



Clatsop County – Land Use Planning

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TO: Planning Commission Members

CC: Land Use Planning Staff
Anthony Pope, County Counsel

FROM: Gail Henrikson, AICP, CFM – Community Development Director

DATE: December 12, 2023

RE: **IMPLEMENTATION OF HB 3197 – CLEAR AND OBJECTIVE STANDARDS FOR HOUSING**

During the regular 2023 legislative session, the Oregon Legislature adopted [HB 3197](#). Section 2 of the bill requires counties to adopt clear and objective housing standards for unincorporated communities, nonresource lands and areas zoned for rural residential use by July 1, 2025. Section 3 of the bill also prohibits counties from establishing standards for accessory farmworker housing that are in addition to those required under [ORS 215.283](#), unless those standards are clear and objective. Section 3 also becomes effective on July 1, 2025.

The evolution of the requirement to apply only clear and objective standards has occurred over several years. Prior to 2017, cities had been required to apply clear and objective standards for “needed housing”. The adoption of SB 1015 (2017) made the requirement mandatory for *all* housing within urban growth boundaries. The adoption of HB 3197 (2023) now expands this requirement to unincorporated areas.

The intent of clear and objective standards is to ensure that local governments provide a predictable path to approval for housing projects and that the path does not rely on discretionary or subjective criteria.

Local governments that provide clear and objective standards may also provide alternative or “discretionary” standards that developers may choose to follow. To provide the maximum amount of development flexibility, staff is recommending that the County adopt clear and objective standards, as required by HB 3197, while continuing to maintain an elective discretionary path. The elective discretionary path is basically the code in its current form. The requirements of the optional discretionary path are detailed in [OAR 660-008-0015](#). Discretionary pathways must allow the developer to revert back to clear and objective standards, if desired, and the alternative approval must authorize a density at or above the density level authorized in the zone.

In order to comply the July 1, 2025, deadline, staff is proposing a series of work sessions with the Planning Commission and Board of Commissioners to review and revise the County’s existing development standards. The tentative Planning Commission schedule is shown below:

| HB 3197 IMPLEMENTATION SCHEDULE (DRAFT) | | |
|--|--|---|
| Meeting Date | Topic | Comments |
| December 12, 2023 | Introduction of HB 3197 and discussion of tentative schedule | |
| January 9, 2024 | Article 1: Introductory Provisions | Article 1 includes: <ul style="list-style-type: none"> • Definitions • General Development Provisions |
| February 13, 2024 | Article 2: Procedures for Land Use Applications | Article 2 includes: <ul style="list-style-type: none"> • Development permits • Condition Use permits • Appeals • Public notice requirements • Development and Use Permitted with Review • Temporary Use permits • Subdivisions • Partitions • Property Line Adjustments • Site Plan review • Transportation System Impact review |
| February 2024 | Board of Commissioners Work Session | Discuss project initiation and process; obtain general direction and feedback from Board |
| March 12, 2024 | Article 2: Procedures for Land Use Applications | |
| April 9, 2024 | Article 3: Structure Siting and Development Standards | Article 3 includes: <ul style="list-style-type: none"> • Calculating average grade • Water supply • Parking • Signage |

| HB 3197 IMPLEMENTATION SCHEDULE (DRAFT) | | |
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| Meeting Date | Topic | Comments |
| | | <ul style="list-style-type: none"> • Oceanfront Setbacks • ADUs and Guesthouses • Health Hardship Dwellings • Non-conforming uses • Erosion Control • Cluster Development and Density Transfers • Mobile Home Parks • Mobile Homes • RV Parks • Farm and Forest Zone Standards • Communication Facilities Siting Standards • Vehicle Access Control and Circulation • Pedestrian and Bicycle Access and Circulation • Subdivision Design Standards • Transportation Improvements and Road Standard Specifications |
| May 14, 2024 | Article 3: Structure Siting and Development Standards | |
| June 2024 | Board of Commissioners Work Session | Discuss project progress and initial recommendations; obtain general direction and feedback from Board |
| June 11, 2024 | Article 4: Zone Regulations | Article 4 includes: <ul style="list-style-type: none"> • Setback, lot coverage and building heights for all zones • Land Transportation Facilities |
| July 9, 2024 | Article 4: Zone Regulations | |
| August 13, 2024 | Article 4: Zone Regulations | |
| September 10, 2024 | Article 5: Special Districts | Article 5 includes: |

| HB 3197 IMPLEMENTATION SCHEDULE (DRAFT) | | |
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| Meeting Date | Topic | Comments |
| | | <ul style="list-style-type: none"> • Flood Hazard Overlay • Tsunami Inundation Zone • Geologic Hazards Overlay • Beach and Dune Overlay • Shoreland Overlay • Aquifer Reserve Overlay • Destination Resort Overlay • Planned Development Overlay • North Clatsop Plains Overlay • Floating Residences and Recreational Cabins • Airport Overlay |
| October 8, 2024 | Article 5: Special Districts | |
| October 2024 | Board of Commissioners Work Session | Discuss project progress and initial recommendations; obtain general direction and feedback from Board |
| November 12, 2024 | Article 6: Environmental and Resource Protection | Article 6 includes: <ul style="list-style-type: none"> • Columbia River Estuary Shoreland and Aquatic Use and Activity Standards • Protection of Riparian Vegetation • Development of Historic and/or Archaeological Sites |
| December 10, 2024 | Notice to DLCD | Required 35-day PAPA notice prior to February PC public hearing |
| January 2025 | Board of Commissioners Work Session | Review initial draft of recommendations discussed by the Planning Commission Staff revisions to address Board input |

| HB 3197 IMPLEMENTATION SCHEDULE (DRAFT) | | |
|--|---|--|
| Meeting Date | Topic | Comments |
| February 11, 2025 | Public Hearing | Review of final ordinance and recommendation to Board of Commissioners |
| March 12, 2025 | BOC 1st Public Hearing | |
| March 26, 2025 | BOC 2nd Public Hearing | |
| March 30, 2025 | Transmit adopted ordinance to DLCD | |
| April 30, 2025 | Ordinance becomes effective | |
| July 1, 2025 | HB 3197 becomes effective; amendments must be adopted prior to this deadline | |

This schedule is based on an assumption that each LAWDUC article will require significant review and revision. Staff anticipates, however, that some of the updates will be completed as part of other code amendment processes currently underway, such as the revisions to the non-conforming use standards and the proposed housing amendments affecting Article 4. The schedule is intended to provide some flexibility in case of unanticipated delays. Any appeals or litigation related to the proposed changes would likely delay final adoption until after the July 1, 2025, deadline, placing the County out of compliance with state statutes.

NEXT STEPS

Staff is requesting that the Planning Commission review the proposed schedule and provide recommendations regarding any revisions or corrections.

EXHIBITS

Exhibit A: HB 3197 Enrolled

EXHIBIT A

HB 3197 Enrolled

Enrolled House Bill 3197

Sponsored by Representative MCLAIN; Senator MANNING JR (at the request of Washington County)

CHAPTER

AN ACT

Relating to standards applicable to development of housing; creating new provisions; amending ORS 197.307 and 215.278; and declaring an emergency.

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

SECTION 1. ORS 197.307, as amended by section 14, chapter 401, Oregon Laws 2019, section 2, chapter 54, Oregon Laws 2022, and section 81, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), is amended to read:

197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including agriculture workforce housing, is a matter of statewide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) A local government shall permit needed housing in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing, **on land within an urban growth boundary**. The standards, conditions and procedures:

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

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

(5) The provisions of subsection (4) of this section do not apply to:

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

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria [*regulating, in whole or in part, appearance or aesthetics*] that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

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

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

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

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

(c) Establish approval procedures.

SECTION 2. ORS 197.307, as amended by section 14, chapter 401, Oregon Laws 2019, section 2, chapter 54, Oregon Laws 2022, section 81, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), and section 1 of this 2023 Act, is amended to read:

197.307. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including agriculture workforce housing, is a matter of statewide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) A local government shall permit needed housing in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

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

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

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

(5) The provisions of subsection (4) of this section do not apply to:

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

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

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

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

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

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

- (a) Set approval standards under which a particular housing type is permitted outright;
- (b) Impose special conditions upon approval of a specific development proposal; or
- (c) Establish approval procedures.

SECTION 3. ORS 215.278 is amended to read:

215.278. (1) The Land Conservation and Development Commission shall revise administrative rules regarding dwellings customarily provided in conjunction with farm use to allow, under ORS 215.213 and 215.283, the establishment of accessory dwellings needed to provide opportunities for farmworker housing for individuals primarily engaged in farm use whose assistance in the management of the farm is or will be required by the farm operator on the farm unit.

(2) County land use regulations may not establish standards for accessory farmworker housing that are in addition to those required under this chapter or commission rules unless the standards are clear and objective.

[2)] (3) As used in this section:

(a) "Farm unit" means the contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.

(b) "Farmworker" means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the:

(A) Production of farm products;

(B) Planting, cultivating or harvesting of seasonal agricultural crops; or

(C) Forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(c) "Farmworker housing" means housing:

(A) Limited to occupancy by farmworkers and their immediate families; and

(B) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

(d) "Owner" means a person that owns farmworker housing. "Owner" does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

(e) "Relative" means:

(A) A spouse of the owner or operator; and

(B) An ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

SECTION 4. The amendments to ORS 197.307 and 215.278 by sections 2 and 3 of this 2023 Act become operative on July 1, 2025.

SECTION 5. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House May 9, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 23, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State