

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:

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

(1)(a) "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:

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 *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) The Land Conservation and Development Commission may establish a set of factors under
 2 which additional cities are subject to the provisions of this section. In establishing the set of factors
 3 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
 4 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
 5 more or to a metropolitan service district.

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

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

10 (B) As scheduled by the commission:

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

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

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

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

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

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

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

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

27 (A) "Buildable lands" includes:

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

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

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

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

33 (B) "Buildable lands" does not include:

34 (i) Floodways or bodies of water.

35 (ii) Wetlands, as defined in ORS 196.800.

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

37 (iv) Lands subject to development prohibitions as a result of land use regulations imple-
 38 menting state planning goals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 validation must demonstrate that the assumed housing capacity has been achieved in areas that are
2 zoned to allow no greater than the same authorized density level within the metropolitan service
3 district.

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

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

15 (8)(a) A local government outside a metropolitan service district that takes any actions under
16 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
17 regulations comply with goals and rules adopted by the commission and implement ORS 197.286 to
18 197.314.

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

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

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

33 (b) Financial incentives for higher density housing;

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

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

37 (e) Minimum density ranges;

38 (f) Redevelopment and infill strategies;

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

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

41 (i) Rezoning or redesignation of nonresidential land.

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

45 (b) As required under paragraph (c) of this subsection, a city shall, according to rules of the

1 commission:

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

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

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

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

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

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

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

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

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

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

19 197A.300. As used in ORS 197A.300 to 197A.325:

20 (1)(a) "Buildable lands" means land in urban or urbanizable areas that are suitable for urban
21 uses.

22 (b) **"Buildable lands" does not include:**

23 (A) **Floodways or bodies of water.**

24 (B) **Wetlands, as defined in ORS 196.800.**

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

26 (D) **Lands subject to development prohibitions as a result of land use regulations imple-**
27 **menting state planning goals.**

28 (2) "Serviceable" means, with respect to land, that:

29 (a) Adequate sewer, water and transportation capacity for planned urban development is avail-
30 able or can be either provided or made subject to committed financing; or

31 (b) Committed financing can be in place to provide adequate sewer, water and transportation
32 capacity for planned urban development.

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