

# House Bill 3221

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

## 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 **as introduced**.

Modifies process for determining need for buildable land to meet estimated need for housing.

## A BILL FOR AN ACT

Relating to the need for buildable land for housing; amending ORS 197.296.

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

**SECTION 1.** ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of this section apply to metropolitan service district regional framework plans and **to** local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

**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.

1 (D) Lands that may be used for residential infill or redevelopment.

2 (b) For the purpose of the inventory and determination of housing capacity described in sub-  
 3 section (3)(a) of this section, the local government must demonstrate consideration of:

4 (A) The extent that residential development is prohibited or restricted by local regulation and  
 5 ordinance, state law and rule or federal statute and regulation;

6 (B) A written long term contract or easement for radio, telecommunications or electrical facili-  
 7 ties, if the written contract or easement is provided to the local government; *[and]*

8 (C) The presence of a single family dwelling or other structure on a lot or parcel[.]; **and**

9 **(D) Recorded covenants, codes and deed restrictions imposed on a lot or parcel pursuant**  
 10 **to the declaration of a planned community under ORS 94.550 to 94.783 or a condominium**  
 11 **under ORS chapter 100.**

12 **(c) For the purpose of the determination of housing capacity described in subsection**  
 13 **(3)(a) of this section, or housing need under subsection (3)(b) of this section, the local gov-**  
 14 **ernment:**

15 **(A) May not estimate, except as provided in subparagraph (B) of this paragraph, a po-**  
 16 **tential overall housing density greater than the actual housing density built or housing mix**  
 17 **present in the jurisdiction when the inventory and determination is made.**

18 **(B) May estimate a potential overall housing density five percent greater than the actual**  
 19 **overall housing density built or housing mix present in the jurisdiction when the inventory**  
 20 **and determination is made if the local government also adopts measures pursuant to sub-**  
 21 **section (6)(b) or (7) of this section.**

22 *[(c)]* **(d)** Except for land that may be used for residential infill or redevelopment, a local gov-  
 23 ernment shall create a map or document that may be used to verify and identify specific lots or  
 24 parcels that have been determined to be buildable lands.

25 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of  
 26 housing capacity and **housing** need pursuant to subsection (3) of this section must be based on data  
 27 relating to land within the urban growth boundary that has been collected since the last periodic  
 28 review or five years, whichever is greater. The data shall include:

29 (A) The number, density and average mix of housing types of urban residential development that  
 30 have actually occurred;

31 (B) Trends in density and average mix of housing types of urban residential development;

32 (C) Demographic and population trends;

33 (D) Economic trends and cycles; and

34 (E) The number, density and average mix of housing types that have occurred on the buildable  
 35 lands described in subsection (4)(a) of this section.

36 (b) A local government shall make the determination described in paragraph (a) of this sub-  
 37 section using a shorter time period than the time period described in paragraph (a) of this subsection  
 38 if the local government finds that the shorter time period will provide more accurate and reliable  
 39 data related to housing capacity and **housing** need. The shorter time period may not be less than  
 40 three years.

41 (c) A local government shall use data from a wider geographic area or use a time period for  
 42 economic cycles and trends longer than the time period described in paragraph (a) of this subsection  
 43 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-  
 44 curate, complete and reliable data relating to trends affecting housing need than an analysis per-  
 45 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the

1 geographic area, time frame and source of data used in a determination performed under this para-  
2 graph.

3 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than  
4 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government  
5 shall take one or more of the following actions to accommodate the additional housing need:

6 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate  
7 housing needs for the next 20 years. As part of this process, the local government shall consider the  
8 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include  
9 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The  
10 need and inclusion of lands for new public school facilities shall be a coordinated process between  
11 the affected public school districts and the local government that has the authority to approve the  
12 urban growth boundary;

13 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
14 clude new measures that demonstrably increase the likelihood that residential development will oc-  
15 cur at densities sufficient to accommodate housing needs for the next 20 years without *[expansion]*  
16 **amendment** of the urban growth boundary **or with an amendment that decreases the amount**  
17 **of land within the urban growth boundary**. A local government or metropolitan service district  
18 that takes this action shall monitor and record the level of development activity and development  
19 density by housing type following the date of the adoption of the new measures; or

20 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

21 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government  
22 shall determine the overall average density and overall mix of housing types at which residential  
23 development of needed housing types must occur in order to meet housing needs over the next 20  
24 years. If that density is greater than the actual density of development determined under subsection  
25 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined  
26 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall  
27 adopt measures that demonstrably increase the likelihood that residential development will occur  
28 at the housing types and density and at the mix of housing types required to meet housing needs  
29 over the next 20 years.

30 (8)(a) A local government outside a metropolitan service district that takes any actions under  
31 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
32 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to  
33 197.314.

34 (b) The local government shall determine the density and mix of housing types anticipated as a  
35 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-  
36 tual density and mix of housing types achieved. The local government shall compare actual and  
37 anticipated density and mix. The local government shall submit its comparison to the commission  
38 at the next periodic review or at the next legislative review of its urban growth boundary, which-  
39 ever comes first.

40 (9) In establishing that actions and measures adopted under subsections (6) or (7) of this section  
41 demonstrably increase the likelihood of higher density residential development, the local government  
42 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the  
43 housing types identified under subsection (3) of this section and is zoned at density ranges that are  
44 likely to be achieved by the housing market using the analysis in subsection (3) of this section.  
45 Actions or measures, or both, may include but are not limited to:

- 1 (a) Increases in the permitted density on existing residential land;
- 2 (b) Financial incentives for higher density housing;
- 3 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
- 4 in exchange for amenities and features provided by the developer;
- 5 (d) Removal or easing of approval standards or procedures;
- 6 (e) Minimum density ranges;
- 7 (f) Redevelopment and infill strategies;
- 8 (g) Authorization of housing types not previously allowed by the plan or regulations;
- 9 (h) Adoption of an average residential density standard; and
- 10 (i) Rezoning or redesignation of nonresidential land.

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