

House Bill 2225

Directs Department of Land Conservation and Development to establish pilot program in which local governments may site and develop affordable housing. Declares emergency, effective on passage.

Proposed Revisions for Workgroup Discussion Feb 23, 2009

A BILL FOR AN ACT

1
2 Relating to pilot program to establish sites dedicated to affordable housing; and declaring
3 an emergency.

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

6 **SECTION 1.** Sections 2 to 4 of this 2009 Act are added to and made a part of ORS
7 | **197.295 to 197.314.**

8
9 **SECTION 2.** The Legislative Assembly finds and declares that a supply of land
10 | **dedicated to affordable housing, including manufacture dwelling parks or mobile**
11 | **home parks,** and planned and zoned to encourage development of affordable housing
12 | **and to protect the land's use for siting-affordable housing over a long period is**
13 | **necessary for the economic prosperity of Oregon communities.**

14
15 **SECTION 3.** As used in sections 2 to 4 of this 2009 Act:

16 (1) "Affordable housing" has the meaning given that term by the Land Conservation
17 and Development Commission by rule under section 4 of this 2009 Act.

18 (2) "Lot" has the meaning given that term in ORS 92.010.

19 (3) "Manufactured structure" has the meaning given that term in ORS 446.003.

20 **(4) "Market-rate housing" means ??**

21 **(5) "Parcel" has the meaning given that term in ORS 92.010.**

22
23 **SECTION 4.** (1) The Department of Land Conservation and Development, working
24 | **with the Housing and Community Services Department, other state agencies and local**
25 | **governments, shall establish and implement an affordable housing pilot program.**
26 | **Notwithstanding the statewide land use planning goal provisions providing**
27 | **requirements for amendments to urban growth boundaries,** the Land Conservation
28 | **and Development Commission shall adopt rules to implement the pilot program by**
29 | **January 31, 2010.**

30 (2) Under the rules, the commission shall establish a **site-selection**-process by which
31 | **the commission must may select five pilot projects, in up to five jurisdictions cities,**
32 | **except for a city in the Metro urban growth boundary, to participate in the pilot**
33 | **program,** from among nominations made by **local government cities.** Under the **site**
34 | **selection process:**

35 | (a) A **local government nominated city:**

36 | (A) **May nominate potential pilot projects that provide sites Must identify a site to be**
37 | **dedicated to affordable housing as part of the pilot program; and**

- 1 (B) Must submit a concept plan proposed measures to dedicate the site for affordable
2 housing, for each proposed pilot project, including any proposed amendments to
3 comprehensive plans and land use regulations required to implement the proposed
4 measures pilot project; and
- 5 (C) Must submit an analysis demonstrating a need for affordable housing in the city
6 that is unlikely to be met without the special provisions of the pilot program.
- 7 (D) Must demonstrate that the city’s current plan and zoning encourages affordable
8 housing through a combinations of methods, including but not limited to:
- 9 (i) Allowing attached single family housing in single family zones;
10 (ii) Allowing a density bonus for development that includes affordable housing;
11 (iii) Prohibiting single family homes in multifamily zones;
12 (iv) Allowing accessory units as an outright use on single family lots;
13 (v) Allowing mixed use developments that include housing in commercial zones;
14 (vi) Allowing duplexes or triplexes as outright uses in certain single family zones.
- 15 (b) The commission shall select pilot projects proposals that meet the requirements of
16 paragraph (a) of this subsection and that will are:
- 17 (A) Reasonably likely to pProvide a site for affordable housing that would not
18 otherwise be provided without the special rule provisions of the pilot program
19 described in Subsection (3) of this Section;
- 20 (B) Reasonably likely to sServe identified populations in the area that require
21 affordable housing;
- 22 (C) Are near public facilities and services, including transportation, or for which the
23 facilities and services are planned and reasonably likely to be provided in the near
24 future; and
- 25 (D) Reasonably likely to meet the requirements of Subsection (3) of this section, If the
26 pilot project requires proposal requires bringing a new site within an urban growth
27 boundary amendment in order to provide a site dedicated to affordable housing,
28 located, planned and zoned to avoid or minimize adverse effects on natural resources
29 and nearby farm and forest uses.
- 30 (3) The Land Conservation and Development Commission, by rules for the pilot
31 program:
- 32 (a) Shall define “affordable housing” that would be authorized on sites dedicated to
33 affordable housing, including sites that are used as and other terms as necessary.
34 “Affordable housing” shall include manufactured dwelling parks or mobile home
35 parks, and may include other housing types as specified by the rules. In defining
36 “affordable housing,” the commission shall take into consideration;
- 37 (b) Shall specify related requirements for affordable housing that may include price
38 range,;
- 39 (A) Housing prices within particular a regions compared to the income of residents of
40 that region;
- 41 (B) The availability of government-assisted housing in a region;
- 42 (C) The need for sites to accommodate manufactured structures due to the conversion
43 of manufactured dwelling parks or mobile home parks in a region to other uses;
- 44 (D) Definitions of “affordable housing,” “workforce housing” or other similar terms
45 used by state and federal governments;
- 46 (E) Recommendations by the Department of Housing and Community Services; and

1 (F) Other relevant factors;
2 ~~(e) Shall limit the size of each pilot project site to 50 or fewer acres;~~
3 (b) May authorize mixed income housing developments that include affordable
4 housing in conjunction with market-rate housing on a pilot project sites, provided:
5 (A) The market-rate housing does not exceed a specified percentage (60%??) of the
6 total housing units developed on the site and ; and
7 (B) A specified percentage of the affordable housing will be developed prior to or at
8 the same time as the market-rate housing is developed;
9 (c) May include special provisions for amendment of an urban growth boundary in
10 order to establish a site dedicated to affordable housing under this pilot program,
11 provided such rules without regard to whether an urban growth boundary already
12 contains a 20-year supply of buildable lands and notwithstanding the priorities for
13 inclusion of land within the urban growth boundary in ORS 197.298, an expedited
14 process for amending urban growth boundaries to include up to two sites per pilot
15 project that are dedicated to affordable housing if the rules:
16 (A) Are consistent with statutes, goals and rules pertaining to amendment of urban
17 growth boundaries, except as specified in Section 5 of this 2009 act;
18 (B) Limit the amendment of an urban growth boundary for purposes of designating a
19 site for affordable housing under the pilot program to less than 50 acres for any city
20 selected for the pilot program;
21 ~~Identify specific goal and rule requirements related to urban growth boundaries that~~
22 ~~may be notwithstood for the purpose of implementing the pilot program; and~~
23 (B) Require that any pilot project sites dedicated to affordable housing that are added
24 to included within an urban growth boundary under the pilot program:
25 (i) Are dedicated to affordable housing through amendments to comprehensive plans
26 and land use regulations; and
27 (ii) Must Remain planned and zoned for affordable housing, except as provided
28 otherwise by rules authorized in paragraph (d) of this subsection.
29 (d) May select nominations for pilot projects that designate sites dedicated to
30 affordable housing by means other than amendment of an urban growth boundary.
31 (4) A local government that brings a pilot project site within its urban growth
32 boundary under this act:
33 (a) Shall protect sites dedicated to affordable housing from conversion to other uses
34 before, during and after the development of affordable housing, except as provided
35 otherwise by rules authorized in subsection (3)(d) of this section;
36 (b) Shall ensure that affordable housing developed on the site continues to be used to
37 provide affordable housing for a period of at least 50 years through measures
38 including, but not limited to:
39 (A) Zoning restrictions;
40 (B) Guaranteed rental rates or sales prices;
41 (C) Regulations, provisions or conditions like those described in ORS 197.309 (2);
42 (D) Other regulations, provisions or conditions determined by the local government
43 to be effective in maintaining the affordability of housing on land dedicated to that
44 purpose pursuant to sections 2 to 4 of this 2009 Act; or
45 (E) Restrictive agreements entered into with sources of affordable housing funding;
46 and

1 (c) May authorize a mix of affordable housing and other housing types on a site,
2 provided the percentage of affordable housing units developed on the site meets or
3 exceeds requirements specified by rules authorized in subsection (3)(c) of this section.

4 (5) A local government that brings a pilot project site within its amends an urban
5 growth boundary in order to add a site dedicated to affordable housing under this
6 pilot program may not plan and zone the site to allow a use, or mix of uses, not
7 authorized under sections 2 to 5 of this 2009 Act unless the local government first
8 withdraws the site from the urban growth boundary and rezones the site pursuant to
9 law, statewide land use planning goals and land use regulations implementing the
10 goals that regulate allowable uses of land outside urban growth boundaries.

11 ~~(6) A local government may not use sections 2 to 4 of this 2009 Act to bring high value~~
12 ~~farmland, as determined by the commission, within its urban growth boundary.~~

13 ~~(7) The inclusion of sites dedicated to affordable housing within an urban growth~~
14 ~~boundary pursuant to this section does not authorize a local government to convert~~
15 ~~buildable lands within the urban growth boundary that are planned for needed~~
16 ~~housing, as defined in ORS 197.303, to other uses.~~

17 (6) Notwithstanding the exception in ORS 197.309 (1), for pilot project sites or
18 affordable housing developed under this section, a local government may act under
19 ORS 197.309 (1) in a manner that has the effect of establishing the sales price for a
20 housing unit or residential building lot or parcel, or that requires a housing unit or
21 residential building lot or parcel to be designated for sale to a particular class or
22 group of purchasers.

23 (7) This section does not constitute a statutory contract. Sites dedicated to affordable
24 housing that are established under this section and affordable housing developed
25 under this section remain subject to new or additional regulatory requirements
26 authorized by law, statewide land use planning goals and land use regulations
27 implementing the goals.

28 (8) Except as otherwise provided by Commission rule, local governments shall
29 consider and act upon pilot site proposals in a one-step process ending with a single
30 final decision adopting the plan and zoning amendments described in section () of this
31 act, addressing applicable standards in sections 2 – 5 of this act, and, if applicable,
32 special rules for amending the urban growth boundary.

33 (9) A local government’s final decision on a pilot site shall be reviewable only by the
34 Land Use Board of Appeals as a post-acknowledgment plan and land use amendment
35 under ORS 197.610 to 197.625.

36 (10) The Commission and Department shall have standing to appeal or participate as
37 an intervener in an appeal of any local government final decision incorporating a
38 pilot project site into an urban growth boundary.

39
40 SECTION 5. (1) All statutes, goals and rules apply to adoption or amendment of plan
41 and land use regulations in order to designate and protect a site for affordable
42 housing, except that the commission rules adopted under section 4 of this 2009 act
43 may authorize an expedited amendment of an urban growth boundary to include a
44 site dedicated to affordable housing under the pilot program, by waiving the only the
45 following requirements amending an urban growth boundary:

46 (a) Goal 14 and implementing rules regarding

47 (A) A demonstration of need for housing to accommodate long range urban
48 population, except as required under subsection (2)(a)(C) of section 4 of this 2009 act,
49 and

1 (B) Location factors???
2 (b) The priorities for inclusion of land within the urban growth boundary in ORS
3 197.298, except that a local government may not use provisions under this section to
4 bring high value farmland, as defined by the commission, within its urban growth
5 boundary. However, subsequent amendments of an urban growth boundary must
6 consider buildable land in a site dedicated to affordable housing.
7 (2) The inclusion of sites dedicated to affordable housing within an urban growth
8 boundary pursuant to this section does not authorize a local government to convert
9 buildable lands within the urban growth boundary that are planned for needed
10 housing, as defined in ORS 197.303, to other uses.
11 (3) Exchange of site added to UGB for a site already in the UGB that would be rezoned
12 so as to be dedicated to affordable housing???
13 (4) The rules described under this section apply only to amendment of an urban
14 growth boundary to include a site less than 50 acres dedicated to affordable housing
15 under the pilot program.
16
17 SECTION 6. LCDC to revise rules to implement Goal 10 by December 1, 2010.
18
19 SECTION 7. Sunset clause for pilot program (sunsets rules under Section 6 and
20 others as necessary)
21
22 **SECTION 8. This 2009 Act being necessary for the immediate preservation of the**
23 **public peace, health and safety, an emergency is declared to exist, and this 2009 Act**
24 **takes effect on its passage.**