

A-Engrossed
House Bill 3155

Ordered by the House March 25
Including House Amendments dated March 25

Sponsored by COMMITTEE ON HOUSING (at the request of Representative Julie Fahey)

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.

Requires cities within Metro with population greater than 10,000 to conduct housing needs analysis. Replaces requirement that Metro allocate housing capacity among those cities with requirement that cities amend their land use regulations and housing production strategy if analysis shows housing need.

Provides optional process for housing production strategy and buildable lands and housing needs analysis for any city with population of 10,000 or less.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to residential land use planning by local governments within urban growth boundaries;
3 creating new provisions; amending ORS 197.290, 197.296 and 197.299; and declaring an emer-
4 gency.

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

6 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 197.286 to**
7 **197.314.**

8 **SECTION 2. (1) At least once every six years, by a date scheduled by the Land Conser-**
9 **vation and Development Commission, a city that is within a metropolitan service district and**
10 **has a population greater than 10,000 shall:**

11 (a) **Inventory the supply of buildable lands within the city and determine the housing**
12 **capacity of the buildable lands; and**

13 (b) **Conduct an analysis of the city's existing and projected needed housing under state-**
14 **wide planning goals and rules related to housing by type, mix, affordability and density range**
15 **to determine the number of units and amount of land needed for each needed housing type**
16 **for the next 20 years.**

17 (2) **The housing capacity and needed housing analysis conducted under this section must**
18 **be adopted as part of the city's comprehensive plan no later than one year after completion**
19 **of the needed housing analysis.**

20 (3) **If the housing capacity and needed housing analysis conducted under this section**
21 **demonstrates a housing need, the city shall amend its comprehensive plan or land use reg-**
22 **ulations to include new measures that demonstrably increase the likelihood that development**
23 **of needed housing will occur for the type, mix, affordability and densities sufficient to ac-**
24 **commodate needed housing for the next 20 years.**

25 **SECTION 3. ORS 197.290 is amended to read:**

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.

1 197.290. (1) A city with a population greater than 10,000 shall develop and adopt a housing
2 production strategy under this section no later than one year after[:]

3 [(a)] the city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a);
4 **or (10)(b) or section 2 of this 2021 Act.**

5 [(b) *The city's deadline for completing a housing capacity analysis under ORS 197.296 (10)(b); or*]

6 [(c) *A date scheduled by the Land Conservation and Development Commission following the allo-*
7 *cation of housing capacity to the city by a metropolitan service district under ORS 197.299 (2)(d).*]

8 (2) A housing production strategy must include a list of specific actions, including the adoption
9 of measures and policies, that the city shall undertake to promote development within the city to
10 address a housing need identified under ORS 197.296 (6)(b) [*for the most recent 20-year period de-*
11 *scribed in ORS 197.296 (2)(b)*] **or (10)(b) or section 2 of this 2021 Act.** Actions under this sub-
12 section may include:

13 (a) The reduction of financial and regulatory impediments to developing needed housing, in-
14 cluding removing or easing approval standards or procedures for needed housing at higher densities
15 or that is affordable;

16 (b) The creation of financial and regulatory incentives for development of needed housing, in-
17 cluding creating incentives for needed housing at higher densities or that is affordable; and

18 (c) The development of a plan to access resources available at local, regional, state and national
19 levels to increase the availability and affordability of needed housing.

20 (3) In creating a housing production strategy, a city shall review and consider:

21 (a) Socioeconomic and demographic characteristics of households living in existing needed
22 housing;

23 (b) Market conditions affecting the provision of needed housing;

24 (c) Measures already adopted by the city to promote the development of needed housing;

25 (d) Existing and expected barriers to the development of needed housing; and

26 (e) For each action the city includes in its housing production strategy:

27 (A) The schedule for its adoption;

28 (B) The schedule for its implementation;

29 (C) Its expected magnitude of impact on the development of needed housing; and

30 (D) The time frame over which it is expected to impact needed housing.

31 (4) The housing production strategy must include within its index a copy of the city's most re-
32 cently completed survey under ORS 456.586 (2).

33 (5) The adoption of a housing production strategy is not a land use decision and is not subject
34 to appeal or review except as provided in ORS 197.291.

35 **(6) A city with a population of 10,000 or less may develop a housing production strategy**
36 **as provided in this section.**

37 **SECTION 3a.** ORS 197.296 is amended to read:

38 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-
39 vice district regional framework plans and local government comprehensive plans for lands within
40 the urban growth boundary of a city that is located outside of a metropolitan service district and
41 has a population of 25,000 or more.

42 (b) The Land Conservation and Development Commission may establish a set of factors under
43 which additional cities are subject to the provisions of this section. In establishing the set of factors
44 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
45 lation growth of the city or the proximity of the city to another city with a population of 25,000 or

1 more or to a metropolitan service district.

2 (2)(a) A local government shall demonstrate that its comprehensive plan or regional framework
3 plan provides sufficient buildable lands within the urban growth boundary established pursuant to
4 statewide planning goals to accommodate estimated housing needs for 20 years:

5 (A) At periodic review under ORS 197.628 to 197.651;

6 (B) As scheduled by the commission:

7 (i) At least once each eight years for local governments that are not within a metropolitan
8 service district; or

9 (ii) At least once each six years for a metropolitan service district; or

10 (C) At any other legislative review of the comprehensive plan or regional framework plan that
11 concerns the urban growth boundary and requires the application of a statewide planning goal re-
12 lating to buildable lands for residential use.

13 (b) The 20-year period shall commence on the date initially scheduled for completion of the re-
14 view under paragraph (a) of this subsection.

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

16 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the
17 housing capacity of the buildable lands; and

18 (b) Conduct an analysis of existing and projected housing need by type and density range, in
19 accordance with all factors under ORS 197.303 and statewide planning goals and rules relating to
20 housing, to determine the number of units and amount of land needed for each needed housing type
21 for the next 20 years.

22 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable
23 lands" includes:

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

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

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

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

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

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

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

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

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

39 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
40 housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land
41 within the urban growth boundary that has been collected since the last review under subsection
42 (2)(a)(B) of this section. The data shall include:

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

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

1 (C) Market factors that may substantially impact future urban residential development; and

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

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

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

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

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

24 (b) Amend its comprehensive plan, regional framework plan, functional plan or land use regu-
25 lations to include new measures that demonstrably increase the likelihood that residential develop-
26 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
27 expansion of the urban growth boundary. A local government or metropolitan service district that
28 takes this action shall adopt findings regarding the density expectations assumed to result from
29 measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data
30 in subsection (5)(a) of this section. The density expectations may not project an increase in resi-
31 dential capacity above achieved density by more than three percent without quantifiable validation
32 of such departures. For a local government located outside of a metropolitan service district, a
33 quantifiable validation must demonstrate that the assumed housing capacity has been achieved in
34 areas that are zoned to allow no greater than the same authorized density level within the local
35 jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable
36 validation must demonstrate that the assumed housing capacity has been achieved in areas that are
37 zoned to allow no greater than the same authorized density level within the metropolitan service
38 district.

39 (c) As used in this subsection, “authorized density level” has the meaning given that term in
40 ORS 227.175.

41 (7) Using the housing need analysis conducted under subsection (3)(b) of this section, the local
42 government shall determine the overall average density and overall mix of housing types at which
43 residential development of needed housing types must occur in order to meet housing needs over the
44 next 20 years. If that density is greater than the actual density of development determined under
45 subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types

1 determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
2 review, shall adopt measures that demonstrably increase the likelihood that residential development
3 will occur at the housing types and density and at the mix of housing types required to meet housing
4 needs over the next 20 years.

5 (8)(a) A local government outside a metropolitan service district that takes any actions under
6 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
7 regulations comply with goals and rules adopted by the commission and implement ORS 197.286 to
8 197.314.

9 (b) A local government shall determine the density and mix of housing types anticipated as a
10 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
11 tual density and mix of housing types achieved following the adoption of these actions. The local
12 government shall compare actual and anticipated density and mix. The local government shall sub-
13 mit its comparison to the commission at the next review of its urban growth boundary under sub-
14 section (2)(a) of this section.

15 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
16 tion demonstrably increase the likelihood of higher density residential development, the local gov-
17 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate
18 for the housing types identified under subsection (3) of this section, is zoned at density ranges that
19 are likely to be achieved by the housing market using the analysis in subsection (3) of this section
20 and is in areas where sufficient urban services are planned to enable the higher density development
21 to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

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

23 (b) Financial incentives for higher density housing;

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

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

27 (e) Minimum density ranges;

28 (f) Redevelopment and infill strategies;

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

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

31 (i) Rezoning or redesignation of nonresidential land.

32 (10)(a) The provisions of this subsection apply to local government comprehensive plans for
33 lands within the urban growth boundary of a city that is located outside of a metropolitan service
34 district and has a population of less than 25,000.

35 (b) As required under paragraph (c) of this subsection, a city shall, according to rules of the
36 commission:

37 (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

38 (B) Inventory the supply of buildable lands available within the urban growth boundary to ac-
39 commodate the estimated housing needs determined under this subsection; and

40 (C) Adopt measures necessary to accommodate the estimated housing needs determined under
41 this subsection.

42 (c) The actions required under paragraph (b) of this subsection shall be undertaken:

43 (A) At periodic review pursuant to ORS 197.628 to 197.651;

44 (B) On a schedule established by the commission for cities with a population greater than 10,000,
45 not to exceed once each eight years; or

1 (C) At any other legislative review of the comprehensive plan that requires the application of
2 a statewide planning goal relating to buildable lands for residential use.

3 (d) For the purpose of the inventory described in this subsection, “buildable lands” includes
4 those lands described in subsection (4)(a) of this section.

5 **(11) If a city with a population of 10,000 or less conducts an inventory of the supply of**
6 **buildable lands or an estimate of housing need, it must satisfy the requirements of sub-**
7 **section (10) of this section.**

8 **SECTION 4.** ORS 197.299 is amended to read:

9 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
10 inventory, determination and analysis required under ORS 197.296 (3) not later than six years after
11 completion of the previous inventory, determination and analysis.

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

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

18 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
19 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
20 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
21 the time the actions are completed.

22 (d) The metropolitan service district shall consider and adopt new measures that the governing
23 body deems appropriate under ORS 197.296 (6)(b). [*and shall allocate any housing capacity that is not*
24 *accommodated under this section to be accommodated by the application of ORS 197.296 (6)(b) by cities*
25 *within the metropolitan service district with a population greater than 10,000.]*

26 [*(e) Cities to which housing capacity is allocated under paragraph (d) of this subsection shall take*
27 *steps, at least once every six years as scheduled by the Land Conservation and Development Commis-*
28 *sion, to demonstrably increase the likelihood that residential development will occur at densities suffi-*
29 *cient to accommodate housing needs for the next 20 years as required by ORS 197.296 (6)(b).]*

30 (3) The commission may grant an extension to the time limits of subsection (2) of this section
31 if the Director of the Department of Land Conservation and Development determines that the met-
32 ropolitan service district has provided good cause for failing to meet the time limits.

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

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

39 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
40 months after submission of a complete application by a large school district as defined in ORS
41 195.110.

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

1 (5) Three years after completing its most recent demonstration of sufficient buildable lands un-
2 der ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination
3 and analysis required as part of the demonstration for the purpose of considering an amendment to
4 the metropolitan service district's urban growth boundary, provided:

5 (a) The metropolitan service district has entered into an intergovernmental agreement and has
6 designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county lo-
7 cated within the district;

8 (b) The commission has acknowledged the rural reserve and urban reserve designations de-
9 scribed in paragraph (a) of this subsection;

10 (c) One or more cities within the metropolitan service district have proposed a development that
11 would require expansion of the urban growth boundary;

12 (d) The city or cities proposing the development have provided evidence to the metropolitan
13 service district that the proposed development would provide additional needed housing to the
14 needed housing included in the most recent determination and analysis;

15 (e) The location chosen for the proposed development is adjacent to the city proposing the de-
16 velopment; and

17 (f) The location chosen for the proposed development is located within an area designated and
18 acknowledged as an urban reserve.

19 (6)(a) If a metropolitan service district, after revising its most recent determination and analysis
20 pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary
21 is warranted, the metropolitan service district may take action to expand its urban growth boundary
22 in one or more locations to accommodate the proposed development, provided the urban growth
23 boundary expansion does not exceed a total of 1,000 acres.

24 (b) A metropolitan service district that expands its urban growth boundary under this sub-
25 section:

26 (A) Must adopt the urban growth boundary expansion not more than four years after completing
27 its most recent demonstration of sufficient buildable lands under ORS 197.296; and

28 (B) Is exempt from the boundary location requirements described in the statewide land use
29 planning goals relating to urbanization.

30 **SECTION 5. This 2021 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
32 **on its passage.**

33