

Senate Bill 48

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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 amends laws about home siting and construction. (Flesch Readability Score: 66.1).

Limits to within an urban growth boundary a dwelling developer's ability to apply updated land use regulations to pending application.

Amends the temporary urban growth boundary expansion program.

A BILL FOR AN ACT

1
2 Relating to housing; amending ORS 215.427 and 227.178 and sections 52 and 58, chapter 110, Oregon
3 Laws 2024.

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

5 **SECTION 1.** ORS 215.427, as amended by section 7, chapter 102, Oregon Laws 2024, and section
6 8, chapter 110, Oregon Laws 2024, is amended to read:

7 215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an
8 urban growth boundary and applications for mineral aggregate extraction, the governing body of a
9 county or its designee shall take final action on an application for a permit, limited land use deci-
10 sion or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the
11 application is deemed complete. The governing body of a county or its designee shall take final
12 action on all other applications for a permit, limited land use decision or zone change, including
13 resolution of all appeals under ORS 215.422, within 150 days after the application is deemed com-
14 plete, except as provided in subsections (3), (5) and (10) of this section.

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

20 (a) All of the missing information;

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

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

24 (3)(a) If the application was complete when first submitted or the applicant submits additional
25 information within 180 days of the date the application was first submitted, approval or denial of the
26 application must be based:

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

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 (B) For an application relating to development of housing **within an urban growth boundary**,
 2 upon the request of the applicant, those standards and criteria that are operative at the time of the
 3 request.

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

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

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

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

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

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

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

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

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

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

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

36 (6) The 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
 38 county; and

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

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

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

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

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

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

22 **SECTION 2.** ORS 227.178, as amended by section 8, chapter 102, Oregon Laws 2024, and section
 23 9, chapter 110, Oregon Laws 2024, is amended to read:

24 227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body
 25 of a city or its designee shall take final action on an application for a permit, limited land use de-
 26 cision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after
 27 the application is deemed complete.

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

33 (a) All of the missing information;

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

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

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

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

42 (B) For an application relating to development of housing **within an urban growth boundary**,
 43 upon the request of the applicant, those standards and criteria that are operative at the time of the
 44 request.

45 (b) If an applicant requests review under different standards as provided in paragraph (a)(B) of

1 this subsection:

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

4 (B) For the purposes of this section and ORS 197A.470 the application is not deemed complete
5 until:

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

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

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

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

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

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

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

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

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

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

23 (a) All of the missing information;

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

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

27 (5) The 120-day period set in subsection (1) of this section or the 100-day period set in ORS
28 197A.470 may be extended for a specified period of time at the written request of the applicant. The
29 total of all extensions, except as provided in subsection (11) of this section for mediation, may not
30 exceed 245 days.

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

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

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

36 (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this
37 section and the 100-day period set in ORS 197A.470 do not apply to:

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

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

44 (8) Except when an applicant requests an extension under subsection (5) of this section, if the
45 governing body of the city or its designee does not take final action on an application for a permit,

1 limited land use decision or zone change within 120 days after the application is deemed complete,
 2 the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, ei-
 3 ther the unexpended portion of any application fees or deposits previously paid or 50 percent of the
 4 total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional
 5 governmental fees incurred subsequent to the payment of such fees or deposits. However, the ap-
 6 plicant is responsible for the costs of providing sufficient additional information to address relevant
 7 issues identified in the consideration of the application.

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

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

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

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

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

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

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

32 **SECTION 3.** Section 52, chapter 110, Oregon Laws 2024, is amended to read:

33 **Sec. 52.** A city may not add, or petition to add, a site under sections 49 to 59, **chapter 110,**
 34 **Oregon Laws 2024** [*of this 2024 Act*], unless:

35 (1) The city has demonstrated a need for additional land based on the following factors:

36 (a)(A) In the previous 20 years there have been no urban growth boundary expansions for resi-
 37 dential use adopted by a city or by Metro in a location adjacent to the city; and

38 (B) The city does not have within the existing urban growth boundary an undeveloped, contig-
 39 uous tract that is zoned for residential use that is larger than 20 net residential acres; or

40 (b) Within urban growth boundary expansion areas for residential use adopted by the city over
 41 the previous 20 years, or by Metro in locations adjacent to the city, 75 percent of the lands either:

42 (A) Are developed; or

43 (B) Have an acknowledged comprehensive plan with land use designations in preparation for
 44 annexation and have a public facilities plan and associated financing plan.

45 (2) The city has demonstrated a need for affordable housing, based on:

1 (a) Having a greater percentage of severely cost-burdened households than the average for this
 2 state based on the Comprehensive Housing Affordability Strategy data from the United States De-
 3 partment of Housing and Urban Development; or

4 (b) At least 25 percent of the renter households in the city being severely rent burdened as in-
 5 dicated under the most recent housing equity indicator data under ORS 456.602 (2)(g).

6 **(3) The evaluation of the demonstrations required under this section and the evaluation**
 7 **of criteria in an application under sections 49 to 59, chapter 110, Oregon Laws 2024, must be**
 8 **based on the evidence, data and factors as of the time a public notice is issued under section**
 9 **53 (1), chapter 110, Oregon Laws 2024.**

10 **SECTION 4.** Section 58, chapter 110, Oregon Laws 2024, is amended to read:

11 **Sec. 58.** (1) In lieu of amending its urban growth boundary under any other process provided
 12 by sections 49 to 59, **chapter 110, Oregon Laws 2024** [of this 2024 Act], Metro or a city outside of
 13 Metro may amend its urban growth boundary to add one or more sites [described in section 51 (1)(a)
 14 and (b) of this 2024 Act] **that satisfy the requirements of section 50 (1)(a) to (c), chapter 110,**
 15 **Oregon Laws 2024,** to the urban growth boundary and to remove one or more tracts of land from
 16 the urban growth boundary as provided in this section. **For Metro, a site added under this section**
 17 **must be designated as an urban reserve.**

18 (2) The acreage of the added site and removed lands must be roughly equivalent.

19 (3) The removed lands must have been zoned for residential uses.

20 (4) The added site must be zoned for residential uses at the same or greater density than the
 21 removed lands.

22 (5)(a) Except as provided in paragraph (b) of this subsection, land may be removed from an urban
 23 growth boundary under this section without landowner consent.

24 (b) A landowner may not appeal the removal of the landowner's land from an urban growth
 25 boundary under this section unless the landowner agrees to enter into a recorded agreement with
 26 Metro or the city in which the landowner would consent to annexation and development of the land
 27 within 20 years if the land remains in the urban growth boundary.

28 (6) Review of an exchange of lands made under this section may only be made by:

29 (a) For cities outside of Metro, the county as provided in section 50 (2), **chapter 110, Oregon**
 30 **Laws 2024,** [of this 2024 Act] and by the Department of Land Conservation and Development, subject
 31 to judicial review, as provided in section 57, **chapter 110, Oregon Laws 2024** [of this 2024 Act]; or

32 (b) For Metro, the Department of Land Conservation and Development, subject to judicial re-
 33 view, as provided in section 57, **chapter 110, Oregon Laws 2024** [of this 2024 Act].

34 (7) Sections 50 (1)(d) to (g), 52, 53, 54, 55 and 56, **chapter 110, Oregon Laws 2024,** [of this 2024
 35 Act] do not apply to a site addition made under this section.

36