

A-Engrossed
House Bill 2007

Ordered by the House April 24
Including House Amendments dated April 24

Sponsored by Representatives KOTEK, STARK; Representatives KENY-GUYER, OLSON, SANCHEZ

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.

Requires city or county to review and decide on applications for certain housing developments containing affordable housing units [*as first priority*] **within 100 days.**

Establishes standards of review for city or county decision on application for certain housing developments [*containing affordable housing units*] **located within urban growth boundary.**

Directs Housing and Community Services Department to **study housing development in cities.** [*develop and implement program to produce standard housing development designs. Requires department to submit designs to Department of Consumer and Business Services for review and approval.*]

[*Program becomes operative on September 15, 2017.*]

[*Directs Department of Consumer and Business Services to review and approve housing development designs produced under program within 30 days after submission.*]

[*Provides city or county with population of 25,000 or fewer with expedited review and approval process for applications for housing development design.*]

Amends definition of "needed housing."

Prohibits local government from adopting standards regulating development of housing that discourage needed housing through designation of primarily residential neighborhood as national historic district or that reduce density of application if density applied for is below authorized density for zone.

Prohibits city or county from prohibiting building duplex or accessory dwelling unit in area zoned for single-family dwellings located within urban growth boundary.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to housing development; creating new provisions; amending ORS 197.303, 197.312,
3 215.416, 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 two 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 or a county shall take final**
13 **action on an application qualifying under subsection (3) of this section, including resolution**
14 **of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is**
15 **deemed complete.**

16 (3) **An application qualifies for final action within the timeline described in subsection (2)**

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 of this section if:

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

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

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

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

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

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

20 (a) Determine for each city the average timeline between submission of a complete ap-
21 plication for a housing development and issuance of a certificate of occupancy for the hous-
22 ing development;

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

25 (c) Identify barriers to reducing the timeline described in paragraph (a) of this subsection
26 for each city.

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

29 (a) For cities with populations greater than 25,000, no later than September 15, 2018.

30 (b) For cities with populations of 25,000 or less, no later than September 15, 2019.

31 **SECTION 3.** ORS 215.416 is amended to read:

32 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
33 an owner of land may apply in writing to such persons as the governing body designates, for a
34 permit, in the manner prescribed by the governing body. The governing body shall establish fees
35 charged for processing permits at an amount no more than the actual or average cost of providing
36 that service.

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

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

44 (4)(a) *[The application shall not be approved]* **A county may not approve an application** if the
45 proposed use of land is found to be in conflict with the comprehensive plan of the county and other

1 applicable land use regulation or ordinance provisions. The approval may include such conditions
2 as are authorized by statute or county legislation.

3 **(b) A county may not deny an application for a housing development located within the**
4 **urban growth boundary if:**

5 **(A) The development complies with clear and objective standards contained in the com-**
6 **prehensive plan or zoning ordinances of the county; and**

7 **(B) The county would have approved the application but for a finding that the develop-**
8 **ment is inconsistent with any discretionary design review standards imposed by the county.**

9 **(c) Paragraph (b) of this subsection does not apply to applications or permits for resi-**
10 **dential development in areas described in ORS 197.307 (5).**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
35 plicant and to the owners of record of property on the most recent property tax assessment roll
36 where such property is located:

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

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

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

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

45 (C) At the discretion of the applicant, the local government also shall provide notice to the

1 Department of Land Conservation and Development.

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

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

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

5 (B) The date of the decision; and

6 (C) A description of the decision made.

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

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

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

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

16 **SECTION 4.** ORS 227.175 is amended to read:

17 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
18 hearings officer, or such other person as the city council designates, for a permit or zone change,
19 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
20 tablish fees charged for processing permits at an amount no more than the actual or average cost
21 of providing that service.

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

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

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

33 **(b) A city may not deny an application for a housing development located within the ur-
34 ban growth boundary if:**

35 **(A) The development complies with clear and objective standards contained in the com-
36 prehensive plan or zoning ordinances of the city; and**

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

39 **(c) Paragraph (b) of this subsection does not apply to applications or permits for resi-
40 dential development in areas described in ORS 197.307 (5).**

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

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

45 (a) The name and address of the airport owner has been provided by the Oregon Department

1 of Aviation to the city planning authority; and

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

3 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
4 Department of Aviation to be a “visual airport”; or

5 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
6 Department of Aviation to be an “instrument airport.”

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

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

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

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

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

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

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

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

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

45 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised

1 in a notice of appeal; and

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

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

11 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
12 plicant and to the owners of record of property on the most recent property tax assessment roll
13 where such property is located:

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

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

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

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

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

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

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

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

27 (B) The date of the decision; and

28 (C) A description of the decision made.

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

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

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

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

38 **SECTION 5.** ORS 197.303 is amended to read:

39 197.303. (1) As used in ORS 197.307, “needed housing” means **all** housing [types] **on land zoned**
40 **for residential use or mixed residential and commercial use that is** determined to meet the need
41 shown for housing within an urban growth boundary at particular price ranges and rent levels[, in-
42 cluding]. **“Needed housing” includes [at least]** the following housing types:

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

45 (b) Government assisted housing;

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

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

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

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

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

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

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

10 (3) A local government may take an exception under ORS 197.732 to the definition of “needed
11 housing” in subsection (1) of this section in the same manner that an exception may be taken under
12 the goals.

13 **SECTION 6.** ORS 197.307 is amended to read:

14 197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for
15 persons of lower, middle and fixed income, including housing for farmworkers, is a matter of state-
16 wide concern.

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

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

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

28 (a) Discouraging needed housing through:

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

30 **(B) Designation of a primarily residential neighborhood as a national historic district; or**

31 **(b) Reducing the density of an application for a housing development where the density**
32 **applied for is below the density authorized in the local zoning designation, unless the re-**
33 **duction is necessary to resolve a health, safety or habitability issue.**

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

35 (a) An application or permit for residential development in an area identified in a formally
36 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
37 500,000 or more.

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

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

45 (a) The applicant retains the option of proceeding under the approval process that meets the

1 requirements of subsection (4) of this section;

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

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

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

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

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

11 (c) Establish approval procedures.

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

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

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

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

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

26 (e) The manufactured home shall be certified by the manufacturer to have an exterior thermal
27 envelope meeting performance standards which reduce levels equivalent to the performance stan-
28 dards required of single-family dwellings constructed under the state building code as defined in ORS
29 455.010.

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

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

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

38 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or
39 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-
40 factured homes. A city or county may not by charter prohibit government assisted housing or impose
41 additional approval standards on government assisted housing that are not applied to similar but
42 unassisted housing.

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

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

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

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

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

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

18 **(b) As used in this subsection:**

19 **(A) "Accessory dwelling unit" means a residential structure that is used in connection
20 with or that is accessory to a single family residential dwelling.**

21 **(B) "Duplex" means a multifamily structure containing two dwelling units.**

22 **SECTION 8.** ORS 215.441 is amended to read:

23 215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
24 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
25 nances and regulations, a county shall allow the reasonable use of the real property for activities
26 customarily associated with the practices of the religious activity, including [*worship services, reli-
27 gion classes, weddings, funerals, child care and meal programs, but not including private or parochial
28 school education for prekindergarten through grade 12 or higher education.*]:

29 **(a) Worship services.**

30 **(b) Religion classes.**

31 **(c) Weddings.**

32 **(d) Funerals.**

33 **(e) Meal programs.**

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

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

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

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

42 (2) A county may:

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

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

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

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

15 **SECTION 9.** ORS 227.500 is amended to read:

16 227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresiden-
17 tial place of worship is allowed on real property under state law and rules and local zoning ordi-
18 nances and regulations, a city shall allow the reasonable use of the real property for activities
19 customarily associated with the practices of the religious activity, including [*worship services, reli-*
20 *gion classes, weddings, funerals, child care and meal programs, but not including private or parochial*
21 *school education for prekindergarten through grade 12 or higher education.*]:

22 (a) **Worship services.**

23 (b) **Religion classes.**

24 (c) **Weddings.**

25 (d) **Funerals.**

26 (e) **Meal programs.**

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

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

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

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

35 (2) A city may:

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

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

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

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

8 **SECTION 10.** ORS 215.427 is amended to read:

9 215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an
10 urban growth boundary and applications for mineral aggregate extraction, the governing body of a
11 county or its designee shall take final action on an application for a permit, limited land use deci-
12 sion or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the
13 application is deemed complete. The governing body of a county or its designee shall take final
14 action on all other applications for a permit, limited land use decision or zone change, including
15 resolution of all appeals under ORS 215.422, within 150 days after the application is deemed com-
16 plete, 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 is incomplete, the
18 governing body or its designee shall notify the applicant in writing of exactly what information is
19 missing within 30 days of receipt of the application and allow the applicant to submit the missing
20 information. The application shall be deemed complete for the purpose of subsection (1) of this sec-
21 tion **and section 1 of this 2017 Act** upon receipt by the governing body or its designee of:

22 (a) All of the missing information;

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

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

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

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

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

39 (a) All of the missing information;

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

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

43 (5) The period set in subsection (1) of this section **or the 100-day period set in section 1 of**
44 **this 2017 Act** may be extended for a specified period of time at the written request of the applicant.
45 The total of all extensions, except as provided in subsection (10) of this section for mediation, may

1 not exceed 215 days.

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

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

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

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

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

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

26 (10) The periods set forth in [*subsection (1)*] **subsections (1) and (5)** of this section **and section**
27 **1 of this 2017 Act** [*and the period set forth in subsection (5) of this section*] may be extended by up
28 to 90 additional days, if the applicant and the county agree that a dispute concerning the application
29 will be mediated.

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

31 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body
32 of a city or its designee shall take final action on an application for a permit, limited land use de-
33 cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after
34 the application is deemed complete.

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

40 (a) All of the missing information;

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

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

44 (3)(a) If the application was complete when first submitted or the applicant submits the re-
45 quested additional information within 180 days of the date the application was first submitted and

1 the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, ap-
2 proval or denial of the application shall be based upon the standards and criteria that were appli-
3 cable at the time the application was first submitted.

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

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

12 (a) All of the missing information;

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

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

16 (5) The 120-day period set in subsection (1) of this section **or the 100-day period set in section**
17 **1 of this 2017 Act** may be extended for a specified period of time at the written request of the ap-
18 plicant. The total of all extensions, except as provided in subsection (11) of this section for medi-
19 ation, may not exceed 245 days.

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

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

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

25 (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this
26 section **and the 100-day period set in section 1 of this 2017 Act do** *[does]* not apply to a decision
27 of the city making a change to an acknowledged comprehensive plan or a land use regulation that
28 is submitted to the Director of the Department of Land Conservation and Development under ORS
29 197.610.

30 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
31 governing body of the city or its designee does not take final action on an application for a permit,
32 limited land use decision or zone change within 120 days after the application is deemed complete,
33 the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, ei-
34 ther the unexpended portion of any application fees or deposits previously paid or 50 percent of the
35 total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional
36 governmental fees incurred subsequent to the payment of such fees or deposits. However, the ap-
37 plicant is responsible for the costs of providing sufficient additional information to address relevant
38 issues identified in the consideration of the application.

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

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

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

44 (b) Within seven calendar days of receiving a request for a refund, the city or its designee shall
45 determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made

1 to the applicant within 30 calendar days of receiving the request. Any amount due and not paid
2 within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of
3 one percent per month, or a portion thereof.

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

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

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

19 **SECTION 12. Section 2 of this 2017 Act becomes operative on January 1, 2018.**

20 **SECTION 13. Section 1 of this 2017 Act and the amendments to ORS 197.303, 197.307,**
21 **197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500 by sections 3 to 11 of this 2017**
22 **Act apply to permit applications dated on or after the effective date of this 2017 Act.**

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

26