House Bill 2899

Sponsored by Representative CATE; Representatives HIEB, LEVY B, Senator KNOPP (Presession 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.

Removes certain lands from definitions of buildable lands for purposes of urbanization.

A BILL FOR AN ACT

Relating to defining buildable lands; amending ORS 197.286, 197.296 and 197A.300.

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

SECTION 1. ORS 197.286, as amended by section 5, chapter 54, Oregon Laws 2022, is amended to read:

ORS 197.286. As used in ORS 197.286 to 197.314 and 197.475 to 197.490:

(1) "Buildable lands" means lands in urban and urbanizable areas that are suitable, available and necessary for residential uses.

(b) "Buildable lands" includes both vacant land and developed land likely to be redeveloped.

(c) "Buildable lands" does not include:

(A) Floodways or bodies of water.

(B) Wetlands, as defined in ORS 196.800.

(C) Lands within a special flood hazard area as identified on a flood insurance rate map.

(D) Lands subject to development prohibitions as a result of land use regulations implementing state planning goals.

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

(3) "Manufactured dwelling," "manufactured dwelling park," "manufactured home" and "mobile home park" have the meanings given those terms in ORS 446.003.

(4) “Periodic review” means the process and procedures as set forth in ORS 197.628 to 197.651.

(5) "Prefabricated structure" means a prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a single-family dwelling.

(6) “Urban growth boundary” means an urban growth boundary included or referenced in a comprehensive plan.

SECTION 2. ORS 197.296 is amended to read:

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

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.
(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

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

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

(B) As scheduled by the commission:

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

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

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

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

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

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

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

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section:

(A) “Buildable lands” includes:

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

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

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

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

(B) “Buildable lands” does not include:

(i) Floodways or bodies of water.

(ii) Wetlands, as defined in ORS 196.800.

(iii) Lands within a special flood hazard area as identified on a flood insurance rate map.

(iv) Lands subject to development prohibitions as a result of land use regulations implementing state planning goals.

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

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

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

(C) The presence of a single family dwelling or other structure on a lot or parcel.
(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Increases in the permitted density on existing residential land;
(b) Financial incentives for higher density housing;
(c) Provisions permitting additional density beyond that generally allowed in the zoning district
in exchange for amenities and features provided by the developer;
(d) Removal or easing of approval standards or procedures;
(e) Minimum density ranges;
(f) Redevelopment and infill strategies;
(g) Authorization of housing types not previously allowed by the plan or regulations;
(h) Adoption of an average residential density standard; and
(i) Rezoning or redesignation of nonresidential land.

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

(b) As required under paragraph (c) of this subsection, a city shall, according to rules of the
commission:
(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
(C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

c) The actions required under paragraph (b) of this subsection shall be undertaken:
(A) At periodic review pursuant to ORS 197.628 to 197.651;
(B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
(C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

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

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

SECTION 3. ORS 197A.300 is amended to read:

197A.300. As used in ORS 197A.300 to 197A.325:
(1) (a) “Buildable lands” means land in urban or urbanizable areas that are suitable for urban uses.

(b) “Buildable lands” does not include:
(A) Floodways or bodies of water.
(B) Wetlands, as defined in ORS 196.800.
(C) Lands within a special flood hazard area as identified on a flood insurance rate map.
(D) Lands subject to development prohibitions as a result of land use regulations implementing state planning goals.

(2) “Serviceable” means, with respect to land, that:
(a) Adequate sewer, water and transportation capacity for planned urban development is available or can be either provided or made subject to committed financing; or
(b) Committed financing can be in place to provide adequate sewer, water and transportation capacity for planned urban development.