

# Senate Bill 1096

Sponsored by Senators MEEK, ANDERSON

## 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**.

Authorizes certain cities with demonstrated need for housing to add project area to their urban growth boundary upon certain conditions. Sunsets authorization January 2, 2033.

Amends principles that Land Conservation and Development Commission must consider in adopting rules regulating urban reserves.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to urbanization; creating new provisions; amending ORS 195.145; and declaring an emer-  
3 gency.

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

5 **SECTION 1. Sections 2 to 5 of this 2023 Act are added to and made a part of ORS 197.286**  
6 **to 197.314.**

7 **SECTION 2. As used in sections 2 to 5 of this 2023 Act:**

8 (1) "Area median income" has the meaning given that term in ORS 456.270.

9 (2) "Low-income housing" means housing that is affordable to households with incomes  
10 below 80 percent of the area median income.

11 (3) "Moderate-income housing" means housing that is affordable to households with in-  
12 comes between 80 to 120 percent of the area median income.

13 (4) "Neighborhood commercial use" means commercial uses that primarily serve the  
14 immediate surrounding neighborhood and provide goods and services at a smaller scale than  
15 provided on typical lands zoned for commercial use.

16 (5) "Project area" means lands added to an urban growth boundary under sections 2 to  
17 5 of this 2023 Act.

18 **SECTION 3. (1) Before approving a petition adding a project area to an urban growth**  
19 **boundary under section 4 of this 2023 Act, a city must adopt by ordinance a conceptual plan**  
20 **that:**

21 (a) **Makes findings that the city has a need for housing, as described in subsection (2) of**  
22 **this section;**

23 (b) **Identifies the project area land as provided under subsection (3) of this section; and**

24 (c) **Explains generally the expected amendments to the comprehensive plan and land use**  
25 **regulations and zoning map for the project area, as required under subsection (4) of this**  
26 **section, and the factual basis and reasons for the expected planning amendments.**

27 (2) **A city may not add land to its urban growth boundary under sections 2 to 5 of this**  
28 **2023 Act unless the city has determined that there is a need within the city for additional**  
29 **low-income housing or moderate-income housing due to the existence of one or more of the**  
30 **following, as currently measured or determined within the preceding year:**

**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) A statewide housing equity indicator under section 5 (2)(g), chapter 13, Oregon Laws  
2 2023 (Enrolled House Bill 2001), demonstrates that at least 25 percent of the renter house-  
3 holds in the city are severely rent burdened;

4 (b) The average monthly vacancy rate for rental units within the city did not exceed six  
5 percent;

6 (c) The city is within a distressed area, as defined in ORS 285A.010 and as designated by  
7 the Oregon Business Development Department;

8 (d) The city has experienced a population increase of greater than two percent over the  
9 previous three years;

10 (e) An economic opportunity analysis indicates that anticipated job growth in the next  
11 biennium is reasonably expected to result in an increased housing demand that is greater  
12 than existing housing supply projections;

13 (f) The median home price in the city is greater than \$50,000 more than the amount af-  
14 fordable to a family of four earning the area median income and paying 30 percent of their  
15 gross monthly income for a 30-year fixed mortgage at the prevailing interest rate;

16 (g) The median age of homes in the city is older than the median age of homes in the  
17 state;

18 (h) The city has implemented housing production strategies as described in ORS 197.290,  
19 but has not yet achieved its needed housing objectives; or

20 (i) At least 20 percent of lands included within the city's buildable lands inventory are  
21 considered physically constrained due to conditions such as:

22 (A) Floodways and water bodies;

23 (B) Special flood hazard areas as identified on the applicable National Flood Insurance  
24 Program rate map;

25 (C) Tsunami inundation zones;

26 (D) Contiguous lands of at least one acre with slopes greater than 25 percent; and

27 (E) Development restrictions or natural resource protections in an acknowledged com-  
28 prehensive plan or land use regulations implementing statewide land use planning goals re-  
29 lating to:

30 (i) Open spaces, scenic and historic areas and natural resources;

31 (ii) Air, water or land quality;

32 (iii) Areas subject to natural hazards;

33 (iv) The Willamette River Greenway;

34 (v) Estuarine resources;

35 (vi) Coastal shorelands; or

36 (vii) Beaches and dunes.

37 (3) A city may expand an urban growth boundary under sections 2 to 5 of this 2023 Act  
38 only for a project area on land that:

39 (a) Is designated as an urban reserve, nonresource land or land subject to an acknowl-  
40 edged exception to a statewide land use planning goal relating to farmland or forestland;

41 (b) Is composed of one contiguous tract of lots or parcels, whether or not under the same  
42 ownership, not larger than 200 acres and is adjacent to the existing urban growth boundary  
43 of Metro or the city;

44 (c) Has been inventoried for significant historical artifacts, cultural sites and natural  
45 resources;

1 (d) Does not include areas designated for protection in an acknowledged comprehensive  
 2 plan pursuant to goals relating to open spaces, scenic and historic areas or natural re-  
 3 sources, unless the areas retain this designation after addition to the urban growth boundary  
 4 under this section; and

5 (e) Is not an area designated by Metro as being subject to an intergovernmental agree-  
 6 ment that requires the consent of one or more additional cities before planning.

7 (4) The expected planning amendments must:

8 (a) Ensure adequate opportunities for the development of needed housing of all types,  
 9 sizes and densities;

10 (b) For cities with a population of 10,000 or greater, include sufficient areas designated  
 11 for mixed use development to support and integrate viable commercial and residential uses  
 12 along with diverse transportation options, including walking, bicycling and transit use; and

13 (c) Include lands zoned for residential and neighborhood commercial uses.

14 (5) Before adopting a conceptual plan by ordinance under this section, the city must  
 15 provide opportunities for public participation, including, at least:

16 (a) One public comment period;

17 (b)(A) One meeting of the city's planning commission where public testimony is consid-  
 18 ered;

19 (B) One meeting of the city's council where public testimony is considered; or

20 (C) One public open house; and

21 (c) One written notice, published at least 14 days before:

22 (A) A meeting under paragraph (b) of this subsection; and

23 (B) The beginning of a comment period under paragraph (a) of this subsection.

24 (6) Before adopting a conceptual plan by ordinance under this section, the city must  
 25 consult with, request necessary information from and provide the opportunity for written  
 26 comment from:

27 (a) The owners of each lot or parcel within the project area;

28 (b) If the city does not currently exercise land use jurisdiction over the entire project  
 29 area, the governing body of each county with land use jurisdiction over the project area;

30 (c) Any special district that provides urban services to the project area; and

31 (d) Any public or private utility that provides utilities to the project area.

32 (7) Actions taken by a city under sections 2 to 5 of this 2023 Act or taken by a county  
 33 or Metro under section 5 of this 2023 Act are not land use decisions as defined in ORS  
 34 197.015.

35 **SECTION 4.** (1) The governing body of a city may approve a petition submitted by all  
 36 owners of lots, parcels or units of land within a project area to amend its urban growth  
 37 boundary, or direct Metro to amend its urban growth boundary under section 5 of this 2023  
 38 Act, to add the project area only if the city:

39 (a) Has not approved a petition under this section within the previous five years;

40 (b) Has adopted a conceptual plan by ordinance under section 3 (1) of this 2023 Act;

41 (c) Has entered into a binding agreement with each owner within the project area and  
 42 with any other necessary public or private utility provider, local government or district, as  
 43 defined in ORS 195.060, or combination of local governments and districts to ensure that a  
 44 commitment exists to provide the project area with all necessary urban services, as defined  
 45 in ORS 195.065, and utilities in a specific location and by a specific date that is within two

1 years after the city’s approval of the petition; and

2 (d) Has reviewed affordability restrictions, including but not limited to deed restrictions  
 3 or affordable housing covenants, as described in ORS 456.270 to 456.295, that require that  
 4 within the project area, for a period of no less than 30 years following the approval of the  
 5 petition:

6 (A) At least 10 percent of residential units would be used for low-income housing; and

7 (B)(i) At least 20 percent of the residential units are for moderate-income housing; or

8 (ii) At least 15 percent of residential units are for moderate-income housing if at least  
 9 five percent of the total acreage of the project area will be zoned to allow only neighborhood  
 10 commercial use.

11 (2) A petition filed under subsection (1) of this section must:

12 (a) Be in writing in a form and format as required by the city;

13 (b) Specify the lots, parcels or units of land that are the subject of the petition; and

14 (c) Be signed by all owners of lots, parcels or units of land included within the petition.

15 (3) In reviewing a petition filed under this section, a city may require that a greater  
 16 number of affordable residential units than required under subsection (1)(d) of this section  
 17 provided that the city provides the developer, through waivers, reductions, tax exemptions  
 18 or other incentives that significantly and proportionally offset development costs related to:

19 (a) Permits or fees;

20 (b) System development charges;

21 (c) Property taxes; or

22 (d) Land acquisition and predevelopment costs.

23 (4) The amendment of an urban growth boundary under this section or section 5 (2)(b)  
 24 of this 2023 Act is allowed notwithstanding any other requirement pertaining to the amend-  
 25 ment of an urban growth boundary under ORS 197.286 to 197.314. The Land Conservation and  
 26 Development Commission shall enter an order acknowledging the amendment to the urban  
 27 growth boundary without requiring review under ORS 197.626.

28 (5) If a city denies a petition submitted by under this section, the lots, parcels or units  
 29 of land that are the subject of the petition may not be included within another petition under  
 30 subsection (2) of this section for a period of two years after the denial.

31 **SECTION 5.** (1) Within 14 days of approving a petition under section 4 of this 2023 Act,  
 32 a city shall submit the approved petition to:

33 (a) Any county that has land use jurisdiction over the project area; and

34 (b) Metro, if the project area would expand the Metro urban growth boundary.

35 (2)(a) Within 30 days of receiving the petition, the county shall adopt an ordinance ap-  
 36 proving the petition and the addition of the project area to the city’s urban growth boundary.

37 (b) Within six months after receiving the petition, Metro shall adopt an ordinance  
 38 amending Metro’s urban growth boundary to add the project area.

39 (3) A county or Metro may not conduct a public hearing regarding approval of the peti-  
 40 tion and shall adopt an ordinance approving the petition and the addition of the project area  
 41 to the urban growth boundary without discretionary review.

42 **SECTION 6.** Sections 2 to 5 of this 2023 Act are repealed on January 2, 2033.

43 **SECTION 7.** ORS 195.145, as amended by section 33, chapter 13, Oregon Laws 2023 (Enrolled  
 44 House Bill 2001), is amended to read:

45 195.145. (1) To ensure that the supply of land available for urbanization is maintained:

1 (a) Local governments may cooperatively designate lands outside urban growth boundaries as  
2 urban reserves subject to ORS 197.610 to 197.625 and 197.626.

3 (b) Alternatively, Metro and a county may enter into a written agreement pursuant to ORS  
4 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban reserves. A process and criteria  
5 developed pursuant to this paragraph are an alternative to a process or criteria adopted pursuant  
6 to paragraph (a) of this subsection.

7 (2) The Land Conservation and Development Commission may require a local government to  
8 designate urban reserves pursuant to subsection (1)(a) of this section during its periodic review in  
9 accordance with the conditions for periodic review under ORS 197.628.

10 (3) In carrying out subsections (1) and (2) of this section:

11 (a) Within an urban reserve, a local government may not prohibit the siting on a legal parcel  
12 of a single family dwelling that would otherwise have been allowed under law existing prior to  
13 designation as an urban reserve.

14 (b) The commission shall provide to local governments a list of options, rather than prescribing  
15 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-  
16 serves.

17 (4) Urban reserves designated under this section must be planned to accommodate population  
18 and employment growth for:

19 (a) At least 40 years and not more than 50 years; or

20 (b) At least 20 years, and not more than 30 years, after the 20-year period for which the local  
21 government has inventoried buildable lands under ORS 197.296 or section 21 or 22 [*of this 2023*  
22 *Act*], **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)**.

23 (5) Urban reserves may be established at any time without regard to a schedule under ORS  
24 197.296 (2) or section 21 (2) or 22 (2) [*of this 2023 Act*], **chapter 13, Oregon Laws 2023 (Enrolled**  
25 **House Bill 2001)**.

26 (6) The designation of urban reserves under this section must be based upon consideration of  
27 factors including, but not limited to, whether land proposed for designation as urban reserves, alone  
28 or in conjunction with land inside the urban growth boundary:

29 (a) Can be developed at urban densities in a way that makes efficient use of existing and future  
30 public infrastructure investments;

31 (b) Includes sufficient development capacity to support a healthy urban economy;

32 (c) Can be served by public schools and other urban-level public facilities and services efficiently  
33 and cost-effectively by appropriate and financially capable service providers;

34 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-  
35 priate service providers;

36 (e) Can be designed to preserve and enhance natural ecological systems; and

37 (f) Includes sufficient land suitable for a range of housing types.

38 (7) A county may take an exception under ORS 197.732 to a statewide land use planning goal  
39 to allow the establishment of a transportation facility in an area designated as urban reserve under  
40 this section.

41 (8) The commission shall adopt by goal or by rule a process and criteria for designating urban  
42 reserves pursuant to this section[.], **in accordance with the following principles:**

43 (a) **Minimizing the burdens on planning urban reserves, especially for small and eco-**  
44 **nomically distressed local governments;**

45 (b) **Allowing greater flexibility in required data sources to reduce costs and ease desig-**

1 **nation; and**

2 **(c) Allowing consideration of local factors, infrastructure costs and availability and the**  
3 **likelihood of an area to develop at urban density levels based upon existing local and regional**  
4 **development patterns.**

5 **SECTION 8. This 2023 Act being necessary for the immediate preservation of the public**  
6 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
7 **on its passage.**

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