

# House Bill 2609

Sponsored by Representative SCHAUFLE (at the request of Oregon Home Builders Association) (Pre-session 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**.

Requires metropolitan service districts and cities with population of 25,000 or more that are outside metropolitan service districts to provide rolling, five-year supply of shovel-ready buildable lands for needed housing and for industrial and commercial uses.

## A BILL FOR AN ACT

1  
2 Relating to buildable lands; creating new provisions; and amending ORS 197.295, 197.296 and 197.299.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 195.**

5 **SECTION 2. (1) As used in this section:**

6 (a) **"Buildable lands" means lands, including vacant lands and developed lands likely to**  
7 **be redeveloped, in urban and urbanizable areas that are suitable, available and necessary for**  
8 **industrial and commercial uses.**

9 (b) **"Shovel-ready buildable lands" means buildable lands that will be ready for con-**  
10 **struction within one year from the date an application for a building permit or for a request**  
11 **for extension of urban services, as defined in ORS 195.065, to the site is submitted.**

12 (2) **As part of an effort to comply with the requirement to provide an adequate supply**  
13 **of sites for a variety of industrial and commercial uses in a goal related to economic activity,**  
14 **a local government shall inventory and maintain a rolling, five-year supply of shovel-ready**  
15 **buildable lands for industrial and commercial uses. The short-term supply of shovel-ready**  
16 **buildable lands required by this section must include sites of suitable sizes, types, locations**  
17 **and urban services service levels for a variety of industrial and commercial uses.**

18 **SECTION 3. ORS 197.295 is amended to read:**

19 197.295. As used in ORS 197.295 to 197.314 and 197.475 to 197.490:

20 (1) **"Buildable lands" means lands, including vacant lands and developed lands likely to be**  
21 **redeveloped, in urban and urbanizable areas that are suitable, available and necessary for residen-**  
22 **tial uses. [*"Buildable lands" includes both vacant land and developed land likely to be redeveloped.*]**

23 (2) **"Manufactured dwelling park" has the meaning given that term in ORS 446.003.**

24 (3) **"Government assisted housing" means housing that is financed in whole or part by either a**  
25 **federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that**  
26 **is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided**  
27 **by either a federal or state housing agency or a local housing authority.**

28 (4) **"Manufactured homes" has the meaning given that term in ORS 446.003.**

29 (5) **"Mobile home park" has the meaning given that term in ORS 446.003.**

30 (6) **"Periodic review" means the process and procedures as set forth in ORS 197.628 to 197.650.**

31 (7) **"Shovel-ready buildable lands" means buildable lands that will be ready for con-**

**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 **struction within one year from the date an application for a building permit or for a request**  
 2 **for extension of urban services, as defined in ORS 195.065, to the site is submitted.**

3 [(7)] (8) “Urban growth boundary” means an urban growth boundary included or referenced in  
 4 a comprehensive plan.

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

6 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional  
 7 framework plans and local government comprehensive plans for lands within the urban growth  
 8 boundary of a city that is located outside of a metropolitan service district and has a population of  
 9 25,000 or more.

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

15 (2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of  
 16 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the  
 17 application of a statewide planning goal relating to buildable lands for residential use, a local gov-  
 18 ernment shall demonstrate that, **commencing on the date initially scheduled for completion of**  
 19 **the periodic or legislative review**, its comprehensive plan or regional plan provides sufficient:

20 (a) Buildable lands within the urban growth boundary established pursuant to statewide plan-  
 21 ning goals to accommodate estimated housing needs for **the next 20 years; and**

22 (b) **Shovel-ready buildable lands for a rolling, five-year period.** [*The 20-year period shall*  
 23 *commence on the date initially scheduled for completion of the periodic or legislative review.*]

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

25 (a) Inventory the supply of buildable lands, **including shovel-ready buildable lands**, within the  
 26 urban growth boundary and determine the housing capacity of the buildable lands, **including**  
 27 **shovel-ready buildable lands**; and

28 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS  
 29 197.303 and statewide **land use** planning goals and rules relating to housing, to determine the  
 30 number of units and amount of land needed for each needed housing type for the next 20 years **and**  
 31 **for the rolling, five-year period for which shovel-ready buildable lands must be provided.**

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (C) Demographic and population trends;

12 (D) Economic trends and cycles; and

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

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

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

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

29 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate  
 30 housing needs for the next 20 years **and for the rolling, five-year period for which shovel-ready**  
 31 **buildable lands must be provided.** As part of this process, the local government shall consider the  
 32 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include  
 33 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The  
 34 need and inclusion of lands for new public school facilities shall be a coordinated process between  
 35 the affected public school districts and the local government that has the authority to approve the  
 36 urban growth boundary;

37 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-  
 38 clude new measures that demonstrably increase the likelihood that residential development will oc-  
 39 cur at densities sufficient to accommodate housing needs for the next 20 years **and for the rolling,**  
 40 **five-year period for which shovel-ready buildable lands must be provided** without expansion of  
 41 the urban growth boundary. A local government or metropolitan service district that takes this  
 42 action shall monitor and record the level of development activity and development density by hous-  
 43 ing type following the date of the adoption of the new measures; or

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

45 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government

1 shall determine the overall average density and overall mix of housing types at which residential  
 2 development of needed housing types must occur in order to meet housing needs [*over*] **for** the next  
 3 20 years **and for the rolling, five-year period for which shovel-ready buildable lands must be**  
 4 **provided.** If that density is greater than the actual density of development determined under sub-  
 5 section (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types de-  
 6 termined under subsection (5)(a)(A) of this section, the local government, as part of its periodic  
 7 review, shall adopt measures that demonstrably increase the likelihood that residential development  
 8 will occur at the housing types and density and at the mix of housing types required to meet housing  
 9 needs [*over*] **for** the next 20 years **and for the rolling, five-year period for which shovel-ready**  
 10 **buildable lands must be provided.**

11 (8)(a) A local government outside a metropolitan service district that takes any actions under  
 12 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
 13 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to  
 14 197.314.

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

21 (9) In establishing that actions and measures adopted under [*subsections*] **subsection** (6) or (7)  
 22 of this section demonstrably increase the likelihood of higher density residential development, the  
 23 local government shall at a minimum ensure that land zoned for needed housing is in locations ap-  
 24 propriate for the housing types identified under subsection (3) of this section and is zoned at density  
 25 ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of  
 26 this section. Actions or measures, or both, may include but are not limited to:

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

28 (b) Financial incentives for higher density housing;

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

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

32 (e) Minimum density ranges;

33 (f) Redevelopment and infill strategies;

34 (g) Authorization of housing types not previously allowed by the **comprehensive plan or land**  
 35 **use** regulations;

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

37 (i) Rezoning or redesignation of nonresidential land.

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

39 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the  
 40 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after  
 41 completion of the previous inventory, determination and analysis.

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

45 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-

1 sary to accommodate a 20-year [*buildable land*] supply **of buildable lands** determined under ORS  
 2 197.296 (3) within two years of completing the analysis.

3 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year  
 4 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable  
 5 [*land*] **lands** within the urban growth boundary to accommodate the estimated housing needs for 20  
 6 years **and for the rolling, five-year period for which shovel-ready buildable lands must be**  
 7 **provided** from the time the actions are completed. The metropolitan service district shall consider  
 8 and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b).

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

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

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

19 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four  
 20 months after submission of a complete application by a large school district as defined in ORS  
 21 195.110.

22 (b) At the request of a large school district, the metropolitan service district shall assist the  
 23 large school district to identify school sites required by the school facility planning process de-  
 24 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under  
 25 ORS 197.298 (3).

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