

# Enrolled House Bill 2199

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Economic and Community Development Department)

CHAPTER .....

AN ACT

Relating to vertical housing development zones; creating new provisions; amending ORS 285C.450, 285C.453, 285C.456, 285C.459, 285C.462, 285C.465, 285C.468, 285C.471 and 285C.480; and prescribing an effective date.

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

**SECTION 1. ORS 285C.450 to 285C.480 are added to and made a part of ORS chapter 307.**

**SECTION 2.** ORS 285C.450 is amended to read:

285C.450. As used in ORS 285C.450 to 285C.480:

(1) **“Construction” means the development of land and the construction of improvements to land, and may be further defined by the Housing and Community Services Department by rule.**

(2) **“Equalized floor” means the quotient determined under ORS 285C.465 (3)(b).**

[1] (3) **“Light rail station area” has the meaning given that term in ORS 307.605.**

(4) **“Low income residential housing” means housing that is restricted to occupancy by persons or families whose income is no greater than 80 percent of area median income, adjusted for family size, as determined by the department.**

(5) **“Rehabilitation” means the substantial repair of improvements or land developments, and may be further defined by the department by rule.**

[2] (6) **“Transit oriented area” has the meaning given that term in ORS 307.605.**

[3] (7) **“Vertical housing development project” or “project” means the construction[*, reconstruction*] or rehabilitation of a **multiple-story** building, or a group of **buildings, including at least one multiple-story [buildings] building**, so that [*each building that is constructed, reconstructed or rehabilitated consists of a first floor, or first floor and other floors,*] **a portion of the project is** to be used for [*commercial uses, and one or more floors located on floors above the commercial use floor or floors*] **nonresidential uses and a portion of the project is** to be used for residential uses.**

[4] (8) **“Vertical housing development zone” or “zone” means an area that has been designated a vertical housing development zone under ORS [285C.459] 285C.456.**

**SECTION 3.** ORS 285C.453 is amended to read:

285C.453. (1)(a) A city [*or a county*] may apply to the [*Director of the Economic and Community Development Department*] **Housing and Community Services Department** for designation of an area within the city [*or county*] as a vertical housing development zone.

(b) **A county may apply to the Housing and Community Services Department for designation of an unincorporated area within the county as a vertical housing development zone.**

(2) With the prior consent of the governing body of *[the city]* **each city in which a proposed zone is to be located**, a county may apply to the *[director on behalf of a city]* **department** for designation of any area within *[that city as a]* **each city that has given consent for** vertical housing development zone **designation**.

(3) A city and a county, or any combination of cities and counties, may apply to the *[director]* **department** for designation of an area situated *[partly within the city and partly in unincorporated territory within the county]* **within each applying jurisdiction** as a vertical housing development zone.

(4) A district listed in ORS 198.010 or 198.180 may elect not to participate in a vertical housing development zone. A district that elects not to participate may continue to impose taxes on property otherwise exempt from ad valorem property tax under ORS 285C.471.

(5) An application for designation of a vertical housing development zone **must be submitted to the department. The application** shall be in *[such]* **the** form and contain *[such]* **the** information *[as the Economic and Community Development Department may require by rule,]* **required by the department**, including:

(a) A list of local taxing districts, other than the applicant, that have territory in the proposed vertical housing development zone.

(b) A copy of a written notification **that the applicant** mailed to the districts listed pursuant to paragraph (a) of this subsection that:

(A) Describes the proposed vertical housing development zone;

(B) Explains the exemption described in ORS 285C.471 that would apply if the proposed zone is designated; *[and]*

(C) Explains the process by which a district listed in ORS 198.010 or 198.180 may elect not to participate in the vertical housing development zone; **and**

**(D) Is in a form that is satisfactory to the department.**

(c) A statement signed by the applicant attesting that the notification described in paragraph (b) of this subsection was sent by regular mail to each district listed pursuant to paragraph (a) of this subsection.

(6) The application shall:

(a) Be filed on behalf of one or more local government units as described in subsections (1) to (3) of this section by action of the governing body of each applicant;

(b) Contain a description of the area sought to be designated as a vertical housing development zone, including proposed zone boundaries; *[and]*

**(c) Contain the reasons that all or a portion of a proposed zone constitutes a core area of an urban center, a light rail system area or a transit oriented area; and**

*[(c)]* **(d) Contain any other information required by the department** *[information sufficient to allow the director to determine if the criteria established in ORS 285C.459 are met].*

(7) The applicant shall submit to the *[director]* **department**, within 30 days following the date the application is filed with the department, a list of the districts that elected not to participate in the vertical housing development zone.

**SECTION 4.** ORS 285C.456 is amended to read:

285C.456. (1) The *[Director of the Economic and Community Development Department]* **Housing and Community Services Department** shall review each application filed under ORS 285C.453 and shall approve or disapprove each application *[within 60 days of the date the application is filed].*

(2) The *[director]* **department** may approve an application and *[thereby]* designate **all or a portion of** the area that is the subject of the application as a vertical housing development zone if the *[director]* **department** determines that the area meets the criteria set forth in ORS 285C.459.

(3) The determination of the *[director]* **department** to approve or disapprove an application is a discretionary determination. The determination is final and *[may not be appealed]* **is not subject to judicial or administrative review.**

**SECTION 5.** ORS 285C.459 is amended to read:

285C.459. The [Director of the Economic and Community Development Department] **Housing and Community Services Department** shall:

(1) Designate a vertical housing development zone upon application made under ORS 285C.453 if the **department determines that the** proposed zone [constitutes a core area of an urban center of this state, a light rail station area or a transit oriented area] **meets the criteria established by the department by rule for a zone.**

(2) Notify the county assessor of the county in which the vertical housing development zone is located of the designation of that zone and of the districts that elected not to participate in the zone.

**SECTION 6.** ORS 285C.462 is amended to read:

285C.462. [(1)] Following the designation of a vertical housing development zone under ORS [285C.459] **285C.456**, the city or county **that sought zone designation** [in which the zone is located] may acquire **or dispose of** real property within the zone for the purpose of developing [the property] **vertical housing development projects within the zone.** The development **of projects** may be undertaken by the city or county independently, jointly or in partnership with a private entity **or may be undertaken by a private entity acting independently.** The entities undertaking the development of property under this section may own and operate the developed property or may sell or otherwise dispose of the property at any time during or after development. The property may be sold at the property's real market value or at a lesser value.

[(2) *The development of property under this section may be undertaken only if the governing body of the city or county determines that the development will encourage high-density vertical residential housing or the efficient use of mass transit facilities within the vertical housing development zone.*]

**SECTION 7.** ORS 285C.465 is amended to read:

285C.465. (1) Following the designation of a vertical housing development zone under ORS [285C.459] **285C.456**, a person proposing to [construct] **undertake a proposed** vertical housing development project and seeking the partial property tax exemption set forth in ORS 285C.471 shall apply to the [Economic and Community Development Department] **Housing and Community Services Department** for certification **of the project.**

(2) The application [shall be on a form prescribed by the department] **must be satisfactory to the department in form and content** and shall contain any information required by the department, including all of the following:

- (a) The address **and boundaries** of the proposed vertical housing development project;
- (b) A description of the existing state of the property;
- (c) A description of the proposed **project construction or rehabilitation**, including **the design of the construction or rehabilitation, the cost of the construction or rehabilitation and** the number of floors **and residential units** to be constructed **or rehabilitated**;
- (d) A description of the [commercial] **nonresidential** uses to which [the first floor or lower floors are] **any portion of the proposed project is** to be put, **including the proportion of total square footage of the project proposed for nonresidential uses**; [and]
- (e) A description of the **proposed portion of the project to be used for residential uses, including the proportion of total square footage of the project proposed for residential uses**; [housing to be located on the upper floor or floors of the proposed vertical housing development project.]
- (f) **A description of the number and nature of residential units in the proposed project that are to be low income residential housing, including the proportion of total square footage of the project proposed for low income residential housing uses**;
- (g) **The calculation and allocations described under subsection (3) of this section; and**
- (h) **A commitment that is satisfactory to the department, including documentation and evidence of recording of the documentation, that the project will be maintained and operated in a manner consistent with the application submitted under this section for the duration of the commitment. The duration of the commitment may not be less than the number of**

tax years for which the project is intended to be partially exempt from ad valorem property taxes under ORS 285C.471.

(3)(a) Each application filed under this section shall contain a calculation of equalized floors, an allocation of equalized floors to residential uses and an allocation of equalized floors to low income residential housing uses as determined under this subsection.

(b) An equalized floor is the quotient that results from the division of total square footage of a project by the number of actual floors of the project that are at least 500 square feet per floor, or as may be increased or otherwise qualified by the department by rule.

(c) To allocate equalized floors to residential uses, divide the total square footage of residential property in the project by the square footage of an equalized floor.

(d) To allocate equalized floors to low income residential housing use, divide the total square footage of low income residential housing property in the project by the square footage of an equalized floor. In determining the square footage of low income residential housing property, include that proportion of the square footage of residential common space that is the same as the proportion of the total square footage of low income residential housing units to the total square footage of all residential housing units.

[(3)] (4) The application must be filed under this section on or before the date residential units that are a part of the vertical housing development project are ready for occupancy.

[(4)] (5) The department shall review each application submitted under this section and shall certify or deny certification based on whether the proposed vertical housing development project meets *[the]* criteria *[set forth in ORS 285C.468]* **established by the department by rule that are consistent with ORS 285C.450 to 285C.480.**

[(5)] (6) The department may request any documentation or undertake any investigation necessary to ascertain the veracity of any statement made on an application under this section.

[(6) *The department shall certify or deny certification within 60 days following the date the application is filed with the department.*]

[(7) *A denial of certification may be appealed to the department in the manner of a contested case under ORS chapter 183.*]

**(7) The certification issued by the department shall:**

**(a) Identify the property included in the certified vertical housing development project;**

**(b) Identify the number of equalized floors of residential housing in the project and include a description of the property of each equalized floor;**

**(c) Identify the number of equalized floors of low income residential housing in the project and include a description of the property of each equalized floor; and**

**(d) Contain any other information prescribed by the department.**

**(8) The determination of the department to certify or deny certification is a discretionary determination. The determination is final and is not subject to judicial or administrative review.**

[(8)] (9) The department may charge *[an application fee]* **appropriate fees** to offset the cost of administering the application and certification process under this section **and any other related costs.**

**SECTION 8.** ORS 285C.468 is amended to read:

285C.468. [(1) *The Economic and Community Development Department shall certify a proposed project as eligible for the partial property tax exemption under ORS 285C.471 if the application for certification describes a vertical housing development project and the project is to be constructed in a vertical housing development zone.*]

[(2)] (1) **[The] Upon determining to certify a vertical housing development project, the Housing and Community Services Department shall send a copy of the certification to the county assessor of the county in which the *[vertical housing development]* project is to be located.**

**(2) At any time after certification and prior to the end of the exemption period, the department may:**

(a) Request documentation, undertake investigations or otherwise review and monitor the project to ensure ongoing compliance by project applicants and owners; and

(b) Undertake any remedial action that the department determines to be necessary or appropriate to fulfill the purposes of ORS 285C.450 to 285C.480, including issuing a notice of decertification directing the county assessor to disqualify all or a portion of a project. The decertification notice shall identify:

(A) The property decertified from the vertical housing development project;

(B) The number of equalized floors that have ceased qualifying as residential housing for purposes of ORS 285C.450 to 285C.480;

(C) The number of equalized floors that have ceased qualifying as low income residential housing for purposes of ORS 285C.450 to 285C.480;

(D) The remaining number of equalized floors of residential housing in the project and include a description of the property of each remaining equalized floor; and

(E) The remaining number of equalized floors of low income residential housing in the project and include a description of the property of each remaining equalized floor of low income residential housing.

(3) A notice of decertification issued under subsection (2) of this section shall include any other information prescribed by the department.

(4) The department shall send copies of a notice of decertification issued under subsection (2) of this section to the property owner and the county assessor of the county in which the property is located.

**SECTION 9.** ORS 285C.471 is amended to read:

285C.471. [(1) For the first tax year in which, as of the assessment date, a vertical housing development project is occupied or ready for occupancy following certification under ORS 285C.468, and for the next nine consecutive tax years, the vertical housing development project shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone as described in ORS 285C.453 (4), according to the following schedule:]

[(a) If the project consists of one floor of residential housing, the project shall be 20 percent exempt.]

[(b) If the project consists of two floors of residential housing, the project shall be 40 percent exempt.]

[(c) If the project consists of three floors of residential housing, the project shall be 60 percent exempt.]

[(d) If the project consists of four or more floors of residential housing, the project shall be 80 percent exempt.]

[(2) During the period in which property would otherwise be partially exempt under this section, property shall be disqualified from exemption under this section if a floor used for residential housing is converted to another use.]

(1) For the first tax year in which, as of the assessment date, a vertical housing development project is occupied or ready for occupancy following certification under ORS 285C.465, and for the next nine consecutive tax years:

(a) The property of the vertical housing development project, except for the land of the project, shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone as described in ORS 285C.453 (4), according to the following schedule and as identified in the certification issued by the department under ORS 285C.465 (7):

(A) If the project consists of the equivalent of one equalized floor allocated to residential housing, the project shall be 20 percent exempt.

(B) If the project consists of the equivalent of two equalized floors allocated to residential housing, the project shall be 40 percent exempt.

(C) If the project consists of the equivalent of three equalized floors allocated to residential housing, the project shall be 60 percent exempt.

(D) If the project consists of the equivalent of four or more equalized floors allocated to residential housing, the project shall be 80 percent exempt.

(b) The land of the vertical housing development project shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone as described in ORS 285C.453 (4), in the same percentages determined under paragraph (a) of this subsection, for each equalized floor allocated to low income residential housing, as identified in the certification issued by the department under ORS 285C.465 (7).

(2) In order to receive the partial property tax exemption described in subsection (1) of this section, the vertical housing development project property owner, project applicant or other person responsible for the payment of property taxes on the project shall notify the county assessor of the county in which the project exists, that the project meets the requirements of subsection (1) of this section. The notification must be given to the assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

(3) During the period in which property would otherwise be partially exempt under subsection (1)(a) of this section, if all or a portion of a project has been decertified by the Housing and Community Services Department under ORS 285C.468, the property shall be disqualified from exemption under this section in proportion to the equivalent of each equalized floor that has ceased qualifying as residential housing, as set forth in the notice of decertification.

(4) During the period in which land would otherwise be partially exempt under subsection (1)(b) of this section, if all or a portion of a project has been decertified by the Housing and Community Services Department under ORS 285C.468, the land shall be disqualified from exemption under this section in proportion to the equivalent number of equalized floors that have ceased qualifying as low income residential housing, as set forth in the notice of decertification.

**SECTION 10.** ORS 285C.480 is amended to read:

285C.480. (1) Following vertical housing development zone designation under ORS [285C.459] **285C.456**, if the [*Director of the Economic and Community Development Department*] **Housing and Community Services Department** receives a request to terminate a vertical housing development zone from the applicant for zone designation under ORS 285C.453, the [*director*] **department** shall terminate the zone.

(2) The termination of a zone under this section does not affect the exemption of any property from tax under ORS 285C.471 if an application for the exemption was approved prior to the zone termination.

**SECTION 11.** (1) Property that was constructed pursuant to a certification for a partial property tax exemption under ORS 285C.465, prior to the effective date of this 2005 Act, shall continue to receive the exemption according to the same schedule and subject to the disqualification provisions of ORS 285C.450 to 285C.480 that were in effect and applied at the time the vertical housing development project was certified for partial property tax exemption.

(2) If an application for certification was filed with the Economic and Community Development Department prior to the effective date of this 2005 Act but not acted upon as of the effective date of this 2005 Act, the Economic and Community Development Department shall forward the application to the Housing and Community Services Department.

**SECTION 12.** (1) The amendments to ORS 285C.450, 285C.453, 285C.456, 285C.459, 285C.462, 285C.465, 285C.468 and 285C.480 by sections 2 to 8 and 10 of this 2005 Act apply only to applications for vertical housing development zones submitted on or after the effective date of this 2005 Act.

(2) The amendments to ORS 285C.471 by section 9 of this 2005 Act apply only to vertical housing development projects that are first certified as eligible for partial ad valorem property tax exemption under ORS 285C.471 on or after the effective date of this 2005 Act.

**SECTION 13.** The Housing and Community Services Department may not issue a certification under ORS 285C.450 to 285C.480 on or after January 1, 2016.

**SECTION 14.** This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die.

Passed by House April 26, 2005

.....  
Chief Clerk of House

.....  
Speaker of House

Passed by Senate May 18, 2005

.....  
President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

.....  
Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

.....  
Secretary of State