

# House Bill 3337

Sponsored by Representative BEYER, Senator MORRISETTE (at the request of Oregon Home Builders Association)

## 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**.

Establishes schedule for review of buildable lands supply for local governments within metropolitan planning organization.

Requires cities with population of 50,000 or more within Lane County to demonstrate, separately from another city with population of 50,000 or more within Lane County, that urban growth boundary contains sufficient buildable lands.

## A BILL FOR AN ACT

1  
2 Relating to land use for urban growth boundary; creating new provisions; and amending ORS 197.296  
3 and 197.299.

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

5 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 197.295**  
6 **to 197.314.**

7 **SECTION 2. (1) A local government that is within a metropolitan planning organization,**  
8 **as defined in ORS 197.629, shall complete the inventory, analysis and determination required**  
9 **under ORS 197.296 (3) not later than 10 years after completion of the previous inventory,**  
10 **analysis and determination.**

11 **(2) The local government shall:**

12 **(a) Within one year of completing the analysis, take actions necessary under ORS 197.296**  
13 **(6)(a) to accommodate one-half of a 20-year buildable lands supply determined under ORS**  
14 **197.296 (3).**

15 **(b) Within two years of completing the analysis, take all final action under ORS 197.296**  
16 **(6)(a) necessary to accommodate a 20-year buildable lands supply determined under ORS**  
17 **197.296 (3).**

18 **(c) Within one year of completing the analysis, take action under ORS 197.296 (6)(b) to**  
19 **provide sufficient buildable land within the urban growth boundary to accommodate the es-**  
20 **timated housing needs for 20 years from the time the actions are completed.**

21 **(d) Consider and adopt new measures that the local government deems appropriate under**  
22 **ORS 197.296 (6)(b).**

23 **SECTION 3. Notwithstanding an intergovernmental agreement pursuant to ORS 190.003**  
24 **to 190.130 to the contrary, a city within Lane County that has a population of 50,000 or more**  
25 **within its boundaries shall demonstrate, separately from another city within Lane County**  
26 **that has a population of 50,000 or more, that its comprehensive plan provides sufficient**  
27 **buildable lands within the urban growth boundary established pursuant to statewide planning**  
28 **goals to accommodate estimated housing needs for 20 years.**

29 **SECTION 4. ORS 197.296 is amended to read:**

30 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional

**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 framework plans and local government comprehensive plans for lands within the urban growth  
2 boundary of a city that is located outside of a metropolitan service district and has a population of  
3 25,000 or more.

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

9 (2) **Unless provided otherwise by section 2 of this 2007 Act**, at periodic review pursuant to  
10 ORS 197.628 to 197.650 or at any other legislative review of the comprehensive plan or regional plan  
11 that concerns the urban growth boundary and requires the application of a statewide planning goal  
12 relating to buildable lands for residential use, a local government shall demonstrate that its com-  
13 prehensive plan or regional plan provides sufficient buildable lands within the urban growth  
14 boundary established pursuant to statewide planning goals to accommodate estimated housing needs  
15 for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the  
16 periodic or legislative review.

17 (3) In performing the duties under subsection (2) of this section **or section 2 of this 2007 Act**,  
18 a local government shall:

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

21 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS  
22 197.303 and statewide planning goals and rules relating to housing, to determine the number of units  
23 and amount of land needed for each needed housing type for the next 20 years.

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

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

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

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

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

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

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

35 (B) A written long term contract or easement for radio, telecommunications or electrical facili-  
36 ties, if the written contract or easement is provided to the local government; and

37 (C) The presence of a single family dwelling or other structure on a lot or parcel.

38 (c) Except for land that may be used for residential infill or redevelopment, a local government  
39 shall create a map or document that may be used to verify and identify specific lots or parcels that  
40 have been determined to be buildable lands.

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

45 (A) The number, density and average mix of housing types of urban residential development that

1 have actually occurred;

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

3 (C) Demographic and population trends;

4 (D) Economic trends and cycles; and

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

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

11 (c) A local government shall use data from a wider geographic area or use a time period for  
12 economic cycles and trends longer than the time period described in paragraph (a) of this subsection  
13 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-  
14 curate, complete and reliable data relating to trends affecting housing need than an analysis per-  
15 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the  
16 geographic area, time frame and source of data used in a determination performed under this para-  
17 graph.

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

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

28 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
29 clude new measures that demonstrably increase the likelihood that residential development will oc-  
30 cur at densities sufficient to accommodate housing needs for the next 20 years without expansion  
31 of the urban growth boundary. A local government or metropolitan service district that takes this  
32 action shall monitor and record the level of development activity and development density by hous-  
33 ing type following the date of the adoption of the new measures; or

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

35 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government  
36 shall determine the overall average density and overall mix of housing types at which residential  
37 development of needed housing types must occur in order to meet housing needs over the next 20  
38 years. If that density is greater than the actual density of development determined under subsection  
39 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined  
40 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall  
41 adopt measures that demonstrably increase the likelihood that residential development will occur  
42 at the housing types and density and at the mix of housing types required to meet housing needs  
43 over the next 20 years.

44 (8)(a) A local government outside a metropolitan service district that takes any actions under  
45 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use

1 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to  
 2 197.314.

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

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

- 15 (a) Increases in the permitted density on existing residential land;
- 16 (b) Financial incentives for higher density housing;
- 17 (c) Provisions permitting additional density beyond that generally allowed in the zoning district  
 18 in exchange for amenities and features provided by the developer;
- 19 (d) Removal or easing of approval standards or procedures;
- 20 (e) Minimum density ranges;
- 21 (f) Redevelopment and infill strategies;
- 22 (g) Authorization of housing types not previously allowed by the plan or regulations;
- 23 (h) Adoption of an average residential density standard; and
- 24 (i) Rezoning or redesignation of nonresidential land.

25 **SECTION 5.** ORS 197.299 is amended to read:

26 197.299. (1) **Notwithstanding section 2 of this 2007 Act**, a metropolitan service district or-  
 27 ganized under ORS chapter 268 shall complete the inventory, determination and analysis required  
 28 under ORS 197.296 (3) not later than five years after completion of the previous inventory, deter-  
 29 mination and analysis.

30 (2)[(a)] **Notwithstanding section 2 of this 2007 Act**, the metropolitan service district shall:

31 (a) Take [*such*] action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a  
 32 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the  
 33 analysis.

34 (b) [*The metropolitan service district shall*] Take all final action under ORS 197.296 (6)(a) neces-  
 35 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two  
 36 years of completing the analysis.

37 (c) [*The metropolitan service district shall*] Take action under ORS 197.296 (6)(b), within one year  
 38 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land  
 39 within the urban growth boundary to accommodate the estimated housing needs for 20 years from  
 40 the time the actions are completed. The metropolitan service district shall consider and adopt new  
 41 measures that the governing body deems appropriate under ORS 197.296 (6)(b).

42 (3) The Land Conservation and Development Commission may grant an extension to the time  
 43 limits of subsection (2) of this section if the Director of the Department of Land Conservation and  
 44 Development determines that the metropolitan service district has provided good cause for failing  
 45 to meet the time limits.

1 (4)(a) The metropolitan service district shall establish a process to expand the urban growth  
2 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-  
3 dated within the existing urban growth boundary. The metropolitan service district shall design the  
4 process to:

5 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth  
6 boundary capacity required by subsection (1) of this section; and

7 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four  
8 months after submission of a complete application by a high growth school district, as defined in  
9 ORS 195.110.

10 (b) At the request of a high growth school district, the metropolitan service district shall assist  
11 the high growth school district to identify school sites required by the school facility planning pro-  
12 cess described in ORS 195.110. A need for a public school is a specific type of identified land need  
13 under ORS 197.298 (3).

14 **SECTION 6. A local government that is within a metropolitan planning organization, as**  
15 **defined in ORS 197.629, shall complete the inventory, analysis and determination required**  
16 **under ORS 197.296 (3) to begin compliance with section 2 of this 2007 Act:**

17 (1) **Within five years after the effective date of this 2007 Act; or**

18 (2) **Within two years after the effective date of this 2007 Act if the local government:**

19 (a) **Has not within five years immediately prior to the effective date of this 2007 Act**  
20 **completed periodic review or another legislative review of the comprehensive plan that con-**  
21 **cerns the urban growth boundary and requires application of a statewide land use planning**  
22 **goal relating to buildable lands; and**

23 (b) **Is not in the process of completing periodic review or another legislative review of**  
24 **the comprehensive plan on the effective date of this 2007 Act.**

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