

HB 3155-5
(LC 1798)
3/3/21 (RLM/ps)

Requested by HOUSE COMMITTEE ON HOUSING (at the request of Palmer Mason, Department of Land Conservation and Development)

**PROPOSED AMENDMENTS TO
HOUSE BILL 3155**

1 On page 1 of the printed bill, line 3, after “197.290” insert “, 197.296”.

2 In line 12, delete the second “and” and insert “under”.

3 Delete lines 24 through 30.

4 On page 2, delete lines 1 through 28 and insert:

5 **“SECTION 3.** ORS 197.290 is amended to read:

6 “197.290. (1) A city with a population greater than 10,000 shall develop
7 and adopt a housing production strategy under this section no later than one
8 year after[:]

9 “[*a*] the city’s deadline for completing a housing capacity analysis under
10 ORS 197.296 (2)(a)[:]; **or (10)(b) or section 2 of this 2021 Act.**

11 “[*b*] *The city’s deadline for completing a housing capacity analysis under*
12 *ORS 197.296 (10)(b); or]*

13 “[*c*] *A date scheduled by the Land Conservation and Development Com-*
14 *mission following the allocation of housing capacity to the city by a metropol-*
15 *itan service district under ORS 197.299 (2)(d).]*

16 “(2) A housing production strategy must include a list of specific actions,
17 including the adoption of measures and policies, that the city shall undertake
18 to promote development within the city to address a housing need identified
19 under ORS 197.296 (6)(b) [*for the most recent 20-year period described in ORS*
20 *197.296 (2)(b)] **or (10)(b) or section 2 of this 2021 Act.** Actions under this
21 subsection may include:*

1 “(a) The reduction of financial and regulatory impediments to developing
2 needed housing, including removing or easing approval standards or proce-
3 dures for needed housing at higher densities or that is affordable;

4 “(b) The creation of financial and regulatory incentives for development
5 of needed housing, including creating incentives for needed housing at higher
6 densities or that is affordable; and

7 “(c) The development of a plan to access resources available at local, re-
8 gional, state and national levels to increase the availability and affordability
9 of needed housing.

10 “(3) In creating a housing production strategy, a city shall review and
11 consider:

12 “(a) Socioeconomic and demographic characteristics of households living
13 in existing needed housing;

14 “(b) Market conditions affecting the provision of needed housing;

15 “(c) Measures already adopted by the city to promote the development of
16 needed housing;

17 “(d) Existing and expected barriers to the development of needed housing;
18 and

19 “(e) For each action the city includes in its housing production strategy:

20 “(A) The schedule for its adoption;

21 “(B) The schedule for its implementation;

22 “(C) Its expected magnitude of impact on the development of needed
23 housing; and

24 “(D) The time frame over which it is expected to impact needed housing.

25 “(4) The housing production strategy must include within its index a copy
26 of the city’s most recently completed survey under ORS 456.586 (2).

27 “(5) The adoption of a housing production strategy is not a land use de-
28 cision and is not subject to appeal or review except as provided in ORS
29 197.291.

30 **“(6) A city with a population of 10,000 or less may develop a housing**

1 **production strategy as provided in this section.**

2 **“SECTION 3a.** ORS 197.296 is amended to read:

3 “197.296. (1)(a) The provisions of subsections (2) to (9) of this section ap-
4 ply to metropolitan service district regional framework plans and local gov-
5 ernment comprehensive plans for lands within the urban growth boundary
6 of a city that is located outside of a metropolitan service district and has a
7 population of 25,000 or more.

8 “(b) The Land Conservation and Development Commission may establish
9 a set of factors under which additional cities are subject to the provisions
10 of this section. In establishing the set of factors required under this para-
11 graph, 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
13 a population of 25,000 or more or to a metropolitan service district.

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

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

19 “(B) As scheduled by the commission:

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

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

23 “(C) At any other legislative review of the comprehensive plan or regional
24 framework plan that concerns the urban growth boundary and requires the
25 application of a statewide planning goal relating to buildable lands for resi-
26 dential use.

27 “(b) The 20-year period shall commence on the date initially scheduled for
28 completion of the review under paragraph (a) of this subsection.

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

1 “(a) Inventory the supply of buildable lands within the urban growth
2 boundary and determine the housing capacity of the buildable lands; and

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

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

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

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

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

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

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

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

21 “(B) A written long term contract or easement for radio, telecommuni-
22 cations or electrical facilities, if the written contract or easement is provided
23 to the local government; and

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

26 “(c) Except for land that may be used for residential infill or redevelop-
27 ment, a local government shall create a map or document that may be used
28 to verify and identify specific lots or parcels that have been determined to
29 be buildable lands.

30 “(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the

1 determination of housing capacity pursuant to subsection (3)(a) of this sec-
2 tion must be based on data relating to land within the urban growth
3 boundary that has been collected since the last review under subsection
4 (2)(a)(B) of this section. The data shall include:

5 “(A) The number, density and average mix of housing types of urban res-
6 idential development that have actually occurred;

7 “(B) Trends in density and average mix of housing types of urban resi-
8 dential development;

9 “(C) Market factors that may substantially impact future urban residen-
10 tial development; and

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

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

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

27 “(6) If the housing need determined pursuant to subsection (3)(b) of this
28 section is greater than the housing capacity determined pursuant to sub-
29 section (3)(a) of this section, the local government shall take one or both of
30 the following actions to accommodate the additional housing need:

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

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

29 “(c) As used in this subsection, ‘authorized density level’ has the meaning
30 given that term in ORS 227.175.

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

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

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

23 “(9) In establishing that actions and measures adopted under subsections
24 (6) and (7) of this section demonstrably increase the likelihood of higher
25 density residential development, the local government shall at a minimum
26 ensure that land zoned for needed housing is in locations appropriate for the
27 housing types identified under subsection (3) of this section, is zoned at
28 density ranges that are likely to be achieved by the housing market using
29 the analysis in subsection (3) of this section and is in areas where sufficient
30 urban services are planned to enable the higher density development to occur

1 over the 20-year period. Actions or measures, or both, may include but are
2 not limited to:

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

4 “(b) Financial incentives for higher density housing;

5 “(c) Provisions permitting additional density beyond that generally al-
6 lowed in the zoning district in exchange for amenities and features provided
7 by the developer;

8 “(d) Removal or easing of approval standards or procedures;

9 “(e) Minimum density ranges;

10 “(f) Redevelopment and infill strategies;

11 “(g) Authorization of housing types not previously allowed by the plan
12 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 com-
16 prehensive plans for lands within the urban growth boundary of a city that
17 is located outside of a metropolitan service district and has a population of
18 less than 25,000.

19 “(b) As required under paragraph (c) of this subsection, a city shall, ac-
20 cording to rules of the commission:

21 “(A) Determine the estimated housing needs within the jurisdiction for
22 the next 20 years;

23 “(B) Inventory the supply of buildable lands available within the urban
24 growth boundary to accommodate the estimated housing needs determined
25 under this subsection; and

26 “(C) Adopt measures necessary to accommodate the estimated housing
27 needs determined under this subsection.

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

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

1 “(B) On a schedule established by the commission for cities with a popu-
2 lation greater than 10,000, not to exceed once each eight years; or

3 “(C) At any other legislative review of the comprehensive plan that re-
4 quires the application of a statewide planning goal relating to buildable
5 lands for residential use.

6 “(d) For the purpose of the inventory described in this subsection,
7 ‘buildable lands’ includes those lands described in subsection (4)(a) of this
8 section.

9 **“(11) If a city with a population of 10,000 or less conducts an in-
10 ventionary of the supply of buildable lands or an estimate of housing
11 need, it must satisfy the requirements of subsection (10) of this sec-
12 tion.”.**

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