

Requested by Senator BROADMAN

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4037**

1 On page 1 of the printed A-engrossed bill, line 2, after “197A.400,” insert
2 “197A.445,”.

3 On page 18, after line 23, insert:

4 **“SECTION 25.** ORS 197A.445 is amended to read:

5 “197A.445. (1) As used in this section:

6 “(a) ‘Affordable housing’ means residential property:

7 “(A) In which:

8 “(i) Each unit on the property is made available to own or rent to families
9 with incomes of 80 percent or less of the area median income;

10 “(ii) The average of all units on the property is made available to families
11 with incomes of 60 percent or less of the area median income; or

12 “(iii) A manufactured dwelling park is operated that serves only house-
13 holds with incomes of 120 percent or less of the area median income; and

14 “(B) Whose affordability, including affordability under a covenant as de-
15 scribed in ORS 456.270 to 456.295, is enforceable for a duration of no less
16 than 30 years.

17 “(b) ‘Area median income’ means the median income for the metropolitan
18 statistical area in which housing is located as determined by the Housing
19 and Community Services Department and adjusted for household size based
20 on information from the United States Department of Housing and Urban
21 Development.

1 “(2) A local government shall allow affordable housing if the proposed
2 affordable housing is on property that is:

3 “(a) Owned by:

4 “(A) A public body, as defined in ORS 174.109;

5 “(B) A nonprofit corporation that is organized as a religious corporation;

6 “(C) A nonprofit corporation that is organized as a public benefit corpo-
7 ration whose primary purpose is the development of affordable housing;

8 “(D) A housing authority, as defined in ORS 456.005; or

9 “(E) A manufactured dwelling park nonprofit cooperative, as defined in
10 ORS 62.803; or

11 “(b) Zoned:

12 “(A) For commercial uses;

13 “(B) To allow religious assembly; or

14 “(C) As public lands.

15 “(3) A local government shall allow the conversion of a building or a
16 portion of a building from a commercial use to a residential use.

17 “(4) Subsections (2) and (3) of this section:

18 “(a) Prohibit the local government from requiring a zone change or con-
19 ditional use permit before allowing the use.

20 “(b) Do not trigger any requirement that a local government consider or
21 update an analysis as required by a statewide planning goal relating to eco-
22 nomic development.

23 “(c) Except as provided in paragraph (d) of this subsection, do not apply
24 on lands where the local government determines that:

25 “(A) The development on the property cannot be adequately served by
26 water, sewer, storm water drainage or streets, or will not be adequately
27 served at the time that development on the lot is complete;

28 “(B) The property contains a slope of 25 percent or greater;

29 “(C) The property is within a 100-year floodplain; or

30 “(D) The development of the property is constrained by land use regu-

1 lations based on statewide land use planning goals relating to:

2 “(i) Natural disasters and hazards; or

3 “(ii) Natural resources, including air, water, land or natural areas, but
4 not including open spaces or historic resources.

5 “(d) Do apply to property described in paragraph (c)(C) and (D)(i) of this
6 subsection if more than 60 percent of the lands within the urban growth
7 boundary that the property is within are located within a tsunami
8 inundation zone or if more than 30 percent of the lands within the urban
9 growth boundary that the property is within are located within a 100-year
10 floodplain.

11 “(5) The development of housing under subsection (2) of this section may
12 occur only:

13 “(a) Within an urban growth boundary; and

14 “(b) On lands zoned to allow for industrial uses only if the property is:

15 “(A) Publicly owned;

16 “(B) Adjacent to lands zoned for residential uses or schools; and

17 “(C) Not specifically designated for heavy industrial uses.

18 “(6) The development of housing under subsection (3) of this section:

19 “(a) Applies only within an urban growth boundary of a city with a pop-
20 ulation of 10,000 or greater;

21 “(b) May not occur on lands zoned to allow industrial uses;

22 “(c) May require the payment of a system development charge as defined
23 in ORS 223.299 only if:

24 “(A) The charge is calculated pursuant to a specific adopted policy for
25 commercial to residential conversions adopted on or before December 31,
26 2023; or

27 “(B) The charge is for water or wastewater and includes an offset for at
28 least 100 percent of the water or wastewater system development charges
29 paid when the building was originally constructed; and

30 “(d) May not be subject to enforcement of any land use regulation that

1 establishes a minimum number of parking spaces that is greater than the
2 lesser of:

3 “(A) The amount that may be required for the existing commercial use;
4 or

5 “(B) The amount that may be required in lands zoned for residential uses
6 that would allow the converted development.

7 “(7) The development of housing allowed under subsection (4)(d) of this
8 section may only occur:

9 “(a) Within an urban growth boundary located no more than 10 miles
10 from the Pacific Ocean;

11 “(b) In areas that require compliance with minimum federal regulations
12 under the National Flood Insurance Program or with local floodplain devel-
13 opment regulations adopted by the applicable local government, provided
14 that the local regulations are equal to or more stringent than the minimum
15 federal regulations;

16 “(c) In locations that do not include floodways or other areas with higher
17 risks of greater water velocity and debris flow;

18 “(d) In communities with emergency response, evacuation and post-
19 disaster plans that have been updated for the housing development; and

20 “(e) In areas that are not public parks.

21 “(8) A local government may prohibit affordable housing or require a zone
22 change or conditional use permit to develop affordable housing in areas de-
23 scribed in subsection (4)(d) of this section.

24 “(9)(a) **An applicant who applies to develop affordable housing under**
25 **this section within a planned mixed-use development shall, if the de-**
26 **velopment would cause the amount of lands available for commercial**
27 **uses within the planned mixed-use development to be reduced by more**
28 **than 80 percent from the adopted planned mixed-use development**
29 **agreement, amend the planned mixed-use development to allow an**
30 **additional area not smaller than the proposed housing development.**

1 **“(b) As used in this subsection, ‘planned mixed-use development’**
2 **means an area of land:**

3 **“(A) Larger than 10 acres; and**

4 **“(B) Subject to a binding development agreement adopted by the**
5 **local government that establishes areas or minimum acreages for**
6 **commercial uses and includes residential or other uses.**

7 **“[(9)] (10)** A local government shall approve an application at an author-
8 ized density level and authorized height level, as defined in ORS 227.175 (4),
9 for the development of affordable housing, at the greater of:

10 “(a) Any local density bonus for affordable housing; or

11 “(b) Without consideration of any local density bonus for affordable
12 housing:

13 “(A) For property with existing maximum density of 16 or fewer units per
14 acre, 200 percent of the existing density and 12 additional feet;

15 “(B) For property with existing maximum density of 17 or more units per
16 acre and 45 or fewer units per acre, 150 percent of the existing density and
17 24 additional feet; or

18 “(C) For property with existing maximum density of 46 or more units per
19 acre, 125 percent of the existing density and 36 additional feet.

20 **“[(10)(a)] (11)(a)** Subsection **[(9)] (10)** of this section does not apply to
21 housing allowed under subsection (2) of this section in areas that are not
22 zoned for residential uses.

23 “(b) A local government may reduce the density or height of the density
24 bonus allowed under subsection **[(9)] (10)** of this section as necessary to ad-
25 dress a health, safety or habitability issue, including fire safety, or to comply
26 with a protective measure adopted pursuant to a statewide land use planning
27 goal. Notwithstanding ORS 197.350, the local government must adopt
28 findings supported by substantial evidence demonstrating the necessity of
29 this reduction.”.

30 In line 27, delete “25” and insert “26”.

- 1 On page 20, line 9, delete “26” and insert “27”.
- 2 In line 33, delete “27” and insert “28”.
- 3 On page 21, line 25, delete “28” and insert “29”.
- 4 In line 31, delete “29” and insert “30”.
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