

**Enrolled**  
**House Bill 2984**

Sponsored by Representative MARSH; Representatives ANDERSEN, DEXTER, FAHEY, HELM, MCLAIN, Senators ANDERSON, DEMBROW, GOLDEN, JAMA, PATTERSON (Presession filed.)

CHAPTER .....

AN ACT

Relating to housing; amending ORS 197.308.

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

**SECTION 1.** ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022, is amended to read:

197.308. (1) As used in this section[,]:

(a) “Affordable housing” means residential property:

[(a)] (A) In which:

[(A)] (i) Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income [*as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development*]; or

[(B)] (ii) The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income; and

[(b)] (B) Whose affordability [*is enforceable*], including **affordability under a covenant** as described in ORS 456.270 to 456.295, **is enforceable** for a duration of no less than 30 years.

(b) “**Area median income**” means **the median income for the metropolitan statistical area in which housing is located as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.**

(2) A local government shall allow affordable housing[, *and may not require a zone change or conditional use permit for affordable housing.*] if the proposed affordable housing is on property that is:

(a) Owned by:

(A) A public body, as defined in ORS 174.109; or

(B) A nonprofit corporation that is organized as a religious corporation; or

(b) Zoned:

(A) For commercial uses;

(B) To allow religious assembly; or

(C) As public lands.

**(3) A local government shall allow the conversion of a building or a portion of a building from a commercial use to a residential use.**

[(3)] (4) [Subsection (2)] **Subsections (2) and (3)** of this section:

*[(a) Does not apply to the development of housing not within an urban growth boundary.]*

**(a) Prohibit the local government from requiring a zone change or conditional use permit before allowing the use.**

(b) *[Does]* **Do** not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

*[(c) Applies on property zoned to allow for industrial uses only if the property is:]*

*[(A) Publicly owned;]*

*[(B) Adjacent to lands zoned for residential uses or schools; and]*

*[(C) Not specifically designated for heavy industrial uses.]*

*[(d)] (c) [Does]* **Do** not apply on lands where the local government determines that:

(A) The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

(B) The property contains a slope of 25 percent or greater;

(C) The property is within a 100-year floodplain; or

(D) The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:

(i) Natural disasters and hazards; or

(ii) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

**(5) The development of housing under subsection (2) of this section may occur only:**

**(a) Within an urban growth boundary; and**

**(b) On lands zoned to allow for industrial uses only if the property is:**

**(A) Publicly owned;**

**(B) Adjacent to lands zoned for residential uses or schools; and**

**(C) Not specifically designated for heavy industrial uses.**

**(6) The development of housing under subsection (3) of this section:**

**(a) Applies only within an urban growth boundary of a city with a population of 10,000 or greater;**

**(b) May not occur on lands zoned to allow industrial uses;**

**(c) May require the payment of a system development charge as defined in ORS 223.299 only if:**

**(A) The charge is calculated pursuant to a specific adopted policy for commercial to residential conversions adopted on or before December 31, 2023; or**

**(B) The charge is for water or wastewater and includes an offset for at least 100 percent of the water or wastewater system development charges paid when the building was originally constructed; and**

**(d) May not be subject to enforcement of any land use regulation that establishes a minimum number of parking spaces that is greater than the lesser of:**

**(A) The amount that may be required for the existing commercial use; or**

**(B) The amount that may be required in lands zoned for residential uses that would allow the converted development.**

*[(4)] (7)* A local government shall approve an application at an authorized density level and authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at the greater of:

(a) Any local density bonus for affordable housing; or

(b) Without consideration of any local density bonus for affordable housing:

(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of the existing density and 12 additional feet;

(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, 150 percent of the existing density and 24 additional feet; or

(C) For property with existing maximum density of 46 or more units per acre, 125 percent of the existing density and 36 additional feet.

[(5)(a)] **(8)(a)** Subsection [(4)] **(7)** of this section does not apply to housing allowed under subsection (2) of this section in areas that are not zoned for residential uses.

(b) A local government may reduce the density or height of the density bonus allowed under subsection [(4)] **(7)** of this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings supported by substantial evidence demonstrating the necessity of this reduction.

**SECTION 1a. If House Bill 3442 becomes law, section 1 of this 2023 Act (amending ORS 197.308) is repealed and ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022, and section 1, chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 3442), is amended to read:**

197.308. (1) As used in this section[.];

(a) “Affordable housing” means residential property:

[(a)] **(A)** In which:

[(A)] **(i)** Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income [*as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development*]; or

[(B)] **(ii)** The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income; and

[(b)] **(B)** Whose affordability [*is enforceable*], including **affordability under a covenant** as described in ORS 456.270 to 456.295, **is enforceable** for a duration of no less than 30 years.

**(b) “Area median income” means the median income for the metropolitan statistical area in which housing is located as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.**

(2) A local government shall allow affordable housing[, *and may not require a zone change or conditional use permit for affordable housing.*] if the proposed affordable housing is on property that is:

(a) Owned by:

(A) A public body, as defined in ORS 174.109; or

(B) A nonprofit corporation that is organized as a religious corporation; or

(b) Zoned:

(A) For commercial uses;

(B) To allow religious assembly; or

(C) As public lands.

**(3) A local government shall allow the conversion of a building or a portion of a building from a commercial use to a residential use.**

[(3)] **(4)** [Subsection (2)] **Subsections (2) and (3)** of this section:

[(a) *Does not apply to the development of housing not within an urban growth boundary.*]

**(a) Prohibit the local government from requiring a zone change or conditional use permit before allowing the use.**

(b) [Does] **Do** not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

[(c) *Applies on property zoned to allow for industrial uses only if the property is:*]

[(A) *Publicly owned;*]

[(B) *Adjacent to lands zoned for residential uses or schools; and*]

[(C) *Not specifically designated for heavy industrial uses.*]

[(d)] **(c)** Except as provided in paragraph [(e)] **(d)** of this subsection, [*does*] **do** not apply on lands where the local government determines that:

(A) The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

(B) The property contains a slope of 25 percent or greater;

(C) The property is within a 100-year floodplain; or

(D) The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:

(i) Natural disasters and hazards; or

(ii) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

*[(e)] (d) [Does] Do* apply to property described in paragraph *[(d)(C)] (c)(C)* and (D)(i) of this subsection if more than 60 percent of the lands within the urban growth boundary that the property is within are located within a tsunami inundation zone or if more than 30 percent of the lands within the urban growth boundary that the property is within are located within a 100-year floodplain.

**(5) The development of housing under subsection (2) of this section may occur only:**

**(a) Within an urban growth boundary; and**

**(b) On lands zoned to allow for industrial uses only if the property is:**

**(A) Publicly owned;**

**(B) Adjacent to lands zoned for residential uses or schools; and**

**(C) Not specifically designated for heavy industrial uses.**

**(6) The development of housing under subsection (3) of this section:**

**(a) Applies only within an urban growth boundary of a city with a population of 10,000 or greater;**

**(b) May not occur on lands zoned to allow industrial uses;**

**(c) May require the payment of a system development charge as defined in ORS 223.299 only if:**

**(A) The charge is calculated pursuant to a specific adopted policy for commercial to residential conversions adopted on or before December 31, 2023; or**

**(B) The charge is for water or wastewater and includes an offset for at least 100 percent of the water or wastewater system development charges paid when the building was originally constructed; and**

**(d) May not be subject to enforcement of any land use regulation that establishes a minimum number of parking spaces that is greater than the lesser of:**

**(A) The amount that may be required for the existing commercial use; or**

**(B) The amount that may be required in lands zoned for residential uses that would allow the converted development.**

*[(4)] (7)* The development of housing allowed under subsection *[(3)(e)] (4)(d)* of this section may only occur:

(a) Within an urban growth boundary located no more than 10 miles from the Pacific Ocean;

(b) In areas that require compliance with minimum federal regulations under the National Flood Insurance Program or with local floodplain development regulations adopted by the applicable local government, provided that the local regulations are equal to or more stringent than the minimum federal regulations;

(c) In locations that do not include floodways or other areas with higher risks of greater water velocity and debris flow;

(d) In communities with emergency response, evacuation and post-disaster plans that have been updated for the housing development; and

(e) In areas that are not public parks.

*[(5)] (8)* A local government may prohibit affordable housing or require a zone change or conditional use permit to develop affordable housing in areas described in subsection *[(3)(e)] (4)(d)* of this section.

[(6)] (9) A local government shall approve an application at an authorized density level and authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at the greater of:

(a) Any local density bonus for affordable housing; or

(b) Without consideration of any local density bonus for affordable housing:

(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of the existing density and 12 additional feet;

(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, 150 percent of the existing density and 24 additional feet; or

(C) For property with existing maximum density of 46 or more units per acre, 125 percent of the existing density and 36 additional feet.

[(7)(a)] (10)(a) Subsection [(6)] (9) of this section does not apply to housing allowed under subsection (2) of this section in areas that are not zoned for residential uses.

(b) A local government may reduce the density or height of the density bonus allowed under subsection [(6)] (9) of this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings supported by substantial evidence demonstrating the necessity of this reduction.

**Passed by House March 28, 2023**

**Repassed by House June 23, 2023**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate June 21, 2023**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M.,....., 2023

**Approved:**

.....M.,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2023

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Secretary of State