

Requested by Senator BROADMAN

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 4037**

1 On page 18 of the printed A-engrossed bill, after line 23, insert:

2  
3 **“URBAN RESERVES**

4  
5 **“SECTION 25. (1) On or before January 1, 2027, the Land Conser-**  
6 **vation and Development Commission shall amend its rules related to**  
7 **the prioritization of lands being added to an urban reserve in order to**  
8 **allow local governments to assign lower priority to land for which the**  
9 **provision of future urban services, as defined in ORS 195.065, is not**  
10 **reasonable or cost effective due to existing topographical or other**  
11 **physical constraints including built constraints.**

12 **“(2) Notwithstanding any provision in ORS 183.325 to 183.410, rules**  
13 **adopted under this section shall be adopted without an advisory com-**  
14 **mittee.**

15  
16 **“RESIDENTIAL DEVELOPMENT ON COMMERCIAL LANDS**

17  
18 **“SECTION 26. ORS 197A.445 is amended to read:**

19 **“197A.445. (1) As used in this section:**

20 **“(a) ‘Affordable housing’ means residential property:**

21 **“(A) In which:**

1       “(i) Each unit on the property is made available to own or rent to families  
2 with incomes of 80 percent or less of the area median income;

3       “(ii) The average of all units on the property is made available to families  
4 with incomes of 60 percent or less of the area median income; or

5       “(iii) A manufactured dwelling park is operated that serves only house-  
6 holds with incomes of 120 percent or less of the area median income; and

7       “(B) Whose affordability, including affordability under a covenant as de-  
8 scribed in ORS 456.270 to 456.295, is enforceable for a duration of no less  
9 than 30 years.

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

15       “(2) A local government shall allow affordable housing if the proposed  
16 affordable housing is on property that is:

17       “(a) Owned by:

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

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

20       “(C) A nonprofit corporation that is organized as a public benefit corpo-  
21 ration whose primary purpose is the development of affordable housing;

22       “(D) A housing authority, as defined in ORS 456.005; or

23       “(E) A manufactured dwelling park nonprofit cooperative, as defined in  
24 ORS 62.803; or

25       “(b) Zoned:

26       “(A) For commercial uses;

27       “(B) To allow religious assembly; or

28       “(C) As public lands.

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

1       “(4) Subsections (2) and (3) of this section:

2       “(a) Prohibit the local government from requiring a zone change or con-  
3       ditional use permit before allowing the use.

4       “(b) Do not trigger any requirement that a local government consider or  
5       update an analysis as required by a statewide planning goal relating to eco-  
6       nomic development.

7       “(c) Except as provided in paragraph (d) of this subsection, do not apply  
8       on lands where the local government determines that:

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

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

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

14       “(D) The development of the property is constrained by land use regu-  
15       lations based on statewide land use planning goals relating to:

16       “(i) Natural disasters and hazards; or

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

19       “(d) Do apply to property described in paragraph (c)(C) and (D)(i) of this  
20       subsection if more than 60 percent of the lands within the urban growth  
21       boundary that the property is within are located within a tsunami  
22       inundation zone or if more than 30 percent of the lands within the urban  
23       growth boundary that the property is within are located within a 100-year  
24       floodplain.

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

27       “(a) Within an urban growth boundary; and

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

29       “(A) Publicly owned;

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

1 “(C) Not specifically designated for heavy industrial uses.

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

3 “(a) Applies only within an urban growth boundary of a city with a pop-  
4 ulation of 10,000 or greater;

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

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

8 “(A) The charge is calculated pursuant to a specific adopted policy for  
9 commercial to residential conversions adopted on or before December 31,  
10 2023; or

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

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

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

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

21 “(7) The development of housing allowed under subsection (4)(d) of this  
22 section may only occur:

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

25 “(b) In areas that require compliance with minimum federal regulations  
26 under the National Flood Insurance Program or with local floodplain devel-  
27 opment regulations adopted by the applicable local government, provided  
28 that the local regulations are equal to or more stringent than the minimum  
29 federal regulations;

30 “(c) In locations that do not include floodways or other areas with higher

1 risks of greater water velocity and debris flow;

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

4 “(e) In areas that are not public parks.

5 “(8) A local government may prohibit affordable housing or require a zone  
6 change or conditional use permit to develop affordable housing in areas de-  
7 scribed in subsection (4)(d) of this section.

8 “(9)(a) **An applicant who applies to develop affordable housing under**  
9 **this section within a planned mixed-use development shall, if the de-**  
10 **velopment would cause the amount of lands available for commercial**  
11 **uses within the planned mixed-use development to be reduced to less**  
12 **than 80 percent of the amount in the adopted planned mixed-use de-**  
13 **velopment, amend the planned mixed-use development to allow an**  
14 **additional area not smaller than the proposed housing development.**

15 “(b) **As used in this subsection, ‘planned mixed-use development’**  
16 **means an area of land:**

17 “(A) **Larger than 10 acres; and**

18 “(B) **Subject to a land use approval or binding development agree-**  
19 **ment adopted by the local government that establishes areas or mini-**  
20 **imum acreages for commercial uses and includes residential or other**  
21 **uses.**

22 “[9] (10) A local government shall approve an application at an author-  
23 ized density level and authorized height level, as defined in ORS 227.175 (4),  
24 for the development of affordable housing, at the greater of:

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

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

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

30 “(B) For property with existing maximum density of 17 or more units per

1 acre and 45 or fewer units per acre, 150 percent of the existing density and  
2 24 additional feet; or

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

5 “[~~(10)(a)~~] **(11)(a)** Subsection [~~(9)~~] **(10)** of this section does not apply to  
6 housing allowed under subsection (2) of this section in areas that are not  
7 zoned for residential uses.

8 “(b) A local government may reduce the density or height of the density  
9 bonus allowed under subsection [~~(9)~~] **(10)** of this section as necessary to ad-  
10 dress a health, safety or habitability issue, including fire safety, or to comply  
11 with a protective measure adopted pursuant to a statewide land use planning  
12 goal. Notwithstanding ORS 197.350, the local government must adopt  
13 findings supported by substantial evidence demonstrating the necessity of  
14 this reduction.”.

15 In line 27, delete “25” and insert “27”.

16 On page 20, line 9, delete “26” and insert “28”.

17 In line 33, delete “27” and insert “29”.

18 On page 21, line 25, delete “28” and insert “30”.

19 In line 31, delete “29” and insert “31”.

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