

SB 49-1
(LC 1602)
2/26/25 (RLM/ps)

Requested by Senator PHAM K

**PROPOSED AMENDMENTS TO
SENATE BILL 49**

1 In line 2 of the printed bill, after “housing” insert “; creating new pro-
2 visions; and amending ORS 197A.100, 197A.400, 197A.465, 320.195 and
3 455.132”.

4 Delete lines 4 through 8 and insert:

5 **“SECTION 1. Section 2 of this 2025 Act is added to and made a part
6 of ORS chapter 197A.**

7 **“SECTION 2. (1) Each city must comply with this section on the
8 earlier of January 1, 2034, or the date that the city’s housing pro-
9 duction strategy is due under ORS 197A.100 (1).**

10 **“(2) A city with a population of 10,000 or greater on the effective
11 date of this 2025 Act must remove minimum densities for all developed
12 residential lands, except that a city may enforce a density to prevent
13 the reduction of existing housing units.**

14 **“(3) A city with a population of 25,000 or greater on the effective
15 date of this 2025 Act must have at least one area, but not necessarily
16 the same area, zoned to allow for each housing type that would be
17 allowed under the model ordinances adopted by the Land Conservation
18 and Development Commission under section 2 (1)(b)(C), chapter 111,
19 Oregon Laws 2024.**

20 **“(4) This section applies only within a city’s urban growth bound-
21 ary.**

1 **“(5) This section may not be used as the basis for any city to amend**
2 **its estimate of housing capacity or need for buildable lands or**
3 **development-ready lands.**

4 **“SECTION 3.** ORS 197A.100 is amended to read:

5 “197A.100. (1) A city with a population of 10,000 or greater shall develop
6 and adopt a housing production strategy under this section no later than the
7 latter of the date:

8 “(a) One year after the city’s deadline for completing a housing capacity
9 determination under ORS 197A.270 (2), 197A.280 (2) or 197A.335 (1); or

10 “(b) If the city was referred to the housing acceleration program under
11 ORS 197A.130, three years following the most recent adoption of a strategy.

12 “(2) A housing production strategy must include a list of specific actions,
13 including the adoption of measures and policies, that the city shall undertake
14 to promote:

15 “(a) The development of needed housing;

16 “(b) The development and maintenance of housing that is of diverse
17 housing types, high-quality, affordable and accessible;

18 “(c) Housing with access to economic opportunities, services and amen-
19 ities; and

20 “(d) Affirmatively furthering fair housing.

21 “(3) Actions that may be included in a housing production strategy in-
22 clude:

23 “(a) The reduction of financial and regulatory impediments to developing
24 needed housing, including removing or easing approval standards or proce-
25 dures for needed housing at higher densities or that is affordable;

26 “(b) The creation of financial and regulatory incentives for development
27 of needed housing, including creating incentives for needed housing at higher
28 densities or that is affordable;

29 “(c) The development of a plan to access resources available at local, re-
30 gional, state and national levels to increase the availability and affordability

1 of needed housing;

2 “(d) Target development on identified development-ready lands;

3 “(e) Actions that affirmatively further fair housing;

4 “(f) Actions that:

5 “(A) Increase housing diversity, efficiency and affordability, including

6 new construction and the preservation of naturally occurring affordable

7 housing;

8 “(B) Allow greater housing choice for households and greater flexibility

9 in location, type and density;

10 “(C) Reduce cost or delay and increase procedural certainty for the pro-

11 duction of housing; or

12 “(D) Prepare land for development or redevelopment, including:

13 “(i) Public facilities planning and other investment strategies that in-

14 crease the readiness of land for development for housing production;

15 “(ii) Site preparation, financial incentives or other incentive-based meas-

16 ures that increase the likelihood of development or redevelopment of land;

17 or

18 “(iii) The redevelopment of underutilized commercial and employment

19 lands for housing or a mix of housing and commercial uses; or

20 “(g) Any other actions identified by rule of the Land Conservation and

21 Development Commission intended to promote housing production,

22 affordability and choice.

23 “(4) Actions proposed in a city’s housing production strategy shall include

24 clear deadlines by which the city expects to undertake the action.

25 “(5) In creating a housing production strategy, a city shall review and

26 consider:

27 “(a) Socioeconomic and demographic characteristics of households living

28 in existing needed housing;

29 “(b) Market conditions affecting the provision of needed housing;

30 “(c) Measures already adopted by the city to promote the development of

1 needed housing;

2 “(d) Existing and expected barriers to the development of needed housing;
3 and

4 “(e) For each action the city includes in its housing production strategy:

5 “(A) The schedule for its adoption;

6 “(B) The schedule for its implementation;

7 “(C) Its expected magnitude of impact on the development of needed
8 housing; and

9 “(D) The time frame over which it is expected to impact needed housing.

10 “(6) The housing production strategy must include within its index a copy
11 of the city’s most recently completed survey under ORS 197A.110.

12 “(7) The adoption of a housing production strategy is not a land use de-
13 cision and is not subject to appeal or review except as provided in ORS
14 197A.103.

15 “(8) A city with a population of less than 10,000 may develop a housing
16 production strategy as provided in this section.

17 “(9) As used in this section, ‘affirmatively furthering fair housing’ means
18 meaningful actions that, when taken together, address significant disparities
19 in housing needs and access to opportunity and replace segregated living
20 patterns with truly integrated and balanced living patterns to transform ra-
21 cially and ethnically concentrated areas of poverty into areas of opportunity
22 and foster and maintain compliance with civil rights and fair housing laws.

23 **“(10) A city that amends its land use regulations or comprehensive**
24 **plan to increase the allowable size or density of housing, whether or**
25 **not the amendment was a part of its housing production strategy, may**
26 **defer, until the next deadline for preparing a housing production**
27 **strategy under subsection (1) of this section, revisions to its compre-**
28 **hensive plan required under ORS 197.175 (2)(a) to comply with state-**
29 **wide land use planning goals relating to housing, transportation or**
30 **public facilities and services.**

1 **“SECTION 4.** ORS 197A.400, as amended by section 2, chapter 533,
2 Oregon Laws 2023, and section 4, chapter 111, Oregon Laws 2024, is amended
3 to read:

4 “197A.400. (1) Except as provided in subsection (3) of this section, a local
5 government may adopt and apply only clear and objective standards, condi-
6 tions and procedures regulating the development of housing, including
7 needed housing, on land within an urban growth boundary, unincorporated
8 communities designated in a county’s acknowledged comprehensive plan after
9 December 5, 1994, nonresource lands and areas zoned for rural residential
10 use as defined in ORS 215.501. The standards, conditions and procedures:

11 “(a) May include, but are not limited to, one or more provisions regulat-
12 ing the density or height of a development.

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

15 “(c) May be contained in a comprehensive plan, land use regulation or
16 an ordinance relating to housing adopted by a city that adopts, including by
17 reference, a model ordinance adopted by the Land Conservation and Devel-
18 opment Commission that comports with any qualifications, conditions or
19 applicability of the model ordinance.

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

21 “[(a)] (A) An application or permit for residential development in an area
22 identified in a formally adopted central city plan, or a regional center as
23 defined by Metro, in a city with a population of 500,000 or greater.

24 “[(b)] (B) An application or permit for residential development in historic
25 areas designated for protection under a land use planning goal protecting
26 historic areas.

27 **“(b) A body reviewing an application or permit for residential de-**
28 **velopment under this subsection may not reduce the density allowed**
29 **under the zoning of the development’s land.**

30 “(3) In addition to an approval process for needed housing based on clear

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

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

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

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

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

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

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

18 “(c) Establish approval procedures.

19 **“SECTION 5.** ORS 197A.465 is amended to read:

20 “197A.465. (1) As used in this section **and section 7 of this 2025 Act:**

21 “(a) ‘Affordable housing’ means housing that is [*affordable to households*
22 *with incomes equal to or higher than 80 percent of the median family income*
23 *for the county in which the housing is built.*]:

24 **“(A) Affordable to rent by households making 80 percent of the area**
25 **median income; or**

26 **“(B) Affordable to purchase based on income restrictions as defined**
27 **by the local government.**

28 “(b) ‘Multifamily structure’ means a structure that contains [*three*] **10** or
29 more housing units sharing at least one wall, floor or ceiling surface in
30 common with another unit within the same structure.

1 “(2) Except as provided in subsection (3) of this section, [*a metropolitan*
2 *service district*] **Metro** may not adopt a land use regulation or functional
3 plan provision, or impose as a condition for approving a permit under ORS
4 215.427 or 227.178 a requirement, that has the effect of establishing the sales
5 or rental price for a housing unit or residential building lot or parcel, or
6 that requires a housing unit or residential building lot or parcel to be des-
7 ignated for sale or rent to a particular class or group of purchasers or
8 renters.

9 “(3) [*The provisions of subsection (2) of this section do not limit the au-*
10 *thority of a metropolitan service district to*] **Metro may:**

11 “(a) Adopt or enforce a use regulation, provision or requirement creating
12 or implementing an incentive, contract commitment, density bonus or other
13 voluntary regulation, provision or requirement designed to increase the sup-
14 ply of moderate or lower cost housing units; or

15 “(b) Enter into an affordable housing covenant as provided in ORS 456.270
16 to 456.295.

17 “(4) Notwithstanding ORS 91.225, a city or county may adopt a land use
18 regulation [*or functional plan provision*], or impose as a condition for ap-
19 proving a permit under ORS 215.427 or 227.178 a requirement, that has the
20 effect of establishing the sales or rental price for a new multifamily struc-
21 ture, or that requires a new multifamily structure to be designated for sale
22 or rent as affordable housing.

23 “(5) A regulation[, *provision*] or requirement adopted or imposed under
24 subsection (4) of this section:

25 “[*(a) May not require more than 20 percent of housing units within a*
26 *multifamily structure to be sold or rented as affordable housing.*]

27 “[*(b) May apply only to multifamily structures containing at least 20 hous-*
28 *ing units.*]

29 “(a) **Does not apply to multifamily structures containing:**

30 “(A) **Fewer than 10 housing units; and**

1 **“(B) Fewer than 20 housing units if the structure is within the City**
2 **of Portland.**

3 “[(c)] (b) Must provide developers the option to pay an in-lieu fee, in an
4 amount determined by the city or county, in exchange for providing the
5 requisite number of housing units within the multifamily structure to be sold
6 or rented at below-market rates.

7 “[(d)] (c) Must require the city or county to offer a developer of multi-
8 family structures[, *other than a developer that elects to pay an in-lieu fee*
9 *pursuant to paragraph (c) of this subsection, at least one of the following in-*
10 *centives]* **one or more of the following incentives in an amount totaling**
11 **no less than the expected marginal loss in value under section 7 of this**
12 **2025 Act:**

13 “(A) Whole or partial [*fee*] waivers or reductions[.] **for fees, including**
14 **impact fees or system development charges, that have been in effect**
15 **for at least two years when the most recent analysis under section 7**
16 **of this 2025 Act was conducted.**

17 **“(B) Immediate or structured cash payments.**

18 “[(B) *Whole or partial waivers of system development charges or impact fees*
19 *set by the city or county.*]

20 “[(C) *Finance-based incentives.*]

21 “[(D)] (C) Full or partial exemption from ad valorem property taxes [*on*
22 *the terms described in this subparagraph. For purposes of any statute granting*
23 *a full or partial exemption from ad valorem property taxes that uses a defi-*
24 *inition of ‘low income’ to mean income at or below 60 percent of the area me-*
25 *dian income and for which the multifamily structure is otherwise eligible, the*
26 *city or county shall allow the multifamily structure of the developer to qualify*
27 *using a definition of ‘low income’ to mean income at or below 80 percent of the*
28 *area median income*].

29 “[(e) *Does not apply to a CCRC, as defined in ORS 101.020, that executes*
30 *and records a covenant with the applicable city or county in which the CCRC*

1 *agrees to operate all units within its structure as a CCRC. Units within a*
2 *CCRC that are offered or converted into residential units that are for sale or*
3 *rent and are not subject to ORS chapter 101 must comply with regulations,*
4 *provisions or requirements adopted by the city or county that are consistent*
5 *with those applicable to a new multifamily structure under subsection (3) or*
6 *(4) of this section.]*

7 “(6) A regulation[, *provision*] or requirement adopted or imposed under
8 subsection (4) of this section may offer developers one or more of the fol-
9 lowing incentives **to develop affordable housing, in addition to those**
10 **required by subsection (5)(c) of this section:**

11 “(a) Density adjustments.

12 “(b) Expedited service for local permitting processes.

13 “(c) Modification of height, floor area or other site-specific requirements.

14 “(d) Other incentives as determined by the city or county.

15 “[*(7) Subsection (4) of this section does not restrict the authority of a city*
16 *or county to offer developers voluntary incentives, including incentives to:*]

17 “[*(a) Increase the number of affordable housing units in a development.*]

18 “[*(b) Decrease the sale or rental price of affordable housing units in a de-*
19 *velopment.*]

20 “[*(c) Build affordable housing units that are affordable to households with*
21 *incomes equal to or lower than 80 percent of the median family income for the*
22 *county in which the housing is built.*]

23 “[*(8)(a)*] **(7)** A city or county that adopts or imposes a regulation[, *pro-*
24 *vision*] or requirement described in subsection (4) of this section may not
25 apply the regulation[, *provision*] or requirement to any multifamily structure
26 [*for which*] **if, prior to the operative date of the regulation or require-**
27 **ment:**

28 “**(a)** An application for a permit, as defined in ORS 215.402 or 227.160,
29 has been submitted as provided in ORS 215.416 or 227.178 (3)[,]; or[, *if such*
30 *a permit is not required,*]

1 “(b) A building permit application has been submitted [to the city or
2 county prior to the effective date of the regulation, provision or requirement].

3 “[(b) If a multifamily structure described in paragraph (a) of this sub-
4 section has not been completed within the period required by the permit issued
5 by the city or county, the developer of the multifamily structure shall resubmit
6 an application for a permit, as defined in ORS 215.402 or 227.160, as provided
7 in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building
8 permit application under the regulation, provision or requirement adopted by
9 the city or county under subsection (4) of this section.]

10 “[(9)(a) A city or county that adopts or imposes a regulation, provision or
11 requirement under subsection (4) of this section shall adopt and apply only
12 clear and objective standards, conditions and procedures regulating the devel-
13 opment of affordable housing units within its jurisdiction. The standards,
14 conditions and procedures may not have the effect, either individually or cu-
15 mulatively, of discouraging development of affordable housing units through
16 unreasonable cost or delay.]

17 “[(b) Paragraph (a) of this subsection does not apply to:]

18 “[(A) An application or permit for residential development in an area
19 identified in a formally adopted central city plan, or a regional center as de-
20 fined by Metro, in a city with a population of 500,000 or more.]

21 “[(B) An application or permit for residential development in historic areas
22 designated for protection under a land use planning goal protecting historic
23 areas.]

24 “[(c) In addition to an approval process for affordable housing based on
25 clear and objective standards, conditions and procedures as provided in para-
26 graph (a) of this subsection, a city or county may adopt and apply an alter-
27 native approval process for applications and permits for residential
28 development based on approval criteria regulating, in whole or in part, ap-
29 pearance or aesthetics that are not clear and objective if:]

30 “[(A) The developer retains the option of proceeding under the approval

1 *process that meets the requirements of paragraph (a) of this subsection;]*

2 *“[(B) The approval criteria for the alternative approval process comply with*
3 *applicable statewide land use planning goals and rules; and]*

4 *“[(C) The approval criteria for the alternative approval process authorize*
5 *a density at or above the density level authorized in the zone under the ap-*
6 *proval process provided in paragraph (a) of this subsection.]*

7 *“[(10) If a regulation, provision or requirement adopted or imposed by a city*
8 *or county under subsection (4) of this section requires that a percentage of*
9 *housing units in a new multifamily structure be designated as affordable*
10 *housing, any incentives offered under subsection (5)(d) or (6) of this section*
11 *shall be related in a manner determined by the city or county to the required*
12 *percentage of affordable housing units.]*

13 **“(8) Subsection (4) of this section does not apply to the development**
14 **of a CCRC, as defined in ORS 101.020, that executes and records a**
15 **covenant with the applicable city or county in which the CCRC agrees**
16 **to operate all units within its structure as a CCRC. Units within a**
17 **CCRC that are offered or converted into residential units that are for**
18 **sale or rent and are not subject to ORS chapter 101 must comply with**
19 **regulations or requirements adopted by the city or county that are**
20 **consistent with those applicable to a new multifamily structure under**
21 **subsection (3) or (4) of this section.**

22 **“(9) This section and section 7 of this 2025 Act do not restrict a local**
23 **government from offering incentives, including as described in sub-**
24 **section (5)(c) or (6) of this section, on a voluntary basis in order to**
25 **encourage a developer to:**

26 **“(a) Increase the number of affordable housing units in a develop-**
27 **ment.**

28 **“(b) Decrease the sale or rental price of housing units in a devel-**
29 **opment.**

30 **“(c) Build affordable housing units.**

1 **“SECTION 6. Section 7 of this 2025 Act is added to and made a part**
2 **of ORS chapter 197A.**

3 **“SECTION 7. (1) A regulation or requirement adopted or imposed**
4 **under ORS 197A.465 (4) is not enforceable unless, within the previous**
5 **three years, the governing body of the city or county have adopted by**
6 **ordinance, an economic analysis of an inclusionary zoning program**
7 **as described in this section.**

8 **“(2) The analysis must calculate the average expected decrease in**
9 **net present value of a multifamily structure, by type, that would be**
10 **expected to result from compliance with the regulation or requirement**
11 **under ORS 197A.465 (4) without the offsets described in ORS 197A.465**
12 **(5)(c).**

13 **“(3) For the purposes of the analysis under subsection (2) of this**
14 **section, a city or county:**

15 **“(a) May for costs and benefits that would accrue over time, in-**
16 **cluding lost rents from below-market homes and multiyear tax abate-**
17 **ments, use a net present value calculation, a comparison of capitalized**
18 **valuations, or a combination of the two;**

19 **“(b) May apply a discount rate on future benefits using a 10-year**
20 **treasury bond rate plus a risk-adjustment spread;**

21 **“(c) Must, if using a risk-adjustment spread or capitalization rate,**
22 **use a spread or rate that is informed by information or interviews**
23 **about current market conditions; and**

24 **“(d) Must assume that the loss in value is equal to 1.2 times the**
25 **net present value in the expected change in housing unit rent or sales**
26 **price.**

27 **“(4) The analysis must segment multifamily structure types by the**
28 **numbers of bedrooms. The analysis must also segment the types by**
29 **at least two geographic areas, if the analysis is for a city that has a**
30 **population of 75,000 or more. Analyses may include segmentation by**

1 additional geographic areas or by other relevant factors.

2 “(5) The loss in estimated value may be calculated on a per housing
3 unit basis or on a per square foot basis.

4 “(6) An analysis adopted under this section is not a land use deci-
5 sion.

6 **“SECTION 8.** (1) Section 7 of this 2025 Act and the amendments to
7 ORS 197A.465 by section 5 of this 2025 Act become operative on January
8 1, 2028.

9 “(2) Section 7 of this 2025 Act and the amendments to ORS 197A.465
10 by section 5 of this 2025 Act:

11 “(a) Prohibit a city or county from enforcing any regulations or
12 requirements not in compliance with ORS 197A.465 on or after the
13 operative date specified in subsection (1) of this section.

14 “(b) Does not affect, if done under ORS 197A.465 as was in effect
15 before the operative date under subsection (1) of this section:

16 “(A) The award of any incentive;

17 “(B) The imposition of any land use regulation or condition of ap-
18 proval; or

19 “(C) The interpretation or enforceability of any contractual agree-
20 ment between a developer and the city or county.

21 “(3) The Department of Land Conservation and Development may
22 take any action before the operative date specified in subsection (1)
23 of this section that is necessary for the department to exercise, on and
24 after the operative date specified in subsection (1) of this section, all
25 of the duties, functions and powers conferred on the department by
26 section 7 of this 2025 Act and the amendments to ORS 197A.465 by
27 section 5 of this 2025 Act.

28 **“SECTION 9.** ORS 455.132 is amended to read:

29 “455.132. (1) There is established in the Department of Consumer and
30 Business Services a Building Codes Structures Board consisting of nine

1 members.

2 “(2) The Building Codes Structures Board shall assist the Director of the
3 Department of Consumer and Business Services in administering the struc-
4 tural, prefabricated structures and energy programs described in this chapter
5 and the accessibility to persons with physical disabilities program described
6 in ORS 447.210 to 447.280.

7 “(3) The board shall consist of members broadly representative of the in-
8 dustries and professions involved in the development and construction of
9 buildings and energy conservation, including:

10 “(a) An architect [*or engineer*] **with experience in multifamily resi-**
11 **dential design;**

12 “(b) A [*general contractor, as defined in ORS 701.005*] **structural engi-**
13 **neer, certified or registered under ORS 672.107**, specializing in the [*con-*
14 *struction*] **design** of buildings more than three stories above grade;

15 “(c) A contractor specializing in construction for heavy industry **or for**
16 **multifamily residential buildings more than three stories above grade;**

17 “(d) A representative of the building trade;

18 “(e) A representative of a utility or energy supplier;

19 “(f) A representative of a fire protection agency **or fire protection en-**
20 **gineer;**

21 “(g) A building official;

22 “(h) An owner or manager of a commercial office building **or a multi-**
23 **family residential building;** and

24 “(i) A representative selected from individuals recommended by the
25 Oregon Disabilities Commission.

26 **“SECTION 10. The amendments to ORS 455.132 by section 9 of this**
27 **2025 Act does not allow or require the removal of a member of the**
28 **Building Codes Structures Board during the member’s unexpired term.**

29 **“SECTION 11. Section 10 of this 2025 Act is repealed on January 2,**
30 **2030.**

1 **“SECTION 12.** ORS 320.195 is amended to read:

2 “320.195. (1) As soon as practicable after the end of each fiscal quarter,
3 a city or county that imposes a construction tax pursuant to ORS 320.192
4 shall deposit the construction tax revenues collected in the fiscal quarter
5 just ended in the general fund of the city or county.

6 “(2) Of the revenues deposited pursuant to subsection (1) of this section,
7 the city or county may retain an amount not to exceed four percent as an
8 administrative fee to recoup the expenses of the city or county incurred in
9 complying with this section.

10 “(3) After deducting the administrative fee authorized under subsection
11 (2) of this section and paying any refunds, the city or county shall use the
12 remaining revenues received under ORS 320.192 (2) as follows:

13 “(a) Fifty percent to fund developer incentives allowed or offered pursuant
14 to ORS 197A.465 [(5)(c) and (d) and (7)] **(5) or (6)**;

15 “(b) Fifteen percent to be distributed to the Housing and Community
16 Services Department to fund home ownership programs that provide down
17 payment assistance; and

18 “(c) Thirty-five percent for programs and incentives of the city or county
19 related to affordable housing as defined by the city or county, respectively,
20 for purposes of this section and ORS 320.192.

21 “(4) After deducting the administrative fee authorized under subsection
22 (2) of this section and paying any refunds, the city or county shall use 50
23 percent of the remaining revenues received under ORS 320.192 (3) to fund
24 programs of the city or county related to housing.”.

25
