

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

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

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

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

SECTION 2. The Legislative Assembly finds and declares that a supply of land dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, and planned and zoned to encourage development of affordable housing and to protect the land's use for affordable housing is necessary for the economic prosperity of Oregon communities.

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

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

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

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

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

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

SECTION 4. (1) The Department of Land Conservation and Development, working with the Housing and Community Services Department, other state agencies and local governments, shall establish and implement an affordable housing pilot program. The Land Conservation and Development Commission shall adopt rules to implement the pilot program by January 31, 2010.

(2) Under the rules, the commission shall establish a process by which the commission may select up to five cities, except for a city in the Metro urban growth boundary, to participate in the pilot program, from among nominations made by cities. Under the selection process:

(a) A nominated city:

(A) Must identify a site to be dedicated to affordable housing as part of the pilot program;

(B) Must submit proposed measures to dedicate the site for affordable housing, including any proposed amendments to comprehensive plans and land use regulations required to implement the proposed measures; and

(C) Must submit an analysis demonstrating a need for affordable housing in the city that is unlikely to be met without the special provisions of the pilot program.

(D) Must demonstrate that the city's current plan and zoning encourages affordable housing through a combination of methods, including but not limited to:

- 1 (i) Allowing attached single family housing in single family zones;
- 2 (ii) Allowing a density bonus for development that includes affordable housing;
- 3 (iii) Prohibiting single family homes in multifamily zones;
- 4 (iv) Allowing accessory units as an outright use on single family lots;
- 5 (v) Allowing mixed use developments that include housing in commercial zones;
- 6 (vi) Allowing duplexes or triplexes as outright uses in certain single family zones.
- 7 (b) The commission shall select proposals that meet the requirements of paragraph
- 8 (a) of this subsection and that will:
- 9 (A) Provide a site for affordable housing that would not otherwise be provided
- 10 without the special rule provisions of the pilot program described in Subsection (3) of
- 11 this Section;
- 12 (B) Serve identified populations in the area that require affordable housing;
- 13 (C) Are near public facilities and services, including transportation, or for which the
- 14 facilities and services are planned and reasonably likely to be provided in the near
- 15 future; and
- 16 (D) Meet the requirements of Subsection (3) of this section, if the proposal requires an
- 17 urban growth boundary amendment in order to provide a site dedicated to affordable
- 18 housing.
- 19 (3) The Land Conservation and Development Commission rules for the pilot
- 20 program:
- 21 (a) Shall define “affordable housing” that would be authorized on sites dedicated to
- 22 affordable housing and other terms as necessary. The definition of “Affordable
- 23 housing” shall include manufactured dwelling parks or mobile home parks, and may
- 24 include other housing types. In defining “affordable housing,” the commission shall
- 25 take into consideration;
- 26 (A) Housing prices within particular regions compared to the income of residents of
- 27 that region;
- 28 (B) The availability of government-assisted housing in a region;
- 29 (C) The need for sites to accommodate manufactured structures due to the conversion
- 30 of manufactured dwelling parks or mobile home parks in a region to other uses;
- 31 (D) Definitions of “affordable housing,” “workforce housing” or other similar terms
- 32 used by state and federal agencies;
- 33 (E) Recommendations by the Department of Housing and Community Services; and
- 34 (F) Other relevant factors.
- 35 (b) May authorize housing developments that include affordable housing in
- 36 conjunction with market-rate housing on a pilot project site, provided:
- 37 (A) The market-rate housing does not exceed a specified percentage (60%??) of the
- 38 total housing units developed on the site and ; and
- 39 (B) A specified percentage of the affordable housing will be developed prior to or at
- 40 the same time as the market-rate housing is developed;
- 41 (c) May include special provisions for amendment of an urban growth boundary in
- 42 order to establish a site dedicated to affordable housing under this pilot program,
- 43 provided such rules.
- 44 (A) Are consistent with statutes, goals and rules pertaining to amendment of urban
- 45 growth boundaries, except as specified in Section 5 of this 2009 act;

1 (B) Limit the amendment of an urban growth boundary for purposes of designating a
2 site for affordable housing under the pilot program to less than 50 acres for any city
3 selected for the pilot program;

4 (B) Require that any sites dedicated to affordable housing that are added to an urban
5 growth boundary under the pilot program:

6 (i) Are dedicated to affordable housing through amendments to comprehensive plans
7 and land use regulations; and

8 (ii) Must remain planned and zoned for affordable housing, except as provided
9 otherwise by rules authorized in paragraph (d) of this subsection.

10 (d) May select nominations for pilot projects that designate sites dedicated to
11 affordable housing by means other than amendment of an urban growth boundary.

12 (4) A local government that brings a pilot project site within its urban growth
13 boundary under this act:

14 (a) Shall protect sites dedicated to affordable housing from conversion to other uses
15 before, during and after the development of affordable housing, except as provided
16 otherwise by rules authorized in subsection (3)(d) of this section;

17 (b) Shall ensure that affordable housing developed on the site continues to be used to
18 provide affordable housing for a period of at least 50 years through measures
19 including, but not limited to:

20 (A) Zoning restrictions;

21 (B) Guaranteed rental rates or sales prices;

22 (C) Regulations, provisions or conditions like those described in ORS 197.309 (2);

23 (D) Other regulations, provisions or conditions determined by the local government
24 to be effective in maintaining the affordability of housing on land dedicated to that
25 purpose pursuant to sections 2 to 4 of this 2009 Act; or

26 (E) Restrictive agreements entered into with sources of affordable housing funding;
27 and

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

31 (5) A local government that amends an urban growth boundary in order to add a site
32 dedicated to affordable housing under this pilot program may not plan and zone the
33 site to allow a use, or mix of uses, not authorized under sections 2 to 5 of this 2009 Act
34 unless the local government first withdraws the site from the urban growth boundary
35 and rezones the site pursuant to law, statewide land use planning goals and land use
36 regulations implementing the goals that regulate allowable uses of land outside urban
37 growth boundaries.

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

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

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

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

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

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

19 (a) Goal 14 and implementing rules regarding

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

23 (B) *Location factors???*

24 (b) The priorities for inclusion of land within the urban growth boundary in ORS
25 197.298, except that a local government may not use provisions under this section to
26 bring high value farmland, as defined by the commission, within its urban growth
27 boundary. However, subsequent amendments of an urban growth boundary must
28 consider buildable land in a site dedicated to affordable housing.

29 (2) The inclusion of sites dedicated to affordable housing within an urban growth
30 boundary pursuant to this section does not authorize a local government to convert
31 buildable lands within the urban growth boundary that are planned for needed
32 housing, as defined in ORS 197.303, to other uses.

33 (3) *Exchange of site added to UGB for a site already in the UGB that would be rezoned
34 so as to be dedicated to affordable housing???*

35 (4) The rules described under this section apply only to amendment of an urban
36 growth boundary to include a site less than 50 acres dedicated to affordable housing
37 under the pilot program.

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39 SECTION 6. LCDC to revise rules to implement Goal 10 by December 1, 2010.

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41 SECTION 7. Sunset clause for pilot program (sunsets rules under Section 6 and
42 others as necessary)

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44 SECTION 8. This 2009 Act being necessary for the immediate preservation of the
45 public peace, health and safety, an emergency is declared to exist, and this 2009 Act
46 takes effect on its passage.