

# D R A F T

## SUMMARY

Expands definition of “residential homes” and “residential facilities” that local governments must approve under same standards as other residential uses. Provides attorney fees to applicants developing residential homes or facilities and to local governments that approve such applications for prevailing at Land Use Board of Appeals or on appeal from board.

## A BILL FOR AN ACT

Relating to supportive housing; amending ORS 197.660, 197.665, 197.667, 197.670 and 197.843.

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

**SECTION 1.** ORS 197.660 is amended to read:

197.660. As used in ORS 197.660 to 197.670[, 215.213, 215.263, 215.283, 215.284 and 443.422]:

(1) “Residential facility” means a **building or cluster of buildings for residential use that may provide treatment or training, that serves between 6 and 15 individuals, not including any necessary staff persons required to meet licensing requirements, including:**

(a) A Residential [*care, residential training or residential treatment*] facility, as [*those terms are*] defined in ORS 443.400, [*that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.*] **including secure residential treatment homes and facilities described in ORS 443.465;**

1       **(b) Community housing as defined in ORS 426.502, including licensed**  
2 **residential treatment facilities;**

3       **(c) Community housing as defined in ORS 427.330;**

4       **(d) Community-based structured housing as defined in ORS 443.480;**

5       **(e) A continuing care retirement community, as defined in ORS**  
6 **101.020;**

7       **(f) Independent residence facilities, as described in ORS 418.475; or**

8       **(g) Community-based housing, as described in ORS 430.643 (1)(a).**

9       (2) “Residential home” means **a building for residential use that may**  
10 **provide treatment or training that serves five or fewer individuals, not**  
11 **including any necessary staff persons required to meet licensing re-**  
12 **quirements, including:**

13       **(a) A residential treatment [or] home or residential training home, as**  
14 **defined in ORS 443.400, including secure residential treatment homes**  
15 **and facilities described in ORS 443.465;**

16       **(b) A residential facility registered under ORS 443.480 to 443.500 [or];**

17       **(c) An adult foster home licensed under ORS 443.705 to 443.825 [that**  
18 *provides residential care alone or in conjunction with treatment or training*  
19 *or a combination thereof for five or fewer individuals who need not be related.*  
20 *Staff persons required to meet licensing requirements shall not be counted in*  
21 *the number of facility residents, and need not be related to each other or to*  
22 *any resident of the residential home.];*

23       **(d) Community housing as defined in ORS 426.502, including licensed**  
24 **residential treatment facilities;**

25       **(e) Community housing as defined in ORS 427.330;**

26       **(f) Community-based structured housing as defined in ORS 443.480;**

27       **(g) Independent residence facilities, as described in ORS 418.475; or**

28       **(h) Community-based housing, as described in ORS 430.643 (1)(a).**

29       (3) “Zoning requirement” means any standard, criteria, condition, review  
30 procedure, permit requirement or other requirement adopted [*by a city or*  
31 *county under the authority of ORS chapter 215 or 227*] **as a land use regu-**

**lotion** that applies to the approval or siting of a residential facility or residential home. A zoning requirement does not include a *[state or]* local health, safety, *[building,]* occupancy or fire code requirement.

**SECTION 2.** ORS 197.843 is amended to read:

197.843. (1) The Land Use Board of Appeals shall award attorney fees to an applicant whose application is only for the development of affordable housing~~, as defined in ORS 197.308, or publicly supported housing, as defined in ORS 456.250,~~ **or supportive housing**, if the board affirms a quasi-judicial land use decision approving the application or reverses a quasi-judicial land use decision denying the application.

(2) A party who was awarded attorney fees under this section or ORS 197.850 shall repay the fees plus any interest from the time of the judgment if the property upon which the fees are based is developed for a use other than affordable housing **or supportive housing**.

(3) As used in this section:

**(a) “Affordable housing” includes affordable housing as defined in ORS 197.308 and publicly supported housing as defined in ORS 456.250.**

~~[(a)]~~ **(b)** “Applicant” includes:

(A) An applicant with a funding reservation agreement with a public funder for the purpose of developing publicly supported housing;

(B) A housing authority, as defined in ORS 456.005;

(C) A qualified housing sponsor, as defined in ORS 456.548;

(D) A religious nonprofit corporation;

(E) A public benefit nonprofit corporation whose primary purpose is the development of affordable housing; and

(F) A local government that approved the application of an applicant described in this paragraph.

~~[(b)]~~ **(c)** “Attorney fees” includes prelitigation legal expenses, including preparing the application and supporting the application in local land use hearings or proceedings.

**(d) “Supportive housing” means a residential facility or residential**

1 **home, as those terms are defined in ORS 197.660.**

2 **SECTION 3.** ORS 197.667 is amended to read:

3 197.667. (1) A residential facility [*shall be*] **is** a permitted use in any zone  
4 where multifamily residential uses are a permitted use.

5 (2) A residential facility [*shall be*] **is** a conditional use in any zone where  
6 multifamily residential uses are a conditional use.

7 (3) A [*city or county*] **local government** may allow a residential facility  
8 in a residential zone other than those zones described in subsections (1) and  
9 (2) of this section, including a zone where a single-family dwelling is allowed.

10 (4) A [*city or county*] **local government** may require an applicant pro-  
11 posing to site a residential facility within its jurisdiction to supply the [*city*  
12 *or county*] **local government** with a copy of the entire application and sup-  
13 porting documentation for state licensing of the facility, except for informa-  
14 tion which is exempt from public disclosure under ORS 192.311 to 192.478.  
15 However, [*cities and counties shall*] **a local government may** not require  
16 independent proof of the same conditions that have been required by the  
17 Department of Human Services under ORS 418.205 to 418.327 for licensing  
18 of a residential facility.

19 **SECTION 4.** ORS 197.665 is amended to read:

20 197.665. (1) Residential homes [*shall be*] **are** a permitted use in:

21 (a) Any residential zone, including a residential zone which allows a  
22 single-family dwelling; and

23 (b) Any commercial zone which allows a single-family dwelling.

24 (2) A [*city or county*] **local government** may not impose any zoning re-  
25 quirement on the establishment and maintenance of a residential home in a  
26 zone described in subsection (1) of this section that is more restrictive than  
27 a zoning requirement imposed on a single-family dwelling in the same zone.

28 (3) A [*city or county*] **local government** may:

29 (a) Allow a residential home in an existing dwelling in any area zoned for  
30 farm use, including an exclusive farm use zone established under ORS  
31 215.203;

(b) Impose zoning requirements on the establishment of a residential home in areas described in paragraph (a) of this subsection, provided that these requirements are no more restrictive than those imposed on other nonfarm single-family dwellings in the same zone; and

(c) Allow a division of land for a residential home in an exclusive farm use zone only as described in ORS 215.263 (9).

**SECTION 5.** ORS 197.670 is amended to read:

197.670. *[(1) As of October 3, 1989, no city or county shall]* **A local government may not:**

*[(a)]* **(1)** Deny an application for the siting of a residential home in a residential or commercial zone described in ORS 197.665 (1).

*[(b)]* **(2)** Deny an application for the siting of a residential facility in a zone where multifamily residential uses are allowed, unless the *[city or county]* **local government** has adopted a siting procedure *[which]* **that** implements the requirements of ORS 197.667.

*[(2) Every city and county shall amend its zoning ordinance to comply with ORS 197.660 to 197.667 as part of periodic land use plan review occurring after January 1, 1990. Nothing in this section prohibits a city or county from amending its zoning ordinance prior to periodic review.]*