

# DRAFT

## SUMMARY

Digest: This Act amends laws about home siting and construction. (Flesch Readability Score: 66.1).

Limits to within an urban growth boundary a dwelling developer's ability to apply updated land use regulations to pending application.

Amends the temporary urban growth boundary expansion program.

## A BILL FOR AN ACT

1  
2 Relating to housing; amending ORS 215.427 and 227.178 and sections 52 and  
3 58, chapter 110, Oregon Laws 2024.

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

5 **SECTION 1.** ORS 215.427, as amended by section 7, chapter 102, Oregon  
6 Laws 2024, and section 8, chapter 110, Oregon Laws 2024, is amended to read:

7 215.427. (1) Except as provided in subsections (3), (5) and (10) of this sec-  
8 tion, for land within an urban growth boundary and applications for mineral  
9 aggregate extraction, the governing body of a county or its designee shall  
10 take final action on an application for a permit, limited land use decision  
11 or zone change, including resolution of all appeals under ORS 215.422, within  
12 120 days after the application is deemed complete. The governing body of a  
13 county or its designee shall take final action on all other applications for a  
14 permit, limited land use decision or zone change, including resolution of all  
15 appeals under ORS 215.422, within 150 days after the application is deemed  
16 complete, except as provided in subsections (3), (5) and (10) of this section.

17 (2) If an application for a permit, limited land use decision or zone change  
18 is incomplete, the governing body or its designee shall notify the applicant  
19 in writing of exactly what information is missing within 30 days of receipt

1 of the application and allow the applicant to submit the missing information.  
2 The application shall be deemed complete for the purpose of subsection (1)  
3 of this section and ORS 197A.470 upon receipt by the governing body or its  
4 designee of:

5 (a) All of the missing information;

6 (b) Some of the missing information and written notice from the applicant  
7 that no other information will be provided; or

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

10 (3)(a) If the application was complete when first submitted or the appli-  
11 cant submits additional information within 180 days of the date the applica-  
12 tion was first submitted, approval or denial of the application must be based:

13 (A) Upon the standards and criteria that were applicable at the time the  
14 application was first submitted; or

15 (B) For an application relating to development of housing **within an**  
16 **urban growth boundary**, upon the request of the applicant, those standards  
17 and criteria that are operative at the time of the request.

18 (b) If an applicant requests review under different standards as provided  
19 in paragraph (a)(B) of this subsection:

20 (A) For the purposes of this section, any applicable timelines for com-  
21 pleteness review and final decisions restart as if a new application were  
22 submitted on the date of the request;

23 (B) For the purposes of this section and ORS 197A.470 the application is  
24 not deemed complete until:

25 (i) The county determines that additional information is not required un-  
26 der subsection (2) of this section; or

27 (ii) The applicant makes a submission under subsection (2) of this section  
28 in response to a county's request;

29 (C) A county may deny a request under paragraph (a)(B) of this sub-  
30 section if:

31 (i) The county has issued a public notice of the application; or

1 (ii) A request under paragraph (a)(B) of this subsection was previously  
2 made; and

3 (D) The county may not require that the applicant:

4 (i) Pay a fee, except to cover additional costs incurred by the county to  
5 accommodate the request;

6 (ii) Submit a new application or duplicative information, unless informa-  
7 tion resubmittal is required because the request affects or changes informa-  
8 tion in other locations in the application or additional narrative is required  
9 to understand the request in context; or

10 (iii) Repeat redundant processes or hearings that are inapplicable to the  
11 change in standards or criteria.

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

15 (a) All of the missing information;

16 (b) Some of the missing information and written notice that no other in-  
17 formation will be provided; or

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

19 (5) The period set in subsection (1) of this section or the 100-day period  
20 set in ORS 197A.470 may be extended for a specified period of time at the  
21 written request of the applicant. The total of all extensions, except as pro-  
22 vided in subsection (10) of this section for mediation, may not exceed 215  
23 days.

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

25 (a) Only to decisions wholly within the authority and control of the gov-  
26 erning body of the county; and

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

29 (7) Notwithstanding subsection (6) of this section, the period set in sub-  
30 section (1) of this section and the 100-day period set in ORS 197A.470 do not  
31 apply to:

1 (a) A decision of the county making a change to an acknowledged com-  
2 prehensive plan or a land use regulation that is submitted to the Director  
3 of the Department of Land Conservation and Development under ORS  
4 197.610; or

5 (b) A decision of a county involving an application for the development  
6 of residential structures within an urban growth boundary, where the county  
7 has tentatively approved the application and extends these periods by no  
8 more than seven days in order to assure the sufficiency of its final order.

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

20 (9) A county may not compel an applicant to waive the period set in  
21 subsection (1) of this section or to waive the provisions of subsection (8) of  
22 this section or ORS 197A.470 or 215.429 as a condition for taking any action  
23 on an application for a permit, limited land use decision or zone change ex-  
24 cept when such applications are filed concurrently and considered jointly  
25 with a plan amendment.

26 (10) The periods set forth in subsections (1) and (5) of this section and  
27 ORS 197A.470 may be extended by up to 90 additional days, if the applicant  
28 and the county agree that a dispute concerning the application will be me-  
29 diated.

30 **SECTION 2.** ORS 227.178, as amended by section 8, chapter 102, Oregon  
31 Laws 2024, and section 9, chapter 110, Oregon Laws 2024, is amended to read:

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

6 (2) If an application for a permit, limited land use decision or zone change  
7 is incomplete, the governing body or its designee shall notify the applicant  
8 in writing of exactly what information is missing within 30 days of receipt  
9 of the application and allow the applicant to submit the missing information.  
10 The application shall be deemed complete for the purpose of subsection (1)  
11 of this section or ORS 197A.470 upon receipt by the governing body or its  
12 designee of:

13 (a) All of the missing information;

14 (b) Some of the missing information and written notice from the applicant  
15 that no other information will be provided; or

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

18 (3)(a) If the application was complete when first submitted or the appli-  
19 cant submits the requested additional information within 180 days of the date  
20 the application was first submitted, approval or denial of the application  
21 must be based:

22 (A) Upon the standards and criteria that were applicable at the time the  
23 application was first submitted; or

24 (B) For an application relating to development of housing **within an**  
25 **urban growth boundary**, upon the request of the applicant, those standards  
26 and criteria that are operative at the time of the request.

27 (b) If an applicant requests review under different standards as provided  
28 in paragraph (a)(B) of this subsection:

29 (A) For the purposes of this section, any applicable timelines for com-  
30 pleteness review and final decisions restart as if a new application were  
31 submitted on the date of the request;

1 (B) For the purposes of this section and ORS 197A.470 the application is  
2 not deemed complete until:

3 (i) The city determines that additional information is not required under  
4 subsection (2) of this section; or

5 (ii) The applicant makes a submission under subsection (2) of this section  
6 in response to a city's request;

7 (C) A city may deny a request under paragraph (a)(B) of this subsection  
8 if:

9 (i) The city has issued a public notice of the application; or

10 (ii) A request under paragraph (a)(B) of this subsection was previously  
11 made; and

12 (D) The city may not require that the applicant:

13 (i) Pay a fee, except to cover additional costs incurred by the city to ac-  
14 commodate the request;

15 (ii) Submit a new application or duplicative information, unless informa-  
16 tion resubmittal is required because the request affects or changes informa-  
17 tion in other locations in the application or additional narrative is required  
18 to understand the request in context; or

19 (iii) Repeat redundant processes or hearings that are inapplicable to the  
20 change in standards or criteria.

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

24 (a) All of the missing information;

25 (b) Some of the missing information and written notice that no other in-  
26 formation will be provided; or

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

28 (5) The 120-day period set in subsection (1) of this section or the 100-day  
29 period set in ORS 197A.470 may be extended for a specified period of time  
30 at the written request of the applicant. The total of all extensions, except  
31 as provided in subsection (11) of this section for mediation, may not exceed

1 245 days.

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

3 (a) Only to decisions wholly within the authority and control of the gov-  
4 erning body of the city; and

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

7 (7) Notwithstanding subsection (6) of this section, the 120-day period set  
8 in subsection (1) of this section and the 100-day period set in ORS 197A.470  
9 do not apply to:

10 (a) A decision of the city making a change to an acknowledged compre-  
11 hensive plan or a land use regulation that is submitted to the Director of the  
12 Department of Land Conservation and Development under ORS 197.610; or

13 (b) A decision of a city involving an application for the development of  
14 residential structures within an urban growth boundary, where the city has  
15 tentatively approved the application and extends these periods by no more  
16 than seven days in order to assure the sufficiency of its final order.

17 (8) Except when an applicant requests an extension under subsection (5)  
18 of this section, if the governing body of the city or its designee does not take  
19 final action on an application for a permit, limited land use decision or zone  
20 change within 120 days after the application is deemed complete, the city  
21 shall refund to the applicant, subject to the provisions of subsection (9) of  
22 this section, either the unexpended portion of any application fees or depos-  
23 its previously paid or 50 percent of the total amount of such fees or deposits,  
24 whichever is greater. The applicant is not liable for additional governmental  
25 fees incurred subsequent to the payment of such fees or deposits. However,  
26 the applicant is responsible for the costs of providing sufficient additional  
27 information to address relevant issues identified in the consideration of the  
28 application.

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

31 (A) Submit a written request for payment, either by mail or in person, to

1 the city or its designee; or

2 (B) Include the amount claimed in a mandamus petition filed under ORS  
3 227.179. The court shall award an amount owed under this section in its final  
4 order on the petition.

5 (b) Within seven calendar days of receiving a request for a refund, the  
6 city or its designee shall determine the amount of any refund owed. Payment,  
7 or notice that no payment is due, shall be made to the applicant within 30  
8 calendar days of receiving the request. Any amount due and not paid within  
9 30 calendar days of receipt of the request shall be subject to interest charges  
10 at the rate of one percent per month, or a portion thereof.

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

19 (10) A city may not compel an applicant to waive the 120-day period set  
20 in subsection (1) of this section or to waive the provisions of subsection (8)  
21 of this section or ORS 197A.470 or 227.179 as a condition for taking any  
22 action on an application for a permit, limited land use decision or zone  
23 change except when such applications are filed concurrently and considered  
24 jointly with a plan amendment.

25 (11) The periods set forth in subsections (1) and (5) of this section and  
26 ORS 197A.470 may be extended by up to 90 additional days, if the applicant  
27 and the city agree that a dispute concerning the application will be medi-  
28 ated.

29 **SECTION 3.** Section 52, chapter 110, Oregon Laws 2024, is amended to  
30 read:

31 **Sec. 52.** A city may not add, or petition to add, a site under sections 49



1 to 59, **chapter 110, Oregon Laws 2024** [*of this 2024 Act*], unless:

2 (1) The city has demonstrated a need for additional land based on the  
3 following factors:

4 (a)(A) In the previous 20 years there have been no urban growth boundary  
5 expansions for residential use adopted by a city or by Metro in a location  
6 adjacent to the city; and

7 (B) The city does not have within the existing urban growth boundary  
8 an undeveloped, contiguous tract that is zoned for residential use that is  
9 larger than 20 net residential acres; or

10 (b) Within urban growth boundary expansion areas for residential use  
11 adopted by the city over the previous 20 years, or by Metro in locations ad-  
12 jacent to the city, 75 percent of the lands either:

13 (A) Are developed; or

14 (B) Have an acknowledged comprehensive plan with land use designations  
15 in preparation for annexation and have a public facilities plan and associated  
16 financing plan.

17 (2) The city has demonstrated a need for affordable housing, based on:

18 (a) Having a greater percentage of severely cost-burdened households than  
19 the average for this state based on the Comprehensive Housing Affordability  
20 Strategy data from the United States Department of Housing and Urban  
21 Development; or

22 (b) At least 25 percent of the renter households in the city being severely  
23 rent burdened as indicated under the most recent housing equity indicator  
24 data under ORS 456.602 (2)(g).

25 **(3) The evaluation of the demonstrations required under this sec-**  
26 **tion and the evaluation of criteria in an application under sections 49**  
27 **to 59, chapter 110, Oregon Laws 2024, must be based on the evidence,**  
28 **data and factors as of the time a public notice is issued under section**  
29 **53 (1), chapter 110, Oregon Laws 2024.**

30 **SECTION 4.** Section 58, chapter 110, Oregon Laws 2024, is amended to  
31 read:

1       **Sec. 58.** (1) In lieu of amending its urban growth boundary under any  
2 other process provided by sections 49 to 59, **chapter 110, Oregon Laws 2024**  
3 [*of this 2024 Act*], Metro or a city outside of Metro may amend its urban  
4 growth boundary to add one or more sites [*described in section 51 (1)(a) and*  
5 (*b) of this 2024 Act*] **that satisfy the requirements of section 50 (1)(a) to**  
6 (**c), chapter 110, Oregon Laws 2024**, to the urban growth boundary and to  
7 remove one or more tracts of land from the urban growth boundary as pro-  
8 vided in this section. **For Metro, a site added under this section must**  
9 **be designated as an urban reserve.**

10       (2) The acreage of the added site and removed lands must be roughly  
11 equivalent.

12       (3) The removed lands must have been zoned for residential uses.

13       (4) The added site must be zoned for residential uses at the same or  
14 greater density than the removed lands.

15       (5)(a) Except as provided in paragraph (b) of this subsection, land may  
16 be removed from an urban growth boundary under this section without  
17 landowner consent.

18       (b) A landowner may not appeal the removal of the landowner's land from  
19 an urban growth boundary under this section unless the landowner agrees  
20 to enter into a recorded agreement with Metro or the city in which the  
21 landowner would consent to annexation and development of the land within  
22 20 years if the land remains in the urban growth boundary.

23       (6) Review of an exchange of lands made under this section may only be  
24 made by:

25       (a) For cities outside of Metro, the county as provided in section 50 (2),  
26 **chapter 110, Oregon Laws 2024**, [*of this 2024 Act*] and by the Department  
27 of Land Conservation and Development, subject to judicial review, as pro-  
28 vided in section 57, **chapter 110, Oregon Laws 2024** [*of this 2024 Act*]; or

29       (b) For Metro, the Department of Land Conservation and Development,  
30 subject to judicial review, as provided in section 57, **chapter 110, Oregon**  
31 **Laws 2024** [*of this 2024 Act*].

1 (7) Sections 50 (1)(d) to (g), 52, 53, 54, 55 and 56, **chapter 110, Oregon**  
2 **Laws 2024**, [*of this 2024 Act*] do not apply to a site addition made under this  
3 section.

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