

# DRAFT

## SUMMARY

Modifies exception process. Eliminates requirement to take exception to goal protecting agricultural use or forest use for zone change to land that has been physically developed or irrevocably committed to nonresource use for so long that land has never been zoned for agricultural use or forest under goals.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to goal exceptions; creating new provisions; amending ORS 197.732;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 197.732 is amended to read:

6 197.732. (1) As used in this section:

7 (a) “Compatible” is not intended as an absolute term meaning no inter-  
8 ference or adverse impacts of any type with adjacent uses.

9 (b) “Exception” means a comprehensive plan provision, including an  
10 amendment to an acknowledged comprehensive plan, that:

11 (A) Is applicable to specific properties or situations and does not establish  
12 a planning or zoning policy of general applicability;

13 (B) Does not comply with some or all goal requirements applicable to the  
14 subject properties or situations; and

15 (C) Complies with standards under subsection (2) of this section.

16 (c) **“Lot” has the meaning given that term in ORS 92.010.**

17 (d) **“Parcel” has the meaning given that term in ORS 215.010.**

18 (2) A local government may adopt an exception to a goal if:

1 (a) The land subject to the exception is physically developed to the extent  
2 that it is no longer available for uses allowed by the applicable goal;

3 (b) The land subject to the exception is irrevocably committed as de-  
4 scribed by Land Conservation and Development Commission rule to uses not  
5 allowed by the applicable goal because existing adjacent uses and other rel-  
6 evant factors make uses allowed by the applicable goal impracticable; or

7 (c) The following standards are met:

8 (A) Reasons justify why the state policy embodied in the applicable goals  
9 should not apply;

10 (B) Areas that do not require a new exception cannot reasonably accom-  
11 modate the use;

12 (C) The long term environmental, economic, social and energy conse-  
13 quences resulting from the use at the proposed site with measures designed  
14 to reduce adverse impacts are not significantly more adverse than would  
15 typically result from the same proposal being located in areas requiring a  
16 goal exception other than the proposed site; and

17 (D) The proposed uses are compatible with other adjacent uses or will be  
18 so rendered through measures designed to reduce adverse impacts.

19 (3) The commission shall adopt rules establishing:

20 (a) That an exception may be adopted to allow a use authorized by a  
21 statewide planning goal that cannot comply with the approval standards for  
22 that type of use;

23 (b) Under what circumstances particular reasons may or may not be used  
24 to justify an exception under subsection (2)(c)(A) of this section; and

25 (c) Which uses allowed by the applicable goal must be found impractica-  
26 ble under subsection (2) of this section.

27 (4) A local government approving or denying a proposed exception shall  
28 set forth findings of fact and a statement of reasons that demonstrate that  
29 the standards of subsection (2) of this section have or have not been met.

30 (5) Each notice of a public hearing on a proposed exception shall specif-  
31 ically note that a goal exception is proposed and shall summarize the issues

1 in an understandable manner.

2 (6) Upon review of a decision approving or denying an exception:

3 (a) The Land Use Board of Appeals or the commission shall be bound by  
4 any finding of fact for which there is substantial evidence in the record of  
5 the local government proceedings resulting in approval or denial of the ex-  
6 ception;

7 (b) The board upon petition, or the commission, shall determine whether  
8 the local government's findings and reasons demonstrate that the standards  
9 of subsection (2) of this section have or have not been met; and

10 (c) The board or commission shall adopt a clear statement of reasons that  
11 sets forth the basis for the determination that the standards of subsection  
12 (2) of this section have or have not been met.

13 (7) The commission shall by rule establish the standards required to jus-  
14 tify an exception to the definition of "needed housing" authorized by ORS  
15 197.303.

16 **(8) A local government is not required to take an exception to a**  
17 **goal related to agricultural use or forest use to change the zoning of**  
18 **a lot or parcel that has never been zoned, pursuant to the goal and a**  
19 **comprehensive plan designation, for the protection of agricultural use**  
20 **or forest use.**

21 [(8)] (9) An exception acknowledged under ORS 197.251, 197.625 or 197.630  
22 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid  
23 and is not subject to this section.

24 **SECTION 2. The amendments to ORS 197.732 by section 1 of this**  
25 **2015 Act apply to an application for a zone change that is approved or**  
26 **rejected on or after the effective date of this 2015 Act.**

27 **SECTION 3. This 2015 Act being necessary for the immediate pres-**  
28 **ervation of the public peace, health and safety, an emergency is de-**  
29 **clared to exist, and this 2015 Act takes effect on its passage.**

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