

197A.400 Clear and objective approval criteria required; alternative approval process. (1)(a) 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:

- (A) The development of housing; and
 - (B) Tree removal codes related to the development of housing.
- (b) 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.

(c) This subsection applies only within:

- (A) An urban growth boundary;
- (B) An unincorporated community designated in a county's acknowledged comprehensive plan after December 5, 1994;

(C) Nonresource land; or

(D) An area zoned for rural residential use as defined in ORS 215.501.

(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. [Formerly subsections (4) to (7) of 197.307; 2024 c.111 §§3,4; 2025 c.476 §13]

Note: Sections 7 to 9, chapter 330, Oregon Laws 2025, provide:

Sec. 7. Section 8 of this 2025 Act is added to and made a part of ORS chapter 197A. [2025 c.330 §7]

Sec. 8. Limits on applying residential design standards. (1) A local government may not apply residential design standards to an application for the development of housing within an urban growth boundary unless the application is for the development of a multifamily structure as defined in ORS 197A.465 or fewer than 20 residential units.

(2) This section does not apply to land use regulations or requirements that are related to setbacks, building height, accessibility, fire ingress or egress, public health or safety, state or federal water quality standards, hazardous or contaminated site cleanup or wildlife protection or that implement statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources.

(3) As used in this section:

(a) “Residential design standards” means standards intended to preserve the desired character, architectural expression, decoration or aesthetic quality of new homes, including standards regulating:

- (A) Facade materials, colors or patterns;
- (B) Roof decoration, form or materials;
- (C) Accessories, materials or finishes for entry doors or garages;
- (D) Window elements such as trim, shutters or grids;
- (E) Fence type, design or finishes;
- (F) Architectural details, such as ornaments, railings, cornices and columns;
- (G) Size and design of porches or balconies;
- (H) Variety of design or floorplan; or
- (I) Front or back yard area landscaping materials or vegetation.

(b) “Residential units” means any new single-unit dwellings, manufactured dwellings and units of middle housing, as defined in ORS 197A.420. [2025 c.330 §8]

Sec. 9. Section 8 of this 2025 Act is repealed January 2, 2033. [2025 c.330 §9]