

A-Engrossed
House Bill 3442

Ordered by the House March 30
Including House Amendments dated March 30

Sponsored by Representative JAVADI; Representatives HELFRICH, SCHARF, WRIGHT

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 local governments to allow development of certain affordable housing on certain lands within 100-year floodplain or subject to property development constraints under land use regulations related to natural disasters and hazards.]

Authorizes local governments to allow, prohibit, require zone change for or subject to conditional use permit development of certain affordable housing on certain lands within tsunami inundation zones or 100-year floodplains.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to land use planning for affordable housing; amending ORS 197.308; and declaring an
3 emergency.

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

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

7 197.308. (1) As used in this section, "affordable housing" means residential property:

8 (a) In which:

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

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

14 (b) Whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a
15 duration of no less than 30 years.

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

19 (a) Owned by:

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

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

22 (b) Zoned:

23 (A) For commercial uses;

24 (B) To allow religious assembly; or

25 (C) As public lands.

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 (3) Subsection (2) of this section:
- 2 (a) Does not apply to the development of housing not within an urban growth boundary.
- 3 (b) Does not trigger any requirement that a local government consider or update an analysis
- 4 as required by a statewide planning goal relating to economic development.
- 5 (c) Applies on property zoned to allow for industrial uses only if the property is:
- 6 (A) Publicly owned;
- 7 (B) Adjacent to lands zoned for residential uses or schools; and
- 8 (C) Not specifically designated for heavy industrial uses.
- 9 (d) **Except as provided in paragraph (e) of this subsection**, does not apply on lands where
- 10 the local government determines that:
- 11 (A) The development on the property cannot be adequately served by water, sewer, storm water
- 12 drainage or streets, or will not be adequately served at the time that development on the lot is
- 13 complete;
- 14 (B) The property contains a slope of 25 percent or greater;
- 15 (C) The property is within a 100-year floodplain; or
- 16 (D) The development of the property is constrained by land use regulations based on statewide
- 17 land use planning goals relating to:
- 18 (i) Natural disasters and hazards; or
- 19 (ii) Natural resources, including air, water, land or natural areas, but not including open spaces
- 20 or historic resources.
- 21 **(e) Does apply to property described in paragraph (d)(C) and (D)(i) of this subsection if**
- 22 **more than 60 percent of the lands within the urban growth boundary that the property is**
- 23 **within are located within a tsunami inundation zone or if more than 30 percent of the lands**
- 24 **within the urban growth boundary that the property is within are located within a 100-year**
- 25 **floodplain.**
- 26 (4) **The development of housing allowed under subsection (3)(e) of this section may only**
- 27 **occur:**
- 28 (a) **Within an urban growth boundary located no more than 10 miles from the Pacific**
- 29 **Ocean;**
- 30 (b) **In areas that require compliance with minimum federal regulations under the Na-**
- 31 **tional Flood Insurance Program or with local floodplain development regulations adopted by**
- 32 **the applicable local government, provided that the local regulations are equal to or more**
- 33 **stringent than the minimum federal regulations;**
- 34 (c) **In locations that do not include floodways or other areas with higher risks of greater**
- 35 **water velocity and debris flow;**
- 36 (d) **In communities with emergency response, evacuation and post-disaster plans that**
- 37 **have been updated for the housing development; and**
- 38 (e) **In areas that are not public parks.**
- 39 (5) **A local government may prohibit affordable housing or require a zone change or**
- 40 **conditional use permit to develop affordable housing in areas described in subsection (3)(e)**
- 41 **of this section.**
- 42 [(4)] (6) A local government shall approve an application at an authorized density level and au-
- 43 thorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at the
- 44 greater of:
- 45 (a) Any local density bonus for affordable housing; or

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

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

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

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

8 [(5)(a)] (7)(a) Subsection [(4)] (6) of this section does not apply to housing allowed under sub-
9 section (2) of this section in areas that are not zoned for residential uses.

10 (b) A local government may reduce the density or height of the density bonus allowed under
11 subsection [(4)] (6) of this section as necessary to address a health, safety or habitability issue, in-
12 cluding fire safety, or to comply with a protective measure adopted pursuant to a statewide land
13 use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings sup-
14 ported by substantial evidence demonstrating the necessity of this reduction.

15 **SECTION 2. This 2023 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
17 **on its passage.**

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