

**PROPOSED AMENDMENTS TO
HOUSE BILL 2200**

1 On page 1 of the printed bill, line 2, after “105.700” insert “and 197.015”.

2 On page 2, after line 29, insert:

3 **“SECTION 3.** ORS 197.015 is amended to read:

4 “197.015. As used in ORS chapters 195, 196 and 197, unless the context
5 requires otherwise:

6 “(1) ‘Acknowledgment’ means a commission order that certifies that a
7 comprehensive plan and land use regulations, land use regulation or plan or
8 regulation amendment complies with the goals or certifies that Metro land
9 use planning goals and objectives, Metro regional framework plan, amend-
10 ments to Metro planning goals and objectives or amendments to the Metro
11 regional framework plan comply with the goals.

12 “(2) ‘Board’ means the Land Use Board of Appeals.

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

16 “(4) ‘Commission’ means the Land Conservation and Development Com-
17 mission.

18 “(5) ‘Comprehensive plan’ means a generalized, coordinated land use map
19 and policy statement of the governing body of a local government that
20 interrelates all functional and natural systems and activities relating to the
21 use of lands, including but not limited to sewer and water systems, trans-
22 portation systems, educational facilities, recreational facilities, and natural

1 resources and air and water quality management programs.
2 'Comprehensive' means all-inclusive, both in terms of the geographic area
3 covered and functional and natural activities and systems occurring in the
4 area covered by the plan. 'General nature' means a summary of policies and
5 proposals in broad categories and does not necessarily indicate specific lo-
6 cations of any area, activity or use. A plan is 'coordinated' when the needs
7 of all levels of governments, semipublic and private agencies and the citizens
8 of Oregon have been considered and accommodated as much as possible.
9 'Land' includes water, both surface and subsurface, and the air.

10 "(6) 'Department' means the Department of Land Conservation and De-
11 velopment.

12 "(7) 'Director' means the Director of the Department of Land Conserva-
13 tion and Development.

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

16 "(9) 'Guidelines' means suggested approaches designed to aid cities and
17 counties in preparation, adoption and implementation of comprehensive plans
18 in compliance with goals and to aid state agencies and special districts in
19 the preparation, adoption and implementation of plans, programs and regu-
20 lations in compliance with goals. Guidelines shall be advisory and shall not
21 limit state agencies, cities, counties and special districts to a single ap-
22 proach.

23 "(10) 'Land use decision':

24 "(a) Includes:

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

27 "(i) The goals;

28 "(ii) A comprehensive plan provision;

29 "(iii) A land use regulation; or

30 "(iv) A new land use regulation;

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

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

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

6 “(A) That is made under land use standards that do not require interpre-
7 tation or the exercise of policy or legal judgment;

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

10 “(C) That is a limited land use decision;

11 “(D) That determines final engineering design, construction, operation,
12 maintenance, repair or preservation of a transportation facility that is oth-
13 erwise authorized by and consistent with the comprehensive plan and land
14 use regulations;

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

16 “(F) That approves, pursuant to ORS 480.450 (7), the siting, installation,
17 maintenance or removal of a liquefied petroleum gas container or receptacle
18 regulated exclusively by the State Fire Marshal under ORS 480.410 to
19 480.460;

20 “(G) That approves or denies approval of a final subdivision or partition
21 plat or that determines whether a final subdivision or partition plat sub-
22 stantially conforms to the tentative subdivision or partition plan; or

23 “(H) That a proposed state agency action subject to ORS 197.180 (1) is
24 compatible with the acknowledged comprehensive plan and land use regu-
25 lations implementing the plan, if:

26 “(i) The local government has already made a land use decision author-
27 izing a use or activity that encompasses the proposed state agency action;

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

1 plan; or

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

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

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

11 “(e) Does not include:

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

14 “(B) Any local decision or action taken on an application subject to ORS
15 215.427 or 227.178 after a petition for a writ of mandamus has been filed
16 under ORS 215.429 or 227.179; or

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

18 “(i) The local government with land use jurisdiction over a use or activity
19 that would be authorized, funded or undertaken by the state agency as a
20 result of the state agency action has already made a land use decision ap-
21 proving the use or activity; or

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

26 “(11) ‘Land use regulation’ means any local government zoning ordinance,
27 land division ordinance adopted under ORS 92.044 or 92.046 or similar gen-
28 eral ordinance establishing standards for implementing a comprehensive
29 plan.

30 “[12) *Limited land use decision*:]

1 “[a] Means a final decision or determination made by a local government
2 pertaining to a site within an urban growth boundary that concerns:]

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

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

8 “[b] Does not mean a final decision made by a local government pertaining
9 to a site within an urban growth boundary that concerns approval or denial
10 of a final subdivision or partition plat or that determines whether a final
11 subdivision or partition plat substantially conforms to the tentative subdivision
12 or partition plan.]

13 **“(12) ‘Limited land use decision’:**

14 **“(a) Means a final decision or determination made by a local gov-
15 ernment:**

16 **“(A) Pertaining to a site within an urban growth boundary that
17 concerns:**

18 **“(i) The approval or denial of a tentative subdivision or partition
19 plan, as described in ORS 92.040 (1).**

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

24 **“(B) Pertaining to the approval or denial of an application to es-
25 tablish a farm stand pursuant to ORS 215.213 (1) or 215.283 (1).**

26 **“(b) Does not mean a final decision made by a local government
27 pertaining to a site within an urban growth boundary that concerns
28 approval or denial of a final subdivision or partition plat or that de-
29 termines whether a final subdivision or partition plat substantially
30 conforms to the tentative subdivision or partition plan.**

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

4 “(14) ‘Metro’ means a metropolitan service district organized under ORS
5 chapter 268.

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

9 “(16) ‘Metro regional framework plan’ means the regional framework plan
10 required by the 1992 Metro Charter or its separate components. Neither the
11 regional framework plan nor its individual components constitute a compre-
12 hensive plan.

13 “(17) ‘New land use regulation’ means a land use regulation other than
14 an amendment to an acknowledged land use regulation adopted by a local
15 government that already has a comprehensive plan and land regulations ac-
16 knowledged under ORS 197.251.

17 “(18) ‘Person’ means any individual, partnership, corporation, association,
18 governmental subdivision or agency or public or private organization of any
19 kind. The Land Conservation and Development Commission or its designee
20 is considered a person for purposes of appeal under ORS chapters 195 and
21 197.

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

30 “(20) ‘Urban unincorporated community’ means an area designated in a

1 county's acknowledged comprehensive plan as an urban unincorporated
2 community after December 5, 1994.

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

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

11
