

Requested by Representative CLEM

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2031**

1 On page 1 of the printed A-engrossed bill, line 2, delete “amending” and  
2 insert “creating new provisions; and amending ORS 195.145, 197A.320 and”.

3 On page 2, after line 41, insert:

4 **“SECTION 2.** ORS 197A.320 is amended to read:

5 “197A.320. (1) Notwithstanding the priority in ORS 197.298 for inclusion  
6 of land within an urban growth boundary, a city outside of Metro shall  
7 comply with this section when determining which lands to include within the  
8 urban growth boundary of the city pursuant to ORS 197.295 to 197.314,  
9 197A.310 or 197A.312.

10 “(2) The Land Conservation and Development Commission shall provide,  
11 by rule, that:

12 “(a) When evaluating lands for inclusion within the urban growth  
13 boundary, the city shall establish a study area that includes all land that is  
14 contiguous to the urban growth boundary and within a distance specified by  
15 commission.

16 “(b) The city shall evaluate all land in the study area for inclusion in the  
17 urban growth boundary as provided in subsection (4) of this section, except  
18 for land excluded from the study area because:

19 “(A) It is impracticable, as provided in subsection (3) of this section, to  
20 provide necessary public facilities or services to the land.

21 “(B) The land is subject to significant development hazards, including a

1 risk of land slides, a risk of flooding because the land is within the 100-year  
2 floodplain or is subject to inundation during storm surges or tsunamis, and  
3 other risks determined by the commission.

4 “(C) The long-term preservation of significant scenic, natural, cultural or  
5 recreational resources requires limiting or prohibiting urban development of  
6 the land that contains the resources.

7 “(D) The land is owned by the federal government and managed primarily  
8 for rural uses.

9 “(c) When evaluating the priority of land for inclusion under paragraph  
10 (b) of this subsection:

11 “[*(A) The city shall evaluate the land within the study area that is desig-*  
12 *nated as an urban reserve under ORS 195.145 in an acknowledged compre-*  
13 *hensive plan, land that is subject to an acknowledged exception under ORS*  
14 *197.732 or land that is nonresource land and select as much of the land as*  
15 *necessary to satisfy the need for land using criteria established by the com-*  
16 *mission and criteria in an acknowledged comprehensive plan and land use*  
17 *regulations.]*

18 **“(A) The city shall evaluate the land that is within the study area**  
19 **using criteria established by the commission and criteria in an ac-**  
20 **knowledged comprehensive plan and land use regulations and shall**  
21 **select as much land as necessary to satisfy the need for land from land**  
22 **that:**

23 **“(i) Is designated as an urban reserve under ORS 195.145 in an ac-**  
24 **knowledged comprehensive plan;**

25 **“(ii) Is subject to an acknowledged exception under ORS 197.732;**

26 **“(iii) Is nonresource land; or**

27 **“(iv) For a city east of the summit of the Cascade Mountains, is**  
28 **designated as agricultural land in a county comprehensive plan, is on**  
29 **a tract of land of 320 acres or less, has not been in active commercial**  
30 **farm use in the previous 10 years and consists predominantly of a**

1 **Gosney-Rock outcrop-Deskamp soil complex, zero to 15 percent slopes,**  
2 **as determined by the United States Department of Agriculture Natural**  
3 **Resources Conservation Service in its most recent soil survey publi-**  
4 **cation.**

5 “(B) If the amount of land appropriate for selection under subparagraph  
6 (A) of this paragraph is not sufficient to satisfy the need for land, the city  
7 shall evaluate the land within the study area that is designated as marginal  
8 land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive  
9 plan and select as much of the land as necessary to satisfy the need for land  
10 using criteria established by the commission and criteria in an acknowledged  
11 comprehensive plan and land use regulations.

12 “(C) If the amount of land appropriate for selection under subparagraphs  
13 (A) and (B) of this paragraph is not sufficient to satisfy the amount of land  
14 needed, the city shall evaluate land within the study area that is designated  
15 for agriculture or forest uses in the acknowledged comprehensive plan that  
16 is not predominantly high-value farmland, as defined in ORS 195.300, or does  
17 not consist predominantly of prime or unique soils, as determined by the  
18 United States Department of Agriculture Natural Resources Conservation  
19 Service, and select as much of that land as necessary to satisfy the need for  
20 land:

21 “(i) Using criteria established by the commission and criteria in an ac-  
22 knowledged comprehensive plan and land use regulations; and

23 “(ii) Using the predominant capability classification system or the pre-  
24 dominant cubic site class, as appropriate for the acknowledged comprehen-  
25 sive plan designation, to select lower capability or cubic site class lands  
26 first.

27 “(D) If the amount of land appropriate for selection under subparagraphs  
28 (A) to (C) of this paragraph is not sufficient to satisfy the need for land, the  
29 city shall evaluate land within the study area that is designated as agricul-  
30 tural land in an acknowledged comprehensive plan and is predominantly high

1 value farmland and select as much of that land as necessary to satisfy the  
2 need for land. A local government may not select land that is predominantly  
3 made up of prime or unique farm soils, as defined by the United States De-  
4 partment of Agriculture Natural Resources Conservation Service, unless  
5 there is an insufficient amount of other land to satisfy its land need.

6 “(3) For purposes of subsection (2)(b)(A) of this section, the commission  
7 shall determine impracticability by rule, considering the likely amount of  
8 development that could occur on the lands within the planning period, the  
9 likely cost of facilities and services, physical, topographical or other imped-  
10 iments to service provision and whether urban development has occurred on  
11 similarly situated lands such that it is likely that the lands will be developed  
12 at an urban level during the planning period. When impracticability is pri-  
13 marily a result of existing development patterns, the rules of the commission  
14 shall require that the lands be included within the study area, but may allow  
15 the development capacity forecast for the lands to be specified at a lower  
16 level over the planning period. The rules of the commission must be based  
17 on an evaluation of how similarly situated lands have, or have not, developed  
18 over time.

19 “(4) For purposes of subsection (2)(b)(C) of this section, the commission  
20 by rule shall determine the circumstances in which and the resources to  
21 which this exclusion will apply.

22 “(5) Notwithstanding subsection (2)(c)(D) of this section, the rules must  
23 allow land that would otherwise be excluded from an urban growth boundary  
24 to be included if:

25 “(a) The land contains a small amount of resource land that is not im-  
26 portant to the commercial agricultural enterprise in the area and the land  
27 must be included to connect a nearby and significantly larger area of land  
28 of higher priority for inclusion within the urban growth boundary; or

29 “(b) The land contains a small amount of resource land that is not pre-  
30 dominantly high-value farmland or predominantly made up of prime or

1 unique farm soils and the land is completely surrounded by land of higher  
2 priority for inclusion into the urban growth boundary.

3 “(6) When the primary purpose for expansion of the urban growth  
4 boundary is to accommodate a particular industry use that requires specific  
5 site characteristics, or to accommodate a public facility that requires specific  
6 site characteristics and the site characteristics may be found in only a small  
7 number of locations, the city may limit the study area to land that has, or  
8 could be improved to provide, the required site characteristics. Lands in-  
9 cluded within an urban growth boundary for a particular industrial use, or  
10 a particular public facility, must remain planned and zoned for the intended  
11 use:

12 “(a) Except as allowed by rule of the commission that is based on a sig-  
13 nificant change in circumstance or the passage of time; or

14 “(b) Unless the city removes the land from within the urban growth  
15 boundary.

16 “(7) Notwithstanding any other provision of this section, the commission  
17 may adopt rules that specify circumstances under which a city may exchange  
18 land within the urban growth boundary of the city for land that is outside  
19 of the urban growth boundary and that is designed to avoid adverse effects  
20 of an exchange on agricultural or forest operations in the surrounding area.

21 **“SECTION 3.** ORS 195.145 is amended to read:

22 “195.145. (1) To ensure that the supply of land available for urbanization  
23 is maintained:

24 “(a) Local governments may cooperatively designate lands outside urban  
25 growth boundaries as urban reserves subject to ORS 197.610 to 197.625 and  
26 197.626.

27 “(b) Alternatively, a metropolitan service district established under ORS  
28 chapter 268 and a county may enter into a written agreement pursuant to  
29 ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban re-  
30 serves. A process and criteria developed pursuant to this paragraph are an

1 alternative to a process or criteria adopted pursuant to paragraph (a) of this  
2 subsection.

3 “(2)(a) The Land Conservation and Development Commission may require  
4 a local government to designate an urban reserve pursuant to subsection  
5 (1)(a) of this section during its periodic review in accordance with the con-  
6 ditions for periodic review under ORS 197.628.

7 “(b) Notwithstanding paragraph (a) of this subsection, the commission  
8 may require a local government to designate an urban reserve pursuant to  
9 subsection (1)(a) of this section outside of its periodic review if:

10 “(A) The local government is located inside a Primary Metropolitan Sta-  
11 tistical Area or a Metropolitan Statistical Area as designated by the Federal  
12 Census Bureau upon November 4, 1993; and

13 “(B) The local government has been required to designate an urban re-  
14 serve by rule prior to November 4, 1993.

15 “(3) In carrying out subsections (1) and (2) of this section:

16 “(a) Within an urban reserve, neither the commission nor any local gov-  
17 ernment shall prohibit the siting on a legal parcel of a single family dwelling  
18 that would otherwise have been allowed under law existing prior to desig-  
19 nation as an urban reserve.

20 “(b) The commission shall provide to local governments a list of options,  
21 rather than prescribing a single planning technique, to ensure the efficient  
22 transition from rural to urban use in urban reserves.

23 “(4) Urban reserves designated by a metropolitan service district and a  
24 county pursuant to subsection (1)(b) of this section must be planned to ac-  
25 commodate population and employment growth for at least 20 years, and not  
26 more than 30 years, after the 20-year period for which the district has dem-  
27 onstrated a buildable land supply in the most recent inventory, determi-  
28 nation and analysis performed under ORS 197.296.

29 “(5) A district and a county shall base the designation of urban reserves  
30 under subsection (1)(b) of this section upon consideration of factors includ-

1 ing, but not limited to, whether land proposed for designation as urban re-  
2 serves, alone or in conjunction with land inside the urban growth boundary:

3 “(a) Can be developed at urban densities in a way that makes efficient  
4 use of existing and future public infrastructure investments;

5 “(b) Includes sufficient development capacity to support a healthy urban  
6 economy;

7 “(c) Can be served by public schools and other urban-level public facilities  
8 and services efficiently and cost-effectively by appropriate and financially  
9 capable service providers;

10 “(d) Can be designed to be walkable and served by a well-connected sys-  
11 tem of streets by appropriate service providers;

12 “(e) Can be designed to preserve and enhance natural ecological systems;  
13 and

14 “(f) Includes sufficient land suitable for a range of housing types.

15 “(6) A county may take an exception under ORS 197.732 to a statewide  
16 land use planning goal to allow the establishment of a transportation facility  
17 in an area designated as urban reserve under subsection (1)(b) of this section.

18 “(7) The commission shall adopt by goal or by rule a process and criteria  
19 for designating urban reserves pursuant to subsection (1)(b) of this section,  
20 **including but not limited to provisions that require a local government**  
21 **located east of the summit of the Cascade Mountains to evaluate and**  
22 **select as a first priority land within the study area that is designated**  
23 **as agricultural land in a county comprehensive plan, is on a tract of**  
24 **land of 320 acres or less, has not been in active commercial farm use**  
25 **in the previous 10 years and consists predominantly of a Gosney-Rock**  
26 **outcrop-Deskamp soil complex, zero to 15 percent slopes, as deter-**  
27 **mined by the United States Department of Agriculture Natural Re-**  
28 **sources Conservation Service in its most recent soil survey**  
29 **publication.**

30 **“SECTION 4. The amendments to ORS 195.145 and 197A.320 by**

1 **sections 2 and 3 of this 2017 Act apply to evaluations of land occurring**  
2 **on or after the effective date of this 2017 Act.”.**

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