

MEMORANDUM

To: Clackamas County Board of County Commissioners
From: Tonia Holowetzki, Director, Public & Government Affairs
RE: SB 974
Date: May 6, 2025

REQUEST: None. Staff will provide an informational update on Senate Bill 974.

BACKGROUND: Oregon law typically requires counties to decide on local land use decisions in urban growth boundaries within **120 days** of receiving a complete application.

As originally introduced in the Senate, SB 974 required counties to take final action on a land use application for the development of a single-family dwelling within 45 days. The county opposed the base bill unless amended, as certain state mandates carry minimum time requirements.

While in the Senate committee, the bill was amended to remove the 45-day timeline in favor of a timeline of **90 days** to complete the final review of engineering plans (SB 974A). The timeline pauses when the applicant is required to make revisions and the timeline may be extended by mutual agreement of the parties. Bill proponents also incorporated edits from the Association of Oregon Counties, including most technical suggestions raised by Clackamas County staff to date. Pursuant to these changes, the bill passed the Senate floor and now sits in the House committee.

Although the amendments to SB 974A make the legislation less impactful to Clackamas County, the bill still includes concerning language and ramifications, including:

- The 90-day engineering timeline
- Financial liability if the county misses a deadline for land use and engineering
- Prohibition on siting and design standards for certain residential developments
- Continued erosion of local land use control

SB 974 is scheduled for a public hearing on May 5. Staff will provide an update on the hearing's outcomes and the legislation's next steps.

RECOMMENDATION: None. Staff will provide an informational update on Senate Bill 974.

Respectfully submitted,



Tonia Holowetzki, Director, Public & Government Affairs

ATTACHMENTS

A: SB 974 Policy Statement (March 2025)

B: SB 974A Legislation Text



March 12, 2025

**Clackamas County Board of Commissioners
Policy Position
Relating to Land Use Application Timelines**

Clackamas County opposes SB 974 unless amended. As proposed, SB 974 would require counties to take final action on a land use application for the development of a single-family dwelling within 45 days, including the resolution of any appeals under ORS 215.422.

Most single-family dwelling projects in Clackamas County do not require a land use application. When one *is* required, applicants are afforded a state-mandated opportunity to appeal a staff decision to a hearings officer, including a 12-day appeal filing period, 20-day public notice period before the hearing, 7-day mandatory open record period for any requesting party, and 7-day mandatory response period for any requesting party. In the rare event of an appeal, this two-level process necessitates the current 120-day time limit. Even if the county amended its code to require all applications to go directly to a public hearing, thereby bypassing the staff-level review that is more straightforward for most applicants, the minimum statutory requirements would eat up 34 of the 45 days, leaving only 11 days for a hearings officer to write and issue a decision, assuming no weekends, holidays, or hearing wait-times delayed any step of the process. The combined impact of these requirements prevents Clackamas County from reliably processing a land use application within the desired 45 days. To mitigate some of the timing uncertainty and prevent applicants from facing mandatory public hearings, successful legislation must:

- Apply only within Urban Growth Boundaries, channeling development into places designed to accommodate growth.
- Exclude environmentally protected lands or lands mapped as prone to hazard (Goal 5 protected lands, floodplains) from the 45-day time limit.
- Exclude applications that a developer opts into as part of an alternative review process (e.g., variances) from the 45-day time limit.
- Specify that – notwithstanding local code provisions to the contrary – applications that are subject to the new requirements must be processed as ministerial decisions and are neither “permits” as defined by ORS 215.416 (and the city analog to that statute) nor “land use decisions” to minimize conflicts with other state statutes and local zoning codes.

We urge a “NO” vote on SB 974 unless amended.

Please contact Trent Wilson (twilson2@clackamas.us) for more information.

Attachment B

83rd OREGON LEGISLATIVE ASSEMBLY--2025 Regular Session

A-Engrossed Senate Bill 974

Ordered by the Senate April 18
Including Senate Amendments dated April 18

Sponsored by Senators ANDERSON, JAMA, BROADMAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act speeds up review of housing permits. (Flesch Readability Score: 82.3).

[Reduces to 45 days the time under which a city or county must decide a land use application for single-family dwellings.]

Requires local governments or special districts to complete final review of final engineering plans for residential development within 90 days of submission. Defines "urban housing application." Requires urban housing applications to be reviewed as limited land use decisions. Authorizes award of attorney fees to applicant if engineering plans or land use applications for residential development are not processed timely. Prohibits local governments from applying certain design review requirements for certain urban housing applications.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the timeline for reviewing land use applications for housing; creating new provisions; amending 197.015 and 197A.400; and prescribing an effective date.

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

SECTION 1. (1) After submittal by an applicant of final engineering plans for residential development within an urban growth boundary, a local government or special district:

(a) Within 14 days, shall confirm that the submittal was complete when submitted or specify all additional materials that must be included for the submittal to be considered complete.

(b) Shall complete the final review of the engineering plans and be ready, upon submittal of applicable fees, forms and bonds, to issue site development permits for construction of all public and private improvements, including grading, water, sewer, stormwater, transportation systems, utilities and landscaping, within 90 days after the date on which:

(A) The application is deemed complete under paragraph (a) of this subsection;

(B) The applicant has provided all materials specified under paragraph (a) of this subsection; or

(C) The applicant states that no additional materials are forthcoming.

(2) The review period for a local government to complete its review under subsection (1) is tolled during the time period beginning on the date on which a local government sends a rejection or direction to the applicant to correct or supplement the application and ending on the date on which the amended application is received by the local government.

(3) The applicant and reviewing local government or special district may agree to extend the deadline under subsection (1)(b) of this section by one or more 30-day periods.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

SECTION 2. (1) An applicant is entitled to an award of the applicant’s reasonable engineering costs and attorney fees, including fees incurred on appeal if the applicant prevails on a claim against a local government or special district for failing to meet a deadline for final action under:

(a) Section 1 of this 2025 Act; or

(b) For an urban housing application, ORS 215.427 or 227.178.

(2) As used in this section:

(a) “Attorney fees” includes prelitigation legal expenses, such as costs of preparing and processing the application and supporting the application in local land use hearings or proceedings.

(b) “Claim” includes a petition for a writ of mandamus under ORS 34.130, 215.429 or 227.179.

(c) “Engineering costs” includes costs to prepare the preliminary plat, to calculate, draft and design infrastructure plans and location, to submit and process the land use application and to consult with the local government planning, engineering and building officials to obtain approvals for the preliminary and final plat, land use and engineering design.

SECTION 3. ORS 197.015, as amended by section 44, chapter 110, Oregon Laws 2024, is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) “Board” means the Land Use Board of Appeals.

(3) “Carport” means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) “Commission” means the Land Conservation and Development Commission.

(5) “Comprehensive plan” means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “General nature” means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

(6) “Department” means the Department of Land Conservation and Development.

(7) “Director” means the Director of the Department of Land Conservation and Development.

(8) “Goals” means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) “Guidelines” means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state

1 agencies and special districts in the preparation, adoption and implementation of plans, programs
2 and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies,
3 cities, counties and special districts to a single approach.

4 (10) "Land use decision":

5 (a) Includes:

6 (A) A final decision or determination made by a local government or special district that con-
7 cerns the adoption, amendment or application of:

8 (i) The goals;

9 (ii) A comprehensive plan provision;

10 (iii) A land use regulation; or

11 (iv) A new land use regulation;

12 (B) A final decision or determination of a state agency other than the commission with respect
13 to which the agency is required to apply the goals; or

14 (C) A decision of a county planning commission made under ORS 433.763;

15 (b) Does not include a decision of a local government:

16 (A) That is made under land use standards that do not require interpretation or the exercise
17 of policy or legal judgment;

18 (B) That approves or denies a building permit issued under clear and objective land use stan-
19 dards;

20 (C) That is a limited land use decision;

21 (D) That determines final engineering design, construction, operation, maintenance, repair or
22 preservation of a transportation facility that is otherwise authorized by and consistent with the
23 comprehensive plan and land use regulations;

24 (E) That is an expedited land division as described in ORS 197.360;

25 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
26 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
27 under ORS 480.410 to 480.460;

28 (G) That approves or denies approval of a final subdivision or partition plat or that determines
29 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
30 partition plan; or

31 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
32 knowledged comprehensive plan and land use regulations implementing the plan, if:

33 (i) The local government has already made a land use decision authorizing a use or activity that
34 encompasses the proposed state agency action;

35 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state
36 agency action is allowed without review under the acknowledged comprehensive plan and land use
37 regulations implementing the plan; or

38 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state
39 agency action requires a future land use review under the acknowledged comprehensive plan and
40 land use regulations implementing the plan;

41 (c) Does not include a decision by a school district to close a school;

42 (d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization
43 of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000
44 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

45 (e) Does not include:

1 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

2 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
3 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

4 (C) A state agency action subject to ORS 197.180 (1), if:

5 (i) The local government with land use jurisdiction over a use or activity that would be au-
6 thorized, funded or undertaken by the state agency as a result of the state agency action has already
7 made a land use decision approving the use or activity; or

8 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a
9 result of the state agency action is allowed without review under the acknowledged comprehensive
10 plan and land use regulations implementing the plan.

11 (11) "Land use regulation" means any local government zoning ordinance, land division ordi-
12 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
13 implementing a comprehensive plan.

14 (12)(a) "Limited land use decision" means a final decision or determination made by a local
15 government pertaining to a site within an urban growth boundary that concerns:

16 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
17 92.040 (1).

18 (B) The approval or denial of an application based on discretionary standards designed to reg-
19 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
20 view and design review.

21 (C) The approval or denial of an application for a replat.

22 (D) The approval or denial of an application for a property line adjustment.

23 (E) The approval or denial of an application for an extension, alteration or expansion of a non-
24 conforming use.

25 **(F) The approval or denial of an urban housing application.**

26 (b) "Limited land use decision" does not mean a final decision made by a local government
27 pertaining to a site within an urban growth boundary that concerns approval or denial of a final
28 subdivision or partition plat or that determines whether a final subdivision or partition plat sub-
29 stantially conforms to the tentative subdivision or partition plan.

30 (13) "Local government" means any city, county or Metro or an association of local govern-
31 ments performing land use planning functions under ORS 195.025.

32 (14) "Metro" means a metropolitan service district organized under ORS chapter 268.

33 (15) "Metro planning goals and objectives" means the land use goals and objectives that Metro
34 may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive
35 plan.

36 (16) "Metro regional framework plan" means the regional framework plan required by the 1992
37 Metro Charter or its separate components. Neither the regional framework plan nor its individual
38 components constitute a comprehensive plan.

39 (17) "New land use regulation" means a land use regulation other than an amendment to an
40 acknowledged land use regulation adopted by a local government that already has a comprehensive
41 plan and land regulations acknowledged under ORS 197.251.

42 (18) "Person" means any individual, partnership, corporation, association, governmental subdivi-
43 sion or agency or public or private organization of any kind. The Land Conservation and Devel-
44 opment Commission or its designee is considered a person for purposes of appeal under ORS
45 chapters 195, 197 and 197A.

(19) “Special district” means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) “Urban growth boundary” means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21)(a) “Urban housing application” means any application to a local government for a quasi-judicial decision, whether combined or in separate stages, seeking approval of any aspect of the development of lands planned or zoned for residential use or mixed residential use, within an urban growth boundary, including an application to:

(A) Amend a comprehensive plan or seek a variance from a land use regulation;

(B) Adopt a planned unit development;

(C) Tentatively plat, partition or subdivide the land;

(D) Approve any preliminary engineering or design plans relating to the provision of utilities, roads or other urban services; or

(E) Site a specific dwelling structure, including a single-unit dwelling, manufactured dwelling, middle housing, single room occupancy or multiunit dwelling.

(b) “Urban housing application” does not include:

(A) An application that would have the effect of reducing the minimum residential density of land.

(B) An application for or a decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(C) An application for a residential construction permit.

(D) Review of final engineering plans under section 1 of this 2025 Act.

(E) A decision that may be made by a ministerial or other expedited approval procedure.

[(21)] (22) “Urban unincorporated community” means an area designated in a county’s acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

[(22)] (23) “Voluntary association of local governments” means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

[(23)] (24) “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 4. ORS 197A.400, as amended by section 3, chapter 111, Oregon Laws 2024, is amended to read:

197A.400. (1) Except as provided in subsection (3) 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.

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

(2) The provisions of subsection (1) 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.

(3) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (1) 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 (1) 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 (1) of this section.

(4) Subject to subsection (1) 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.

(5) With respect to any design review process or requirements related to aesthetics, landscaping, building orientation, parking or building design, but not including limitations on size or any review under applicable building codes, fire codes or public health and safety regulations, a local government:

(a) Shall waive the process or requirements for an urban housing application for the development of 20 or more residential lots or parcels; and

(b) May waive the process or requirements for a smaller number of residential lots or parcels.

SECTION 5. ORS 197A.400, as amended by section 2, chapter 533, Oregon Laws 2023, and section 4, chapter 111, Oregon Laws 2024, is amended to read:

197A.400. (1) Except as provided in subsection (3) 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

1 of a development.

2 (b) May not have the effect, either in themselves or cumulatively, of discouraging needed hous-
3 ing through unreasonable cost or delay.

4 (c) May be contained in a comprehensive plan, land use regulation or an ordinance relating to
5 housing adopted by a city that adopts, including by reference, a model ordinance adopted by the
6 Land Conservation and Development Commission that comports with any qualifications, conditions
7 or applicability of the model ordinance.

8 (2) The provisions of subsection (1) of this section do not apply to:

9 (a) An application or permit for residential development in an area identified in a formally
10 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
11 500,000 or greater.

12 (b) An application or permit for residential development in historic areas designated for pro-
13 tection under a land use planning goal protecting historic areas.

14 (3) In addition to an approval process for needed housing based on clear and objective standards,
15 conditions and procedures as provided in subsection (1) of this section, a local government may
16 adopt and apply an alternative approval process for applications and permits for residential devel-
17 opment based on approval criteria that are not clear and objective if:

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

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

22 (c) The approval criteria for the alternative approval process authorize a density at or above
23 the density level authorized in the zone under the approval process provided in subsection (1) of this
24 section.

25 (4) Subject to subsection (1) of this section, this section does not infringe on a local
26 government's prerogative to:

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

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

29 (c) Establish approval procedures.

30 **(5) With respect to any design review process or requirements related to aesthetics,**
31 **landscaping, building orientation, parking or building design, but not including limitations on**
32 **size or any review under applicable building codes, fire codes or public health and safety**
33 **regulations, a local government:**

34 **(a) Shall waive the process or requirements for an urban housing application for the de-**
35 **velopment of 20 or more residential lots or parcels; and**

36 **(b) May waive the process or requirements for a smaller number of residential lots or**
37 **parcels.**

38 **SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025**
39 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**