

**PROPOSED AMENDMENTS TO
HOUSE BILL 3221**

1 On page 1 of the printed bill, line 2, after “197.296” insert “, 197.178,
2 197.299, 197.302 and 197.637”.

3 Delete lines 4 through 32 and delete pages 2 through 4 and insert:

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

5 **“197.296. (1) For the purpose of the inventory described in this sec-**
6 **tion, ‘buildable lands’ includes:**

7 **“(a) Vacant lands planned or zoned for residential use;**

8 **“(b) Partially vacant lands planned or zoned for residential use;**

9 **“(c) Lands that may be used for a mix of residential and employ-**
10 **ment uses under the existing planning or zoning; and**

11 **“(d) Lands that may be used for residential infill or redevelopment.**

12 **“[(1)(a)] (2)(a)** The provisions of this section apply to metropolitan service
13 district regional framework plans and local government comprehensive plans
14 for lands within the urban growth boundary of a city that is located outside
15 of a metropolitan service district and has a population of 25,000 or more.

16 **“(b)** The Land Conservation and Development Commission may establish
17 a set of factors under which additional cities are subject to the provisions
18 of this section. In establishing the set of factors required under this para-
19 graph, the commission shall consider the size of the city, the rate of popu-
20 lation growth of the city or the proximity of the city to another city with
21 a population of 25,000 or more or to a metropolitan service district.

22 **“[(2)] (3)** At periodic review pursuant to ORS 197.628 to 197.651 or at any

1 other legislative review of the comprehensive plan or regional plan that
2 concerns the urban growth boundary and requires the application of a
3 statewide planning goal relating to buildable lands for residential use, a lo-
4 cal government shall demonstrate that its comprehensive plan or regional
5 plan provides sufficient buildable lands within the urban growth boundary
6 established pursuant to statewide planning goals to accommodate estimated
7 housing needs for **the next** 20 years. The 20-year period shall commence on
8 the date initially scheduled for completion of the periodic or legislative re-
9 view.

10 “[3] (4) In performing the duties under subsection [(2)] (3) of this sec-
11 tion, a local government shall:

12 “(a) Inventory the supply of buildable lands within the urban growth
13 boundary [*and determine the housing capacity of the buildable lands; and*];

14 **“(b) Determine the housing capacity of buildable lands by evaluat-
15 ing:**

16 **“(A) Residential development restrictions;**

17 **“(B) Recorded contracts and easements for radio, telecommuni-
18 cations and electrical facilities;**

19 **“(C) Existing single family dwellings and other structures;**

20 **“(D) Density and redevelopment conditions; and**

21 **“(E) Covenants, restrictions and declarations in recorded instru-
22 ments;**

23 **“(c) Except for land that may be used for residential infill or rede-
24 velopment, create a map or document that may be used to verify and
25 identify specific lots or parcels that have been determined to be
26 buildable lands; and**

27 “[b] (d) Conduct an analysis of housing need by type and density range,
28 in accordance with ORS 197.303 and statewide planning goals and rules re-
29 lating to housing, to determine the number of units and amount of land
30 needed for each needed housing type for the next 20 years.

1 “[(4)(a) For the purpose of the inventory described in subsection (3)(a) of
2 this section, ‘buildable lands’ includes:]

3 “[(A) Vacant lands planned or zoned for residential use;]

4 “[(B) Partially vacant lands planned or zoned for residential use;]

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

7 “[(D) Lands that may be used for residential infill or redevelopment.]

8 “[(b) For the purpose of the inventory and determination of housing capac-
9 ity described in subsection (3)(a) of this section, the local government must
10 demonstrate consideration of:]

11 “[(A) The extent that residential development is prohibited or restricted by
12 local regulation and ordinance, state law and rule or federal statute and reg-
13 ulation;]

14 “[(B) A written long term contract or easement for radio, telecommuni-
15 cations or electrical facilities, if the written contract or easement is provided
16 to the local government; and]

17 “[(C) The presence of a single family dwelling or other structure on a lot
18 or parcel.]

19 “[(c) Except for land that may be used for residential infill or redevel-
20 opment, a local government shall create a map or document that may be used to
21 verify and identify specific lots or parcels that have been determined to be
22 buildable lands.]

23 “(5)(a) **In performing the duties under subsection (3) of this section,**
24 **a local government shall use as a baseline for the analysis the actual**
25 **housing density achieved and the housing mix present in the jurisdic-**
26 **tion at the time of the inventory and determination. The local gov-**
27 **ernment shall document any change in units built, density or housing**
28 **mix projected to occur during the analysis period.**

29 “(b) Except as provided in paragraphs [(b)] (c) and [(c)] (d) of this sub-
30 section, the determination of housing capacity and need pursuant to sub-

1 section [(3)] (4) of this section must be based on data relating to land within
2 the urban growth boundary that has been collected since the last periodic
3 review or five years, whichever is greater. The data [*shall*] **must** include:

4 “(A) The number, density and average mix of housing types of urban res-
5 idential development that have actually occurred;

6 “(B) Trends in density and average mix of housing types of urban resi-
7 dential development;

8 “(C) Demographic and population trends;

9 “(D) Economic trends and cycles; and

10 “(E) The number, density and average mix of housing types that have
11 occurred on the buildable lands described in subsection [(4)(a)] (1)(a) of this
12 section.

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

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

27 “(6)(a) If the housing need determined pursuant to subsection [(3)(b)]
28 (4)(d) of this section is greater than the housing capacity determined pur-
29 suant to subsection [(3)(a)] (4)(b) of this section, the local government shall
30 take one or more of the following actions to accommodate the additional

1 housing need:

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

11 “[*b*] **(B)** Amend its comprehensive plan, regional plan, functional plan
12 or land use regulations to include new measures **or to increase the devel-**
13 **opment potential of existing planning and zoning to** [*that*] demonstrably
14 increase the likelihood that residential development will occur at densities
15 sufficient to accommodate housing needs for the next 20 years without ex-
16 pansion of the urban growth boundary. A local government or metropolitan
17 service district that takes [*this*] action **under this subparagraph** shall
18 [*monitor and record the level of development activity and development density*
19 *by housing type following the date of the adoption of the new measures; or*]:

20 **“(i) Specify the anticipated date of adoption of any new measures;**

21 **“(ii) Describe how existing planning and zoning will result in**
22 **greater residential development density than the baseline for the**
23 **analysis established under subsection (5)(a) of this section; and**

24 **“(iii) Monitor and record the level of development activity and de-**
25 **velopment density by housing type following the date of the adoption**
26 **of the new measures; or**

27 “[*c*] **(C)** Adopt a combination of the actions described in [*paragraphs (a)*
28 *and (b) of this subsection*] **subparagraphs (A) and (B) of this paragraph.**

29 **“(b) A decision by a local government to refrain from expanding an**
30 **urban growth boundary, or to expand an urban growth boundary to a**

1 **lesser extent than permitted under this section, must:**

2 **“(A) Account for lapses in time between the local government de-**
3 **termination under this subsection and any action taken under para-**
4 **graph (a)(B) of this subsection; and**

5 **“(B) Provide for future expansion of the urban growth boundary to**
6 **the extent permitted under this subsection if circumstances so require.**

7 “(7) Using the analysis conducted under subsection [(3)(b)] **(4)(d)** of this
8 section, the local government shall determine the overall average density and
9 overall mix of housing types at which residential development of needed
10 housing types must occur in order to meet housing needs over the next 20
11 years. If that density is greater than the actual density of development de-
12 termined under subsection [(5)(a)(A)] **(5)(b)(A)** of this section, or if that mix
13 is different from the actual mix of housing types determined under subsection
14 [(5)(a)(A)] **(5)(b)(A)** of this section, the local government, as part of its pe-
15 riodic review, shall adopt measures that demonstrably increase the likelihood
16 that residential development will occur at the housing types and density and
17 at the mix of housing types required to meet housing needs over the next 20
18 years.

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

23 “(b) The local government shall determine the density and mix of housing
24 types anticipated as a result of actions taken under subsections (6) and (7)
25 of this section and monitor and record the actual density and mix of housing
26 types achieved. The local government shall [*compare actual and anticipated*
27 *density and mix. The local government shall submit its comparison to the*
28 *commission at the next periodic review or at the next legislative review of its*
29 *urban growth boundary, whichever comes first.*]:

30 **“(A) Make the determination available to the public; and**

1 **“(B) Submit its determination to the commission at the next peri-**
2 **odic review or at the next legislative review of its urban growth**
3 **boundary, whichever occurs first.**

4 “(9) In establishing that actions and measures adopted under subsections
5 (6) or (7) of this section demonstrably increase the likelihood of higher den-
6 sity residential development, the local government shall at a minimum en-
7 sure that land zoned for needed housing is in locations appropriate for the
8 housing types identified under subsection [(3)] (4) of this section and is zoned
9 at density ranges that are likely to be achieved by the housing market using
10 the analysis in subsection [(3)] (4) of this section. Actions or measures, or
11 both, may include but are not limited to:

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

13 “(b) Financial incentives for higher density housing;

14 “(c) Provisions permitting additional density beyond that generally al-
15 lowed in the zoning district in exchange for amenities and features provided
16 by the developer;

17 “(d) Removal or easing of approval standards or procedures;

18 “(e) Minimum density ranges;

19 “(f) Redevelopment and infill strategies;

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

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

23 “(i) Rezoning or redesignation of nonresidential land.

24 **“SECTION 2.** ORS 197.299, as amended by section 5, chapter 92, Oregon
25 Laws 2014, is amended to read:

26 “197.299. (1) A metropolitan service district organized under ORS chapter
27 268 shall complete the inventory, determination and analysis required under
28 ORS 197.296 [(3)] (4) not later than six years after completion of the previous
29 inventory, determination and analysis.

30 “(2)(a) The metropolitan service district shall take such action as neces-

1 sary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable
2 land supply determined under ORS 197.296 [(3)] (4) within one year of com-
3 pleting the analysis.

4 “(b) The metropolitan service district shall take all final action under
5 ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply
6 determined under ORS 197.296 [(3)] (4) within two years of completing the
7 analysis.

8 “(c) The metropolitan service district shall take action under ORS 197.296
9 [(6)(b)] **(6)(a)(B)**, within one year after the analysis required under ORS
10 197.296 [(3)(b)] **(4)(d)** is completed, to provide sufficient buildable land within
11 the urban growth boundary to accommodate the estimated housing needs for
12 20 years from the time the actions are completed. The metropolitan service
13 district shall consider and adopt new measures that the governing body
14 deems appropriate under ORS 197.296 [(6)(b)] **(6)(a)(B)**.

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

20 “(4)(a) The metropolitan service district shall establish a process to ex-
21 pand the urban growth boundary to accommodate a need for land for a public
22 school that cannot reasonably be accommodated within the existing urban
23 growth boundary. The metropolitan service district shall design the process
24 to:

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

28 “(B) Provide for a final decision on a proposal to expand the urban
29 growth boundary within four months after submission of a complete appli-
30 cation by a large school district as defined in ORS 195.110.

1 “(b) At the request of a large school district, the metropolitan service
2 district shall assist the large school district to identify school sites required
3 by the school facility planning process described in ORS 195.110. A need for
4 a public school is a specific type of identified land need under ORS 197.298
5 (3).

6 “**SECTION 3.** ORS 197.302 is amended to read:

7 “197.302. (1) After gathering and compiling information on the perform-
8 ance measures as described in ORS 197.301 but prior to submitting the in-
9 formation to the Department of Land Conservation and Development, a
10 metropolitan service district shall determine if actions taken under ORS
11 197.296 (6) have established the buildable land supply and housing densities
12 necessary to accommodate estimated housing needs determined under ORS
13 197.296 [(3)] (4). If the metropolitan service district determines that the
14 actions undertaken will not accommodate estimated need, the district shall
15 develop a corrective action plan, including a schedule for implementation.
16 The district shall submit the plan to the department along with the report
17 on performance measures required under ORS 197.301. Corrective action un-
18 der this section may include amendment of the urban growth boundary,
19 comprehensive plan, regional framework plan, functional plan or land use
20 regulations as described in ORS 197.296.

21 “(2) Within two years of submitting a corrective action plan to the de-
22 partment, the metropolitan service district shall demonstrate by reference to
23 the performance measures described in ORS 197.301 that implementation of
24 the plan has resulted in the buildable land supply and housing density within
25 the urban growth boundary necessary to accommodate the estimated housing
26 needs for each housing type as determined under ORS 197.296 [(3)] (4).

27 “(3) The failure of the metropolitan service district to demonstrate the
28 buildable land supply and housing density necessary to accommodate housing
29 needs as required under this section and ORS 197.296 may be the basis for
30 initiation of enforcement action pursuant to ORS 197.319 to 197.335.

1 **“SECTION 4.** ORS 197.637 is amended to read:

2 “197.637. (1) Upon request of the Department of Land Conservation and
3 Development, the Housing and Community Services Department shall review
4 the inventory and analysis of housing, and measures taken to address the
5 housing need, required of certain local governments under ORS 197.296. The
6 review shall address the likely effect of measures developed by a local gov-
7 ernment under ORS 197.296 (6) or (7) on the adequacy of the supply of
8 buildable land and opportunities to satisfy needs identified under ORS
9 197.296 [(3)] (4).

10 “(2) The Land Conservation and Development Commission and the Direc-
11 tor of the Department of Land Conservation and Development shall consider
12 the review and any recommendations of the Housing and Community Ser-
13 vices Department when determining whether a local government has com-
14 plied with the statewide land use planning goals and the requirements of
15 ORS 197.296.

16 **“SECTION 5.** ORS 197.178 is amended to read:

17 “197.178. (1) Local governments with comprehensive plans or functional
18 plans that are identified in ORS 197.296 [(1)] (2) shall compile and report
19 annually to the Department of Land Conservation and Development the fol-
20 lowing information for all applications received under ORS 227.175 for resi-
21 dential permits and residential zone changes:

22 “(a) The number of applications received for residential development, in-
23 cluding the net residential density proposed in the application and the max-
24 imum allowed net residential density for the subject zone;

25 “(b) The number of applications approved, including the approved net
26 density; and

27 “(c) The date each application was received and the date it was approved
28 or denied.

29 “(2) The report required by this section may be submitted
30 electronically.”.

