

# Senate Bill 335

Sponsored by Senator SCHRADER (Presession filed.)

## 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**.

Changes planning period for buildable land supply inside urban growth boundary.

## A BILL FOR AN ACT

Relating to buildable land supply; creating new provisions; and amending ORS 197.296 and 197.299.

**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 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 197.650 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 **up to 20 years**. The [*20-year period shall commence*] **period of up to 20 years, determined by the local government, commences** 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*] **up to 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

**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 planning or zoning; and

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

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

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

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

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

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

13 (5)(a) Except as provided in [*paragraphs (b) and (c)*] **paragraph (b)** of this subsection, the de-  
14 termination of housing capacity and need pursuant to subsection (3) of this section must be based  
15 on data relating to land within the urban growth boundary that has been collected [*since the last*  
16 *periodic review or five years, whichever is greater. The data shall include*] **over the past 20 years,**  
17 **including:**

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

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

21 (C) Demographic and population trends;

22 (D) Economic trends and cycles; and

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

25 [*(b) A local government shall make the determination described in paragraph (a) of this subsection*  
26 *using a shorter time period than the time period described in paragraph (a) of this subsection if the*  
27 *local government finds that the shorter time period will provide more accurate and reliable data related*  
28 *to housing capacity and need. The shorter time period may not be less than three years.*]

29 [*(c)*] **(b)** A local government shall use data from a wider geographic area or use a time period  
30 for economic cycles and trends [*longer than*] **different from** the time period described in paragraph  
31 (a) of this subsection if the analysis of a wider geographic area or the use of a [*longer*] **different**  
32 time period will provide more accurate, complete and reliable data relating to trends affecting  
33 housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local  
34 government must clearly describe the geographic area, time frame and source of data used in a de-  
35 termination performed under this paragraph.

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

39 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate  
40 housing needs for [*the next*] **up to** 20 years. As part of this process, the local government shall  
41 consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment  
42 shall include sufficient land reasonably necessary to accommodate the siting of new public school  
43 facilities. The need and inclusion of lands for new public school facilities shall be a coordinated  
44 process between the affected public school districts and the local government that has the authority  
45 to approve the urban growth boundary;

1 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
 2 clude new measures that demonstrably increase the likelihood that residential development will oc-  
 3 cur at densities sufficient to accommodate housing needs for *[the next]* **up to** 20 years without  
 4 expansion of the urban growth boundary. A local government or metropolitan service district that  
 5 takes this action shall monitor and record the level of development activity and development density  
 6 by housing type following the date of the adoption of the new measures; or

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

8 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government  
 9 shall determine the overall average density and overall mix of housing types at which residential  
 10 development of needed housing types must occur in order to meet housing needs *[over the next]* **for**  
 11 **up to** 20 years. If that density is greater than the actual density of development determined under  
 12 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types  
 13 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic  
 14 review, shall adopt measures that demonstrably increase the likelihood that residential development  
 15 will occur at the housing types and density and at the mix of housing types required to meet housing  
 16 needs *[over the next]* **for up to** 20 years.

17 (8)(a) A local government outside a metropolitan service district that takes any actions under  
 18 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
 19 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to  
 20 197.314.

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

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

33 (a) Increases in the permitted density on existing residential land;

34 (b) Financial incentives for higher density housing;

35 (c) Provisions permitting additional density beyond that generally allowed in the zoning district  
 36 in exchange for amenities and features provided by the developer;

37 (d) Removal or easing of approval standards or procedures;

38 (e) Minimum density ranges;

39 (f) Redevelopment and infill strategies;

40 (g) Authorization of housing types not previously allowed by the plan or regulations;

41 (h) Adoption of an average residential density standard; and

42 (i) Rezoning or redesignation of nonresidential land.

43 **SECTION 2.** ORS 197.299 is amended to read:

44 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the  
 45 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after

1 completion of the previous inventory, determination and analysis.

2 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296  
3 (6)(a) to accommodate one-half of [*a 20-year*] **the** buildable land supply determined under ORS 197.296  
4 (3) within one year of completing the analysis.

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

8 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year  
9 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land  
10 within the urban growth boundary to accommodate the estimated housing needs for [*20 years*] **the**  
11 **period of up to 20 years determined under ORS 197.296 (2)** from the time the actions are com-  
12 pleted. The metropolitan service district shall consider and adopt new measures that the governing  
13 body deems appropriate under ORS 197.296 (6)(b).

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

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

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

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

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

31 **SECTION 3. The amendments to ORS 197.296 and 197.299 by sections 1 and 2 of this 2007**  
32 **Act apply only to a proposal to amend an acknowledged comprehensive plan or land use**  
33 **regulation or a proposal to adopt a new land use regulation that is submitted to the Director**  
34 **of the Department of Land Conservation and Development for review under ORS 197.610 on**  
35 **or after the effective date of this 2007 Act and to a legislative review of urban growth**  
36 **boundaries initiated on or after the effective date of this 2007 Act.**

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