Enrolled
Senate Bill 1051

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

CHAPTER .....

AN ACT

Relating to use of real property; creating new provisions; amending ORS 197.178, 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

(b) "Multifamily residential building" means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city with a population greater than 5,000 or a county with a population greater than 25,000 shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

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

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

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

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

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

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

SECTION 2. ORS 215.416 is amended to read:

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

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

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

(4)**(a)** [*The application shall not be approved*] **A county may not approve an application** if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A county may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 3. ORS 227.175 is amended to read:

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

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

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

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

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not reduce the density of an application for a housing development if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not reduce the height of an application for a housing development if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may reduce the density or height of an application for a housing development if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal.

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

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

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

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

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

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

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

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

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home

or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 4. ORS 197.303 is amended to read:

197.303. (1) As used in ORS 197.307, "needed housing" means **all** housing [*types*] **on land zoned for residential use or mixed residential and commercial use that is** determined to meet the need shown for housing within an urban growth boundary at [*particular*] price ranges and rent levels[*, including*] **that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. "Needed housing" includes** [*at least*] the following housing types:

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

(b) Government assisted housing;

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

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

(e) Housing for farmworkers.

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

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

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

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

SECTION 5. ORS 197.307 is amended to read:

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

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

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

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of **hous-**

ing, including needed housing [*on buildable land described in subsection (3) of this section*]. The standards, conditions and procedures**:**

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

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

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

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

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

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

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

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

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

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

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

(c) Establish approval procedures.

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

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

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

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

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

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

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

(g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, ar-

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

SECTION 6. ORS 197.312 is amended to read:

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

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

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

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

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

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

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

SECTION 7. ORS 215.441 is amended to read:

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

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

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

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

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

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

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

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

SECTION 8. ORS 227.500 is amended to read:

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

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

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

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

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

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transporta-

tion, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

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

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

SECTION 9. ORS 197.178 is amended to read:

197.178. (1) Local governments with comprehensive plans or functional plans that are identified in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and Development the following information for all applications received under ORS 227.175 for residential permits and residential zone changes:

(a) The **total** number of **complete** applications received for residential development, [*including the net residential density proposed in the application and the maximum allowed net residential density for the subject zone*] **and the number of applications approved**;

[*(b) The number of applications approved, including the approved net density; and*]

[*(c) The date each application was received and the date it was approved or denied.*]

(b) The total number of complete applications received for development of housing containing one or more housing units that are sold or rented below market rate as part of a local, state or federal housing assistance program, and the number of applications approved; and

(c) For each complete application received:

(A) The date the application was received;

(B) The date the application was approved or denied;

(C) The net residential density proposed in the application;

(D) The maximum allowed net residential density for the subject zone; and

(E) If approved, the approved net residential density.

(2) The report required by this section may be submitted electronically.

SECTION 10. ORS 215.427 is amended to read:

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

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

(a) All of the missing information;

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

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

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

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

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

(a) All of the missing information;

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

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

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

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

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

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

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

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

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

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

SECTION 11. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use de-

cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

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

(a) All of the missing information;

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

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

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

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

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

(a) All of the missing information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. The amendments to ORS 197.312, 215.416 and 227.175 by sections 2, 3 and 6 of this 2017 Act become operative on July 1, 2018.

SECTION 13. (1) Section 1 of this 2017 Act and the amendments to ORS 197.178, 197.303, 197.307, 215.427, 215.441, 227.178 and 227.500 by sections 4, 5 and 7 to 11 of this 2017 Act apply to permit applications submitted for review on or after the effective date of this 2017 Act.

(2) The amendments to ORS 215.416 and 227.175 by sections 2 and 3 of this 2017 Act apply to applications for housing development submitted for review on or after July 1, 2018.

(3) The amendments to ORS 197.312 by section 6 of this 2017 Act apply to permit applications for accessory dwelling units submitted for review on or after July 1, 2018.

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

Passed by Senate April 19, 2017

Repassed by Senate July 7, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 6, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State

Testimony in Support of House Bill 2007
House Committee on Human Services and Housing

Speaker of the House Tina Kotek
April 13, 2017

Thank you for the opportunity to testify this morning on House Bill 2007.

As I have said many times this session, Oregon's housing crisis is complex and has many root causes. To make necessary progress, I believe the state must pursue policy solutions that address three key goals: provide protection for tenants, preserve the affordable housing that we have, and increase the supply of both market rate and affordable housing.

This committee has worked and passed House Bill 2004, which strengthens tenant protections, and House Bill 2002, which helps preserve subsidized housing that is at risk of conversion to market rate. I applaud the great work that you have done on housing policy this session. Today, we bring you a bill that addresses the third prong of our response to this crisis. House Bill 2007 is designed to increase housing supply by removing barriers to development at the local level.

While the -1 amendment before you is not the final amendment, I would like to walk you through the elements that will be in the forthcoming -2 amendments.

House Bill 2007 (pending amendments) will do eight things:

1. It requires cities and counties to fast track affordable housing projects in their permitting processes. "Affordable housing" is defined as 50 percent of units affordable at 60 percent of Median Family Income (MFI) with an affordability covenant of at least 60 years. State law currently requires local jurisdictions to review and make a determination on an application within 120 days of receipt. House Bill 2007 changes this 120-day requirement to 100 days for affordable housing projects.

2. It directs the Department of Land Conservation and Development (DLCD) to study the average timeline between submission of a complete application and certificate of occupancy and identify barriers to shortening that timeline.

3. It will require cities and counties to approve applications that meet clear and objective standards as outlined in local zoning or planning codes within urban growth boundaries. I understand that some cities have concerns about having to state clear and objective standards, but I have also heard from cities that have no issue with this requirement because it is their status quo. It is possible to have a permitting process that allows for local control regarding design and clear and objective standards related to those design preferences.

4. It updates the definition of "needed housing" to include "housing that is affordable to low- and moderate-income people." This is important because cities need a better handle on their inventory of affordable housing compared to the need and identifying affordable housing as "needed" in state statute moves us forward.

5. It requires local jurisdictions to let developers build housing with density that is permitted in the local zoning code unless doing so poses a risk to health, safety, or habitability.

6. It clarifies that the historic designation process may not reduce "needed housing" which now includes affordable housing.

7. It prohibits outright bans on the development of accessory dwelling units (ADUs) and duplexes on land zoned for single-family housing.

8. Lastly, it allows religious organizations with land located within urban growth boundaries to build affordable housing within the conditions of local zoning and planning requirements.

You may note that the -1 amendment includes a directive for the state to create model housing designs. Those provisions will not be included in the -2 amendments.

House Bill 2007 is the product of extensive, productive conversations with developers, realtors, property owners, land use advocates, and housing policy experts about barriers to development. If passed, this bill will increase the supply of both affordable and market rate housing in Oregon.

Thank you.

Summary of HB2007-1

April 13, 2017

Prepared by Taylor Smiley Wolfe

Section 1: Requires Fast-Tracking of Affordable Housing Applications:

Requires Local Jurisdictions to Fast Track Affordable Housing Permit Applications

1) Directs Cities and Counties to review and make decisions on qualifying applications within 100 days.
2) To qualify, the application must be for housing that is (1) a multifamily building with five or more units, (2) is affordable define as 50% of units affordable at or below 60% AMI, (3) has an affordability contract of at least 60 years.

Non-qualifying Permits

1) City and County must take final action on non-qualifying applications within time frame identified in ORS 197.828.

Section 2: Directs DLCD to Study Development Timeline

Department of Land Conservation and Development Shall Study Housing Development

1) For each City *and County*, DLCD shall:
    a. Determine the average timeline between submission of complete application for a housing development and certificate of occupancy.
    b. Analyze the impact of the timeline on the development process.
    c. Identify barriers to reducing the timeline.
    d. Report on findings to the legislature no later than September 15, 2019.

Section 3-7: To be removed in -2 amendments

- These sections directed OHCS to create model unit designs that would be exempt from design review around the state.

Section 8: Clear and Objective Standards for all Housing (County)

County May Not Deny an Application within Urban Growth Boundary if:

1) The development complies with clear and objective standards contained in the comprehensive plan or zoning ordinances of the county.
2) The county would have approved the application but for a finding that the development is inconsistent with any discretionary design review standards imposed by the county.
3) Exempts applications or permits for residential development in areas described in ORS 197.307 (5).

Section 9: Clear and Objective Standards for all Housing (City)

Same requirements under section 8, but for cities.

Section 10: Definition of "Needed Housing"

Changes definition of "needed housing"

1) Proposed definition: "means **all housing on land zoned for residential use or mixed residential and commercial use that is** determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. '**Needed housing' includes** the following housing types:"
2) Adds "housing that is affordable to households with low and moderate incomes" to definition of needed housing.

Section 11: Limits on reducing permitted outright density & establishing historical districts

Local jurisdiction may not require applicant to reduce density unless for health, safety, or habitability reason

1) If the density of a lot is permitted in local zoning code, the local jurisdiction may not require developer to reduce density of application unless for a health, safety, or habitability reason.

Historic District Designation may not discourage needed housing in primarily residential neighborhood

1) Neighborhood groups can still designate an area as a national historic district, the designation itself just can't reduce "needed housing".

Section 12: City and County may not Prohibit ADUs and Duplexes in Single Family Residential Zone

1) City or County must allow development of ADU and duplex on lot zoned for single-family dwellings within the urban growth boundary.

Section 13: Allows Religious Organization to Build Affordable Housing on their Land (Counties)

1) Housing must be:
    a. Detached from place of worship,
    b. Affordable to households with incomes equal to or less than 60 percent of AMI
    c. Must be affordable for at least 60 years
    d. At least 50 percent of units are affordable
    e. Multifamily residential building with 5 or more units
    f. Within an urban growth boundary
2) Local zoning and planning codes still apply

Section 14: Allows Religious Organization to Build Affordable Housing on their Land (Cities)

Same requirements under section 13, but for cities.

Section 15 & Section 16: Internal Cross References

Section 17: *Operative date of DLCD study (July 1, 2018)*

Section 18: Operative Dates

1) *OHCS will produce model unit designs by July 1, 2018*
2) *Cities and Counties will submit reports on high opportunity neighborhoods to DLCD by September 15, 2018*

Section 19: Operative Dates

1) Everything else is effective on passage

Section 20: Emergency Clause

Forthcoming Amendments (HB2007-2)

1. **Amend Section 2**: Limit DLCD study of housing development timeline to cities (eliminate counties) and stagger the timeline based on the size of the City.
    a. Small cities (25,000 or less): Must report by July 1, 2019
    b. Large cities (more than 25,000): July 1, 2018
2. **Delete Section 3 – Section 7 of HB2007-1**
    a. These sections outlined a process for the development and approval of model unit designs.

OREGON LOCUS

Responsible Real Estate Developers and Investors

an affiliate of Smart Growth America's national developer coalition

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Sam Rodriguez
Mill Creek Development

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Peter Skei
Specht Properties

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Oregon LOCUS Testimony before the Joint Ways and Means Natural Resources Subcommittee In Support of HB 2007A-6
June 22, 2017

Co-chairs Witt and Frederick, and members of the subcommittee, my name is Mike Kingsella, executive director of Oregon LOCUS, and I'm here today in support of HB 2007 with the dash 6 amendments.

Oregon LOCUS is the first statewide affiliate of Smart Growth America's coalition of responsible developers and investors. Our organization is made up of a group of largely urban infill and transit-oriented developers who are deeply passionate about advancing the principles of smart growth in their communities. Oregon LOCUS is focused on collaborating with state and local level policy makers to achieve a variety of innovative policy solutions that address our region's housing and land use needs through a lens of economic, social and environmental sustainability.

According to data from the state economist, approximately 100,000 units of housing need to be built *just to catch up* to the current housing shortage—and for each *new* household moving to Oregon, we are only building .3 units, so moving forward we need to *triple* the production of housing across Oregon to meet our housing needs at all levels of affordability.

Let me underscore this: the shortfall is at ***all*** price points, and drives housing cost up...creating significant competition for what housing **is** available.

Although it may seem counterintuitive, addressing a shortage of housing at higher income levels or price points is critical for housing affordability. Without it, the person who can afford a $1,500 rental will be competing for the $800 unit along with the person that cannot pay more. A June 2017 Rental Housing Study commissioned by Montgomery County, Maryland found that a shortage of rental housing at the high end of the market creates downward pressure on less affluent renters because when higher-income households rent less expensive units, lower-income renters have fewer affordable choices.

That is why we support the dash 6 amendment. The bill as amended works *with* the private sector—far and away the largest generator of housing in Oregon—to encourage more housing production serving a full range of incomes by getting at one of the most significant barriers: approval processes that are lengthy, create cost, create uncertainty, and reduce the number of units allowed by law.

While these challenges add to the cost of any housing project, in the case of affordable housing projects, which frequently have complex capital stacks with a multitude of participants, unnecessarily long and complex approval processes can easily sink a deal.

HB 2007A-6 addresses this issue in several important ways.

First, the bill contains a provision that requires approvals within an accelerated 100 days for housing with at least 50% of the units affordable at 60% of the median family income for at least 60 years—that's long-term affordability.

Second, it ensures that when a City goes through its legislative planning process and maps each property with an entitled height and density that design review cannot undo that public process and reduce the number of housing units that are allowed on that site.

Each height and density allowance is the result of many factors, including proximity to transit, view corridors, open spaces, density objectives, and growth goals.

Certainty on the height and density allow you to set property values, analyze a pro forma for development of the site, and approach investors.

But if that allowed height and density is not honored in the design review process, needed housing is lost and projects die, especially affordable housing projects.

This element of the bill is ***critical*** to meeting the growth planned for and needed in our communities. If 200 units are entitled for a site, but design review reduces the units to 75, things will only get worse.

An in response to concerns in the earlier version of HB 2007, a critical dash 6 amendment enables discretionary design review to influence how those units are *configured* in a project. For example, 200 units could be massed short and broad on a site, or narrow and tall. That's an important change that helps meet the mutual goals of meeting our growth needs and meaningful design review. .

Let me underscore this point: it's a false choice to pit quality design against needed density. We need **both** and HB 2007A-6 supports both.

There is also a unique aspect to reducing housing supply barriers and affordability in Portland, with the City's new Inclusionary Housing program. If you have a site in the Central City and you build 20 units or more you are required to include affordable housing. One of the offsets to the costs of building that affordable housing, is a density bonus.

That density bonus is mandatory and encourages the production of affordable housing in exchange for extra density. HB 2007A-6 ensures that the earned density for affordable housing can't in turn be taken away through a discretionary design review. This is important, as without the bonus earned density, the affordable housing units will not be built.

In this simple example, reductions in zoned density would directly conflict with the construction of affordable housing units.

Last, within the Metro UGB, current law *exempts* residential development in Portland's Central City, in any Metro-declared regional centers, ***and*** in local historic districts from the requirement for clear & objective standards that otherwise already applies to residential development in all other areas. HB 2007A-6 does ***not*** change these exemptions.

Oregon LOCUS strongly supports this important, positive housing policy.

Partial Transcription of House Bill 2007A
Which was the precursor to enrolled SB 1051A
Hearing June 22, 2017 at 1:00 PM

House Representative Duane Stark:

[00.37:46]

Again I was surprised as I'm fairly new to this conversation and I have been working on housing now for about two and a half years, and slowly diving in and you guys have seen me on other committees testifying on similar things but I'm continually surprised that some of the glitches that we have in our system, such as, if a developer goes out in a area zoned for 10 units and its zoned for 10 units and they want to build 10 units, then the local jurisdiction might come back and say you can only build 8 units. Well why? We don't want that. If it's zoned for an amount and it's approved by the statewide planning system for an amount, then it should be able to be developed at that amount. Because the more we reduce the developments the fewer homes we have the more we perpetuate the problem that we have, and again we just want to make sure that we are able to catch up if we can with the population growth that we're having. [00.38:24]

HB 2007/SB 1051: Policies to meet Oregon's housing needs

Jenny Lee | August 10, 2017

This post is the second in a series explaining key housing bills that passed during the 2017 legislative session. Thank you to Housing Alliance member 1000 Friends of Oregon for their contributions to this post.

In addition to investing in affordable homes, the 2017 Oregon Legislature passed an important policy bill, SB 1051, to help ensure Oregon's communities are meeting their housing needs. House Speaker Tina Kotek, a leading legislative champion for affordable homes, introduced HB 2007 to support the creation of more housing, including homes that are affordable to families with low and moderate incomes. While HB 2007 did not pass, many of the key provisions in this bill were passed in SB 1051.

Oregon's land use Goal 10 calls for adequate housing in all price ranges and rent levels, with flexibility for housing location, types of housing, and density. Yet the gap between existing housing and the need is substantial—and increasing. For every 100 families with extremely low incomes, there are only 26 affordable units that are available. Even middle-income families face a lack of affordable homes. There simply is not enough housing for all Oregonians to afford, and identifying strategies to increase the number of homes, especially affordable homes, are badly needed.

Housing Alliance member 1000 Friends of Oregon was one of the leaders in developing and advocating for HB 2007 and ultimately SB 1051. They provide context on the context and purpose of the bill:

> *"We are not meeting the types of housing that many Oregonians need. Every community in Oregon has a similar profile, in which approximately two-thirds of all households are 1 to 2 people in size, a long-term trend and a percentage that is growing. These are the young couple who has not yet started a family, an older couple whose children have grown, the 20-something just starting out, the 70-something widow, the single parent with 1 or 2 children – they are nurses, teachers, electricians, medical technicians, the person who waited on you somewhere today. They want to live in walkable neighborhoods with good schools, age in the neighborhood they raised their children, live near the place they work […] We have zoned most of our residential lands in ways that functionally exclude a large percentage of Oregonians at any price point by not offering the type of housing they need, and certainly economically excludes many.*
>
> *"Failure to increase both the supply and diversity of housing for lower and middle income Oregonians will increase the price of all existing housing, regardless of its condition. HB 2007 took important steps to better ensure our towns and cities are providing for the housing needs of all, in every neighborhood.*

HB 2007 was amended as it moved through the legislative process and while it received a hearing before the Joint Committee on Ways and Means Subcommittee on Natural

Resources, it did not move forward. Important elements of HB 2007 were kept and moved into SB 1051, which ultimately passed out of the Legislature. SB 1051 will:

- Expedite affordable housing permits
- Strengthen requirements for clear and objective review standards for housing developments
- Streamline local government procedures to make it easier to provide more housing, and especially affordable housing, in all Oregon communities
- Allow accessory dwelling units in single-family neighborhoods
- Allow religious institutions to use their property to develop affordable housing
- Changes how local jurisdictions meet state land use goals by requiring that they plan for the full spectrum of housing needs, requiring them to identify housing needed for every income level, including housing that is affordable to residents with low, very low, and extremely low incomes.

This bill was the result of extensive collaboration among stakeholders, and the Housing Alliance included HB 2007/SB 1051 on its support agenda. Going forward, the Housing Alliance is excited to continue working with its members on housing policies that will help meet Oregon's housing needs. Thank you to 1000 Friends of Oregon for its leadership and advocacy on this bill to increase Oregon's supply of affordable homes and create more inclusive communities, and to the legislative champions for HB 2007/SB 1051: House Speaker Tina Kotek, Representatives Duane Stark, Susan McLain, and Pam Marsh.

You can read 1000 Friends of Oregon's summary of HB 2007/SB 1051 here.

HB 2007-1
(LC 3266)
4/11/17 (EMM/ps)

Requested by Representative KOTEK

PROPOSED AMENDMENTS TO
HOUSE BILL 2007

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

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

"SECTION 1. (1) As used in this section:

"(a) 'Affordable housing' means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

"(b) 'Multifamily residential building' means a building in which two or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

"(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city or a county shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

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

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

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

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

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

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

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

"(a) Determine for each city and county the average timeline between submission of a complete application for a housing development and issuance of a certificate of occupancy for the housing development;

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

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

"(2) The department shall report the findings of the study to an interim committee of the Legislative Assembly no later than Septem-

ber 15, 2019.

"SECTION 3. (1) As used in this section, 'high opportunity neighborhood' means a residential area located within walking distance of a grocery store, a park, a public school, other commercial services and, in a city or a county with a population of 25,000 or more, public transit.

"(2) The Department of Land Conservation and Development shall establish by rule:

"(a) A method to estimate the affordability of existing housing stock in each city and county relative to the need for affordable housing as determined by the needs assessment completed by each city and county pursuant to the statewide land use planning goal relating to housing.

"(b) A procedure for cities and counties to identify high opportunity neighborhoods within the jurisdiction of the city or the county.

"(3) Each city and county shall:

"(a) Identify high opportunity neighborhoods within the jurisdiction of the city or the county pursuant to the procedure adopted under subsection (2) of this section; and

"(b) Submit a biennial report to the department specifying the high opportunity neighborhoods identified through the procedure adopted under subsection (2) of this section.

"SECTION 4. (1) As used in this section, 'affordable housing' means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

"(2) The Housing and Community Services Department shall develop and implement a program to produce a four housing development designs to expedite development of new dwelling units throughout this state, including:

"(a) A design containing five housing units;

"(b) A design containing 10 housing units;

"(c) A design containing 15 housing units; and

"(d) A design containing 20 housing units.

"(3) A housing development design produced under the program must:

"(a) Contain at least 50 percent residential units that will be sold or rented as affordable housing;

"(b) Adhere to all applicable state building code requirements and health and safety standards;

"(c) Be designed for development in a variety of cities throughout this state;

"(d) Be designed to produce high quality and modern housing units; and

"(e) Provide developers with options to adjust design elements to be consistent with the aesthetics of the surrounding community.

"(4) The department shall adopt rules to implement and carry out the program, including but not limited to rules for:

"(a) Coordinating with the Department of Consumer and Business Services to ensure that the housing development designs comply with the state building code;

"(b) Establishing design standards for the designs;

"(c) Collaborating with experts in the fields of housing development, affordable housing, architecture, engineering, construction, urban planning and land use;

"(d) Creating a process to review and approve each design produced under the program;

"(e) Reviewing and updating designs produced under the program to ensure compliance with the requirements of subsection (3) of this section;

"(f) Adopting requirements to prevent the concentration of development of the designs;

"(g) Educating developers throughout this state about the program; and

"(h) Taking any other action necessary to fulfill the requirements of this section.

"(5) Within 10 days after producing the housing development designs described under this section, the Housing and Community Services Department shall submit the designs to the Department of Consumer and Business Services for review and approval as described in section 6 of this 2017 Act.

"SECTION 5. Section 6 of this 2017 Act is added to and made a part of ORS chapter 455.

"SECTION 6. (1) The Department of Consumer and Business Services shall review and approve the housing development designs described in section 4 of this 2017 Act within 30 days after submission by the Housing and Community Services Department.

"(2) Upon review of each housing development design, the Department of Consumer and Business Services shall:

"(a) Approve the design as submitted; or

"(b)(A) Amend the design to comply with the state building code and the requirements of section 4 of this 2017 Act; and

"(B) Approve the amended design.

"(3) Approval of a housing development design under this section is binding throughout this state.

"SECTION 7. (1) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city or a county shall take final action on an application qualifying under subsection (2) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 50 days after the application is deemed complete.

"(2) An application qualifies for final action within the timeline described in subsection (1) of this section if the application is for the development of a housing development design approved under section 6 of this 2017 Act that will be:

"(a) Located in a high opportunity neighborhood, as defined in section 3 of this 2017 Act;

"(b) Located within the urban growth boundary; and

"(c) Subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (a) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

"(3) An application described in subsection (2) of this section is not subject to review under:

"(a) Clear and objective design review standards contained in the comprehensive plan or zoning ordinances of the city or the county; or

"(b) Any discretionary design review standards imposed by the city or the county.

"(4) A housing development for which an application is approved under this section is subject to:

"(a) Clear and objective site review standards contained in the comprehensive plan or zoning ordinances of the city or the county; and

"(b) Any building inspections necessary for issuance of a certificate of occupancy.

"(5) This section does not apply to applications or permits for residential development in areas described in ORS 197.307 (5).

"SECTION 8. ORS 215.416 is amended to read:

"215.416. (1) When required or authorized by the ordinances, rules and

regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

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

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

"(4)**(a)** [*The application shall not be approved*] **A county may not approve an application** if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

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

"(A) The development complies with clear and objective standards contained in the comprehensive plan or zoning ordinances of the county; and

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

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

"(5) Hearings under this section shall be held only after notice to the

applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

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

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

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

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

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

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

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

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

"(9) Approval or denial of a permit or expedited land division shall be

based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

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

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

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

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

"(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the gov-

erning body. In either case, the appeal shall be to a de novo hearing.

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

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

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

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

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

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

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

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

"(iii) Within 750 feet of the property that is the subject of the notice when

the subject property is within a farm or forest zone.

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

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

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

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

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

"(B) The date of the decision; and

"(C) A description of the decision made.

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

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

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

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

"SECTION 9. ORS 227.175 is amended to read:

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

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

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

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

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

"(A) The development complies with clear and objective standards contained in the comprehensive plan or zoning ordinances of the city; and

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

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

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

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

as a 'public use airport' if:

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

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

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

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

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

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

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

"(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

"(B) Written notice of the decision shall be mailed to those persons de-

scribed in paragraph (c) of this subsection.

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

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

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

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

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

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

"(b) If a local government provides only a notice of the opportunity to

request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or $250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

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

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

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

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

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

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

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

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

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

"(B) The date of the decision; and

"(C) A description of the decision made.

"(b) Be subject to the jurisdiction of the Land Use Board of Appeals in

the same manner as a limited land use decision.

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

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

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

"SECTION 10. ORS 197.303 is amended to read:

"197.303. (1) As used in ORS 197.307, 'needed housing' means **all** housing [*types*] **on land zoned for residential use or mixed residential and commercial use that is** determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels[*, including*]**. 'Needed housing' includes, but is not limited to,** [*at least*] the following housing types:

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

"(b) Government assisted housing;

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

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

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

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

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

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

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

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

"SECTION 11. ORS 197.307 is amended to read:

"197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.

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

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

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

"(a) Discouraging needed housing through**:**

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

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

"(b) Reducing the density of an application for a housing development where the density applied for is below the density authorized in the local zoning designation, unless the reduction is necessary to resolve a health, safety or habitability issue.

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

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

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

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

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

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

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

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

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

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

"(c) Establish approval procedures.

"(8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt any or all of the following placement standards, or any less restrictive standard, for the approval of manufactured homes located

outside mobile home parks:

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

"(b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

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

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

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

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

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

"SECTION 12. ORS 197.312 is amended to read:

"197.312. (1) A city or county may not by charter prohibit from all resi-

dential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

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

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

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

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

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

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

"(b) As used in this subsection:

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

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

"SECTION 13. ORS 215.441 is amended to read:

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

"(a) Worship services.

"(b) Religion classes.

"(c) Weddings.

"(d) Funerals.

"(e) Meal programs.

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

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

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

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

"(2) A county may:

"(a) Subject real property described in subsection (1) of this section to

reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

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

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

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

"SECTION 14. ORS 227.500 is amended to read:

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

"(a) Worship services.

"(b) Religion classes.

"(c) Weddings.

"(d) Funerals.

"(e) Meal programs.

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

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

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

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

"(2) A city may:

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

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

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

"(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that re-

stricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

"SECTION 15. ORS 215.427 is amended to read:

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

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

"(a) All of the missing information;

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

"(c) Written notice from the applicant that none of the missing informa-

tion will be provided.

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

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

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

"(a) All of the missing information;

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

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

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

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

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

"(b) Unless the parties have agreed to mediation as described in sub-

section (10) of this section or ORS 197.319 (2)(b).

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

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

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

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

"SECTION 16. ORS 227.178 is amended to read:

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

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

"(a) All of the missing information;

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

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

"(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

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

"(4) On the 181st day after first being submitted, the application is void

if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

"(a) All of the missing information;

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

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

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

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

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

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

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

"(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental

fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

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

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

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

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

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

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

considered jointly with a plan amendment.

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

"SECTION 17. (1) Section 2 of this 2017 Act becomes operative on July 1, 2018.

"(2) Section 4 of this 2017 Act becomes operative on September 15, 2017.

"SECTION 18. (1) The Housing and Community Services Department shall produce the initial housing development designs as required by section 4 of this 2017 Act no later than July 1, 2018.

"(2) Each city and county shall first submit a report to the Department of Land Conservation and Development specifying the high opportunity neighborhoods identified through the procedure adopted under section 3 of this 2017 Act no later than September 15, 2018.

"SECTION 19. Sections 1 and 6 of this 2017 Act and the amendments to ORS 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500 by sections 8 to 16 of this 2017 Act apply to permit applications dated on or after the effective date of this 2017 Act.

"SECTION 20. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.".

HB 2007-2
(LC 3266)
4/14/17 (EMM/ps)

Requested by Representative KOTEK

PROPOSED AMENDMENTS TO
HOUSE BILL 2007

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

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

"SECTION 1. (1) As used in this section:

"(a) 'Affordable housing' means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

"(b) 'Multifamily residential building' means a building in which two or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

"(2) Notwithstanding ORS 215.427 (1) or ORS 227.178 (1), a city or a county shall take final action on an application qualifying under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or 227.180, within 100 days after the application is deemed complete.

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

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

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

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

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

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

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

"(a) Determine for each city the average timeline between submission of a complete application for a housing development and issuance of a certificate of occupancy for the housing development;

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

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

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

"(a) For cities with populations greater than 25,000, no later than

September 15, 2018.

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

"SECTION 3. ORS 215.416 is amended to read:

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

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

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

"(4)**(a)** [*The application shall not be approved*] **A county may not approve an application** if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

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

"(A) The development complies with clear and objective standards contained in the comprehensive plan or zoning ordinances of the county; and

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

design review standards imposed by the county.

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

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

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

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

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

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

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

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

"(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a

whole.

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

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

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

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

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

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

Use Board of Appeals under ORS 197.830.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) The date of the decision; and

"(C) A description of the decision made.

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

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

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

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

"SECTION 4. ORS 227.175 is amended to read:

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

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

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

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

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

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

"(A) The development complies with clear and objective standards contained in the comprehensive plan or zoning ordinances of the city; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) The date of the decision; and

"(C) A description of the decision made.

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

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

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

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

"SECTION 5. ORS 197.303 is amended to read:

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

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

"(b) Government assisted housing;

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

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

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

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

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

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

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

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

"SECTION 6. ORS 197.307 is amended to read:

"197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.

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

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

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

"(a) Discouraging needed housing through**:**

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

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

"(b) Reducing the density of an application for a housing development where the density applied for is below the density authorized in the local zoning designation, unless the reduction is necessary to resolve a health, safety or habitability issue.

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

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

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

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

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

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

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

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

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

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

"(c) Establish approval procedures.

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

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

"(b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

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

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

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

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

"(g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and

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

"SECTION 7. ORS 197.312 is amended to read:

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

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

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

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

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

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

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

"(b) As used in this subsection:

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

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

"SECTION 8. ORS 215.441 is amended to read:

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

"(a) Worship services.

"(b) Religion classes.

"(c) Weddings.

"(d) Funerals.

"(e) Meal programs.

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

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

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

the real property is located; and

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

"(2) A county may:

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

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

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

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

"SECTION 9. ORS 227.500 is amended to read:

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

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

"(a) Worship services.

"(b) Religion classes.

"(c) Weddings.

"(d) Funerals.

"(e) Meal programs.

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

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

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

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

"(2) A city may:

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

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

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

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

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

"SECTION 10. ORS 215.427 is amended to read:

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

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

"(a) All of the missing information;

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

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

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

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

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

"(a) All of the missing information;

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

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

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

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

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

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

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

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

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

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

subsection (5) of this section] may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

"SECTION 11. ORS 227.178 is amended to read:

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

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

"(a) All of the missing information;

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

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

"(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

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

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

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

"(a) All of the missing information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Corrected 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*] **Department of Land Conservation and Development 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

Relating to housing development; creating new provisions; amending ORS 197.303, 197.307, 197.312, 215.416, 215.427, 215.441, 227.175, 227.178 and 227.500; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater.

(b) "Multifamily residential building" means a building in which two or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

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

(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.

of this section if:

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

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

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

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

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

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

(a) Determine for each city the average timeline between submission of a complete application for a housing development and issuance of a certificate of occupancy for the housing development;

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

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

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

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

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

SECTION 3. ORS 215.416 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Department of Land Conservation and Development.

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 4. ORS 227.175 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

of Aviation to the city planning authority; and

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

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

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

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

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

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

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

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

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

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

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

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

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

in a notice of appeal; and

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

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

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

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

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

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

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

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

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

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

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

(B) The date of the decision; and

(C) A description of the decision made.

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

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

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

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

SECTION 5. ORS 197.303 is amended to read:

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

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

(b) Government assisted housing;

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

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

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

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

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

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

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

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

SECTION 6. ORS 197.307 is amended to read:

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

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

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

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

(a) Discouraging needed housing through**:**

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

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

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

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

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

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

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

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

requirements of subsection (4) of this section;

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

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

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

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

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

(c) Establish approval procedures.

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

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

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

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

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

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

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

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

SECTION 7. ORS 197.312 is amended to read:

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

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

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

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

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

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

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

(b) As used in this subsection:

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

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

SECTION 8. ORS 215.441 is amended to read:

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

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

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

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

(2) A county may:

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

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

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

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

SECTION 9. ORS 227.500 is amended to read:

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

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

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

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

(2) A city may:

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

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

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

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

SECTION 10. ORS 215.427 is amended to read:

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

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

(a) All of the missing information;

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

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

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

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

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

(a) All of the missing information;

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

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

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

not exceed 215 days.

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

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

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

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

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

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

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

SECTION 11. ORS 227.178 is amended to read:

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

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

(a) All of the missing information;

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

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

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and

the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

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

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

(a) All of the missing information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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