-day** period set in subsection (1) of this section applies:

13 (a) Only to decisions wholly within the authority and control of the governing body of the city;
14 and

15 (b) Unless the parties have agreed to mediation as described in subsection (11) of this section
16 or ORS 197.319 (2)(b).

17 (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this
18 section does not apply to a decision of the city making a change to an acknowledged comprehensive
19 plan or a land use regulation that is submitted to the Director of the Department of Land Conser-
20 vation and Development under ORS 197.610.

21 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
22 governing body of the city or its designee does not take final action on an application for a permit,
23 limited land use decision or zone change within [120 days] **48 days** after the application is deemed
24 complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this
25 section, either the unexpended portion of any application fees or deposits previously paid or 50
26 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable
27 for additional governmental fees incurred subsequent to the payment of such fees or deposits. How-
28 ever, the applicant is responsible for the costs of providing sufficient additional information to ad-
29 dress relevant issues identified in the consideration of the application.

30 (9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

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

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

35 (b) Within seven calendar days of receiving a request for a refund, the city or its designee shall
36 determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made
37 to the applicant within 30 calendar days of receiving the request. Any amount due and not paid
38 within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of
39 one percent per month, or a portion thereof.

40 (c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the
41 city or its designee receives the refund request, the applicant may file an action for recovery of the
42 unpaid refund. In an action brought by a person under this paragraph, the court shall award to a
43 prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and
44 costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable
45 attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

1 (10) A city may not compel an applicant to waive the [120-day] **48-day** period set in subsection
 2 (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a
 3 condition for taking any action on an application for a permit, limited land use decision or zone
 4 change except when such applications are filed concurrently and considered jointly with a plan
 5 amendment.

6 (11) The period set forth in subsection (1) of this section and the period set forth in subsection
 7 (5) of this section may be extended by up to 90 additional days, if the applicant and the city agree
 8 that a dispute concerning the application will be mediated.

9 **SECTION 7.** ORS 227.179 is amended to read:

10 227.179. (1) Except when an applicant requests an extension under ORS 227.178 (5), if the gov-
 11 erning body of a city or its designee does not take final action on an application for a permit, limited
 12 land use decision or zone change within [120] **48** days after the application is deemed complete, the
 13 applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the
 14 county where the application was submitted to compel the governing body or its designee to issue
 15 the approval.

16 (2) The governing body shall retain jurisdiction to make a land use decision on the application
 17 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction
 18 for all decisions regarding the application, including settlement, shall be with the circuit court.

19 (3) A person who files a petition for a writ of mandamus under this section shall provide written
 20 notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any
 21 person who participated orally or in writing in any evidentiary hearing on the application held prior
 22 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
 23 tion is filed.

24 (4) If the governing body does not take final action on an application within [120] **48** days of the
 25 date the application is deemed complete, the applicant may elect to proceed with the application
 26 according to the applicable provisions of the local comprehensive plan and land use regulations or
 27 to file a petition for a writ of mandamus under this section. If the applicant elects to proceed ac-
 28 cording to the local plan and regulations, the applicant may not file a petition for a writ of
 29 mandamus within 14 days after the governing body makes a preliminary decision, provided a final
 30 written decision is issued within 14 days of the preliminary decision.

31 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
 32 that the approval would violate a substantive provision of the local comprehensive plan or land use
 33 regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval
 34 that would otherwise be allowed by the local comprehensive plan or land use regulations.

35 **SECTION 8.** ORS 227.181 is amended to read:

36 227.181. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-
 37 mandating a decision to a city, the governing body of the city or its designee shall take final action
 38 on an application for a permit, limited land use decision or zone change within [90] **36** days of the
 39 effective date of the final order issued by the board. For purposes of this subsection, the effective
 40 date of the final order is the last day for filing a petition for judicial review of a final order of the
 41 board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS
 42 197.830, the [90-day] **36-day** period established under this subsection shall not begin until final re-
 43 solution of the judicial review.

44 (2)(a) In addition to the requirements of subsection (1) of this section, the [90-day] **36-day** period
 45 established under subsection (1) of this section shall not begin until the applicant requests in writing

1 that the city proceed with the application on remand.

2 (b) The [90-day] **36-day** period may be extended for a reasonable period of time at the request
3 of the applicant.

4 (3) The [90-day] **36-day** period established under subsection (1) of this section applies only to
5 decisions wholly within the authority and control of the governing body of the city.

6 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision
7 of the city making a change to an acknowledged comprehensive plan or a land use regulation that
8 is submitted to the Director of the Department of Land Conservation and Development under ORS
9 197.610.

10 **SECTION 9.** ORS 227.182 is amended to read:

11 227.182. (1) If the governing body of a city or its designee fails to take final action on an ap-
12 plication for a permit, limited land use decision or zone change within [90] **36** days as provided in
13 ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to
14 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from
15 the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised
16 by the parties that the matter has been settled.

17 (2) A writ of mandamus issued under this section shall order the governing body of the city or
18 its designee to make a final determination on the application. The court, in its discretion, may order
19 such remedy as the court determines appropriate.

20 (3) In a mandamus proceeding under this section the court shall award court costs and attorney
21 fees to an applicant who prevails on a petition under this section.

22 **SECTION 10.** ORS 227.184 is amended to read:

23 227.184. (1) A person whose application for a permit is denied by the governing body of a city
24 or its designee under ORS 227.178 may submit to the city a supplemental application for any or all
25 other uses allowed under the city's comprehensive plan and land use regulations in the zone that
26 was the subject of the denied application.

27 (2) The governing body of a city or its designee shall take final action on a supplemental ap-
28 plication submitted under this section, including resolution of all appeals, within [240] **96** days after
29 the application is deemed complete. Except that [240] **96** days shall substitute for [120] **48** days, all
30 other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under
31 this section.

32 (3) A supplemental application submitted under this section shall include a request for any re-
33 zoning or zoning variance that may be required to issue a permit under the city's comprehensive
34 plan and land use regulations.

35 (4) The governing body of a city or its designee shall adopt specific findings describing the
36 reasons for approving or denying:

37 (a) A use for which approval is sought under this section; and

38 (b) A rezoning or variance requested in the application.

39 **SECTION 11.** ORS 215.427, as amended by section 1 of this 2013 Act, is amended to read:

40 215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an
41 urban growth boundary and applications for mineral aggregate extraction, the governing body of a
42 county or its designee shall take final action on an application for a permit, limited land use deci-
43 sion or zone change, including resolution of all appeals under ORS 215.422, within [48] **120** days after
44 the application is deemed complete. The governing body of a county or its designee shall take final
45 action on all other applications for a permit, limited land use decision or zone change, including

1 resolution of all appeals under ORS 215.422, within [60] **150** days after the application is deemed
2 complete, except as provided in subsections (3), (5) and (10) of this section.

3 (2) If an application for a permit, limited land use decision or zone change is incomplete, the
4 governing body or its designee shall notify the applicant in writing of exactly what information is
5 missing within [12] **30** days of receipt of the application and allow the applicant to submit the
6 missing information. The application shall be deemed complete for the purpose of subsection (1) of
7 this section upon receipt by the governing body or its designee of:

8 (a) All of the missing information;

9 (b) Some of the missing information and written notice from the applicant that no other infor-
10 mation will be provided; or

11 (c) Written notice from the applicant that none of the missing information will be provided.

12 (3)(a) If the application was complete when first submitted or the applicant submits additional
13 information, as described in subsection (2) of this section, within 180 days of the date the application
14 was first submitted and the county has a comprehensive plan and land use regulations acknowledged
15 under ORS 197.251, approval or denial of the application shall be based upon the standards and
16 criteria that were applicable at the time the application was first submitted.

17 (b) If the application is for industrial or traded sector development of a site identified under
18 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,
19 approval or denial of the application must be based upon the standards and criteria that were ap-
20 plicable at the time the application was first submitted, provided the application complies with
21 paragraph (a) of this subsection.

22 (4) On the 181st day after first being submitted, the application is void if the applicant has been
23 notified of the missing information as required under subsection (2) of this section and has not sub-
24 mitted:

25 (a) All of the missing information;

26 (b) Some of the missing information and written notice that no other information will be pro-
27 vided; or

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

29 (5) The period set in subsection (1) of this section may be extended for a specified period of time
30 at the written request of the applicant. The total of all extensions, except as provided in subsection
31 (10) of this section for mediation, may not exceed 215 days.

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

33 (a) Only to decisions wholly within the authority and control of the governing body of the
34 county; and

35 (b) Unless the parties have agreed to mediation as described in subsection (10) of this section
36 or ORS 197.319 (2)(b).

37 (7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section
38 does not apply to a decision of the county making a change to an acknowledged comprehensive plan
39 or a land use regulation that is submitted to the Director of the Department of Land Conservation
40 and Development under ORS 197.610.

41 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
42 governing body of the county or its designee does not take final action on an application for a
43 permit, limited land use decision or zone change within [48] **120** days or [60] **150** days, as applicable,
44 after the application is deemed complete, the county shall refund to the applicant either the unex-
45 pended portion of any application fees or deposits previously paid or 50 percent of the total amount

1 of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental
 2 fees incurred subsequent to the payment of such fees or deposits. However, the applicant is re-
 3 sponsible for the costs of providing sufficient additional information to address relevant issues
 4 identified in the consideration of the application.

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

9 (10) The periods set forth in subsection (1) of this section and the period set forth in subsection
 10 (5) of this section may be extended by up to 90 additional days, if the applicant and the county agree
 11 that a dispute concerning the application will be mediated.

12 **SECTION 12.** ORS 215.429, as amended by section 2 of this 2013 Act, is amended to read:

13 215.429. (1) Except when an applicant requests an extension under ORS 215.427, if the governing
 14 body of the county or its designee does not take final action on an application for a permit, limited
 15 land use decision or zone change within [48] **120** days or [60] **150** days, as appropriate, after the
 16 application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS
 17 34.130 in the circuit court of the county where the application was submitted to compel the gov-
 18 erning body or its designee to issue the approval.

19 (2) The governing body shall retain jurisdiction to make a land use decision on the application
 20 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction
 21 for all decisions regarding the application, including settlement, shall be with the circuit court.

22 (3) A person who files a petition for a writ of mandamus under this section shall provide written
 23 notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any
 24 person who participated orally or in writing in any evidentiary hearing on the application held prior
 25 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
 26 tion is filed.

27 (4) If the governing body does not take final action on an application within [48] **120** days or
 28 [60] **150** days, as appropriate, of the date the application is deemed complete, the applicant may elect
 29 to proceed with the application according to the applicable provisions of the county comprehensive
 30 plan and land use regulations or to file a petition for a writ of mandamus under this section. If the
 31 applicant elects to proceed according to the local plan and regulations, the applicant may not file
 32 a petition for a writ of mandamus within 14 days after the governing body makes a preliminary de-
 33 cision, provided a final written decision is issued within 14 days of the preliminary decision.

34 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
 35 that the approval would violate a substantive provision of the county comprehensive plan or land
 36 use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of ap-
 37 proval that would otherwise be allowed by the county comprehensive plan or land use regulations.

38 **SECTION 13.** ORS 215.433, as amended by section 3 of this 2013 Act, is amended to read:

39 215.433. (1) A person whose application for a permit is denied by the governing body of a county
 40 or its designee under ORS 215.427 may submit to the county a supplemental application for any or
 41 all other uses allowed under the county's comprehensive plan and land use regulations in the zone
 42 that was the subject of the denied application.

43 (2) The governing body of a county or its designee shall take final action on a supplemental
 44 application submitted under this section, including resolution of all appeals, within [96] **240** days
 45 after the application is deemed complete. Except that [96] **240** days shall substitute for [48] **120** days

1 or [60] **150** days, as appropriate, all other applicable provisions of ORS 215.427 shall apply to a
2 supplemental application submitted under this section.

3 (3) A supplemental application submitted under this section shall include a request for any re-
4 zoning or zoning variance that may be required to issue a permit under the county's comprehensive
5 plan and land use regulations.

6 (4) The governing body of the county or its designee shall adopt specific findings describing the
7 reasons for approving or denying:

8 (a) A use for which approval is sought under this section; and

9 (b) A rezoning or variance requested in the application.

10 **SECTION 14.** ORS 215.435, as amended by section 4 of this 2013 Act, is amended to read:

11 215.435. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-
12 manding a decision to a county, the governing body of the county or its designee shall take final
13 action on an application for a permit, limited land use decision or zone change within [36] **90** days
14 of the effective date of the final order issued by the board. For purposes of this subsection, the ef-
15 fective date of the final order is the last day for filing a petition for judicial review of a final order
16 of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under
17 ORS 197.830, the [36-day] **90-day** period established under this subsection shall not begin until final
18 resolution of the judicial review.

19 (2)(a) In addition to the requirements of subsection (1) of this section, the [36-day] **90-day** period
20 established under subsection (1) of this section shall not begin until the applicant requests in writing
21 that the county proceed with the application on remand.

22 (b) The [36-day] **90-day** period may be extended for a reasonable period of time at the request
23 of the applicant.

24 (3) The [36-day] **90-day** period established under subsection (1) of this section applies only to
25 decisions wholly within the authority and control of the governing body of the county.

26 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision
27 of the county making a change to an acknowledged comprehensive plan or a land use regulation that
28 is submitted to the Director of the Department of Land Conservation and Development under ORS
29 197.610.

30 **SECTION 15.** ORS 215.437, as amended by section 5 of this 2013 Act, is amended to read:

31 215.437. (1) If the governing body of a county or its designee fails to take final action on an
32 application for a permit, limited land use decision or zone change within [36] **90** days as provided
33 in ORS 215.435, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105
34 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days
35 from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been ad-
36 vised by the parties that the matter has been settled.

37 (2) A writ of mandamus issued under this section shall order the governing body of the county
38 or its designee to make a final determination on the application. The court, in its discretion, may
39 order such remedy as the court determines appropriate.

40 (3) In a mandamus proceeding under this section the court shall award court costs and attorney
41 fees to an applicant who prevails on a petition under this section.

42 **SECTION 16.** ORS 227.178, as amended by section 6 of this 2013 Act, is amended to read:

43 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body
44 of a city or its designee shall take final action on an application for a permit, limited land use de-
45 cision or zone change, including resolution of all appeals under ORS 227.180, within [48] **120** days

1 after the application is deemed complete.

2 (2) If an application for a permit, limited land use decision or zone change is incomplete, the
3 governing body or its designee shall notify the applicant in writing of exactly what information is
4 missing within [12] **30** days of receipt of the application and allow the applicant to submit the
5 missing information. The application shall be deemed complete for the purpose of subsection (1) of
6 this section upon receipt by the governing body or its designee of:

7 (a) All of the missing information;

8 (b) Some of the missing information and written notice from the applicant that no other infor-
9 mation will be provided; or

10 (c) Written notice from the applicant that none of the missing information will be provided.

11 (3)(a) If the application was complete when first submitted or the applicant submits the re-
12 quested additional information within 180 days of the date the application was first submitted and
13 the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, ap-
14 proval or denial of the application shall be based upon the standards and criteria that were appli-
15 cable at the time the application was first submitted.

16 (b) If the application is for industrial or traded sector development of a site identified under
17 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,
18 approval or denial of the application must be based upon the standards and criteria that were ap-
19 plicable at the time the application was first submitted, provided the application complies with
20 paragraph (a) of this subsection.

21 (4) On the 181st day after first being submitted, the application is void if the applicant has been
22 notified of the missing information as required under subsection (2) of this section and has not sub-
23 mitted:

24 (a) All of the missing information;

25 (b) Some of the missing information and written notice that no other information will be pro-
26 vided; or

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

28 (5) The [48-day] **120-day** period set in subsection (1) of this section may be extended for a spec-
29 ified period of time at the written request of the applicant. The total of all extensions, except as
30 provided in subsection (11) of this section for mediation, may not exceed 245 days.

31 (6) The [48-day] **120-day** period set in subsection (1) of this section applies:

32 (a) Only to decisions wholly within the authority and control of the governing body of the city;
33 and

34 (b) Unless the parties have agreed to mediation as described in subsection (11) of this section
35 or ORS 197.319 (2)(b).

36 (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this
37 section does not apply to a decision of the city making a change to an acknowledged comprehensive
38 plan or a land use regulation that is submitted to the Director of the Department of Land Conser-
39 vation and Development under ORS 197.610.

40 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
41 governing body of the city or its designee does not take final action on an application for a permit,
42 limited land use decision or zone change within [48 days] **120 days** after the application is deemed
43 complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this
44 section, either the unexpended portion of any application fees or deposits previously paid or 50
45 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable

1 for additional governmental fees incurred subsequent to the payment of such fees or deposits. How-
2 ever, the applicant is responsible for the costs of providing sufficient additional information to ad-
3 dress relevant issues identified in the consideration of the application.

4 (9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

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

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

9 (b) Within seven calendar days of receiving a request for a refund, the city or its designee shall
10 determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made
11 to the applicant within 30 calendar days of receiving the request. Any amount due and not paid
12 within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of
13 one percent per month, or a portion thereof.

14 (c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the
15 city or its designee receives the refund request, the applicant may file an action for recovery of the
16 unpaid refund. In an action brought by a person under this paragraph, the court shall award to a
17 prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and
18 costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable
19 attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

20 (10) A city may not compel an applicant to waive the [48-day] **120-day** period set in subsection
21 (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a
22 condition for taking any action on an application for a permit, limited land use decision or zone
23 change except when such applications are filed concurrently and considered jointly with a plan
24 amendment.

25 (11) The period set forth in subsection (1) of this section and the period set forth in subsection
26 (5) of this section may be extended by up to 90 additional days, if the applicant and the city agree
27 that a dispute concerning the application will be mediated.

28 **SECTION 17.** ORS 227.179, as amended by section 7 of this 2013 Act, is amended to read:

29 227.179. (1) Except when an applicant requests an extension under ORS 227.178 (5), if the gov-
30 erning body of a city or its designee does not take final action on an application for a permit, limited
31 land use decision or zone change within [48] **120** days after the application is deemed complete, the
32 applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the
33 county where the application was submitted to compel the governing body or its designee to issue
34 the approval.

35 (2) The governing body shall retain jurisdiction to make a land use decision on the application
36 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction
37 for all decisions regarding the application, including settlement, shall be with the circuit court.

38 (3) A person who files a petition for a writ of mandamus under this section shall provide written
39 notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any
40 person who participated orally or in writing in any evidentiary hearing on the application held prior
41 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
42 tion is filed.

43 (4) If the governing body does not take final action on an application within [48] **120** days of the
44 date the application is deemed complete, the applicant may elect to proceed with the application
45 according to the applicable provisions of the local comprehensive plan and land use regulations or

1 to file a petition for a writ of mandamus under this section. If the applicant elects to proceed ac-
2 cording to the local plan and regulations, the applicant may not file a petition for a writ of
3 mandamus within 14 days after the governing body makes a preliminary decision, provided a final
4 written decision is issued within 14 days of the preliminary decision.

5 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
6 that the approval would violate a substantive provision of the local comprehensive plan or land use
7 regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval
8 that would otherwise be allowed by the local comprehensive plan or land use regulations.

9 **SECTION 18.** ORS 227.181, as amended by section 8 of this 2013 Act, is amended to read:

10 227.181. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-
11 manding a decision to a city, the governing body of the city or its designee shall take final action
12 on an application for a permit, limited land use decision or zone change within [36] **90** days of the
13 effective date of the final order issued by the board. For purposes of this subsection, the effective
14 date of the final order is the last day for filing a petition for judicial review of a final order of the
15 board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS
16 197.830, the [36-day] **90-day** period established under this subsection shall not begin until final re-
17 solution of the judicial review.

18 (2)(a) In addition to the requirements of subsection (1) of this section, the [36-day] **90-day** period
19 established under subsection (1) of this section shall not begin until the applicant requests in writing
20 that the city proceed with the application on remand.

21 (b) The [36-day] **90-day** period may be extended for a reasonable period of time at the request
22 of the applicant.

23 (3) The [36-day] **90-day** period established under subsection (1) of this section applies only to
24 decisions wholly within the authority and control of the governing body of the city.

25 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision
26 of the city making a change to an acknowledged comprehensive plan or a land use regulation that
27 is submitted to the Director of the Department of Land Conservation and Development under ORS
28 197.610.

29 **SECTION 19.** ORS 227.182, as amended by section 9 of this 2013 Act, is amended to read:

30 227.182. (1) If the governing body of a city or its designee fails to take final action on an ap-
31 plication for a permit, limited land use decision or zone change within [36] **90** days as provided in
32 ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to
33 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from
34 the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised
35 by the parties that the matter has been settled.

36 (2) A writ of mandamus issued under this section shall order the governing body of the city or
37 its designee to make a final determination on the application. The court, in its discretion, may order
38 such remedy as the court determines appropriate.

39 (3) In a mandamus proceeding under this section the court shall award court costs and attorney
40 fees to an applicant who prevails on a petition under this section.

41 **SECTION 20.** ORS 227.184, as amended by section 10 of this 2013 Act, is amended to read:

42 227.184. (1) A person whose application for a permit is denied by the governing body of a city
43 or its designee under ORS 227.178 may submit to the city a supplemental application for any or all
44 other uses allowed under the city's comprehensive plan and land use regulations in the zone that
45 was the subject of the denied application.

1 (2) The governing body of a city or its designee shall take final action on a supplemental ap-
 2 plication submitted under this section, including resolution of all appeals, within [96] 240 days after
 3 the application is deemed complete. Except that [96] 240 days shall substitute for [48] 120 days, all
 4 other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under
 5 this section.

6 (3) A supplemental application submitted under this section shall include a request for any re-
 7 zoning or zoning variance that may be required to issue a permit under the city’s comprehensive
 8 plan and land use regulations.

9 (4) The governing body of a city or its designee shall adopt specific findings describing the
 10 reasons for approving or denying:

- 11 (a) A use for which approval is sought under this section; and
- 12 (b) A rezoning or variance requested in the application.

13 **SECTION 21.** (1) **The amendments to ORS 215.427, 215.429, 215.433, 215.435, 215.437,**
 14 **227.178, 227.179, 227.181, 227.182 and 227.184 by sections 1 to 10 of this 2013 Act apply to an**
 15 **application for a permit, limited land use decision or zone change first deemed complete on**
 16 **or after the effective date of this 2013 Act.**

17 (2) **The amendments to ORS 215.427, 215.429, 215.433, 215.435, 215.437, 227.178, 227.179,**
 18 **227.181, 227.182 and 227.184 by sections 11 to 20 of this 2013 Act apply to an application for a**
 19 **permit, limited land use decision or zone change first deemed complete on or after the op-**
 20 **erative date specified in section 22 of this 2013 Act.**

21 **SECTION 22.** (1) **The amendments to ORS 215.427, 215.429, 215.433, 215.435, 215.437,**
 22 **227.178, 227.179, 227.181, 227.182 and 227.184 by sections 11 to 20 of this 2013 Act become op-**
 23 **erative on the later of:**

- 24 (a) **January 2, 2020; or**
- 25 (b) **Thirty days after the Governor issues a proclamation declaring the unemployment**
 26 **rate of the State of Oregon is at or below six percent.**

27 (2) **The Governor shall issue a proclamation for purposes of subsection (1)(b) of this**
 28 **section when the unemployment rate of the State of Oregon is at or below six percent.**