

## SENATE AMENDMENTS TO SENATE BILL 1564

By COMMITTEE ON HOUSING AND DEVELOPMENT

February 19

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions; amending ORS  
2 197A.400 and 227.175;”.

3 Delete lines 4 through 20 and insert:

4 **“SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS chapter 197A.**

5 **“SECTION 2. (1)(a) On or before January 1, 2026, the Land Conservation and Development  
6 Commission shall adopt three model ordinances providing clear and objective standards for  
7 the development of various housing types within an urban growth boundary, including  
8 single-family detached housing, middle housing, as defined in ORS 197A.420, accessory  
9 dwelling units, as defined in ORS 197A.425, and multifamily housing, that may be readily  
10 adopted by a local government in compliance with the requirements of ORS 197.610.**

11 **“(b) Among the three model ordinances adopted under this section:**

12 **“(A) One must be targeted toward cities with a population of less than 2,500;**

13 **“(B) One must be targeted toward cities with a population of 2,500 or greater and less  
14 than 25,000; and**

15 **“(C) One must be targeted toward cities with a population of 25,000 or greater.**

16 **“(c) In adopting model ordinances under this section, the commission:**

17 **“(A) May consider geographic location and other regional factors; and**

18 **“(B) May allow a city to adopt, in whole or in part, a model ordinance targeted toward  
19 a larger city.**

20 **“(2) A model ordinance adopted under this section is presumed to have clear and objec-  
21 tive standards.**

22 **“(3) In adopting model ordinances under this section, the commission shall prioritize the  
23 principles and considerations under section 9 (2), chapter 13, Oregon Laws 2023.**

24 **“SECTION 3. ORS 197A.400 is amended to read:**

25 **“197A.400. (1) Except as provided in subsection (3) of this section, a local government may adopt  
26 and apply only clear and objective standards, conditions and procedures regulating the development  
27 of housing, including needed housing, on land within an urban growth boundary. The standards,  
28 conditions and procedures:**

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

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

33 **“(c) May be contained in a comprehensive plan, land use regulation or an ordinance re-  
34 lating to housing adopted by a city that adopts, including by reference, a model ordinance  
35 adopted by the Land Conservation and Development Commission that comports with any**

1 **qualifications, conditions or applicability of the model ordinance.**

2 “(2) The provisions of subsection (1) of this section do not apply to:

3 “(a) An application or permit for residential development in an area identified in a formally  
4 adopted central city plan, or a regional center as defined by Metro, in a city with a population of  
5 500,000 or greater.

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

8 “(3) In addition to an approval process for needed housing based on clear and objective stan-  
9 dards, conditions and procedures as provided in subsection (1) of this section, a local government  
10 may adopt and apply an alternative approval process for applications and permits for residential  
11 development based on approval criteria that are not clear and objective if:

12 “(a) The applicant retains the option of proceeding under the approval process that meets the  
13 requirements of subsection (1) of this section;

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

16 “(c) The approval criteria for the alternative approval process authorize a density at or above  
17 the density level authorized in the zone under the approval process provided in subsection (1) of this  
18 section.

19 “(4) Subject to subsection (1) of this section, this section does not infringe on a local  
20 government’s prerogative to:

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

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

23 “(c) Establish approval procedures.

24 “**SECTION 4.** ORS 197A.400, as amended by section 2, chapter 533, Oregon Laws 2023, is  
25 amended to read:

26 “197A.400. (1) Except as provided in subsection (3) of this section, a local government may adopt  
27 and apply only clear and objective standards, conditions and procedures regulating the development  
28 of housing, including needed housing, on land within an urban growth boundary, unincorporated  
29 communities designated in a county’s acknowledged comprehensive plan after December 5, 1994,  
30 nonresource lands and areas zoned for rural residential use as defined in ORS 215.501. The stan-  
31 dards, conditions and procedures:

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

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

36 “(c) **May be contained in a comprehensive plan, land use regulation or an ordinance re-**  
37 **lating to housing adopted by a city that adopts, including by reference, a model ordinance**  
38 **adopted by the Land Conservation and Development Commission that comports with any**  
39 **qualifications, conditions or applicability of the model ordinance.**

40 “(2) The provisions of subsection (1) of this section do not apply to:

41 “(a) An application or permit for residential development in an area identified in a formally  
42 adopted central city plan, or a regional center as defined by Metro, in a city with a population of  
43 500,000 or greater.

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

1 “(3) In addition to an approval process for needed housing based on clear and objective stan-  
2 dards, conditions and procedures as provided in subsection (1) of this section, a local government  
3 may adopt and apply an alternative approval process for applications and permits for residential  
4 development based on approval criteria that are not clear and objective if:

5 “(a) The applicant retains the option of proceeding under the approval process that meets the  
6 requirements of subsection (1) of this section;

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

9 “(c) The approval criteria for the alternative approval process authorize a density at or above  
10 the density level authorized in the zone under the approval process provided in subsection (1) of this  
11 section.

12 “(4) Subject to subsection (1) of this section, this section does not infringe on a local  
13 government’s prerogative to:

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

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

16 “(c) Establish approval procedures.

17 “**SECTION 5.** ORS 227.175 is amended to read:

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

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

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

30 “(4)(a) A city may not approve an application unless the proposed development of land would  
31 be in compliance with the comprehensive plan for the city and other applicable land use regulation  
32 or ordinance provisions, **including an ordinance described in ORS 197A.400 (1)(c)**. The approval  
33 may include such conditions as are authorized by ORS 227.215 or any city legislation.

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

37 “(B) This paragraph does not apply to:

38 “(i) Applications or permits for residential development in areas described in ORS 197A.400 (2);  
39 or

40 “(ii) Applications or permits reviewed under an alternative approval process adopted under ORS  
41 197A.400 (3).

42 “(c) A city may not condition an application for a housing development on a reduction in density  
43 if:

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

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

2 “(d) A city may not condition an application for a housing development on a reduction in height  
3 if:

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

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

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

9 “(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may condition an applica-  
10 tion for a housing development on a reduction in density or height only if the reduction is necessary  
11 to resolve a health, safety or habitability issue or to comply with a protective measure adopted  
12 pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the city must adopt  
13 findings supported by substantial evidence demonstrating the necessity of the reduction.

14 “(f) As used in this subsection:

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

17 “(B) ‘Authorized height level’ means the maximum height of a structure that is permitted under  
18 local land use regulations.

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

21 “(5) Hearings under this section may be held only after notice to the applicant and other inter-  
22 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.797.

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

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

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

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

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

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

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

42 “(9) The failure of a tenant or an airport owner to receive a notice which was mailed [*shall*]  
43 **does** not invalidate any zone change.

44 “(10)(a)(A) The hearings officer or such other person as the governing body designates may ap-  
45 prove or deny an application for a permit without a hearing if the hearings officer or other desig-

1 nated person gives notice of the decision and provides an opportunity for any person who is  
2 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,  
3 to file an appeal.

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

6 “(C) Notice under this subsection shall comply with ORS 197.797 (3)(a), (c), (g) and (h) and shall  
7 describe the nature of the decision. In addition, the notice shall state that any person who is ad-  
8 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-  
9 section may appeal the decision by filing a written appeal in the manner and within the time period  
10 provided in the city’s land use regulations. A city may not establish an appeal period that is less  
11 than 12 days from the date the written notice of decision required by this subsection was mailed.  
12 The notice shall state that the decision will not become final until the period for filing a local appeal  
13 has expired. The notice also shall state that a person who is mailed written notice of the decision  
14 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

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

19 “(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial  
20 evidentiary hearing required under ORS 197.797 as the basis for an appeal to the Land Use Board  
21 of Appeals. At the de novo hearing:

22 “(i) The applicant and other parties shall have the same opportunity to present testimony, ar-  
23 guments and evidence as they would have had in a hearing under subsection (3) of this section be-  
24 fore the decision;

25 “(ii) The presentation of testimony, arguments and evidence [*shall*] **may** not be limited to issues  
26 raised in a notice of appeal; and

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

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

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

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

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

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

45 “(B) Notice shall also be provided to any neighborhood or community organization recognized

1 by the governing body and whose boundaries include the site.

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

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

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

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

7 “(B) The date of the decision; and

8 “(C) A description of the decision made.

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

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

12 “(12) At the option of the applicant, the local government shall provide notice of the decision  
13 described in ORS 227.160 (2)(b) in the manner required by ORS 197.797 (2), in which case an appeal  
14 to the board shall be filed within 21 days of the decision. The notice shall include an explanation  
15 of appeal rights.

16 “(13) Notwithstanding other requirements of this section, limited land use decisions [*shall be*]  
17 **are** subject to the requirements set forth in ORS 197.195 and 197.828.

18 **“SECTION 6. In addition to and not in lieu of any other appropriation, there is appro-**  
19 **priated to the Land Conservation and Development Commission, for the biennium ending**  
20 **June 30, 2025, out of the General Fund, the amount of \$550,000, to adopt model ordinances**  
21 **under section 2 of this 2024 Act.”.**

22 In line 21, delete “3” and insert “7”.

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