

**A-Engrossed**  
**Senate Bill 1051**

Ordered by the House July 5  
Including House Amendments dated July 5

Sponsored by Senator BOQUIST, Representatives KOTEK, STARK; Senator GELSER, Representative FAHEY (at the request of Tracy Lang)

**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.

*[Prohibits provision in instrument conveying real property that restricts use of real property as certified or registered family child care home. Prohibits enforcement of condominium or homeowners association prohibition or restriction of use of unit as certified or registered family child care home.]*

*[Applies to instruments conveying fee title to real property executed, and provisions of governing documents and guidelines adopted, on or after effective date of Act.]*

**Requires city with population greater than 5,000 or county with population greater than 25,000 to review and decide on applications for certain housing developments containing affordable housing units within 100 days.**

**Establishes standards of review for city or county decision on application for certain housing developments located within urban growth boundary. Becomes operative July 1, 2018.**

**Amends definition of "needed housing."**

**Prohibits city or county from denying application for housing development that complies with clear and objective standards. Prohibits city or county from reducing density or height of application if density or height applied for is at or below authorized density for zone.**

**Permits local government to apply clear and objective standards, conditions and procedures regulating development of housing that regulate density or height of development.**

**Prohibits city with population greater than 2,500 or county with population greater than 15,000 from prohibiting building accessory dwelling unit in area zoned for single-family dwellings. Becomes operative July 1, 2018.**

**Requires city and county to allow nonresidential place of worship to use real property for affordable housing.**

**Requires local government to annually report to Department of Land Conservation and Development certain information relating to applications received for development of housing containing one or more units sold or rented below market rate as part of housing program.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to use of real property; creating new provisions; amending ORS 197.178, 197.303, 197.307,  
3 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.

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

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

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

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

12 (2) **Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city with a population greater**  
13 **than 5,000 or a county with a population greater than 25,000 shall take final action on an**  
14 **application qualifying under subsection (3) of this section, including resolution of all local**

**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 **appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed com-**  
2 **plete.**

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

5 **(a) The application is submitted to the city or the county under ORS 215.416 or 227.175;**

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

8 **(c) At least 50 percent of the residential units included in the development will be sold**  
9 **or rented as affordable housing; and**

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

15 **(4) A city or a county shall take final action within the time allowed under ORS 215.427**  
16 **or 227.178 on any application for a permit, limited land use decision or zone change that does**  
17 **not qualify for review and decision under subsection (3) of this section, including resolution**  
18 **of all appeals under ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS**  
19 **227.178 and 227.181.**

20 **SECTION 2.** ORS 215.416 is amended to read:

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

26 (2) The governing body shall establish a consolidated procedure by which an applicant may ap-  
27 ply at one time for all permits or zone changes needed for a development project. The consolidated  
28 procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated proce-  
29 dure shall be available for use at the option of the applicant no later than the time of the first pe-  
30 riodic review of the comprehensive plan and land use regulations.

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

33 (4)(a) *[The application shall not be approved]* **A county may not approve an application** if the  
34 proposed use of land is found to be in conflict with the comprehensive plan of the county and other  
35 applicable land use regulation or ordinance provisions. The approval may include such conditions  
36 as are authorized by statute or county legislation.

37 **(b)(A) A county may not deny an application for a housing development located within**  
38 **the urban growth boundary if the development complies with clear and objective standards,**  
39 **including but not limited to clear and objective design standards contained in the county**  
40 **comprehensive plan or land use regulations.**

41 **(B) This paragraph does not apply to:**

42 **(i) Applications or permits for residential development in areas described in ORS 197.307**  
43 **(5); or**

44 **(ii) Applications or permits reviewed under an alternative approval process adopted under**  
45 **ORS 197.307 (6).**

1       (c) A county may not reduce the density of an application for a housing development if:

2       (A) The density applied for is at or below the authorized density level under the local land  
3 use regulations; and

4       (B) At least 75 percent of the floor area applied for is reserved for housing.

5       (d) A county may not reduce the height of an application for a housing development if:

6       (A) The height applied for is at or below the authorized height level under the local land  
7 use regulations;

8       (B) At least 75 percent of the floor area applied for is reserved for housing; and

9       (C) Reducing the height has the effect of reducing the authorized density level under lo-  
10 cal land use regulations.

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

15       (f) As used in this subsection:

16       (A) "Authorized density level" means the maximum number of lots or dwelling units or  
17 the maximum floor area ratio that is permitted under local land use regulations.

18       (B) "Authorized height level" means the maximum height of a structure that is permit-  
19 ted under local land use regulations.

20       (C) "Habitability" means being in compliance with the applicable provisions of the state  
21 building code under ORS chapter 455 and the rules adopted thereunder.

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

25       (6) Notice of a public hearing on an application submitted under this section shall be provided  
26 to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport"  
27 if:

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

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

31       (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon  
32 Department of Aviation to be a "visual airport"; or

33       (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon  
34 Department of Aviation to be an "instrument airport."

35       (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing  
36 need not be provided as set forth in subsection (6) of this section if the zoning permit would only  
37 allow a structure less than 35 feet in height and the property is located outside the runway "ap-  
38 proach surface" as defined by the Oregon Department of Aviation.

39       (8)(a) Approval or denial of a permit application shall be based on standards and criteria which  
40 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county  
41 and which shall relate approval or denial of a permit application to the zoning ordinance and com-  
42 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-  
43 dinance and comprehensive plan for the county as a whole.

44       (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide  
45 only clear and objective standards, the standards must be clear and objective on the face of the

1 ordinance.

2 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-  
3 nied by a brief statement that explains the criteria and standards considered relevant to the deci-  
4 sion, states the facts relied upon in rendering the decision and explains the justification for the  
5 decision based on the criteria, standards and facts set forth.

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

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

12 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
13 of this subsection.

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

24 (D) An appeal from a hearings officer's decision made without hearing under this subsection  
25 shall be to the planning commission or governing body of the county. An appeal from such other  
26 person as the governing body designates shall be to a hearings officer, the planning commission or  
27 the governing body. In either case, the appeal shall be to a de novo hearing.

28 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
29 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
30 of Appeals. At the de novo hearing:

31 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
32 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
33 the decision;

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

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

38 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
39 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
40 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
41 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
42 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
43 by neighborhood or community organizations recognized by the governing body and whose bounda-  
44 ries include the site.

45 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-

1 plicant and to the owners of record of property on the most recent property tax assessment roll  
2 where such property is located:

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

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

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

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

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

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

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

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

16 (B) The date of the decision; and

17 (C) A description of the decision made.

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

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

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

25 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-  
26 ject to the requirements set forth in ORS 197.195 and 197.828.

27 **SECTION 3.** ORS 227.175 is amended to read:

28 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the  
29 hearings officer, or such other person as the city council designates, for a permit or zone change,  
30 upon such forms and in such a manner as the city council prescribes. The governing body shall es-  
31 tablish fees charged for processing permits at an amount no more than the actual or average cost  
32 of providing that service.

33 (2) The governing body of the city shall establish a consolidated procedure by which an appli-  
34 cant may apply at one time for all permits or zone changes needed for a development project. The  
35 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-  
36 idated procedure shall be available for use at the option of the applicant no later than the time of  
37 the first periodic review of the comprehensive plan and land use regulations.

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

40 (4)(a) *[The application shall not be approved]* **A city may not approve an application** unless the  
41 proposed development of land would be in compliance with the comprehensive plan for the city and  
42 other applicable land use regulation or ordinance provisions. The approval may include such con-  
43 ditions as are authorized by ORS 227.215 or any city legislation.

44 **(b)(A) A city may not deny an application for a housing development located within the**  
45 **urban growth boundary if the development complies with clear and objective standards, in-**

1 **cluding but not limited to clear and objective design standards contained in the city com-**  
2 **prehensive plan or land use regulations.**

3 **(B) This paragraph does not apply to:**

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

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

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

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

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

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

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

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

16 **(C) Reducing the height has the effect of reducing the authorized density level under lo-**  
17 **cal land use regulations.**

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

22 **(f) As used in this subsection:**

23 **(A) "Authorized density level" means the maximum number of lots or dwelling units or**  
24 **the maximum floor area ratio that is permitted under local land use regulations.**

25 **(B) "Authorized height level" means the maximum height of a structure that is permit-**  
26 **ted under local land use regulations.**

27 **(C) "Habitability" means being in compliance with the applicable provisions of the state**  
28 **building code under ORS chapter 455 and the rules adopted thereunder.**

29 **(5) Hearings under this section may be held only after notice to the applicant and other inter-**  
30 **ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.**

31 **(6) Notice of a public hearing on a zone use application shall be provided to the owner of an**  
32 **airport, defined by the Oregon Department of Aviation as a "public use airport" if:**

33 **(a) The name and address of the airport owner has been provided by the Oregon Department**  
34 **of Aviation to the city planning authority; and**

35 **(b) The property subject to the zone use hearing is:**

36 **(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon**  
37 **Department of Aviation to be a "visual airport"; or**

38 **(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon**  
39 **Department of Aviation to be an "instrument airport."**

40 **(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing**  
41 **need only be provided as set forth in subsection (6) of this section if the permit or zone change**  
42 **would only allow a structure less than 35 feet in height and the property is located outside of the**  
43 **runway "approach surface" as defined by the Oregon Department of Aviation.**

44 **(8) If an application would change the zone of property that includes all or part of a mobile**  
45 **home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give**

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

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

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

12 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)  
13 of this subsection.

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

23 (D) An appeal from a hearings officer's decision made without hearing under this subsection  
24 shall be to the planning commission or governing body of the city. An appeal from such other person  
25 as the governing body designates shall be to a hearings officer, the planning commission or the  
26 governing body. In either case, the appeal shall be to a de novo hearing.

27 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
28 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board  
29 of Appeals. At the de novo hearing:

30 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-  
31 ments and evidence as they would have had in a hearing under subsection (3) of this section before  
32 the decision;

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

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

37 (b) If a local government provides only a notice of the opportunity to request a hearing, the  
38 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing  
39 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,  
40 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the  
41 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made  
42 by neighborhood or community organizations recognized by the governing body and whose bounda-  
43 ries include the site.

44 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-  
45 plicant and to the owners of record of property on the most recent property tax assessment roll

1 where such property is located:

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

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

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

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

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

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

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

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

15 (B) The date of the decision; and

16 (C) A description of the decision made.

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

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

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

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

26 **SECTION 4.** ORS 197.303 is amended to read:

27 197.303. (1) As used in ORS 197.307, “needed housing” means **all** housing [*types*] **on land zoned**  
28 **for residential use or mixed residential and commercial use that is** determined to meet the need  
29 shown for housing within an urban growth boundary at [*particular*] price ranges and rent levels[,  
30 *including*] **that are affordable to households within the county with a variety of incomes, in-**  
31 **cluding but not limited to households with low incomes, very low incomes and extremely low**  
32 **incomes, as those terms are defined by the United States Department of Housing and Urban**  
33 **Development under 42 U.S.C. 1437a. “Needed housing” includes [*at least*] the following housing**  
34 **types:**

35 (a) Attached and detached single-family housing and multiple family housing for both owner and  
36 renter occupancy;

37 (b) Government assisted housing;

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

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

41 (e) Housing for farmworkers.

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

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

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

45 (3) A local government may take an exception under ORS 197.732 to the definition of “needed



1 housing” in subsection (1) of this section in the same manner that an exception may be taken under  
2 the goals.

3 **SECTION 5.** ORS 197.307 is amended to read:

4 197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for  
5 persons of lower, middle and fixed income, including housing for farmworkers, is a matter of state-  
6 wide concern.

7 (2) Many persons of lower, middle and fixed income depend on government assisted housing as  
8 a source of affordable, decent, safe and sanitary housing.

9 (3) When a need has been shown for housing within an urban growth boundary at particular  
10 price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or  
11 in zones described by some comprehensive plans as overlay zones with sufficient buildable land to  
12 satisfy that need.

13 (4) Except as provided in subsection (6) of this section, a local government may adopt and apply  
14 only clear and objective standards, conditions and procedures regulating the development of **hous-**  
15 **ing, including** needed housing [*on buildable land described in subsection (3) of this section*]. The  
16 standards, conditions and procedures:

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

19 (b) May not have the effect, either in themselves or cumulatively, of discouraging needed  
20 housing through unreasonable cost or delay.

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

22 (a) An application or permit for residential development in an area identified in a formally  
23 adopted central city plan, or a regional center as defined by Metro, in a city with a population of  
24 500,000 or more.

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

27 (6) In addition to an approval process for needed housing based on clear and objective standards,  
28 conditions and procedures as provided in subsection (4) of this section, a local government may  
29 adopt and apply an alternative approval process for applications and permits for residential devel-  
30 opment based on approval criteria regulating, in whole or in part, appearance or aesthetics that are  
31 not clear and objective if:

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

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

36 (c) The approval criteria for the alternative approval process authorize a density at or above  
37 the density level authorized in the zone under the approval process provided in subsection (4) of this  
38 section.

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

41 (a) Set approval standards under which a particular housing type is permitted outright;

42 (b) Impose special conditions upon approval of a specific development proposal; or

43 (c) Establish approval procedures.

44 (8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt  
45 any or all of the following placement standards, or any less restrictive standard, for the approval

1 of manufactured homes located outside mobile home parks:

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

4 (b) The manufactured home shall be placed on an excavated and back-filled foundation and en-  
5 closed at the perimeter such that the manufactured home is located not more than 12 inches above  
6 grade.

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

9 (d) The manufactured home shall have exterior siding and roofing which in color, material and  
10 appearance is similar to the exterior siding and roofing material commonly used on residential  
11 dwellings within the community or which is comparable to the predominant materials used on sur-  
12 rounding dwellings as determined by the local permit approval authority.

13 (e) The manufactured home shall be certified by the manufacturer to have an exterior thermal  
14 envelope meeting performance standards which reduce levels equivalent to the performance stan-  
15 dards required of single-family dwellings constructed under the state building code as defined in ORS  
16 455.010.

17 (f) The manufactured home shall have a garage or carport constructed of like materials. A ju-  
18 risdiction may require an attached or detached garage in lieu of a carport where such is consistent  
19 with the predominant construction of immediately surrounding dwellings.

20 (g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may  
21 subject a manufactured home and the lot upon which it is sited to any development standard, ar-  
22 chitectural requirement and minimum size requirement to which a conventional single-family resi-  
23 dential dwelling on the same lot would be subject.

24 **SECTION 6.** ORS 197.312 is amended to read:

25 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or  
26 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-  
27 factured homes. A city or county may not by charter prohibit government assisted housing or impose  
28 additional approval standards on government assisted housing that are not applied to similar but  
29 unassisted housing.

30 (2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a  
31 permitted use in any residential or commercial zone that allows single-family dwellings as a per-  
32 mitted use.

33 (b) A city or county may not impose a zoning requirement on the establishment and maintenance  
34 of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential  
35 or commercial zone described in paragraph (a) of this subsection that is more restrictive than a  
36 zoning requirement imposed on other single-family dwellings in the same zone.

37 (3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted  
38 use in any residential or commercial zone that allows multifamily housing generally as a permitted  
39 use.

40 (b) A city or county may not impose a zoning requirement on the establishment and maintenance  
41 of multifamily housing for farmworkers and farmworkers' immediate families in a residential or  
42 commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning  
43 requirement imposed on other multifamily housing in the same zone.

44 (4) A city or county may not prohibit a property owner or developer from maintaining a real  
45 estate sales office in a subdivision or planned community containing more than 50 lots or dwelling

1 units for the sale of lots or dwelling units that remain available for sale to the public.

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

6 **(b) As used in this subsection, “accessory dwelling unit” means an interior, attached or**  
7 **detached residential structure that is used in connection with or that is accessory to a**  
8 **single-family dwelling.**

9 **SECTION 7.** ORS 215.441 is amended to read:

10 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-  
11 tial place of worship is allowed on real property under state law and rules and local zoning ordi-  
12 nances and regulations, a county shall allow the reasonable use of the real property for activities  
13 customarily associated with the practices of the religious activity, including [*worship services, reli-*  
14 *gion classes, weddings, funerals, child care and meal programs, but not including private or parochial*  
15 *school education for prekindergarten through grade 12 or higher education.*]:

16 **(a) Worship services.**

17 **(b) Religion classes.**

18 **(c) Weddings.**

19 **(d) Funerals.**

20 **(e) Meal programs.**

21 **(f) Child care, but not including private or parochial school education for prekindergarten**  
22 **through grade 12 or higher education.**

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

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

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

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

32 (2) A county may:

33 (a) Subject real property described in subsection (1) of this section to reasonable regulations,  
34 including site review or design review, concerning the physical characteristics of the uses author-  
35 ized under subsection (1) of this section; or

36 (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1)  
37 of this section if the county finds that the level of service of public facilities, including transporta-  
38 tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship  
39 described in subsection (1) of this section.

40 (3) Notwithstanding any other provision of this section, a county may allow a private or paro-  
41 chial school for prekindergarten through grade 12 or higher education to be sited under applicable  
42 state law and rules and local zoning ordinances and regulations.

43 **(4) Housing and space for housing provided under subsection (1)(g) of this section must**  
44 **be subject to a covenant appurtenant that restricts the owner and each successive owner**  
45 **of the building or any residential unit contained in the building from selling or renting any**

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

5 **SECTION 8.** ORS 227.500 is amended to read:

6 227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-  
7 tial place of worship is allowed on real property under state law and rules and local zoning ordi-  
8 nances and regulations, a city shall allow the reasonable use of the real property for activities  
9 customarily associated with the practices of the religious activity, including [*worship services, reli-*  
10 *gion classes, weddings, funerals, child care and meal programs, but not including private or parochial*  
11 *school education for prekindergarten through grade 12 or higher education.*]:

12 (a) **Worship services.**

13 (b) **Religion classes.**

14 (c) **Weddings.**

15 (d) **Funerals.**

16 (e) **Meal programs.**

17 (f) **Child care, but not including private or parochial school education for prekindergarten**  
18 **through grade 12 or higher education.**

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

21 (A) **At least 50 percent of the residential units provided under this paragraph are af-**  
22 **fordable to households with incomes equal to or less than 60 percent of the median family**  
23 **income for the county in which the real property is located;**

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

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

28 (2) A city may:

29 (a) Subject real property described in subsection (1) of this section to reasonable regulations,  
30 including site review and design review, concerning the physical characteristics of the uses au-  
31 thorized under subsection (1) of this section; or

32 (b) Prohibit or regulate the use of real property by a place of worship described in subsection  
33 (1) of this section if the city finds that the level of service of public facilities, including transporta-  
34 tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship  
35 described in subsection (1) of this section.

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

39 (4) **Housing and space for housing provided under subsection (1)(g) of this section must**  
40 **be subject to a covenant appurtenant that restricts the owner and each successive owner**  
41 **of the building or any residential unit contained in the building from selling or renting any**  
42 **residential unit described in subsection (1)(g)(A) of this section as housing that is not af-**  
43 **fordable to households with incomes equal to or less than 60 percent of the median family**  
44 **income for the county in which the real property is located for a period of 60 years from the**  
45 **date of the certificate of occupancy.**

1        **SECTION 9.** ORS 197.178 is amended to read:

2        197.178. (1) Local governments with comprehensive plans or functional plans that are identified  
3 in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and  
4 Development the following information for all applications received under ORS 227.175 for residen-  
5 tial permits and residential zone changes:

6        (a) The **total** number of **complete** applications received for residential development, [*including*  
7 *the net residential density proposed in the application and the maximum allowed net residential density*  
8 *for the subject zone*] **and the number of applications approved;**

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

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

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

15        **(c) For each complete application received:**

16        **(A) The date the application was received;**

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

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

19        **(D) The maximum allowed net residential density for the subject 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 section, for land within an  
24 urban growth boundary and applications for mineral aggregate extraction, the governing body of a  
25 county or its designee shall take final action on an application for a permit, limited land use deci-  
26 sion or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the  
27 application is deemed complete. The governing body of a county or its designee shall take final  
28 action on all other applications for a permit, limited land use decision or zone change, including  
29 resolution of all appeals under ORS 215.422, within 150 days after the application is deemed com-  
30 plete, except as provided in subsections (3), (5) and (10) of this section.

31        (2) If an application for a permit, limited land use decision or zone change is incomplete, the  
32 governing body or its designee shall notify the applicant in writing of exactly what information is  
33 missing within 30 days of receipt of the application and allow the applicant to submit the missing  
34 information. The application shall be deemed complete for the purpose of subsection (1) of this sec-  
35 tion **and section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

36        (a) All of the missing information;

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

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

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

45        (b) If the application is for industrial or traded sector development of a site identified under

1 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,  
2 approval or denial of the application must be based upon the standards and criteria that were ap-  
3 plicable at the time the application was first submitted, provided the application complies with  
4 paragraph (a) of this subsection.

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

8 (a) All of the missing information;

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

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

12 (5) The period set in subsection (1) of this section **or the 100-day period set in section 1 of**  
13 **this 2017 Act** may be extended for a specified period of time at the written request of the applicant.  
14 The total of all extensions, except as provided in subsection (10) of this section for mediation, may  
15 not exceed 215 days.

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

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

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

21 (7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section  
22 **and the 100-day period set in section 1 of this 2017 Act do** *[does]* not apply to a decision of the  
23 county making a change to an acknowledged comprehensive plan or a land use regulation that is  
24 submitted to the Director of the Department of Land Conservation and Development under ORS  
25 197.610.

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

35 (9) A county may not compel an applicant to waive the period set in subsection (1) of this sec-  
36 tion or to waive the provisions of subsection (8) of this section or ORS 215.429 **or section 1 of this**  
37 **2017 Act** as a condition for taking any action on an application for a permit, limited land use deci-  
38 sion or zone change except when such applications are filed concurrently and considered jointly  
39 with a plan amendment.

40 (10) The periods set forth in *[subsection (1)]* **subsections (1) and (5)** of this section **and section**  
41 **1 of this 2017 Act** *[and the period set forth in subsection (5) of this section]* may be extended by up  
42 to 90 additional days, if the applicant and the county agree that a dispute concerning the application  
43 will be mediated.

44 **SECTION 11.** ORS 227.178 is amended to read:

45 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body

1 of a city or its designee shall take final action on an application for a permit, limited land use de-  
2 cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after  
3 the application is deemed complete.

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

9 (a) All of the missing information;

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

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

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

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

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

26 (a) All of the missing information;

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

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

30 (5) The 120-day period set in subsection (1) of this section **or the 100-day period set in section**  
31 **1 of this 2017 Act** may be extended for a specified period of time at the written request of the ap-  
32 plicant. The total of all extensions, except as provided in subsection (11) of this section for medi-  
33 ation, may not exceed 245 days.

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

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

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

39 (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this  
40 section **and the 100-day period set in section 1 of this 2017 Act do** *[does]* not apply to a decision  
41 of the city making a change to an acknowledged comprehensive plan or a land use regulation that  
42 is submitted to the Director of the Department of Land Conservation and Development under ORS  
43 197.610.

44 (8) Except when an applicant requests an extension under subsection (5) of this section, if the  
45 governing body of the city or its designee does not take final action on an application for a permit,

1 limited land use decision or zone change within 120 days after the application is deemed complete,  
2 the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, ei-  
3 ther the unexpended portion of any application fees or deposits previously paid or 50 percent of the  
4 total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional  
5 governmental fees incurred subsequent to the payment of such fees or deposits. However, the ap-  
6 plicant is responsible for the costs of providing sufficient additional information to address relevant  
7 issues identified in the consideration of the application.

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

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

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

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

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

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

29 (11) The *[period]* **periods** set forth in *[subsection (1)]* **subsections (1) and (5)** of this section **and**  
30 **section 1 of this 2017 Act** *[and the period set forth in subsection (5) of this section]* may be extended  
31 by up to 90 additional days, if the applicant and the city agree that a dispute concerning the appli-  
32 cation will be mediated.

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

35 **SECTION 13. (1) Section 1 of this 2017 Act and the amendments to ORS 197.178, 197.303,**  
36 **197.307, 215.427, 215.441, 227.178 and 227.500 by sections 4, 5 and 7 to 11 of this 2017 Act apply**  
37 **to permit applications submitted for review on or after the effective date of this 2017 Act.**

38 **(2) The amendments to ORS 215.416 and 227.175 by sections 2 and 3 of this 2017 Act apply**  
39 **to applications for housing development submitted for review on or after July 1, 2018.**

40 **(3) The amendments to ORS 197.312 by section 6 of this 2017 Act apply to permit appli-**  
41 **cations for accessory dwelling units submitted for review on or after July 1, 2018.**

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