

# Hunnicuttt: Hemmed in by too-strict boundaries

**About the writer:** *Dave Hunnicutt, a property rights lawyer and lobbyist of long standing, serves as president of Oregonians in Action and the Oregon Property Owners Association. This commentary originated in the Oregon Transformation newsletter, which is distributed by Third Century Solutions, a conservative think tank based in Lake Oswego.*

Fortune magazine recently published an article on Oregon Senate Bill 1537, legislation Gov. Tina Kotek managed to push through this year's Legislature in a scaled back form.

The headline noted, "Oregon is so green because it's been literally illegal to build housing outside cities since the 1970s," and went on to assert, "That could be changing." It was just the latest in a string of local and national stories concerning Oregon's land use planning system, which began in 1973 with Senate Bill 100.

SB 100 was the first state experiment in centralizing land use planning at the state level, putting local governments in a subservient role to a state agency and Oregon Legislature for all decisions relating to zoning and planning.

The bill cemented the legacy of then Gov. Tom McCall, the original gangster of all NIMBYs. Some might say xenophobes, but who's to judge.

McCall left us with this well-known pearl: "I urge them to come and come many, many times to enjoy the beauty of Oregon. But I also ask them, for heaven's sake, don't move here to live."

That set the tone for both Senate Bill 100 and Oregon's planning program. Among the first acts of the brand-new Land Conservation and Development Commission, the state planning agency created by SB 100, was the enactment of Statewide Planning Goal 14 in 1975.

Goal 14 requires cities to establish urban growth boundaries. They are nothing more than lines on a map, but for Oregon families, they're very important lines.

The purpose of the UGB is to divide urban and rural development. In short, if property is inside the UGB, it's supposed to develop at urban levels and densities, meaning it looks like something you'd find in a town. If property is outside the UGB, it's supposed to develop at rural densities — think homes on small acreage parcels — or, more likely, not at all.

The UGB makes sense at a conceptual level, but SB 100 never mentions the term and certainly doesn't require cities to establish one. The UGB is a creature of LCDC, not Senate Bill 100.

Unfortunately, the UGB went off the rails from the very start, victim of LCDC's Goals 3 and 4, the state's farm and forestland goals. Those goals grossly oversimplify the definitions of farmland and forestland, resulting in nearly 97% of all rural land being zoned as one or the other, with no regard to whether it ever has been or will be put to profitable use as such.

By contrast, total acreage inside UGBs is miniscule.

There is nearly 62 million acres of land in Oregon, but 34.1 million is owned by units of federal, state or local government and most of remaining 27.7 million carries farm or forest zoning. In fact, only 780,000 acres is found within UGBs, and less than half of that is zoned for housing — approximately 370,000 acres.

What does all that mean in the real world? It means that Oregon tries to shoehorn nearly all of its 4.2 million residents into approximately one-half of 1% of Oregon's land, leaving the other 99.5% off-limits.

The negative implications are obvious, starting with the cost of housing. A high school sophomore in a basic economics class can understand the concept of supply and demand, and can conclude that if you short the supply of a good or service, in the face of steady or rising demand, the price for that good or service will inevitably rise.

Our land use program has done just that.

As Oregon's population has steadily grown in the past few decades, the amount of land available for residential development hasn't remotely kept pace. In short, supply hasn't kept up with demand.

As a result of artificially shorting ourselves of bare buildable land, the one good that's absolutely essential to maintain an adequate housing supply, the price has risen into the stratosphere.

In many parts of the Portland-Metro region, bare dirt zoned for residential use is bringing \$700,000 an acre.

When a builder adds in labor, application fees, system development charges (assessed for roads, sewers, parks, water, etc.) and carrying costs (the interest accruing on the financing, which is significant in our lengthy and complicated land use process), it becomes impossible to build an affordable home.

As we've been telling legislators for years, the two biggest problems preventing affordable housing in Oregon are the lack of land and NIMBYism of the land use regime. It's a matter of math, not philosophy, and the results are entirely predictable.

Oregon builders produce approximately 19,000 housing units a year. Given our population, we need almost twice that, but as long as we're hemmed in by an unrealistic UGB, we're never going to get it.

Fortunately, Kotek gets this. And unlike her predecessors, she's tried to do something about it with SB 1537.

The bill follows on the heels of last year's House Bill 3414, which made it nearly all the way through the legislative process, only to be killed by defections from key Oregon Democrat senators on the last day of the 2023 session.

The amount of additional land allowed inside the UGB under the governor's bill is modest in the extreme, and thus won't result in meeting our housing needs. This is due to demands made by members of the governor's own party, and the need to obtain the votes to pass the bill.

But the victory is symbolic, and will demonstrate once and for all that Oregon can't keep trying to shoehorn its entire population onto less than 1% of its land. Increasing that percentage from one-half of 1% to 1% isn't "sprawl" by any reasonable definition, but it would have a huge impact on housing prices.

SB 1537 doesn't get us anywhere close to that. But it will help — a little.

Kudos to Gov. Kotek for having the courage to speak the truth and stick to her guns.