

# House Bill 3442

Sponsored by Representative JAVADI; Representatives HELFRICH, SCHARF, WRIGHT

## 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 allow development of certain affordable housing on certain lands within 100-year floodplain or subject to property development constraints under land use regulations related to natural disasters and hazards.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to land use planning for affordable housing; amending ORS 197.308; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022, is amended  
6 to read:

7 197.308. (1) As used in this section, "affordable housing" means residential property:

8 (a) In which:

9 (A) Each unit on the property is made available to own or rent to families with incomes of 80  
10 percent or less of the area median income as determined by the Oregon Housing Stability Council  
11 based on information from the United States Department of Housing and Urban Development; or

12 (B) The average of all units on the property is made available to families with incomes of 60  
13 percent or less of the area median income; and

14 (b) Whose affordability is enforceable, including as described in ORS 456.270 to 456.295, for a  
15 duration of no less than 30 years.

16 (2) A local government shall allow affordable housing, and may not require a zone change or  
17 conditional use permit for affordable housing, if the proposed affordable housing is on property that  
18 is:

19 (a) Owned by:

20 (A) A public body, as defined in ORS 174.109; or

21 (B) A nonprofit corporation that is organized as a religious corporation; or

22 (b) Zoned:

23 (A) For commercial uses;

24 (B) To allow religious assembly; or

25 (C) As public lands.

26 (3) Subsection (2) of this section:

27 (a) Does not apply to the development of housing not within an urban growth boundary.

28 (b) Does not trigger any requirement that a local government consider or update an analysis  
29 as required by a statewide planning goal relating to economic development.

30 (c) Applies on property zoned to allow for industrial uses only if the property is:

**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 (A) Publicly owned;

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

3 (C) Not specifically designated for heavy industrial uses.

4 (d) **Except as provided in paragraph (e) of this subsection**, does not apply on lands where  
5 the local government determines that:

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

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

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

11 (D) The development of the property is constrained by land use regulations based on statewide  
12 land use planning goals relating to:

13 (i) Natural disasters and hazards; or

14 (ii) Natural resources, including air, water, land or natural areas, but not including open spaces  
15 or historic resources.

16 **(e) Does apply to property described in paragraph (d)(C) and (D)(i) of this subsection if**  
17 **more than \_\_\_ percent of the lands within the urban growth boundary that the property is**  
18 **within are located within a 100-year floodplain or are subject to property development con-**  
19 **straints under land use regulations based on statewide land use planning goals relating to**  
20 **natural disasters and hazards.**

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

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

25 (b) Without consideration of any local density bonus for affordable housing:

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

28 (B) For property with existing maximum density of 17 or more units per acre and 45 or fewer  
29 units per acre, 150 percent of the existing density and 24 additional feet; or

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

32 (5)(a) Subsection (4) of this section does not apply to housing allowed under subsection (2) of this  
33 section in areas that are not zoned for residential uses.

34 (b) A local government may reduce the density or height of the density bonus allowed under  
35 subsection (4) of this section as necessary to address a health, safety or habitability issue, including  
36 fire safety, or to comply with a protective measure adopted pursuant to a statewide land use plan-  
37 ning goal. Notwithstanding ORS 197.350, the local government must adopt findings supported by  
38 substantial evidence demonstrating the necessity of this reduction.

39 **SECTION 2. This 2023 Act being necessary for the immediate preservation of the public**  
40 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
41 **on its passage.**

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