

House Bill 3154

Sponsored by Representative CATE (Pre-session filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act changes which lands may be called buildable. (Flesch Readability Score: 84.9). Removes certain lands from definitions of buildable lands for purposes of urbanization.

A BILL FOR AN ACT

1
2 Relating to defining buildable lands; amending ORS 197A.270 and 197A.350.

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

4 **SECTION 1.** ORS 197A.270 is amended to read:

5 197A.270. (1) This section applies only to local governments with jurisdiction over lands inside
6 the urban growth boundary of:

7 (a) Cities located outside Metro with a population of 25,000 or greater; and

8 (b) Cities that meet factors established by the Land Conservation and Development Commission
9 in consideration of the city's size, rate of population growth or proximity to another city with a
10 population of 25,000 or greater or to Metro.

11 (2) A local government shall determine its needed housing under ORS 197A.018 and inventory
12 its buildable lands and determine the lands' housing capacity under this section:

13 (a) At periodic review under ORS 197.628 to 197.651;

14 (b) As scheduled by the commission at least once each eight years; or

15 (c) At any other legislative review of the comprehensive plan that concerns the urban growth
16 boundary and requires the application of a statewide planning goal related to buildable lands for
17 residential use.

18 (3) For the purpose of determining housing capacity and inventory of buildable lands under
19 subsection (2) of this section:

20 (a) "Buildable lands" includes:

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

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

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

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

26 (b) "Buildable lands" does not include:

27 (A) Floodways or bodies of water.

28 (B) Wetlands, as defined in ORS 196.800.

29 (C) Lands within a special flood hazard area as identified on a flood insurance rate map.

30 (D) Lands subject to development prohibitions as a result of land use regulations imple-
31 menting state planning goals.

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 *[(b)]* (c) The local government shall consider:

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

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

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

7 *[(c)]* (d) Except for land that may be used for residential infill or redevelopment, the local gov-
8 ernment shall create a map or document that may be used to verify and identify specific lots or
9 parcels that have been determined to be buildable lands.

10 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
11 housing capacity must be based on data related to land within the urban growth boundary that has
12 been collected since the last review under subsection (2)(b) of this section. The data must include:

13 (A) The number, density and average mix of housing types of urban residential development that
14 have actually been developed;

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

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

17 (D) The number, density and average mix of housing types that have been developed on
18 buildable lands;

19 (E) Consideration of the effects of the adopted housing production strategy and measures taken
20 and reasonably anticipated to be taken to implement the strategy; and

21 (F) Consideration of factors that influence available housing supply, including short-term rentals,
22 second homes and vacation homes.

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

27 (c) A local government shall use data from a wider geographic area or use a time period longer
28 than the time period described in paragraph (a) of this subsection if the analysis of a wider ge-
29 ographic area or the use of data from a longer time period will provide more accurate, complete and
30 reliable data related to trends affecting housing need than an analysis performed pursuant to para-
31 graph (a) of this subsection. The local government must clearly describe the geographic area, time
32 frame and source of data used in a determination performed under this paragraph.

33 (5) If the needed housing is greater than the housing capacity, the local government shall take
34 one or both of the following actions to accommodate allocated housing need for which there is in-
35 sufficient housing capacity to accommodate over the next 20 years:

36 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate al-
37 located housing need for the next 20 years consistent with the requirements of ORS 197A.285 and
38 statewide planning goals. As part of this process, the local government shall consider the effects of
39 actions taken pursuant to paragraph (b) of this subsection. The amendment must include sufficient
40 land reasonably necessary to accommodate the siting of new public school facilities. The need and
41 inclusion of lands for new public school facilities must be a coordinated process between the affected
42 public school districts and the local government that has the authority to approve the urban growth
43 boundary.

44 (b) Take any action under ORS 197A.100 (3), whether or not the action was described in an ap-
45 proved housing production strategy, that demonstrably increases housing capacity or produces ad-

ditional needed housing. Actions under this paragraph may include amending a comprehensive plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate needed housing for the next 20 years without expansion of the urban growth boundary.

(6) A local government that takes any actions under subsection (5) of this section shall:

(a) Demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission.

(b) Adopt findings regarding the changes in housing capacity assumed to result from actions adopted based on data collected under subsection (4)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. A quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level, as defined in ORS 227.175, within the local government’s jurisdiction or a jurisdiction in the same region.

(c) In establishing that actions adopted under subsection (5) of this section demonstrably increase housing capacity, ensure that buildable lands are in locations appropriate for needed housing, are zoned at density ranges that are likely to be achieved by the housing market and are in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period.

SECTION 2. ORS 197A.350 is amended to read:

197A.350. (1) This section applies only to Metro.

(2)(a) Metro shall demonstrate that its regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

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

(B) As scheduled by the Land Conservation and Development Commission at least once each six years; or

(C) At any other legislative review of the regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

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

(3) In performing the duties under subsection (2) of this section, Metro shall:

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

(b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197A.348 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section[,]:

(A) “Buildable lands” includes:

[(A)] (i) Vacant lands planned or zoned for residential use;

[(B)] (ii) Partially vacant lands planned or zoned for residential use;

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

1 *[(D)]* (iv) Lands that may be used for residential infill or redevelopment.

2 **(B) “Buildable lands” does not include:**

3 **(i) Floodways or bodies of water.**

4 **(ii) Wetlands, as defined in ORS 196.800.**

5 **(iii) Lands within a special flood hazard area as identified on a flood insurance rate map.**

6 **(iv) Lands subject to development prohibitions as a result of land use regulations implementing state planning goals.**

8 (b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, Metro must demonstrate consideration of:

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

12 (B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to Metro;

14 (C) The presence of a single family dwelling or other structure on a lot or parcel; and

15 (D) Factors that influence available housing supply, including short-term rentals, second homes and vacation homes.

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

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

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

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

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

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

30 (b) Metro shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if Metro finds that the shorter time period will provide more accurate and reliable data related to housing capacity. The shorter time period may not be less than three years.

34 (c) Metro shall use data from a wider geographic area or use a time period longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. Metro must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

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

43 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, Metro shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient

1 land reasonably necessary to accommodate the siting of new public school facilities. The need and
 2 inclusion of lands for new public school facilities shall be a coordinated process between the affected
 3 public school districts and Metro that has the authority to approve the urban growth boundary.

4 (b) Amend its regional framework plan, functional plan or land use regulations to include new
 5 measures that demonstrably increase the likelihood that residential development will occur at den-
 6 sities sufficient to accommodate housing needs for the next 20 years without expansion of the urban
 7 growth boundary. If Metro takes this action, Metro shall adopt findings regarding the density ex-
 8 pectations assumed to result from measures adopted under this paragraph based upon the factors
 9 listed in ORS 197A.348 (2) and data in subsection (5)(a) of this section. The density expectations may
 10 not project an increase in residential capacity above achieved density by more than three percent
 11 without quantifiable validation of such departures. A quantifiable validation must demonstrate that
 12 the assumed housing capacity has been achieved in areas within Metro that are zoned to allow no
 13 greater than the same authorized density level, as defined in ORS 227.175.

14 (7) Using the housing need analysis conducted under subsection (3)(b) of this section, Metro
 15 shall determine the overall average density and overall mix of housing types at which residential
 16 development of needed housing types must occur in order to meet housing needs over the next 20
 17 years. If that density is greater than the actual density of development determined under subsection
 18 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
 19 under subsection (5)(a)(A) of this section, Metro, as part of its periodic review, shall adopt measures
 20 that demonstrably increase the likelihood that residential development will occur at the housing
 21 types and density and at the mix of housing types required to meet housing needs over the next 20
 22 years.

23 (8) Metro shall determine the density and mix of housing types anticipated as a result of actions
 24 taken under subsections (6) and (7) of this section and monitor and record the actual density and
 25 mix of housing types achieved following the adoption of these actions. Metro shall compare actual
 26 and anticipated density and mix. Metro shall submit its comparison to the commission at the next
 27 review of its urban growth boundary under subsection (2)(a) of this section.

28 (9) In establishing that actions and measures adopted under subsections (6) and (7) of this sec-
 29 tion demonstrably increase the likelihood of higher density residential development, Metro shall at
 30 a minimum ensure that land zoned for needed housing is in locations appropriate for the housing
 31 types identified under subsection (3) of this section, is zoned at density ranges that are likely to be
 32 achieved by the housing market using the analysis in subsection (3) of this section and is in areas
 33 where sufficient urban services are planned to enable the higher density development to occur over
 34 the 20-year period. Actions or measures, or both, may include those actions listed in ORS 197A.100
 35 (3).