

House Bill 3673

Sponsored by Representative EDWARDS

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act speeds up review of housing and facility permits. (Flesch Readability Score: 61.3).

Reduces to 90 days the time under which a city or county must decide a land use application for housing or mental health or addiction facilities.

A BILL FOR AN ACT

Relating to the timeline for reviewing land use applications; creating new provisions; and amending ORS 197A.470, 215.427, 215.429, 215.433, 227.178 and 227.179.

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

SECTION 1. ORS 215.427, as amended by section 7, chapter 102, Oregon Laws 2024, and section 8, chapter 110, Oregon Laws 2024, 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,]* **after the application is deemed complete**, 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.]*

the shorter period of:

(a) 150 days;

(b) 120 days if the application is for land within the urban growth boundary or for mineral extraction; or

(c) 90 days if the application is for the development of housing or mental health or addiction facilities.

(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 ORS 197A.470]* 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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 information within 180 days of the date the application was first submitted, approval or denial of the
 2 application must be based:

3 (A) Upon the standards and criteria that were applicable at the time the application was first
 4 submitted; or

5 (B) For an application relating to development of housing, upon the request of the applicant,
 6 those standards and criteria that are operative at the time of the request.

7 (b) If an applicant requests review under different standards as provided in paragraph (a)(B) of
 8 this subsection:

9 (A) For the purposes of this section, any applicable timelines for completeness review and final
 10 decisions restart as if a new application were submitted on the date of the request;

11 (B) For the purposes of this section [*and ORS 197A.470*] the application is not deemed complete
 12 until:

13 (i) The county determines that additional information is not required under subsection (2) of this
 14 section; or

15 (ii) The applicant makes a submission under subsection (2) of this section in response to a
 16 county's request;

17 (C) A county may deny a request under paragraph (a)(B) of this subsection if:

18 (i) The county has issued a public notice of the application; or

19 (ii) A request under paragraph (a)(B) of this subsection was previously made; and

20 (D) The county may not require that the applicant:

21 (i) Pay a fee, except to cover additional costs incurred by the county to accommodate the re-
 22 quest;

23 (ii) Submit a new application or duplicative information, unless information resubmittal is re-
 24 quired because the request affects or changes information in other locations in the application or
 25 additional narrative is required to understand the request in context; or

26 (iii) Repeat redundant processes or hearings that are inapplicable to the change in standards
 27 or criteria.

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

31 (a) All of the missing information;

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

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

35 (5) The period set in subsection (1) of this section [*or the 100-day period set in ORS 197A.470*]
 36 may be extended for a specified period of time at the written request of the applicant. The total
 37 of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed
 38 215 days.

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

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

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

44 (7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section
 45 [*and the 100-day period set in ORS 197A.470*] do not apply to:

1 (a) A decision of the county making a change to an acknowledged comprehensive plan or a land
 2 use regulation that is submitted to the Director of the Department of Land Conservation and De-
 3 velopment under ORS 197.610; or

4 (b) A decision of a county involving an application for the development of residential structures
 5 within an urban growth boundary, where the county has tentatively approved the application and
 6 extends these periods by no more than seven days in order to assure the sufficiency of its final or-
 7 der.

8 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
 9 governing body of the county or its designee does not take final action on an application [*for a*
 10 *permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the*
 11 *application is deemed complete*] **within the period set in subsection (1) of this section**, the county
 12 shall refund to the applicant either the unexpended portion of any application fees or deposits pre-
 13 viously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The
 14 applicant is not liable for additional governmental fees incurred subsequent to the payment of such
 15 fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional
 16 information to address relevant issues identified in the consideration of the application.

17 (9) A county may not compel an applicant to waive the period set in subsection (1) of this sec-
 18 tion or to waive the provisions of subsection (8) of this section [*or ORS 197A.470*] or **ORS 215.429**
 19 as a condition for taking any action on an application for a permit, limited land use decision or zone
 20 change except when such applications are filed concurrently and considered jointly with a plan
 21 amendment.

22 (10) The periods set forth in subsections (1) and (5) of this section [*and ORS 197A.470*] may be
 23 extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning
 24 the application will be mediated.

25 **SECTION 2.** ORS 227.178, as amended by section 8, chapter 102, Oregon Laws 2024, and section
 26 9, chapter 110, Oregon Laws 2024, is amended to read:

27 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, **after the appli-**
 28 **cation is deemed complete**, the governing body of a city or its designee shall take final action on
 29 an application for a permit, limited land use decision or zone change, including resolution of all
 30 appeals under ORS 227.180, within **the shorter period of:**

31 (a) 120 days [*after the application is deemed complete*]; or

32 (b) **90 days if the application is for the development of housing or mental health or ad-**
 33 **dition facilities.**

34 (2) If an application for a permit, limited land use decision or zone change is incomplete, the
 35 governing body or its designee shall notify the applicant in writing of exactly what information is
 36 missing within 30 days of receipt of the application and allow the applicant to submit the missing
 37 information. The application shall be deemed complete for the purpose of subsection (1) of this sec-
 38 tion [*or ORS 197A.470*] upon receipt by the governing body or its designee of:

39 (a) All of the missing information;

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

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

43 (3)(a) If the application was complete when first submitted or the applicant submits the re-
 44 quested additional information within 180 days of the date the application was first submitted, ap-
 45 proval or denial of the application must be based:

1 (A) Upon the standards and criteria that were applicable at the time the application was first
 2 submitted; or

3 (B) For an application relating to development of housing, upon the request of the applicant,
 4 those standards and criteria that are operative at the time of the request.

5 (b) If an applicant requests review under different standards as provided in paragraph (a)(B) of
 6 this subsection:

7 (A) For the purposes of this section, any applicable timelines for completeness review and final
 8 decisions restart as if a new application were submitted on the date of the request;

9 (B) For the purposes of this section [*and ORS 197A.470*] the application is not deemed complete
 10 until:

11 (i) The city determines that additional information is not required under subsection (2) of this
 12 section; or

13 (ii) The applicant makes a submission under subsection (2) of this section in response to a city's
 14 request;

15 (C) A city may deny a request under paragraph (a)(B) of this subsection if:

16 (i) The city has issued a public notice of the application; or

17 (ii) A request under paragraph (a)(B) of this subsection was previously made; and

18 (D) The city may not require that the applicant:

19 (i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

20 (ii) Submit a new application or duplicative information, unless information resubmittal is re-
 21 quired because the request affects or changes information in other locations in the application or
 22 additional narrative is required to understand the request in context; or

23 (iii) Repeat redundant processes or hearings that are inapplicable to the change in standards
 24 or criteria.

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

28 (a) All of the missing information;

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

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

32 (5) The [*120-day*] period set in subsection (1) of this section [*or the 100-day period set in ORS*
 33 *197A.470*] may be extended for a specified period of time at the written request of the applicant. The
 34 total of all extensions, except as provided in subsection (11) of this section for mediation, may not
 35 exceed 245 days.

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

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

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

41 (7) Notwithstanding subsection (6) of this section, the [*120-day*] period set in subsection (1) of
 42 this section [*and the 100-day period set in ORS 197A.470 do*] **does** not apply to:

43 (a) A decision of the city making a change to an acknowledged comprehensive plan or a land
 44 use regulation that is submitted to the Director of the Department of Land Conservation and De-
 45 velopment under ORS 197.610; or

1 (b) A decision of a city involving an application for the development of residential structures
 2 within an urban growth boundary, where the city has tentatively approved the application and ex-
 3 tends these periods by no more than seven days in order to assure the sufficiency of its final order.

4 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
 5 governing body of the city or its designee does not take final action on an application [*for a permit,*
 6 *limited land use decision or zone change within 120 days after the application is deemed complete*]
 7 **within the period set in subsection (1) of this section**, the city shall refund to the applicant,
 8 subject to the provisions of subsection (9) of this section, either the unexpended portion of any ap-
 9 plication fees or deposits previously paid or 50 percent of the total amount of such fees or deposits,
 10 whichever is greater. The applicant is not liable for additional governmental fees incurred subse-
 11 quent to the payment of such fees or deposits. However, the applicant is responsible for the costs
 12 of providing sufficient additional information to address relevant issues identified in the consider-
 13 ation of the application.

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

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

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

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

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

30 (10) A city may not compel an applicant to waive the [*120-day*] period set in subsection (1) of
 31 this section [*or to waive the provisions of subsection (8) of this section or ORS 197A.470*] or **ORS**
 32 **227.179** as a condition for taking any action on an application for a permit, limited land use decision
 33 or zone change except when such applications are filed concurrently and considered jointly with a
 34 plan amendment.

35 (11) The periods set forth in subsections (1) and (5) of this section [*and ORS 197A.470*] may be
 36 extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning
 37 the application will be mediated.

38 **SECTION 3.** ORS 215.429 is amended to read:

39 215.429. (1) [*Except when an applicant requests an extension under ORS 215.427,*] If the governing
 40 body of the county or its designee does not take final action on an application for a permit, limited
 41 land use decision or zone change within [*120 days or 150 days, as appropriate, after the application*
 42 *is deemed complete*] **the period set in ORS 215.427 (1)**, the applicant may file a petition for a writ
 43 of mandamus under ORS 34.130 in the circuit court of the county where the application was sub-
 44 mitted to compel the governing body or its designee to issue the approval.

45 (2) The governing body shall retain jurisdiction to make a land use decision on the application

1 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction
 2 for all decisions regarding the application, including settlement, shall be with the circuit court.

3 (3) A person who files a petition for a writ of mandamus under this section shall provide written
 4 notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any
 5 person who participated orally or in writing in any evidentiary hearing on the application held prior
 6 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
 7 tion is filed.

8 (4) If the governing body does not take final action on an application within [*120 days or 150*
 9 *days, as appropriate, of the date the application is deemed complete*] **the period set in ORS 215.427**
 10 **(1)**, the applicant may elect to proceed with the application according to the applicable provisions
 11 of the county comprehensive plan and land use regulations or to file a petition for a writ of
 12 mandamus under this section. If the applicant elects to proceed according to the local plan and
 13 regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the
 14 governing body makes a preliminary decision, provided a final written decision is issued within 14
 15 days of the preliminary decision.

16 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
 17 that the approval would violate a substantive provision of the county comprehensive plan or land
 18 use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of ap-
 19 proval that would otherwise be allowed by the county comprehensive plan or land use regulations.

20 **SECTION 4.** ORS 215.433 is amended to read:

21 215.433. (1) A person whose application for a permit is denied by the governing body of a county
 22 or its designee under ORS 215.427 may submit to the county a supplemental application for any or
 23 all other uses allowed under the county’s comprehensive plan and land use regulations in the zone
 24 that was the subject of the denied application.

25 (2) The governing body of a county or its designee shall take final action on a supplemental
 26 application submitted under this section, including resolution of all appeals, within 240 days after
 27 the application is deemed complete. Except that 240 days shall substitute for [*120 days or 150 days,*
 28 *as appropriate*] **the period set in ORS 215.427 (1)**, all other applicable provisions of ORS 215.427
 29 shall apply to a supplemental application submitted under this section.

30 (3) A supplemental application submitted under this section shall include a request for any re-
 31 zoning or zoning variance that may be required to issue a permit under the county’s comprehensive
 32 plan and land use regulations.

33 (4) The governing body of the county or its designee shall adopt specific findings describing the
 34 reasons for approving or denying:

- 35 (a) A use for which approval is sought under this section; and
- 36 (b) A rezoning or variance requested in the application.

37 **SECTION 5.** ORS 227.179 is amended to read:

38 227.179. (1) [*Except when an applicant requests an extension under ORS 227.178 (5),*] If the gov-
 39 erning body of a city or its designee does not take final action on an application for a permit, limited
 40 land use decision or zone change within [*120 days after the application is deemed complete*] **the pe-**
 41 **riod set in ORS 227.178 (1)**, the applicant may file a petition for a writ of mandamus under ORS
 42 34.130 in the circuit court of the county where the application was submitted to compel the gov-
 43 erning body or its designee to issue the approval.

44 (2) The governing body shall retain jurisdiction to make a land use decision on the application
 45 until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction

1 for all decisions regarding the application, including settlement, shall be with the circuit court.

2 (3) A person who files a petition for a writ of mandamus under this section shall provide written
 3 notice of the filing to all persons who would be entitled to notice under ORS 197.797 and to any
 4 person who participated orally or in writing in any evidentiary hearing on the application held prior
 5 to the filing of the petition. The notice shall be mailed or hand delivered on the same day the peti-
 6 tion is filed.

7 (4) If the governing body does not take final action on an application within [*120 days of the date*
 8 *the application is deemed complete*] **the period set in ORS 227.178 (1)**, the applicant may elect to
 9 proceed with the application according to the applicable provisions of the local comprehensive plan
 10 and land use regulations or to file a petition for a writ of mandamus under this section. If the ap-
 11 plicant elects to proceed according to the local plan and regulations, the applicant may not file a
 12 petition for a writ of mandamus within 14 days after the governing body makes a preliminary deci-
 13 sion, provided a final written decision is issued within 14 days of the preliminary decision.

14 (5) The court shall issue a peremptory writ unless the governing body or any intervenor shows
 15 that the approval would violate a substantive provision of the local comprehensive plan or land use
 16 regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval
 17 that would otherwise be allowed by the local comprehensive plan or land use regulations.

18 **SECTION 6.** ORS 197A.470 is amended to read:

19 197A.470. (1) As used in this section[.],

20 [(a)] “affordable housing” means housing that is affordable to households with incomes equal to
 21 or less than 60 percent of the median family income for the county in which the development is built
 22 or for the state, whichever is greater, that is subject to an affordable housing covenant, as provided
 23 in ORS 456.270 to 456.295, that maintains the affordability for a period of not less than 60 years from
 24 the date of the certificate of occupancy.

25 [(b)] “*Multifamily residential building*” means a building in which three or more residential units
 26 each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.]

27 [(2)] *Notwithstanding ORS 215.427 (1) or 227.178 (1), a city with a population greater than 5,000*
 28 *or a county with a population greater than 25,000 shall take final action on an application qualifying*
 29 *under subsection (3) of this section, including resolution of all local appeals under ORS 215.422 or*
 30 *227.180, within 100 days after the application is deemed complete.]*

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

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

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

36 [(c)] *At least 50 percent of the residential units included in the development will be sold or rented*
 37 *as affordable housing.]*

38 [(4)] *A city or a county shall take final action within the time allowed under ORS 215.427 or*
 39 *227.178 on any application for a permit, limited land use decision or zone change that does not qualify*
 40 *for review and decision under subsection (3) of this section, including resolution of all appeals under*
 41 *ORS 215.422 or 227.180, as provided by ORS 215.427 and 215.435 or by ORS 227.178 and 227.181.]*

42 [(5)] (2) With respect to property within an urban growth boundary owned by a nonprofit cor-
 43 poration organized as a religious corporation, a local government:

44 (a) May apply only restrictions or conditions of approval to the development of affordable
 45 housing that are, notwithstanding ORS 197A.400 (2) or statewide land use planning goals relating

1 to protections for historic areas:

2 (A) Clear and objective as described in ORS 197A.400 (1); or

3 (B) Discretionary standards related to health, safety, habitability or infrastructure.

4 (b) Shall approve the development of affordable housing on property not zoned for housing if:

5 (A) The property is not zoned for industrial uses; and

6 (B) The property is contiguous to property zoned to allow residential uses.

7 [(6)] **(3)** Affordable housing allowed under subsection [(5)(b)] **(2)(b)** of this section may be subject
8 only to the restrictions applicable to the contiguously zoned residential property as limited by sub-
9 section [(5)(a)] **(2)(a)** of this section and without requiring that the property be rezoned for resi-
10 dential uses. If there is more than one contiguous residential property, the zoning of the property
11 with the greatest density applies.

12 **SECTION 7. ORS 197A.470 is added to and made a part of ORS chapter 197A.**

13