

# D R A F T

## SUMMARY

Modifies process for determining need for buildable land to meet estimated need for housing.

### A BILL FOR AN ACT

Relating to the need for buildable land for housing; amending ORS 197.296.

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

**SECTION 1.** ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of this section apply to metropolitan service district regional framework plans and **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 25,000 or more.

(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) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable lands within the urban growth boundary established

1 pursuant to statewide planning goals to accommodate estimated housing  
2 needs for 20 years. The 20-year period shall commence on the date initially  
3 scheduled for completion of the periodic or legislative review.

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

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

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

12 (4)(a) For the purpose of the inventory described in subsection (3)(a) of  
13 this section, "buildable lands" includes:

14 (A) Vacant lands planned or zoned for residential use;

15 (B) Partially vacant lands planned or zoned for residential use;

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

18 (D) Lands that may be used for residential infill or redevelopment.

19 (b) For the purpose of the inventory and determination of housing ca-  
20 pacity described in subsection (3)(a) of this section, the local government  
21 must demonstrate consideration of:

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

25 (B) A written long term contract or easement for radio, telecommuni-  
26 cations or electrical facilities, if the written contract or easement is provided  
27 to the local government; *[and]*

28 (C) The presence of a single family dwelling or other structure on a lot  
29 or parcel[.]; **and**

30 **(D) Recorded covenants, codes and deed restrictions imposed on a**  
31 **lot or parcel pursuant to the declaration of a planned community un-**

1 **der ORS 94.550 to 94.783 or a condominium under ORS chapter 100.**

2 **(c) For the purpose of the determination of housing capacity de-**  
3 **scribed in subsection (3)(a) of this section, or housing need under**  
4 **subsection (3)(b) of this section, the local government:**

5 **(A) May not estimate, except as provided in subparagraph (B) of**  
6 **this paragraph, a potential overall housing density greater than the**  
7 **actual housing density built or housing mix present in the jurisdiction**  
8 **when the inventory and determination is made.**

9 **(B) May estimate a potential overall housing density five percent**  
10 **greater than the actual overall housing density built or housing mix**  
11 **present in the jurisdiction when the inventory and determination is**  
12 **made if the local government also adopts measures pursuant to sub-**  
13 **section (6)(b) or (7) of this section.**

14 [(c)] **(d) Except for land that may be used for residential infill or rede-**  
15 **velopment, a local government shall create a map or document that may be**  
16 **used to verify and identify specific lots or parcels that have been determined**  
17 **to be buildable lands.**

18 **(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the**  
19 **determination of housing capacity and **housing** need pursuant to subsection**  
20 **(3) of this section must be based on data relating to land within the urban**  
21 **growth boundary that has been collected since the last periodic review or**  
22 **five years, whichever is greater. The data shall include:**

23 **(A) The number, density and average mix of housing types of urban resi-**  
24 **dential development that have actually occurred;**

25 **(B) Trends in density and average mix of housing types of urban resi-**  
26 **dential development;**

27 **(C) Demographic and population trends;**

28 **(D) Economic trends and cycles; and**

29 **(E) The number, density and average mix of housing types that have oc-**  
30 **curred on the buildable lands described in subsection (4)(a) of this section.**

31 **(b) A local government shall make the determination described in para-**

1 graph (a) of this subsection using a shorter time period than the time period  
2 described in paragraph (a) of this subsection if the local government finds  
3 that the shorter time period will provide more accurate and reliable data  
4 related to housing capacity and **housing** need. The shorter time period may  
5 not be less than three years.

6 (c) A local government shall use data from a wider geographic area or  
7 use a time period for economic cycles and trends longer than the time period  
8 described in paragraph (a) of this subsection if the analysis of a wider ge-  
9 ographic area or the use of a longer time period will provide more accurate,  
10 complete and reliable data relating to trends affecting housing need than an  
11 analysis performed pursuant to paragraph (a) of this subsection. The local  
12 government must clearly describe the geographic area, time frame and source  
13 of data used in a determination performed under this paragraph.

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

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

27 (b) Amend its comprehensive plan, regional plan, functional plan or land  
28 use regulations to include new measures that demonstrably increase the  
29 likelihood that residential development will occur at densities sufficient to  
30 accommodate housing needs for the next 20 years without [*expansion*]  
31 **amendment** of the urban growth boundary **or with an amendment that**

1 **decreases the amount of land within the urban growth boundary.** A  
2 local government or metropolitan service district that takes this action shall  
3 monitor and record the level of development activity and development den-  
4 sity by housing type following the date of the adoption of the new measures;  
5 or

6 (c) Adopt a combination of the actions described in paragraphs (a) and (b)  
7 of this subsection.

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

19 (8)(a) A local government outside a metropolitan service district that  
20 takes any actions under subsection (6) or (7) of this section shall demonstrate  
21 that the comprehensive plan and land use regulations comply with goals and  
22 rules adopted by the commission and implement ORS 197.295 to 197.314.

23 (b) The local government shall determine the density and mix of housing  
24 types anticipated as a result of actions taken under subsections (6) and (7)  
25 of this section and monitor and record the actual density and mix of housing  
26 types achieved. The local government shall compare actual and anticipated  
27 density and mix. The local government shall submit its comparison to the  
28 commission at the next periodic review or at the next legislative review of  
29 its urban growth boundary, whichever comes first.

30 (9) In establishing that actions and measures adopted under subsections  
31 (6) or (7) of this section demonstrably increase the likelihood of higher den-

1 sity residential development, the local government shall at a minimum en-  
2 sure that land zoned for needed housing is in locations appropriate for the  
3 housing types identified under subsection (3) of this section and is zoned at  
4 density ranges that are likely to be achieved by the housing market using  
5 the analysis in subsection (3) of this section. Actions or measures, or both,  
6 may include but are not limited to:

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

8 (b) Financial incentives for higher density housing;

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

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

13 (e) Minimum density ranges;

14 (f) Redevelopment and infill strategies;

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

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

18 (i) Rezoning or redesignation of nonresidential land.

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