

# House Bill 3154

Sponsored by Representative DRAZAN

## 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**.

Excludes manufactured dwelling parks and certain multifamily dwellings from inclusion of buildable lands available for infill.

## A BILL FOR AN ACT

1  
2 Relating to buildable lands; amending ORS 197.296.

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

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

5 197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan ser-  
6 vice district regional framework plans and local government comprehensive plans for lands within  
7 the urban growth boundary of a city that is located outside of a metropolitan service district and  
8 has a population of 25,000 or more.

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

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

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

18 (B) As scheduled by the commission:

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

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

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

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

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

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

30 (b) Conduct an analysis of existing and projected housing need by type and density range, in  
31 accordance with all factors under ORS 197.303 and statewide planning goals and rules relating to

**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 housing, to determine the number of units and amount of land needed for each needed housing type  
 2 for the next 20 years.

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

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

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

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

9 (D) Lands that may be used for residential infill or redevelopment, **but not including manu-  
 10 factured dwelling parks or lands containing multifamily structures with more than eight  
 11 units.**

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate

1 housing needs for the next 20 years. As part of this process, the local government shall consider the  
2 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include  
3 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The  
4 need and inclusion of lands for new public school facilities shall be a coordinated process between  
5 the affected public school districts and the local government that has the authority to approve the  
6 urban growth boundary.

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

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

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

33 (8)(a) A local government outside a metropolitan service district that takes any actions under  
34 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use  
35 regulations comply with goals and rules adopted by the commission and implement ORS 197.286 to  
36 197.314.

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

43 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-  
44 tion demonstrably increase the likelihood of higher density residential development, the local gov-  
45 ernment shall at a minimum ensure that land zoned for needed housing is in locations appropriate

1 for the housing types identified under subsection (3) of this section, is zoned at density ranges that  
2 are likely to be achieved by the housing market using the analysis in subsection (3) of this section  
3 and is in areas where sufficient urban services are planned to enable the higher density development  
4 to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

- 5 (a) Increases in the permitted density on existing residential land;
- 6 (b) Financial incentives for higher density housing;
- 7 (c) Provisions permitting additional density beyond that generally allowed in the zoning district  
8 in exchange for amenities and features provided by the developer;
- 9 (d) Removal or easing of approval standards or procedures;
- 10 (e) Minimum density ranges;
- 11 (f) Redevelopment and infill strategies;
- 12 (g) Authorization of housing types not previously allowed by the plan or regulations;
- 13 (h) Adoption of an average residential density standard; and
- 14 (i) Rezoning or redesignation of nonresidential land.

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

18 (b) As required under paragraph (c) of this subsection, a city shall, according to rules of the  
19 commission:

- 20 (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- 21 (B) Inventory the supply of buildable lands available within the urban growth boundary to ac-  
22 commodate the estimated housing needs determined under this subsection; and
- 23 (C) Adopt measures necessary to accommodate the estimated housing needs determined under  
24 this subsection.

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

- 26 (A) At periodic review pursuant to ORS 197.628 to 197.651;
- 27 (B) On a schedule established by the commission for cities with a population greater than 10,000,  
28 not to exceed once each eight years; or
- 29 (C) At any other legislative review of the comprehensive plan that requires the application of  
30 a statewide planning goal relating to buildable lands for residential use.

31 (d) For the purpose of the inventory described in this subsection, “buildable lands” includes  
32 those lands described in subsection (4)(a) of this section.

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