

Enrolled
House Bill 3223

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

CHAPTER

AN ACT

Relating to expedited land divisions; creating new provisions; and amending ORS 197.360, 197.365, 215.402 and 227.160.

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

SECTION 1. ORS 197.360 is amended to read:

197.360. *[(1) An expedited land division:]*

[(a) Is an action of a local government that:]

(1) As used in this section:

(a) “Expedited land division” means a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that:

(A) Includes **only** land that is zoned for residential uses and is within an urban growth boundary.

(B) Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

(C) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

- (i) Open spaces, scenic and historic areas and natural resources;
- (ii) The Willamette River Greenway;
- (iii) Estuarine resources;
- (iv) Coastal shorelands; and
- (v) Beaches and dunes.

(D) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

[(E) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.]

[(b) Is a land division that:]

[(A) Will create three or fewer parcels under ORS 92.010; and]

[(B) Meets the criteria set forth for an action under paragraph (a)(A) to (D) of this subsection.]

(E) Will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

(ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

(b) "Expedited land division" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.

(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

(3) The provisions of ORS 197.360 to 197.380 apply to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:

(a) The physical characteristics of permitted uses;

(b) The dimensions of the lots or parcels to be created; or

(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

(4) An application *[to a local government]* for an expedited land division **submitted to a local government** shall describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.

SECTION 2. (1) Within two weeks of receipt of any application for a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845, a local government shall send written notice to the applicant if:

(a) The application meets the requirements for an expedited land division under ORS 197.360; or

(b) The local government has insufficient information to determine whether the application meets the requirements for an expedited land division under ORS 197.360.

(2) The written notice required under subsection (1) of this section must include a description of the requirements for an expedited land division and the procedure for applying for an expedited land division.

SECTION 3. ORS 197.365 is amended to read:

197.365. *[When requested by an applicant for an expedited land division, in lieu of]* **Unless the applicant requests to use** the procedure set forth in *[its]* a comprehensive plan and land use regulations, *[the]* a local government shall use the following *[procedures]* **procedure** for an expedited land division *[under]*, **as described in** ORS 197.360:

(1)(a) If the application for expedited land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

(b) 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, 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.

(2) The local government shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

(3) The notice required under subsection (2) of this section shall:

(a) State:

(A) The deadline for submitting written comments;

(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.

(b) Set forth, by commonly used citation, the applicable criteria for the decision.

(c) Set forth the street address or other easily understood geographical reference to the subject property.

(d) State the place, date and time that comments are due.

(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.

(f) Include the name and telephone number of a local government contact person.

(g) Briefly summarize the local decision-making process for the expedited land division decision being made.

(4) After notice under subsections (2) and (3) of this section, the local government shall:

(a) Provide a 14-day period for submission of written comments prior to the decision.

(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the local government's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:

(A) Shall not hold a hearing on the application; and

(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:

(A) The summary statement described in paragraph (b)(B) of this subsection; and

(B) An explanation of appeal rights under ORS 197.375.

SECTION 4. ORS 215.402 is amended to read:

215.402. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:

(1) "Contested case" means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) "Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.311, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) [An action under] **An expedited land division, as described in ORS 197.360 [(1)].**

SECTION 5. ORS 227.160 is amended to read:

227.160. As used in ORS 227.160 to 227.186:

(1) "Hearings officer" means a planning and zoning hearings officer appointed or designated by a city council under ORS 227.165.

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) [An action under] **An expedited land division, as described in ORS 197.360 [(1)].**

Passed by House April 23, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 26, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State