

SB 418-A7
(LC 1850)
5/25/17 (EMM/ps)

Requested by Representative ESQUIVEL

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 418**

1 On page 1 of the printed A-engrossed bill, line 3, after “ORS” insert
2 “197.296 and”.

3 On page 2, delete lines 28 through 32 and insert:

4 **“SECTION 2.** ORS 197.296 is amended to read:

5 “197.296. (1)(a) The provisions of this section apply to metropolitan ser-
6 vice district regional framework plans and local government comprehensive
7 plans for lands within the urban growth boundary of a city that is located
8 outside of a metropolitan service district and has a population of 25,000 or
9 more.

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

16 “(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other
17 legislative review of the comprehensive plan or regional framework plan that
18 concerns the urban growth boundary and requires the application of a
19 statewide planning goal relating to buildable lands for residential use, a lo-
20 cal government shall demonstrate that its comprehensive plan or regional
21 framework plan provides sufficient buildable lands within the urban growth

1 boundary established pursuant to statewide planning goals to accommodate
2 estimated housing needs for 20 years. The 20-year period shall commence on
3 the date initially scheduled for completion of the periodic or legislative re-
4 view.

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

7 “(a) Inventory the supply of buildable lands within the urban growth
8 boundary and determine the housing capacity of the buildable lands; and

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

13 “(4)(a) For the purpose of the inventory described in subsection (3)(a) of
14 this section[,]:

15 “(A) **A metropolitan service district may not include a lot or parcel**
16 **in the inventory if:**

17 “(i) **The lot or parcel has been within the urban growth boundary**
18 **for 15 years or more;**

19 “(ii) **The lot or parcel is not subject to an agreement with a city to**
20 **annex the lot or parcel; and**

21 “(iii) **As of the date of initiation of periodic review or other legis-**
22 **lative review under subsection (2) of this section, the lot or parcel does**
23 **not have, and the existing infrastructure plan does not include pro-**
24 **visions and secured funding to provide the lot or parcel within five**
25 **years, access to sufficient infrastructure to develop the lot or parcel**
26 **at a density that is equal to or above the lowest density level author-**
27 **ized for an area zoned for residential use within the nearest incorpo-**
28 **rated city.**

29 “(B) ‘Buildable lands’ includes:

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

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

2 “[(C)] (iii) Lands that may be used for a mix of residential and employ-
3 ment uses under the existing planning or zoning; and

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

5 “(b) For the purpose of the inventory and determination of housing ca-
6 pacity described in subsection (3)(a) of this section, the local government
7 must demonstrate consideration of:

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

11 “(B) A written long term contract or easement for radio, telecommuni-
12 cations or electrical facilities, if the written contract or easement is provided
13 to the local government; and

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

16 “(c) Except for land that may be used for residential infill or redevelop-
17 ment, a local government shall create a map or document that may be used
18 to verify and identify specific lots or parcels that have been determined to
19 be buildable lands.

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

25 “(A) The number, density and average mix of housing types of urban resi-
26 dential development that have actually occurred;

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

29 “(C) Demographic and population trends;

30 “(D) Economic trends and cycles; and

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

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

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

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

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

30 “(b) Amend its comprehensive plan, regional framework plan, functional

1 plan or land use regulations to include new measures that demonstrably in-
2 crease the likelihood that residential development will occur at densities
3 sufficient to accommodate housing needs for the next 20 years without ex-
4 pansion of the urban growth boundary. A local government or metropolitan
5 service district that takes this action shall monitor and record the level of
6 development activity and development density by housing type following the
7 date of the adoption of the new measures; or

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

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

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

25 “(b) The local government shall determine the density and mix of housing
26 types anticipated as a result of actions taken under subsections (6) and (7)
27 of this section and monitor and record the actual density and mix of housing
28 types achieved. The local government shall compare actual and anticipated
29 density and mix. The local government shall submit its comparison to the
30 commission at the next periodic review or at the next legislative review of

1 its urban growth boundary, whichever comes first.

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

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

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

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

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

16 “(e) Minimum density ranges;

17 “(f) Redevelopment and infill strategies;

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

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

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

22 **“SECTION 3. (1) The amendments to ORS 197.626 by section 1 of this**
23 **2017 Act apply to a legislative review of an urban growth boundary**
24 **under ORS 197.295 to 197.314 that has not become acknowledged on or**
25 **before the effective date of this 2017 Act, without regard to whether**
26 **the legislative review was initiated before, on or after the effective**
27 **date of this 2017 Act.**

28 **“(2) The amendments to ORS 197.296 by section 2 of this 2017 Act**
29 **apply to inventories of buildable lands commenced on or after the ef-**
30 **fective date of this 2017 Act.”.**

