



# Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

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TO: Interested Persons, Local Governments and State Agencies

FROM: Alexis Hammer, Legislative and Policy Manager  
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Department of Land Conservation and Development

DATE: April 10, 2024

SUBJECT: **2024 Land Use Legislation Report**



## INTRODUCTION

The attached report describes legislation passed in the 2024 short session by the Oregon Legislature related to state land use statutes or the land use programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under "Legislative Information" at:

<https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest and that readers refer to the bills and their legislative history directly for a full picture of legislative intent and law.

This report includes hyperlinks to the Oregon Legislative Information System (OLIS) page for each bill. From those pages, readers can access bill language, measure history, and related testimony.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans<sup>1</sup>. Application of these statutory changes to specific plans and codes should be determined by local planning staff and legal counsel.

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<sup>1</sup> Oregon Law (ORS 197.646) requires that "a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement." Furthermore, this statute requires that, "when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government's land use decisions."

## KEY LEGISLATION

### SB 1537– GOVERNOR KOTEK’S HOUSING PRODUCTION FRAMEWORK

*Chief Sponsor:* Senate President Rob Wagner at the request of Governor Tina Kotek

*Appropriation (DLCD):* \$10,629,017

*Positions (DLCD):* 28

*FTE (DLCD):* 14.46

#### **Sections 1 – 7 | Housing Accountability and Production Office**

*Summary:* Sections 1 – 7 of SB 1537 direct the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to create a joint Housing Accountability and Production Office (HAPO). HAPO will support increased housing production throughout the state by supporting local jurisdictions and developers and enforcing state housing laws. The office is authorized and encouraged to provide a wide range of financial and technical support to local partners, including assisting with permitting and land use decisions, implementation of local procedures and codes, and compliance with housing law. The office will also receive complaints – from housing developers regarding violations of state housing laws related to a specific project, more general complaints from members of the public within that jurisdiction, or from DLCD or DCBS. If the complaint is valid, HAPO will investigate to determine whether there is a potential violation of state housing laws. If the office finds a potential violation, written notice will be provided to the local government specifying the violation, opportunities for funding or technical assistance to remedy the violation will be offered, and the office will cite the authority that will be invoked if the violation continues. After 60 days, if a local government has not addressed the violation, an enforcement action can be taken against the jurisdiction requiring local housing policies be brought into compliance. The Housing Accountability and Production Fund is created through this bill to hold funding for technical support and operations by DLCD, \$5,000,000 is allocated to it for technical assistance and the 3 required reports. DLCD will submit a report to the legislature on the work of HAPO on or before September 15, 2026.

*Operative date:* July 1, 2025 (Note: HAPO will begin implementation and coordination of the office and grant assistance upon signing of the bill. However, HAP) will not begin taking complaints or pursuing enforcement until the operative date of July 1, 2025.)

#### **Sections 8 – 9 | Opting in to Amended Housing Regulations**

*Summary:* Sections 8 – 9 of SB 1537 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government’s 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

*Operative date:* 91<sup>st</sup> day after *sine die*

#### **Sections 10 – 11 | Attorney Fees for Needed Housing Challenges**

*Summary:* Sections 10 – 11 of SB 1537 determine that, for land use decisions within an urban growth boundary (UGB), attorney fees may be awarded to a housing development applicant and local government in the event that a land use appeal is decided in their favor.

*Operative date:* January 1, 2025

### **Sections 12 – 16 | Infrastructure Supporting Housing Production**

Sections 12 – 16 of SB 1537 require the Oregon Business Development Department (OBDD), also known as Business Oregon, to provide technical support for infrastructure funding to local jurisdictions with \$3,000,000 in funding allocated to the Housing Infrastructure Support Fund. Separately, DLCD will develop key considerations and metrics that can be utilized by the legislature in prioritizing infrastructure investments. This report will be delivered on or before December 31, 2024.

*Operative date:* 91<sup>st</sup> day after *sine die* (Note: This is only applicable to the Housing Infrastructure Support Fund.)

*Sunset:* January 2, 2030 (Note: This is only applicable to the Housing Infrastructure Support Fund.)

*Note:* Sections 17 – 23 of SB 1537 were removed by amendment and bill sections were not subsequently renamed.

### **Sections 24 – 36 | Housing Project Revolving Loan Fund**

*Summary:* Sections 24 – 36 of SB 1537 create a Housing Project Revolving Loan Fund within Oregon Housing and Community Services (OHCS) to partner with local governments to provide interest-free loans that jurisdictions can use to subsidize affordable and moderate housing projects. Local jurisdictions may opt into utilizing this program and use the would-be additional property tax revenue to repay the state fund within ten years, unless another timeframe is agreed upon. OHCS must have completed implementation of this fund by June 30, 2025, and is appropriated \$75,000,000 in one-time funding for this purpose.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Sections 37 – 43 | Housing Land Use Adjustments**

*Summary:* Sections 37 – 43 of SB 1537 require local governments to allow certain adjustments to local code on housing development projects that are within an urban growth boundary. The development must result in net new housing units and demonstrate that the adjustments will help the project reach an outcome of feasibility, affordability, increased housing units, or reduction in sale cost that would not otherwise be tenable without the requested adjustments. These adjustments may not exceed 10 per project, and do not include zoning requirements, affordability, accessibility, natural resource protections and natural hazard mitigations. Local governments may apply to HAPO for an exception to this requirement, if they meet criteria specified in the bill. The Department of Land Conservation and Development will produce a report detailing the use of this provision to the legislature by September 15 of every even-numbered year.

*Operative date:* January 1, 2025

*Sunset:* January 2, 2032

### **Section 44 – 47 | Limited Land Use Decisions**

*Summary:* Sections 44 – 47 of SB 1537 permit local governments to approve applications for replat, property line adjustment, and an extension alteration or expansion of nonconforming land use at the administrative level. These sections remove any local requirement for these application types and other limited land use decisions to undergo a quasi-judicial process with

a public hearing. Local governments may apply to HAPO for a hardship exemption from these requirements.

*Operative date:* January 1, 2025

*Sunset:* N/A (Note: Hardship applications sunset January 2, 2032.)

### **Sections 48 – 60 | One-Time Site Additions to Urban Growth Boundaries**

*Summary:* Sections 48 – 60 of SB 1537 establish an alternative process by which local jurisdictions can amend their urban growth boundaries (UGBs). Cities may apply for a UGB expansion as long as they have 1) not expanded the UGB in the past 20 years and do not have an undeveloped, contiguous tract exceeding 20 net residential acres or 2) can demonstrate that 75% of lands within previous UGB expansion areas have either developed or completed comprehensive planning, including the public facilities and financial planning necessary to support development. The jurisdiction applying must also have a population that is disproportionately cost-burdened compared to the state. The new housing proposed in the UGB expansion must include at least 30% affordable housing - specifically, the housing must be available for rent by households making 80 percent or below area median income (AMI), or available for purchase by households making 130 percent or below AMI. Local jurisdictions will provide a conceptual plan with their amendment proposal to support the petition and demonstrate the feasibility of utilizing this land for affordable housing development and meeting housing needs of their communities. UGB expansions cannot exceed 50 net acres for cities 25,000 and below in population and 100 acres for cities 25,000 and above in population, with a cap of 300 net acres for the entire Metro UGB. Cities may adopt a 15 net acre one-time UGB addition without producing a complete communities plan if they propose to meet the affordable housing production outcomes above. Additionally, SB 1537 provides cities with the option to exchange existing lands within their UGB for certain lands adjacent to the UGB without completing associated Goal 10 and 14 analyses, with the requirement that lands must be similarly sized, zoned for residential use, and added lands are zoned for the same or greater density than those removed.

*Operative date:* 91<sup>st</sup> day after *sine die*

*Sunset:* January 2, 2033

## **HB 4063 – HOUSING POLICY OMNIBUS**

*Chief Sponsor:* House Committee on Housing and Homelessness

### **Sections 1 – 6 | Metro Unincorporated Urban Lands**

*Summary:* Sections 1 – 6 of HB 4063 define Metro urban unincorporated lands as being not within a city, zoned for urban development, and within the boundaries of a sanitary district or sanitary authority and water provider, and not zoned with a designation for future urbanization. The county in which this land resides is responsible for planning for needed housing in these communities unless an intergovernmental agreement is reached with another local government to perform these duties. In the 2025 legislative session, DLCD will bring forward a request for funding to provide technical support to counties and local governments that include Metro Unincorporated Urban Lands and are implementing housing production strategies.

*Operative date:* Upon passage

### **Sections 7 – 8 | Opting in to Amended Housing Development Regulations**

*(Note: The following language mirrors that in Sections 8 – 9 of SB 1537.)*

*Summary:* Sections 8 – 9 of HB 4063 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government's 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Section 9 | Homebuyer Letter**

*Summary:* Section 9 of HB 4063 removes a provision in ORS 696.805 that required a seller's agent to reject letters from homebuyers. This provision was struck down as unconstitutional by the District Court. This Section removes the language from statute.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Sections 10 – 13 | Middle Housing Partitions**

*Summary:* Sections 10 -13 of HB 4063 clarify that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development.

*Operative date:* 91<sup>st</sup> day after *sine die*

*Note:* Sections 14 – 24 of HB 4063 were removed by amendment and bill sections were not subsequently renamed.

### **Sections 25 – 28 | Single-Unit Housing Property Tax Exemption Approval**

*Summary:* Sections 25 – 28 of HB 4063 provide that local jurisdictions may approve or deny single-unit housing property tax exemptions at the administrative level. They are required to submit notice to the county assessor's office upon rendering a decision.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Sections 29 – 44 | House Bill 2001 (2023) Technical Fixes**

*Summary:* Sections 29 – 44 of HB 4063 clarifies that Metro cities will receive a housing needs allocation from the Department of Administrative Services in the same manner as non-Metro cities.

*Operative date:* 91<sup>st</sup> day after *sine die*

## **SB 1564 – PRESUMED CLEAR AND OBJECTIVE MODEL HOUSING ORDINANCES**

*Chief Sponsors:* Sen. Anderson, Sen. Knopp & Rep. Breese-Iverson

*Appropriation (DLCD):* \$550,000

*Summary:* SB 1564 requires the Land Conservation and Development Commission (LCDC) to adopt model ordinances for housing types within urban growth boundaries. These model ordinances will encompass single-family detached housing, middle housing, accessory dwelling units, and multifamily housing. The Department of Land Conservation and

Development (DLCD) will develop three different sets of model ordinances by January 1, 2026 for local adoption, segregated by city population size – below 2,500, 2,500 to 25,000, and above 25,000 – and taking into account geographical and other regional factors. These model ordinances are presumed clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size or a larger population bracket into their local code or adopt them by reference. These ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

*Operative date:* Upon passage

### HB 4026 – PROHIBITION OF URBAN GROWTH BOUNDARY REFERENDUM

*Chief Sponsor:* House Committee on Rules

*Summary:* HB 4026 prohibits a local government from referring the decision to expand their urban growth boundary to a ballot vote.

*Operative date:* January 1, 2023

### HB 4015 – BATTERY ENERGY STORAGE SITING

*Chief Sponsor:* House Committee on Climate, Energy, and Environment

*Summary:* HB 4015 defines a battery energy storage system (BESS) as an energy storage system that, other than personal and noncommercial uses, collects energy from the electric grid or an energy generation facility, uses rechargeable batteries to retain and store power, and discharges energy when needed. It clarifies that BESS do not require additional permitting when sited adjacent to another energy facility. Additionally, the bill allows a developer or a local government to elect to defer regulatory review to the Energy Facility Siting Council.

*Operative date:* 91<sup>st</sup> day after *sine die*

### HB 4080 – OFFSHORE WIND ROADMAP

*Chief Sponsor:* Rep. Grayber & Rep. Gomberg

*Appropriation (DLCD):* \$998,072

*Positions (DLCD):* 2

*FTE (DLCD):* 1.16

#### **Sections 1 – 4 | Offshore Wind Roadmap Development**

*Summary:* Sections 1 – 5 of HB 4080 require the Department of Land Conservation and Development (DLCD) to develop a Roadmap for state policy on offshore wind development. The roadmap must be informed through robust community and tribal nation engagement, and it must support economic opportunity and continuity for the region, protection of natural and cultural resources, and achievement of state energy and climate goals. DLCD will engage with affected Ports, Tribal nations, local governments, and community members in the development of this roadmap. The Department is also required to complete an assessment of enforceable policies for a federal consistency review.

*Operative date:* Upon passage

## **Sections 5 – 6 | Legislative Report**

*Summary:* Sections 5 – 6 of HB 4080 require DLCD to submit a report to the legislature detailing how the roadmap development process was completed by September 1, 2025.

*Operative date:* Upon passage

*Sunset:* January 2, 2026

*Note:* Sections 7 – 9 of HB 4080 do not have land use implementation requirements.

## **CONCLUSION**

If you have questions or comments about the report or other legislation, contact Alexis Hammer, Legislative and Policy Manager ([alexis.hammer@dlcd.oregon.gov](mailto:alexis.hammer@dlcd.oregon.gov); 971-718-4505) or Aurora Dziadul, Legislative and Policy Analyst ([aurora.dziadul@dlcd.oregon.gov](mailto:aurora.dziadul@dlcd.oregon.gov); 971-446-8834).

CC:

Land Conservation and Development Commission  
League of Oregon Cities  
Association of Oregon Counties  
Local Officials Advisory Committee  
Citizen Involvement Advisory Committee  
Oregon Chapter of American Planning Association