

House Bill 3311

Sponsored by Representative VALDERRAMA; Representative HUDSON

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**.

Requires local governments to include accessible units when updating land use plans relating to urbanization and to report on development of accessible units.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to planning for accessibility; amending ORS 197.178, 197.286, 197.290, 197.293, 197.297,
3 197.303, 197.307 and 456.586; and prescribing an effective date.

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

5 **SECTION 1.** ORS 197.286, as amended by section 5, chapter 54, Oregon Laws 2022, is amended
6 to read:

7 197.286. As used in ORS 197.286 to 197.314 and 197.475 to 197.490:

8 (1) **“Accessible housing” or “housing with accessibility features” means housing with**
9 **accessible units.**

10 (2) **“Accessible unit” means a dwelling unit that:**

11 (a) **Is designed and constructed for accessibility in accordance with section 1102 or 1103**
12 **of the International Code Council Standard for Accessible and Usable Buildings and Facilities**
13 **as last updated April 2022; or**

14 (b) **Contains mobility features or communication features as described in the United**
15 **States Department of Justice’s “2010 ADA Standards for Accessible Design.”**

16 [(1)] (3) **“Buildable lands” means lands in urban and urbanizable areas that are suitable, avail-**
17 **able and necessary for residential uses. “Buildable lands” includes both vacant land and developed**
18 **land likely to be redeveloped.**

19 [(2)] (4) **“Government assisted housing” means housing that is financed in whole or part by ei-**
20 **ther a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing**
21 **that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers**
22 **provided by either a federal or state housing agency or a local housing authority.**

23 [(3)] (5) **“Manufactured dwelling,” “manufactured dwelling park,” “manufactured home” and**
24 **“mobile home park” have the meanings given those terms in ORS 446.003.**

25 [(4)] (6) **“Periodic review” means the process and procedures as set forth in ORS 197.628 to**
26 **197.651.**

27 [(5)] (7) **“Prefabricated structure” means a prefabricated structure, as defined in ORS 455.010,**
28 **that is relocatable, more than eight and one-half feet wide and designed for use as a single-family**
29 **dwelling.**

30 [(6)] (8) **“Urban growth boundary” means an urban growth boundary included or referenced in**
31 **a comprehensive plan.**

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.

SECTION 2. ORS 197.290 is amended to read:

197.290. (1) A city with a population greater than 10,000 shall develop and adopt a housing production strategy under this section no later than one year after the city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a) or (10)(b) or 197.297.

(2) A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6)(b) or (10)(b) or 197.297. Actions under this subsection may include:

(a) The reduction of financial and regulatory impediments to developing needed, **affordable or accessible** housing, including removing or easing approval standards or procedures for [*needed*] **such housing or developing it** at higher densities [*or that is affordable*];

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

(c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

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

(a) Socioeconomic and demographic characteristics, **including disability status**, of households living in existing needed housing;

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

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

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

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

(A) The schedule for its adoption;

(B) The schedule for its implementation;

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

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

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

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in ORS 197.291.

(6) A city with a population of 10,000 or less may develop a housing production strategy as provided in this section.

SECTION 3. ORS 197.293 is amended to read:

197.293. (1) The Land Conservation and Development Commission, in consultation with the Housing and Community Services Department, shall adopt criteria for reviewing and identifying cities with a population greater than 10,000 that have not sufficiently:

(a) Achieved production of needed housing within their jurisdiction; or

(b) Implemented a housing production strategy adopted under ORS 197.290.

(2) The criteria adopted by the commission under subsection (1) of this section [*may*] **shall** include the city's:

(a) Unmet housing need as described in ORS 197.296 (6);

(b) Unmet housing need in proportion to the city's population;

(c) Percentage of households identified as severely rent burdened as described in ORS 456.586;

(d) Percentage of households that include a person with a disability whose housing lacks necessary accessibility features;

1 [(d)] (e) Recent housing development;

2 [(e)] (f) Recent adoption of a housing production strategy under ORS 197.290 or adoption of
3 actions pursuant to a housing production strategy;

4 [(f)] (g) Recent or frequent previous identification by the Department of Land Conservation and
5 Development under this section; or

6 [(g)] (h) Other attributes that the commission considers relevant.

7 (3) The Department of Land Conservation and Development may review cities under the criteria
8 adopted under subsection (2) of this section for the purposes of prioritizing actions by the depart-
9 ment, including:

10 (a) Awarding available technical or financial resources;

11 (b) Providing enhanced review and oversight of the city's housing production strategy;

12 (c) Requiring a report and explanation if a city does not implement an action within the ap-
13 proximate time frame scheduled within a housing production strategy;

14 (d) Entering into agreements with the city relating to the city's modification or implementation
15 of its housing production strategy; or

16 (e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to comply
17 with ORS 197.286 to 197.314 or statewide land use planning goals related to housing or urbanization.

18 **SECTION 4.** ORS 197.297 is amended to read:

19 197.297. (1) At least once every six years, by a date scheduled by the Land Conservation and
20 Development Commission, a city that is within a metropolitan service district and has a population
21 greater than 10,000 shall:

22 (a) Inventory the supply of buildable lands within the city and determine the housing capacity
23 of the buildable lands; and

24 (b) Conduct an analysis of the city's existing and projected needed housing under statewide
25 planning goals and rules related to housing by type, mix, affordability, **accessibility features** and
26 density range to determine the number of units and amount of land needed for each needed housing
27 type for the next 20 years.

28 (2) The housing capacity and needed housing analysis conducted under this section must be
29 adopted as part of the city's comprehensive plan no later than one year after completion of the
30 needed housing analysis.

31 (3) If the housing capacity and needed housing analysis conducted under this section demon-
32 strates a housing need, the city shall amend its comprehensive plan or land use regulations to in-
33 clude new measures that demonstrably increase the likelihood that development of needed housing
34 will occur for the type, mix, affordability and densities sufficient to accommodate needed housing for
35 the next 20 years.

36 **SECTION 5.** ORS 197.303 is amended to read:

37 197.303. (1) As used in ORS 197.286 to 197.314[,]:

38 (a) "Needed housing" means all housing on land zoned for residential use or mixed residential
39 and commercial use that is determined to meet the need shown for housing within an urban growth
40 boundary **that is:**

41 (A) At price ranges and rent levels that are affordable to households within the county with a
42 variety of incomes, including but not limited to households with low incomes, very low incomes and
43 extremely low incomes, as those terms are defined by the United States Department of Housing and
44 Urban Development under 42 U.S.C. 1437a; **and**

45 (B) **Accessible to households with individuals with a variety of disabilities, including**

1 **needs for accessibility features relating to mobility or communication or accessible units.**

2 (b) “Needed housing” includes the following housing types:

3 [(a)] (A) Attached and detached single-family housing and multiple family housing for both
4 owner and renter occupancy;

5 [(b)] (B) Government assisted housing;

6 [(c)] (C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

7 [(d)] (D) Manufactured homes on individual lots planned and zoned for single-family residential
8 use that are in addition to lots within designated manufactured dwelling subdivisions; [and]

9 [(e)] (E) Housing for farmworkers[.]; **and**

10 **(F) Accessible units.**

11 (2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local
12 government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall
13 consider and adopt findings related to changes in each of the following factors since the last review
14 under ORS 197.296 (2)(a)(B) and the projected future changes in these factors over a 20-year plan-
15 ning period:

16 (a) Household sizes;

17 (b) Household demographics;

18 (c) Household incomes;

19 (d) Vacancy rates; and

20 (e) Housing costs.

21 (3) A local government shall make the estimate described in subsection (2) of this section using
22 a shorter time period than since the last review under ORS 197.296 (2)(a)(B) if the local government
23 finds that the shorter time period will provide more accurate and reliable data related to housing
24 need. The shorter time period may not be less than three years.

25 (4) A local government shall use data from a wider geographic area or use a time period longer
26 than the time period described in subsection (2) of this section if the analysis of a wider geographic
27 area or the use of a longer time period will provide more accurate, complete and reliable data re-
28 lating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this
29 section. The local government must clearly describe the geographic area, time frame and source of
30 data used in an estimate performed under this subsection.

31 (5) Subsection [(1)(a) and (d)] **(1)(b)(A) and (D)** of this section does not apply to:

32 (a) A city with a population of less than 2,500.

33 (b) A county with a population of less than 15,000.

34 (6) A local government may take an exception under ORS 197.732 to the definition of “needed
35 housing” in subsection (1) of this section in the same manner that an exception may be taken under
36 the goals.

37 **SECTION 6.** ORS 197.307, as amended by section 14, chapter 401, Oregon Laws 2019, and sec-
38 tion 2, chapter 54, Oregon Laws 2022, is amended to read:

39 197.307. (1) The availability of affordable, **accessible**, decent, safe and sanitary housing oppor-
40 tunities for persons of lower, middle and fixed income, including housing for farmworkers **and in-**
41 **dividuals with a variety of disabilities, including the need for accessible units**, is a matter of
42 statewide concern.

43 (2) Many persons of lower, middle and fixed income depend on government assisted housing as
44 a source of affordable, **accessible**, decent, safe and sanitary housing.

45 (3) When a need has been shown for housing within an urban growth boundary at particular

1 price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or
 2 in zones described by some comprehensive plans as overlay zones with sufficient buildable land to
 3 satisfy that need.

4 (4) Except as provided in subsection (6) of this section, a local government may adopt and apply
 5 only clear and objective standards, conditions and procedures regulating the development of hous-
 6 ing, including needed housing. The standards, conditions and procedures:

7 (a) May include, but are not limited to, one or more provisions regulating the density or height
 8 of a development.

9 (b) May not have the effect, either in themselves or cumulatively, of discouraging needed hous-
 10 ing through unreasonable cost or delay.

11 (5) The provisions of subsection (4) of this section do not apply to:

12 (a) An application or permit for residential development in an area identified in a formally
 13 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
 14 500,000 or more.

15 (b) An application or permit for residential development in historic areas designated for pro-
 16 tection under a land use planning goal protecting historic areas.

17 (6) In addition to an approval process for needed housing based on clear and objective standards,
 18 conditions and procedures as provided in subsection (4) of this section, a local government may
 19 adopt and apply an alternative approval process for applications and permits for residential devel-
 20 opment based on approval criteria regulating, in whole or in part, appearance or aesthetics that are
 21 not clear and objective if:

22 (a) The applicant retains the option of proceeding under the approval process that meets the
 23 requirements of subsection (4) of this section;

24 (b) The approval criteria for the alternative approval process comply with applicable statewide
 25 land use planning goals and rules; and

26 (c) The approval criteria for the alternative approval process authorize a density at or above
 27 the density level authorized in the zone under the approval process provided in subsection (4) of this
 28 section.

29 (7) Subject to subsection (4) of this section, this section does not infringe on a local
 30 government's prerogative to:

31 (a) Set approval standards under which a particular housing type is permitted outright;

32 (b) Impose special conditions upon approval of a specific development proposal; or

33 (c) Establish approval procedures.

34 **SECTION 7.** ORS 197.178 is amended to read:

35 197.178. (1) Local governments with comprehensive plans or functional plans that are identified
 36 in ORS 197.296 (1) shall compile and report annually to the Department of Land Conservation and
 37 Development the following information for all applications received under ORS 227.175 for residen-
 38 tial permits and residential zone changes:

39 (a) The total number of complete applications received for residential development, and the
 40 number of applications approved;

41 (b) The total number of complete applications received for development of housing containing
 42 one or more housing units that are sold or rented below market rate as part of a local, state or
 43 federal housing assistance program, and the number of applications approved; *[and]*

44 (c) **The total number of complete applications received for development of housing con-**
 45 **taining one or more housing units that are accessible units as defined in ORS 197.286, as part**

1 **of a local, state or federal housing assistance program; and**

2 [(c)] (d) For each complete application received:

3 (A) The date the application was received;

4 (B) The date the application was approved or denied;

5 (C) The net residential density proposed in the application;

6 (D) The maximum allowed net residential density for the subject zone; and

7 (E) If approved, the approved net residential density.

8 (2) The report required by this section may be submitted electronically.

9 **SECTION 8.** ORS 456.586 is amended to read:

10 456.586. (1) For purposes of this section:

11 (a) A household is severely rent burdened if the household spends more than 50 percent of the
12 income of the household on gross rent for housing.

13 (b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs
14 with the land and that requires affordability for an established income level for a defined period of
15 time.

16 (2)(a) The Housing and Community Services Department shall annually provide to the governing
17 body of each city in this state with a population greater than 10,000 the most current data available
18 from the United States Census Bureau, or any other source the department considers at least as
19 reliable, showing the percentage of renter households in the city that are severely rent burdened.

20 (b) The Department of Land Conservation and Development, in consultation with the Housing
21 and Community Services Department, shall develop a survey form on which the governing body of
22 a city may provide specific information related to the affordability of housing within the city, in-
23 cluding the actions relating to land use and other related matters that the city has taken to en-
24 courage the development of needed housing, increase the affordability of housing and reduce rent
25 burdens for severely rent burdened households.

26 (c) The Department of Land Conservation and Development shall provide the governing body
27 of the city with the survey form developed pursuant to paragraph (b) of this subsection.

28 (d) The governing body of the city shall return the completed survey form to the Department
29 of Land Conservation and Development at least 24 months prior to a deadline for completing a
30 housing production strategy under ORS 197.290.

31 (3)(a) In any year in which the governing body of a city is informed under this section that at
32 least 25 percent of the renter households in the city are severely rent burdened, the governing body
33 shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens
34 within the city, the barriers to reducing rent burdens and possible solutions.

35 (b) The Housing and Community Services Department may adopt rules governing the conduct
36 of the public meeting required under this subsection.

37 (4) No later than February 1 of each year, the governing body of each city in this state with a
38 population greater than 10,000 shall submit to the Department of Land Conservation and Develop-
39 ment a report for the immediately preceding calendar year setting forth separately for each of the
40 following categories the total number of units that were permitted and the total number that were
41 produced:

42 (a) Residential units.

43 (b) Regulated affordable residential units.

44 (c) Multifamily residential units.

45 (d) Regulated affordable multifamily residential units.

- 1 (e) Single-family homes.
- 2 (f) Regulated affordable single-family homes.
- 3 (g) Accessory dwelling units.
- 4 (h) Regulated affordable accessory dwelling units.
- 5 (i) Units of middle housing, as defined in ORS 197.758.
- 6 (j) Regulated affordable units of middle housing.
- 7 **(k) Accessible units, as defined in ORS 197.286.**

8 **SECTION 9. This 2023 Act takes effect on the 91st day after the date on which the 2023**
9 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

10