

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
HOUSE BILL 2007**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and insert “ORS 197.303, 197.307, 197.312, 215.416, 215.427, 215.441,
3 227.175, 227.178 and 227.500; and”.

4 Delete lines 5 through 24 and delete pages 2 through 5 and insert:

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

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

10 **“(b) ‘Multifamily residential building’ means a building in which**
11 **two or more residential units each have space for eating, living and**
12 **sleeping and permanent provisions for cooking and sanitation.**

13 **“(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city or a**
14 **county shall take final action on an application qualifying under sub-**
15 **section (3) of this section, including resolution of all local appeals**
16 **under ORS 215.422 or 227.180, within 100 days after the application is**
17 **deemed complete.**

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

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

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

4 **“(c) At least 50 percent of the residential units included in the de-**
5 **velopment will be sold or rented as affordable housing; and**

6 **“(d) The development is subject to a covenant appurtenant that**
7 **restricts the owner and each successive owner of the development or**
8 **a residential unit within the development from selling or renting any**
9 **residential unit described in paragraph (c) of this subsection as hous-**
10 **ing that is not affordable housing for a period of 60 years from the date**
11 **of the certificate of occupancy.**

12 **“(4) A city or a county shall take final action within the time al-**
13 **lowed under ORS 215.427 or 227.178 on any application for a permit,**
14 **limited land use decision or zone change that does not qualify for re-**
15 **view and decision under subsection (3) of this section, including re-**
16 **solution of all appeals under ORS 215.422 or 227.180, as provided by ORS**
17 **215.427 and 215.435 or ORS 227.178 and 227.181.**

18 **“SECTION 2. (1) The Department of Land Conservation and Devel-**
19 **opment shall study housing development, including but not limited to**
20 **affordable housing, in cities. The study must:**

21 **“(a) Determine for each city the average timeline between sub-**
22 **mission of a complete application for a housing development and is-**
23 **suance of a certificate of occupancy for the housing development;**

24 **“(b) Analyze the impact of the timeline described in paragraph (a)**
25 **of this subsection on the development process; and**

26 **“(c) Identify barriers to reducing the timeline described in para-**
27 **graph (a) of this subsection for each city.**

28 **“(2) The department shall report the findings of the study to an**
29 **interim committee of the Legislative Assembly:**

30 **“(a) For cities with populations greater than 25,000, no later than**

1 **September 15, 2018.**

2 **“(b) For cities with populations of 25,000 or less, no later than Sep-**
3 **tember 15, 2019.**

4 **“SECTION 3.** ORS 215.416 is amended to read:

5 “215.416. (1) When required or authorized by the ordinances, rules and
6 regulations of a county, an owner of land may apply in writing to such per-
7 sons as the governing body designates, for a permit, in the manner prescribed
8 by the governing body. The governing body shall establish fees charged for
9 processing permits at an amount no more than the actual or average cost
10 of providing that service.

11 “(2) The governing body shall establish a consolidated procedure by which
12 an applicant may apply at one time for all permits or zone changes needed
13 for a development project. The consolidated procedure shall be subject to the
14 time limitations set out in ORS 215.427. The consolidated procedure shall be
15 available for use at the option of the applicant no later than the time of the
16 first periodic review of the comprehensive plan and land use regulations.

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

19 “(4)(a) [*The application shall not be approved*] **A county may not ap-**
20 **prove an application** if the proposed use of land is found to be in conflict
21 with the comprehensive plan of the county and other applicable land use
22 regulation or ordinance provisions. The approval may include such condi-
23 tions as are authorized by statute or county legislation.

24 **“(b) A county may not deny an application for a housing develop-**
25 **ment located within the urban growth boundary if:**

26 **“(A) The development complies with clear and objective standards**
27 **contained in the comprehensive plan or zoning ordinances of the**
28 **county; and**

29 **“(B) The county would have approved the application but for a**
30 **finding that the development is inconsistent with any discretionary**

1 **design review standards imposed by the county.**

2 **“(c) Paragraph (b) of this subsection does not apply to applications**
3 **or permits for residential development in areas described in ORS**
4 **197.307 (5).**

5 “(5) Hearings under this section shall be held only after notice to the
6 applicant and also notice to other persons as otherwise provided by law and
7 shall otherwise be conducted in conformance with the provisions of ORS
8 197.763.

9 “(6) Notice of a public hearing on an application submitted under this
10 section shall be provided to the owner of an airport defined by the Oregon
11 Department of Aviation as a ‘public use airport’ if:

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

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

15 “(A) Within 5,000 feet of the side or end of a runway of an airport de-
16 termined by the Oregon Department of Aviation to be a ‘visual airport’; or

17 “(B) Within 10,000 feet of the side or end of the runway of an airport
18 determined by the Oregon Department of Aviation to be an ‘instrument air-
19 port.’

20 “(7) Notwithstanding the provisions of subsection (6) of this section, no-
21 tice of a land use hearing need not be provided as set forth in subsection (6)
22 of this section if the zoning permit would only allow a structure less than
23 35 feet in height and the property is located outside the runway ‘approach
24 surface’ as defined by the Oregon Department of Aviation.

25 “(8)(a) Approval or denial of a permit application shall be based on stan-
26 dards and criteria which shall be set forth in the zoning ordinance or other
27 appropriate ordinance or regulation of the county and which shall relate
28 approval or denial of a permit application to the zoning ordinance and com-
29 prehensive plan for the area in which the proposed use of land would occur
30 and to the zoning ordinance and comprehensive plan for the county as a

1 whole.

2 “(b) When an ordinance establishing approval standards is required under
3 ORS 197.307 to provide only clear and objective standards, the standards
4 must be clear and objective on the face of the ordinance.

5 “(9) Approval or denial of a permit or expedited land division shall be
6 based upon and accompanied by a brief statement that explains the criteria
7 and standards considered relevant to the decision, states the facts relied
8 upon in rendering the decision and explains the justification for the decision
9 based on the criteria, standards and facts set forth.

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

12 “(11)(a)(A) The hearings officer or such other person as the governing
13 body designates may approve or deny an application for a permit without a
14 hearing if the hearings officer or other designated person gives notice of the
15 decision and provides an opportunity for any person who is adversely af-
16 fected or aggrieved, or who is entitled to notice under paragraph (c) of this
17 subsection, to file an appeal.

18 “(B) Written notice of the decision shall be mailed to those persons de-
19 scribed in paragraph (c) of this subsection.

20 “(C) Notice under this subsection shall comply with ORS 197.763 (3)(a),
21 (c), (g) and (h) and shall describe the nature of the decision. In addition, the
22 notice shall state that any person who is adversely affected or aggrieved or
23 who is entitled to written notice under paragraph (c) of this subsection may
24 appeal the decision by filing a written appeal in the manner and within the
25 time period provided in the county’s land use regulations. A county may not
26 establish an appeal period that is less than 12 days from the date the written
27 notice of decision required by this subsection was mailed. The notice shall
28 state that the decision will not become final until the period for filing a local
29 appeal has expired. The notice also shall state that a person who is mailed
30 written notice of the decision cannot appeal the decision directly to the Land

1 Use Board of Appeals under ORS 197.830.

2 “(D) An appeal from a hearings officer’s decision made without hearing
3 under this subsection shall be to the planning commission or governing body
4 of the county. An appeal from such other person as the governing body des-
5 ignates shall be to a hearings officer, the planning commission or the gov-
6 erning body. In either case, the appeal shall be to a de novo hearing.

7 “(E) The de novo hearing required by subparagraph (D) of this paragraph
8 shall be the initial evidentiary hearing required under ORS 197.763 as the
9 basis for an appeal to the Land Use Board of Appeals. At the de novo hear-
10 ing:

11 “(i) The applicant and other parties shall have the same opportunity to
12 present testimony, arguments and evidence as they would have had in a
13 hearing under subsection (3) of this section before the decision;

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

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

18 “(b) If a local government provides only a notice of the opportunity to
19 request a hearing, the local government may charge a fee for the initial
20 hearing. The maximum fee for an initial hearing shall be the cost to the local
21 government of preparing for and conducting the appeal, or \$250, whichever
22 is less. If an appellant prevails at the hearing or upon subsequent appeal, the
23 fee for the initial hearing shall be refunded. The fee allowed in this para-
24 graph shall not apply to appeals made by neighborhood or community or-
25 ganizations recognized by the governing body and whose boundaries include
26 the site.

27 “(c)(A) Notice of a decision under paragraph (a) of this subsection shall
28 be provided to the applicant and to the owners of record of property on the
29 most recent property tax assessment roll where such property is located:

30 “(i) Within 100 feet of the property that is the subject of the notice when

1 the subject property is wholly or in part within an urban growth boundary;

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

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

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

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

12 “(12) A decision described in ORS 215.402 (4)(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
15 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
19 the same manner as a 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
22 notice of the decision described in ORS 215.402 (4)(b) in the manner required
23 by ORS 197.763 (2), in which case an appeal to the board shall be filed within
24 21 days of the decision. The notice shall include an explanation of appeal
25 rights.

26 “(14) Notwithstanding the requirements of this section, a limited land use
27 decision shall be subject to the requirements set forth in ORS 197.195 and
28 197.828.

29 **“SECTION 4.** ORS 227.175 is amended to read:

30 “227.175. (1) When required or authorized by a city, an owner of land may

1 apply in writing to the hearings officer, or such other person as the city
2 council designates, for a permit or zone change, upon such forms and in such
3 a manner as the city council prescribes. The governing body shall establish
4 fees charged for processing permits at an amount no more than the actual
5 or average cost of providing that service.

6 “(2) The governing body of the city shall establish a consolidated proce-
7 dure by which an applicant may apply at one time for all permits or zone
8 changes needed for a development project. The consolidated procedure shall
9 be subject to the time limitations set out in ORS 227.178. The consolidated
10 procedure shall be available for use at the option of the applicant no later
11 than the time of the first periodic review of the comprehensive plan and land
12 use regulations.

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

15 “(4)(a) [*The application shall not be approved*] **A city may not approve**
16 **an application** unless the proposed development of land would be in com-
17 pliance with the comprehensive plan for the city and other applicable land
18 use regulation or ordinance provisions. The approval may include such
19 conditions as are authorized by ORS 227.215 or any city legislation.

20 “(b) **A city may not deny an application for a housing development**
21 **located within the urban growth boundary if:**

22 “(A) **The development complies with clear and objective standards**
23 **contained in the comprehensive plan or zoning ordinances of the city;**
24 **and**

25 “(B) **The city would have approved the application but for a finding**
26 **that the development is inconsistent with any discretionary design**
27 **review standards imposed by the city.**

28 “(c) **Paragraph (b) of this subsection does not apply to applications**
29 **or permits for residential development in areas described in ORS**
30 **197.307 (5).**

1 “(5) Hearings under this section may be held only after notice to the ap-
2 plicant and other interested persons and shall otherwise be conducted in
3 conformance with the provisions of ORS 197.763.

4 “(6) Notice of a public hearing on a zone use application shall be provided
5 to the owner of an airport, defined by the Oregon Department of Aviation
6 as a ‘public use airport’ if:

7 “(a) The name and address of the airport owner has been provided by the
8 Oregon Department of Aviation to the city planning authority; and

9 “(b) The property subject to the zone use hearing is:

10 “(A) Within 5,000 feet of the side or end of a runway of an airport de-
11 termined by the Oregon Department of Aviation to be a ‘visual airport’; or

12 “(B) Within 10,000 feet of the side or end of the runway of an airport
13 determined by the Oregon Department of Aviation to be an ‘instrument air-
14 port.’

15 “(7) Notwithstanding the provisions of subsection (6) of this section, no-
16 tice of a zone use hearing need only be provided as set forth in subsection
17 (6) of this section if the permit or zone change would only allow a structure
18 less than 35 feet in height and the property is located outside of the runway
19 ‘approach surface’ as defined by the Oregon Department of Aviation.

20 “(8) If an application would change the zone of property that includes all
21 or part of a mobile home or manufactured dwelling park as defined in ORS
22 446.003, the governing body shall give written notice by first class mail to
23 each existing mailing address for tenants of the mobile home or manufac-
24 tured dwelling park at least 20 days but not more than 40 days before the
25 date of the first hearing on the application. The governing body may require
26 an applicant for such a zone change to pay the costs of such notice.

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

29 “(10)(a)(A) The hearings officer or such other person as the governing
30 body designates may approve or deny an application for a permit without a

1 hearing if the hearings officer or other designated person gives notice of the
2 decision and provides an opportunity for any person who is adversely af-
3 fected or aggrieved, or who is entitled to notice under paragraph (c) of this
4 subsection, to file an appeal.

5 “(B) Written notice of the decision shall be mailed to those persons de-
6 scribed in paragraph (c) of this subsection.

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

19 “(D) An appeal from a hearings officer’s decision made without hearing
20 under this subsection shall be to the planning commission or governing body
21 of the city. An appeal from such other person as the governing body desig-
22 nates shall be to a hearings officer, the planning commission or the govern-
23 ing body. In either case, the appeal shall be to a de novo hearing.

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

28 “(i) The applicant and other parties shall have the same opportunity to
29 present testimony, arguments and evidence as they would have had in a
30 hearing under subsection (3) of this section before the decision;

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

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

5 “(b) If a local government provides only a notice of the opportunity to
6 request a hearing, the local government may charge a fee for the initial
7 hearing. The maximum fee for an initial hearing shall be the cost to the local
8 government of preparing for and conducting the appeal, or \$250, whichever
9 is less. If an appellant prevails at the hearing or upon subsequent appeal, the
10 fee for the initial hearing shall be refunded. The fee allowed in this para-
11 graph shall not apply to appeals made by neighborhood or community or-
12 ganizations recognized by the governing body and whose boundaries include
13 the site.

14 “(c)(A) Notice of a decision under paragraph (a) of this subsection shall
15 be provided to the applicant and to the owners of record of property on the
16 most recent property tax assessment roll where such property is located:

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

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

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

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

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

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

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

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

3 “(B) The date of the decision; and

4 “(C) A description of the decision made.

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

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

8 “(12) At the option of the applicant, the local government shall provide
9 notice of the decision described in ORS 227.160 (2)(b) in the manner required
10 by ORS 197.763 (2), in which case an appeal to the board shall be filed within
11 21 days of the decision. The notice shall include an explanation of appeal
12 rights.

13 “(13) Notwithstanding other requirements of this section, limited land use
14 decisions shall be subject to the requirements set forth in ORS 197.195 and
15 197.828.

16 **“SECTION 5.** ORS 197.303 is amended to read:

17 “197.303. (1) As used in ORS 197.307, ‘needed housing’ means **all** housing
18 [*types*] **on land zoned for residential use or mixed residential and com-**
19 **mercial use that is** determined to meet the need shown for housing within
20 an urban growth boundary at particular price ranges and rent levels[, *in-*
21 *cluding*]. **‘Needed housing’ includes** [*at least*] the following housing types:

22 “(a) Attached and detached single-family housing and multiple family
23 housing for both owner and renter occupancy;

24 “(b) Government assisted housing;

25 “(c) Mobile home or manufactured dwelling parks as provided in ORS
26 197.475 to 197.490;

27 “(d) Manufactured homes on individual lots planned and zoned for
28 single-family residential use that are in addition to lots within designated
29 manufactured dwelling subdivisions; [*and*]

30 “(e) Housing for farmworkers[.]; **and**

1 “(f) **Housing that is affordable to households with low to moderate**
2 **incomes relative to the area median income.**

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

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

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

6 “(3) A local government may take an exception under ORS 197.732 to the
7 definition of ‘needed housing’ in subsection (1) of this section in the same
8 manner that an exception may be taken under the goals.

9 “**SECTION 6.** ORS 197.307 is amended to read:

10 “197.307. (1) The availability of affordable, decent, safe and sanitary
11 housing opportunities for persons of lower, middle and fixed income, includ-
12 ing housing for farmworkers, is a matter of statewide concern.

13 “(2) Many persons of lower, middle and fixed income depend on govern-
14 ment assisted housing as a source of affordable, decent, safe and sanitary
15 housing.

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

21 “(4) Except as provided in subsection (6) of this section, a local govern-
22 ment may adopt and apply only clear and objective standards, conditions and
23 procedures regulating the development of **housing, including** needed hous-
24 ing [*on buildable land described in subsection (3) of this section*]. The stan-
25 dards, conditions and procedures may not have the effect, either in
26 themselves or cumulatively, of:

27 “(a) Discouraging needed housing through:

28 “(A) Unreasonable cost or delay[.]; **or**

29 “(B) **Designation of a primarily residential neighborhood as a na-**
30 **tional historic district; or**

1 **“(b) Reducing the density of an application for a housing develop-**
2 **ment where the density applied for is below the density authorized in**
3 **the local zoning designation, unless the reduction is necessary to re-**
4 **solve a health, safety or habitability issue.**

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

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

9 “(b) An application or permit for residential development in historic areas
10 designated for protection under a land use planning goal protecting historic
11 areas.

12 “(6) In addition to an approval process for needed housing based on clear
13 and objective standards, conditions and procedures as provided in subsection
14 (4) of this section, a local government may adopt and apply an alternative
15 approval process for applications and permits for residential development
16 based on approval criteria regulating, in whole or in part, appearance or
17 aesthetics that are not clear and objective if:

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

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

22 “(c) The approval criteria for the alternative approval process authorize
23 a density at or above the density level authorized in the zone under the ap-
24 proval process provided in subsection (4) of this section.

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

27 “(a) Set approval standards under which a particular housing type is
28 permitted outright;

29 “(b) Impose special conditions upon approval of a specific development
30 proposal; or

1 “(c) Establish approval procedures.

2 “(8) In accordance with subsection (4) of this section and ORS 197.314, a
3 jurisdiction may adopt any or all of the following placement standards, or
4 any less restrictive standard, for the approval of manufactured homes located
5 outside mobile home parks:

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

8 “(b) The manufactured home shall be placed on an excavated and back-
9 filled foundation and enclosed at the perimeter such that the manufactured
10 home is located not more than 12 inches above grade.

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

14 “(d) The manufactured home shall have exterior siding and roofing which
15 in color, material and appearance is similar to the exterior siding and roof-
16 ing material commonly used on residential dwellings within the community
17 or which is comparable to the predominant materials used on surrounding
18 dwellings as determined by the local permit approval authority.

19 “(e) The manufactured home shall be certified by the manufacturer to
20 have an exterior thermal envelope meeting performance standards which re-
21 duce levels equivalent to the performance standards required of single-family
22 dwellings constructed under the state building code as defined in ORS
23 455.010.

24 “(f) The manufactured home shall have a garage or carport constructed
25 of like materials. A jurisdiction may require an attached or detached garage
26 in lieu of a carport where such is consistent with the predominant con-
27 struction of immediately surrounding dwellings.

28 “(g) In addition to the provisions in paragraphs (a) to (f) of this sub-
29 section, a city or county may subject a manufactured home and the lot upon
30 which it is sited to any development standard, architectural requirement and

1 minimum size requirement to which a conventional single-family residential
2 dwelling on the same lot would be subject.

3 **SECTION 7.** ORS 197.312 is amended to read:

4 “197.312. (1) A city or county may not by charter prohibit from all resi-
5 dential zones attached or detached single-family housing, multifamily hous-
6 ing for both owner and renter occupancy or manufactured homes. A city or
7 county may not by charter prohibit government assisted housing or impose
8 additional approval standards on government assisted housing that are not
9 applied to similar but unassisted housing.

10 “(2)(a) A single-family dwelling for a farmworker and the farmworker’s
11 immediate family is a permitted use in any residential or commercial zone
12 that allows single-family dwellings as a permitted use.

13 “(b) A city or county may not impose a zoning requirement on the estab-
14 lishment and maintenance of a single-family dwelling for a farmworker and
15 the farmworker’s immediate family in a residential or commercial zone de-
16 scribed in paragraph (a) of this subsection that is more restrictive than a
17 zoning requirement imposed on other single-family dwellings in the same
18 zone.

19 “(3)(a) Multifamily housing for farmworkers and farmworkers’ immediate
20 families is a permitted use in any residential or commercial zone that allows
21 multifamily housing generally as a permitted use.

22 “(b) A city or county may not impose a zoning requirement on the estab-
23 lishment and maintenance of multifamily housing for farmworkers and
24 farmworkers’ immediate families in a residential or commercial zone de-
25 scribed in paragraph (a) of this subsection that is more restrictive than a
26 zoning requirement imposed on other multifamily housing in the same zone.

27 “(4) A city or county may not prohibit a property owner or developer from
28 maintaining a real estate sales office in a subdivision or planned community
29 containing more than 50 lots or dwelling units for the sale of lots or dwelling
30 units that remain available for sale to the public.

1 “(5)(a) A city or a county may not prohibit the building of a duplex
2 or an accessory dwelling unit in an area zoned for single-family
3 dwellings located within the urban growth boundary.

4 “(b) As used in this subsection:

5 “(A) ‘Accessory dwelling unit’ means a residential structure that is
6 used in connection with or that is accessory to a single family resi-
7 dential dwelling.

8 “(B) ‘Duplex’ means a multifamily structure containing two dwell-
9 ing units.

10 “**SECTION 8.** ORS 215.441 is amended to read:

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

19 “(a) **Worship services.**

20 “(b) **Religion classes.**

21 “(c) **Weddings.**

22 “(d) **Funerals.**

23 “(e) **Meal programs.**

24 “(f) **Child care, but not including private or parochial school edu-
25 cation for prekindergarten through grade 12 or higher education.**

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

28 “(A) **At least 50 percent of the residential units provided under this
29 paragraph are affordable to households with incomes equal to or less
30 than 60 percent of the median family income for the county in which**

1 **the real property is located; and**

2 **“(B) The real property is located within the urban growth boundary.**

3 “(2) A county may:

4 “(a) Subject real property described in subsection (1) of this section to
5 reasonable regulations, including site review or design review, concerning
6 the physical characteristics of the uses authorized under subsection (1) of
7 this section; or

8 “(b) Prohibit or restrict the use of real property by a place of worship
9 described in subsection (1) of this section if the county finds that the level
10 of service of public facilities, including transportation, water supply, sewer
11 and storm drain systems is not adequate to serve the place of worship de-
12 scribed in subsection (1) of this section.

13 “(3) Notwithstanding any other provision of this section, a county may
14 allow a private or parochial school for prekindergarten through grade 12 or
15 higher education to be sited under applicable state law and rules and local
16 zoning ordinances and regulations.

17 **“(4) Housing and space for housing provided under subsection (1)(g)**
18 **of this section must be subject to a covenant appurtenant that re-**
19 **stricts the owner and each successive owner of the building or any**
20 **residential unit contained in the building from selling or renting any**
21 **residential unit described in subsection (1)(g)(A) of this section as**
22 **housing that is not affordable to households with incomes equal to or**
23 **less than 60 percent of the median family income for the county in**
24 **which the real property is located for a period of 60 years from the**
25 **date of the certificate of occupancy.**

26 **“SECTION 9.** ORS 227.500 is amended to read:

27 “227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting
28 house or other nonresidential place of worship is allowed on real property
29 under state law and rules and local zoning ordinances and regulations, a city
30 shall allow the reasonable use of the real property for activities customarily

1 associated with the practices of the religious activity, including [*worship*
2 *services, religion classes, weddings, funerals, child care and meal programs,*
3 *but not including private or parochial school education for prekindergarten*
4 *through grade 12 or higher education.*]:

5 **“(a) Worship services.**

6 **“(b) Religion classes.**

7 **“(c) Weddings.**

8 **“(d) Funerals.**

9 **“(e) Meal programs.**

10 **“(f) Child care, but not including private or parochial school edu-**
11 **cation for prekindergarten through grade 12 or higher education.**

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

14 **“(A) At least 50 percent of the residential units provided under this**
15 **paragraph are affordable to households with incomes equal to or less**
16 **than 60 percent of the median family income for the county in which**
17 **the real property is located; and**

18 **“(B) The real property is located within the urban growth boundary.**

19 **“(2) A city may:**

20 **“(a) Subject real property described in subsection (1) of this section to**
21 **reasonable regulations, including site review and design review, concerning**
22 **the physical characteristics of the uses authorized under subsection (1) of**
23 **this section; or**

24 **“(b) Prohibit or regulate the use of real property by a place of worship**
25 **described in subsection (1) of this section if the city finds that the level of**
26 **service of public facilities, including transportation, water supply, sewer and**
27 **storm drain systems is not adequate to serve the place of worship described**
28 **in subsection (1) of this section.**

29 **“(3) Notwithstanding any other provision of this section, a city may allow**
30 **a private or parochial school for prekindergarten through grade 12 or higher**

1 education to be sited under applicable state law and rules and local zoning
2 ordinances and regulations.

3 **“(4) Housing and space for housing provided under subsection (1)(g)**
4 **of this section must be subject to a covenant appurtenant that re-**
5 **stricts the owner and each successive owner of the building or any**
6 **residential unit contained in the building from selling or renting any**
7 **residential unit described in subsection (1)(g)(A) of this section as**
8 **housing that is not affordable to households with incomes equal to or**
9 **less than 60 percent of the median family income for the county in**
10 **which the real property is located for a period of 60 years from the**
11 **date of the certificate of occupancy.**

12 **“SECTION 10.** ORS 215.427 is amended to read:

13 “215.427. (1) Except as provided in subsections (3), (5) and (10) of this
14 section, for land within an urban growth boundary and applications for
15 mineral aggregate extraction, the governing body of a county or its designee
16 shall take final action on an application for a permit, limited land use deci-
17 sion or zone change, including resolution of all appeals under ORS 215.422,
18 within 120 days after the application is deemed complete. The governing body
19 of a county or its designee shall take final action on all other applications
20 for a permit, limited land use decision or zone change, including resolution
21 of all appeals under ORS 215.422, within 150 days after the application is
22 deemed complete, except as provided in subsections (3), (5) and (10) of this
23 section.

24 “(2) If an application for a permit, limited land use decision or zone
25 change is incomplete, the governing body or its designee shall notify the
26 applicant in writing of exactly what information is missing within 30 days
27 of receipt of the application and allow the applicant to submit the missing
28 information. The application shall be deemed complete for the purpose of
29 subsection (1) of this section **and section 1 of this 2017 Act** upon receipt
30 by the governing body or its designee of:

1 “(a) All of the missing information;

2 “(b) Some of the missing information and written notice from the appli-
3 cant that no other information will be provided; or

4 “(c) Written notice from the applicant that none of the missing informa-
5 tion will be provided.

6 “(3)(a) If the application was complete when first submitted or the appli-
7 cant submits additional information, as described in subsection (2) of this
8 section, within 180 days of the date the application was first submitted and
9 the county has a comprehensive plan and land use regulations acknowledged
10 under ORS 197.251, approval or denial of the application shall be based upon
11 the standards and criteria that were applicable at the time the application
12 was first submitted.

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

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

22 “(a) All of the missing information;

23 “(b) Some of the missing information and written notice that no other
24 information will be provided; or

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

26 “(5) The period set in subsection (1) of this section **or the 100-day period**
27 **set in section 1 of this 2017 Act** may be extended for a specified period of
28 time at the written request of the applicant. The total of all extensions, ex-
29 cept as provided in subsection (10) of this section for mediation, may not
30 exceed 215 days.

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

2 “(a) Only to decisions wholly within the authority and control of the
3 governing body of the county; and

4 “(b) Unless the parties have agreed to mediation as described in sub-
5 section (10) of this section or ORS 197.319 (2)(b).

6 “(7) Notwithstanding subsection (6) of this section, the period set in sub-
7 section (1) of this section **and the 100-day period set in section 1 of this**
8 **2017 Act do** [*does*] not apply to a decision of the county making a change
9 to an acknowledged comprehensive plan or a land use regulation that is
10 submitted to the Director of the Department of Land Conservation and De-
11 velopment under ORS 197.610.

12 “(8) Except when an applicant requests an extension under subsection (5)
13 of this section, if the governing body of the county or its designee does not
14 take final action on an application for a permit, limited land use decision
15 or zone change within 120 days or 150 days, as applicable, after the applica-
16 tion is deemed complete, the county shall refund to the applicant either the
17 unexpended portion of any application fees or deposits previously paid or 50
18 percent of the total amount of such fees or deposits, whichever is greater.
19 The applicant is not liable for additional governmental fees incurred subse-
20 quent to the payment of such fees or deposits. However, the applicant is re-
21 sponsible for the costs of providing sufficient additional information to
22 address relevant issues identified in the consideration of the application.

23 “(9) A county may not compel an applicant to waive the period set in
24 subsection (1) of this section or to waive the provisions of subsection (8) of
25 this section or ORS 215.429 **or section 1 of this 2017 Act** as a condition for
26 taking any action on an application for a permit, limited land use decision
27 or zone change except when such applications are filed concurrently and
28 considered jointly with a plan amendment.

29 “(10) The periods set forth in [*subsection (1)*] **subsections (1) and (5)** of
30 this section **and section 1 of this 2017 Act** [*and the period set forth in*

1 *subsection (5) of this section]* may be extended by up to 90 additional days,
2 if the applicant and the county agree that a dispute concerning the applica-
3 tion will be mediated.

4 **“SECTION 11.** ORS 227.178 is amended to read:

5 “227.178. (1) Except as provided in subsections (3), (5) and (11) of this
6 section, the governing body of a city or its designee shall take final action
7 on an application for a permit, limited land use decision or zone change,
8 including resolution of all appeals under ORS 227.180, within 120 days after
9 the application is deemed complete.

10 “(2) If an application for a permit, limited land use decision or zone
11 change is incomplete, the governing body or its designee shall notify the
12 applicant in writing of exactly what information is missing within 30 days
13 of receipt of the application and allow the applicant to submit the missing
14 information. The application shall be deemed complete for the purpose of
15 subsection (1) of this section **or section 1 of this 2017 Act** upon receipt by
16 the governing body or its designee of:

17 “(a) All of the missing information;

18 “(b) Some of the missing information and written notice from the appli-
19 cant that no other information will be provided; or

20 “(c) Written notice from the applicant that none of the missing informa-
21 tion will be provided.

22 “(3)(a) If the application was complete when first submitted or the appli-
23 cant submits the requested additional information within 180 days of the date
24 the application was first submitted and the city has a comprehensive plan
25 and land use regulations acknowledged under ORS 197.251, approval or de-
26 nial of the application shall be based upon the standards and criteria that
27 were applicable at the time the application was first submitted.

28 “(b) If the application is for industrial or traded sector development of a
29 site identified under section 12, chapter 800, Oregon Laws 2003, and proposes
30 an amendment to the comprehensive plan, approval or denial of the applica-

1 tion must be based upon the standards and criteria that were applicable at
2 the time the application was first submitted, provided the application com-
3 plies with paragraph (a) of this subsection.

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

7 “(a) All of the missing information;

8 “(b) Some of the missing information and written notice that no other
9 information will be provided; or

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

11 “(5) The 120-day period set in subsection (1) of this section **or the 100-day**
12 **period set in section 1 of this 2017 Act** may be extended for a specified
13 period of time at the written request of the applicant. The total of all ex-
14 tensions, except as provided in subsection (11) of this section for mediation,
15 may not exceed 245 days.

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

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

19 “(b) Unless the parties have agreed to mediation as described in sub-
20 section (11) of this section or ORS 197.319 (2)(b).

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

27 “(8) Except when an applicant requests an extension under subsection (5)
28 of this section, if the governing body of the city or its designee does not take
29 final action on an application for a permit, limited land use decision or zone
30 change within 120 days after the application is deemed complete, the city

1 shall refund to the applicant, subject to the provisions of subsection (9) of
2 this section, either the unexpended portion of any application fees or depos-
3 its previously paid or 50 percent of the total amount of such fees or deposits,
4 whichever is greater. The applicant is not liable for additional governmental
5 fees incurred subsequent to the payment of such fees or deposits. However,
6 the applicant is responsible for the costs of providing sufficient additional
7 information to address relevant issues identified in the consideration of the
8 application.

9 “(9)(a) To obtain a refund under subsection (8) of this section, the appli-
10 cant may either:

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

13 “(B) Include the amount claimed in a mandamus petition filed under ORS
14 227.179. The court shall award an amount owed under this section in its final
15 order on the petition.

16 “(b) Within seven calendar days of receiving a request for a refund, the
17 city or its designee shall determine the amount of any refund owed. Payment,
18 or notice that no payment is due, shall be made to the applicant within 30
19 calendar days of receiving the request. Any amount due and not paid within
20 30 calendar days of receipt of the request shall be subject to interest charges
21 at the rate of one percent per month, or a portion thereof.

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

30 “(10) A city may not compel an applicant to waive the 120-day period set

1 in subsection (1) of this section or to waive the provisions of subsection (8)
2 of this section or ORS 227.179 **or section 1 of this 2017 Act** as a condition
3 for taking any action on an application for a permit, limited land use deci-
4 sion or zone change except when such applications are filed concurrently and
5 considered jointly with a plan amendment.

6 “(11) The [*period*] **periods** set forth in [*subsection (1)*] **subsections (1)**
7 **and (5)** of this section **and section 1 of this 2017 Act** [*and the period set*
8 *forth in subsection (5) of this section*] may be extended by up to 90 additional
9 days, if the applicant and the city agree that a dispute concerning the ap-
10 plication will be mediated.

11 **“SECTION 12. Section 2 of this 2017 Act becomes operative on Jan-**
12 **uary 1, 2018.**

13 **“SECTION 13. Section 1 of this 2017 Act and the amendments to**
14 **ORS 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and**
15 **227.500 by sections 3 to 11 of this 2017 Act apply to permit applications**
16 **dated on or after the effective date of this 2017 Act.**

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

20
