



Oregon

Tina Kotek, Governor

HPAC Work Group Recommendation Template

Work Group

- Availability of land
- Land development permit applications
- Codes and design
- Workforce shortages
- Financing

Recommendation

Statewide clarification and enforcement of ORS 227.178 (120/100 day approval).

1. Direct permitting jurisdictions that clear and objective checklist must be provided to applicant.
2. Once an application is submitted, it must be deemed complete within 30 days if all items on the checklist are provided.
3. No additional items can be requested from Applicant, nor influence denial, after initial 30 day completeness check.
4. Any item required by the jurisdiction that takes longer than the 30 days to complete, must be processed concurrently (submitted prior to completeness and reviewed w. in 120/100 day period) to the land use review.

Related Work Plan Topics

- Find opportunities to improve and streamline the permitting process and provide an opportunity for local building departments to share what is working and what isn't in their local jurisdictions through best practices and guidelines.
- Remove barriers and make it less complex to build smaller, more affordable homes.
- Need for improved coordination between levels of government and department to reduce barriers to development. Reassessing department roles and responsibilities may be valuable.

Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

- Current land use and building permit process is too complex, at times not predictable, expensive, and time intensive. In addition, the process varies in every community creating additional challenges. The process needs to be changed to address the barriers to housing production that this creates.
- Local jurisdictions do not always honor the intent of ORS 227.178 which mandates 120 days maximum for land use approval and 100 days maximum for an affordable project.
- In practice, pre-application and completion requirements combined with pre-issuance and negotiation of conditions extend the process beyond legal limit.
- Many cities do not deem the application “complete” and require additional information, extend beyond the 120/100 period and/or approve with conditions beyond “clear and objective standard” requirement (ORS 227.175).
- This uncertainty and complexity leading to additional costs and delays, borne by applicant, is a clear barrier to supply deterring applicants from applying or compelling builders to go elsewhere.
- Under discretionary review, local governments may deny or condition projects on a case-by case-basis, even if they conform to local planning regulations, like zoning codes and general plans. Discretionary review processes vary across jurisdictions, and can be lengthy and unpredictable. Entitlement delays can drive up the cost of development, resulting in higher housing costs.
- Affordable housing developers must typically have their land use approvals in place before applying for financing, including for the Low-Income Housing Tax Credit (LIHTC), so a faster entitlement process can mean getting funding in place earlier.

2. Provide a quantitative, if possible, and qualitative overview of the housing production issue.

It is not unusual for cities to take longer than the required 120-days to get from a submitted application to a building permit. The 120-day statute is applicable to land use decisions, and this timeline also includes a 180 day timeline to review an application for completeness. The intent of the is often NOT met.

After a land use approval is issued, cities have other review processes necessary to get to a permit – including public facilities review (which I do not believe contains a statutory timeframe) and building permit review. Please refer to Exhibit A for a visual representation of issue.

3. To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

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4. Provide a quantitative, if possible, and qualitative overview of the outcome of the recommended action(s).

Certainty for applicants and streamlining/expediting of critical housing supply.

In CA (even w. affordable and labor restrictions) between 2018 and 2021, 156 projects were approved for SB 35 streamlining or had a pending application, comprising over 18,000 new housing units. Most SB 35 projects are in the Bay Area and Los Angeles County, but use of SB 35 increased in other parts of the state after the first couple years of its implementation.

According to the CA program, SB 35 has made the approval process for new multifamily infill development faster and more certain, becoming a default approach for many affordable housing developers.

Removing the labor and affordability components of the CA should accelerate production significantly. Given OR does not have the same CEQA issues, that will temper our likely outcomes.

5. Provide an estimate of the time frame (*immediate, short, medium, long-term*), feasibility (*low, medium, high*), and cost (*low, medium, high*) for implementation of the recommended action(s).

Timeframe: short
Feasibility: high
Cost: low

6. Provide a general overview of implementation, the who and how for the recommended action(s).

Uniform clear and objective checklist to be defined by DLCDC and required to be used uniformly across State. Per ORS, completeness required within 30 business days of application filing. Recourse to include:

- application automatically deemed approved at 120/100 mark; and,
- rebate to applicant of 50% of permit processing fees.

Cities have a objective “checklist” determining eligibility requirements including conforming to existing zoning and building codes, within UGB (aka infill) and not in high flood, fire, or farm/forest use area.

Specifying no wage or affordability requirements will help the policy have a broad and meaningful impact across the State.

Consider CA’s SB 35 allowing eligible housing developments to go through a simplified entitlement process—including bypassing review under the California Environmental Quality Act (CEQA).

Local governments instead can only evaluate projects against existing and *objective* planning standards and laws. Objective standards are those that “involve no personal or subjective judgment by public official” and are both measurable and verifiable, leaving no gray area for interpretation.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

Each local jurisdiction is required to report permit activity and approval timelines including application to completeness timelines. Jurisdictions currently only report from completeness to approval or denial which misses the complete picture and does not capture the fact that the pre-completeness phase is often the issue.

8. Identify any major unknowns, tradeoffs, or potential unintended consequences.

- Need to clarify “clear and objective standards” aspect. Lack of clarity could lead to a slow start for the program.
- Some jurisdictions may have cost/ramp up time to establish.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.