



**Testimony by City of Wilsonville Mayor Julie Fitzgerald
Opposing SB 1537 As Proposed and Supporting Amendments:**

***Wide-Ranging Legislative Proposal Provides Some Benefits for
Housing Production, But Carries High Risk of Negative, Unintended
Consequences Detimental to Long-Term Community Well-being***

Scheduled for public hearing on Feb. 8, 2024, before the
Senate Committee On Housing and Development

Chair Jama, Vice-Chair Anderson, and Members of the Committee:

On behalf of the City of Wilsonville, I am testifying in opposition to SB 1537 as presented and supporting amendments to improve the proposed legislation.

As one of the fastest-growing cities in Oregon for the past 20 years, the City of Wilsonville has a long track-record of producing a variety of housing integrated within every neighborhood, with half of our 27,000 residents residing in single-family homes and half living in multi-family communities. Recently Metro regional government released building permit data that shows Wilsonville has provided 20%-25% of ALL the new housing produced in the greater Portland Metro area over the past 10 years.

Wilsonville knows how to walk the talk when it comes to housing production; we know what works and what doesn't. A number of components of the proposed legislation will actually harm housing production if the objective is incentivize the private-sector to build affordable housing.

One of the major problems with the formulation of this proposed legislation is the composition of the Governor's Housing Production Advisory Council, which included principally real-estate interests, developers and operators of low-income housing, but No representatives of cities, which provide the infrastructure that supports new residential housing development. The City supports the 1000 Friends of Oregon – Oregon League of Conservation Voters (OLCV) "What we need to build more housing" policy statement that summarizes well core housing production issues and acceptable ways of dealing with these issues.

For the last several years, City of Wilsonville staff have worked with other jurisdictions, the Governor's Office, DLCD, and members of the legislature to improve compliance with Goal 10 and make it easier to meet housing needs in every city across the State. SB

1537, while well-intentioned, only partially addresses the real barriers to housing production and carries a host of problems with potential unintended consequences that actually undermine efforts for providing equitable housing.

The City has offered a number of comments and technical edits on SB 1537's predecessor, LC 19, and the fact that we have not had the opportunity to review and confirm the latest iteration of SB 1537 edits reaffirms our position that there are components of SB 1537 not ready to be moved forward and should be removed from the bill. Below is our recommendation of what is ready to go forward and what should be removed or amended and brief explanations why.

Sections 1-7: Housing Accountability and Production Office: *Wilsonville has a neutral position but with concerns*

Generally, the City still does not see the proposed HAPO clearly benefiting housing production in Wilsonville and sees more value in redirecting funding to the development of affordable housing projects. We have some concerns about creating a new layer of state bureaucracy; however, there has been sufficient time to thoroughly vet this language and we feel comfortable that our concerns and input have been addressed it is ready to move forward if it is desired to establish the office.

Sections 8-9: Opting In To Amended Housing Regulations: *Wilsonville opposes, needs serious work to improve – remove from bill for study*

There are many standards and local codes these sections impact that could carry unintended consequences detrimental to communities. This language is a recent addition to this legislative package that the City feels has not been thoroughly vetted, including language about timelines and scope of standards. The City recommends these sections be removed from the bill for further study and stakeholder outreach, and vetting to see if it is even necessary.

Sections 10-11: Attorney Fees For Needed Housing Challenges: *Wilsonville opposes; remove from bill for further study*

While appropriate actions to limit non-substantive appeals of needed housing is laudable, the City cannot support SB 1537 as presented. As drafted the language would make the City liable for attorney fees in the case of a denial of any housing application even if on legitimate grounds but later overturned.

This language needs to exempt local governments, which lack funds for these type of activities, from being liable for additional attorney fees. While the City understands that the clarifying language may be included an amended version, the inclusion of this language seems rushed and not completely vetted. and is inclusion is likely better during the full session next year after additional vetting with key stakeholders.

Sections 12-23: Financial Assistance Supporting Housing Production: *Wilsonville supports*

While the City appreciates the discussion around financial support of housing and supportive infrastructure, we have not found proposed bill meaningful in a way that would lead to substantial new housing production in Wilsonville. The proposed Housing Infrastructure Support Fund seems targeted at development of specific site and infrastructure needs. While we hope specific developments may be able to take advantage of this program, it does not seem suited to allow the City to use it in our 350-acre UGB expansion area which would produce 1,500+ units of housing.

We understand future amendments may include funding for smaller-area specific key infrastructure like pump stations, which we would greatly advocate for. There has been adequate collaboration with stakeholders on this component and we are hopeful the last pieces will come together to make the program helpful and successful.

Sections 24-36: Housing Project Revolving Loans: *Wilsonville supports*

The proposed Housing Project Revolving Loans program could add a potential tool in the City's development toolbox that could be used for affordable housing projects that the City may want to get involved in.

A positive feature of the program includes allowing the City to use the funds for System Development Charges. Additionally the program reduces the processes for use of urban-renewal tax abatement/tax-increment financing (TIF) for new residential development. The City's primary concern pertains to additional administrative duties of executing the tax abatement would fall completely on the county tax assessor's office, as would the "fee in lieu of property taxes," raising a question if County tax assessors have the capacity and system capabilities to administer.

Certainly it would appear that larger cities or counties that have established housing authorities or housing departments with staff well vetted in "managing/monitoring affordable housing projects" would be in a position to utilize the program. Most cities would need to add staffing capacity to administer locally and monitor compliance.

Sections 37-43: Housing Land Use Adjustments: *Wilsonville opposes; seeks amendments*

Wilsonville is most concerned about a series of proposed provisions. The “exception process” as proposed must be amended to remove developer testimonials, as these are too subjective as a basis for land-use adjustments.

We note that data on a lack of denials is a better data point for evaluation rather than on approvals of adjustments if they haven’t been sought, as they are not necessary to getting housing approved.

Additional amendments should include new language for increased window percentage in town/regional centers (*i.e.*, “climate friendly areas”) to ensure not reduced below total of 24%. The bill should also define limit for articulation adjustment, as all others include an adjustment bookend. And the garage door bullet should be removed due to safety concerns. The list of land-use adjustments should be clear, check-the-box kinds of adjustments, as it makes no sense to be arguing over different viewpoints of safety issues.

Sections 44-47: Limited Land Use Decisions: *Wilsonville opposes; seeks amendments*

The City of Wilsonville has previously encouraged the state to be very selective with any required amendments to local zoning codes, as this process can be a significant undertaking and expense. While the concept does allow for exceptions, more clarity on thresholds on what would be considered untenable “substantial increased costs” is needed, particularly in terms of undesired consequences of the increased costs. Even the costs to hold public hearings and send out mailed notice for amended zoning code could be considered “substantial.”

This issue especially needs to be considered for a temporary change in local codes. The City’s prior comments and technical edits (see attached) have not been addressed in the most recently published bill version of SB 1537. Enough questions remain to be clear this section has not been sufficiently vetted and is not ready to move forward. It may be possible to address in the remainder of this current session, the City feels this may be better suited for the full session next year after additional work with stakeholders.

Sections 48-60: One-Time Site Additions To Urban Growth Boundaries: *Wilsonville opposes; remove section*

Wilsonville, along with 1000 Friends of Oregon and OLCV, is most concerned with this poorly crafted section that appears to be designed to benefit land speculators and real-

estate interests that carries potential long-term negative impacts to communities. While Wilsonville could support an improved UGB expansion process, as drafted this is not a good solution. The parameters of the section actually make it very difficult for cities to qualify, and only one city in the Portland metro region might even qualify.

Wilsonville's preference is for the Oregon House Needs Analysis (OHNA) rulemaking process currently underway to establish a modified, more efficient method for amending the UGB for housing production that can better ensure these areas meet housing needs and also maintain enforceability and accountability.

Wilsonville believes that the One-Time UGB Add section creates bad public policy, provides for No accountability for the actual creation of affordable housing, allows Metro discretion to decide without any ability for the public or cities to have a voice, and sets bad precedence about what is a land-use decision.

Additionally, in situations where two cities are only separated by Urban Reserve land (and their future City limits will share a boundary), there is no requirement of coordination on the urbanization of the Reserve land by the cities.

In short, changes to the State's UGB laws is a complex enough policy decision it should not be entertained in the short legislative session. The City does not support avenues to circumvent the established UGB process for personal gain or in a manner that negates other statewide land use planning goals and erodes the long-term safeguarding of the UGB (and subsequently farm and forest lands).

Oregon is not the only Western state with a housing crisis, and one does not need to look very far across the border to see opening rural land to urban development is not a quick fix to the crisis. Wilsonville knows firsthand how expensive it is to serve new urban areas, and that it is getting exponentially more so. UGB expansion is a major policy question that is not ready for a quick solution in this short legislative session.

Sections 61-63: Appropriations: *Wilsonville supports with amendments*

Wilsonville strongly supports state funding support for municipal infrastructure to serve new residential development and to directly subsidize affordable housing development. The private-sector has repeatedly demonstrated a preference to Not sink capital into the ground for infrastructure to serve new development due to the high cost and long pay-back time. The public-sector must be the source of patient capital to invest in infrastructure.

Additionally, the private-sector has generally preferred to develop high-end housing that provides a higher profit margin to the developer or home builder. Again, the public-sector appears to be on the hook to subsidize affordable housing options if that is a State goal.

Section 62 (2) should be amended to remove \$10 million appropriation into the Brownfields Redevelopment Fund. While Wilsonville supports the clean-up and reclamation of brownfields, these vacant industrial lands are inappropriate for residential development. As former industrial sites, these brownfields provide exceptional opportunities to advance family-wage industrial employment – and not residential living.

Section 63(2) should also be amended to increase the appropriation for Site Acquisition. The \$10 million removed from Section 62 (2) above could increase the appropriation from \$40 million to \$50 million; substantially more funds are needed if the state is serious about actually providing affordable housing.

If the committee would like additional information from a highly experience planning practitioner, please contact:

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The City of Wilsonville respectfully urges the committee to table SB 1537 or assign the bill to a workgroup with wider constituency that includes municipal representatives who understand urban infrastructure that serves new housing development. Thank you.

Sincerely,



Julie Fitzgerald, Mayor
City of Wilsonville

Exhibits:

1000 Friends of Oregon – Oregon League of Conservation Voters (OLCV) “What we need to build more housing” policy statement

City of Wilsonville Community Development Department, Planning Division, “Technical Comments to Amend SB 1537,” Feb. 7, 2024



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What we need to build more housing

Every Oregonian deserves a home they can afford, that meets their family needs, and is well-located in a livable neighborhood near schools, stores, parks, transportation options, and more. Oregon is short approximately 140,000 homes for people who are living here today. [Most of the housing we're missing is for people with moderate and lower incomes](#). That means people going without appropriate housing in Oregon include medical technicians, mechanics, teachers, day-care providers, store clerks, care givers, young people just starting out, older people on fixed incomes, people experiencing homelessness, and more.

We can meet the housing needs of Oregonians, and quickly. Here's how:

Invest in infrastructure for housing, especially housing for those of moderate and lower incomes

Oregon's cities already have tens of thousands of acres designated for residential use inside their UGBs, but the lands lack some or all infrastructure – roads, sewers, water, sidewalks. Investing in these lands is the most important step the state can take now to unlock large parcels and get them "shovel-ready" to quickly produce housing.

Our housing *underproduction* is even more dramatically skewed: Ninety-five percent of the current housing underproduction is impacting people with moderate and lower incomes. Affordable housing providers often need relatively small amounts of financial assistance to extend a sewer line, build a sidewalk, provide access to a parcel, or consolidate land and then they can do what they do best – build many units of housing for those who need it most.

Incentivize housing production on the lands and buildings we already have

Oregon has great redevelopment opportunities that need relatively small infrastructure upgrades to bring thousands of homes online, including affordable homes, well-located near stores, schools, and transit. This includes the thousands of homes planned for areas like Lloyd Center and the Broadway Corridor in Portland, the Core Area in Bend, and underused parking lots and commercial lands and buildings in almost every city and town. Many of these are in great locations to redevelop with housing. Now, there's even [federal funding](#) to help, which can be combined with state and local investments to produce even more housing while revitalizing buildings and neighborhoods

Invest inside current UGBs, to build more housing, faster

Spending limited infrastructure dollars goes farther and faster inside UGBs to produce more houses than spending those dollars in a UGB expansion. Residential lands inside UGBs are often closer to existing infrastructure or have some of the infrastructure in place, but need just a bit more. This means less cost and less time to get more homes on the ground than through a UGB expansion.

Use OHNA to achieve better housing results, sooner

The state legislature directed the Department of Land Conservation and Development and other state agencies to quickly enact the Oregon Housing Needs Analysis program, and it's already underway. OHNA requires every city, working with the state, to adopt zoning; streamline UGB expansions, urban reserves, and land swaps; and enact other measures to ensure diverse housing meeting the needs of all residents is actually built. When the OHNA program fully kicks in in 2025 and 2026, many cities will be implementing their housing production strategies and will be able to use quicker, streamlined land use processes.

What won't help produce the housing Oregonians need

Overriding land use and environmental laws will not produce the housing Oregonians need, where they need it, anytime soon

Sidestepping land use laws to expand UGBs to build primarily private-sector, higher income housing will take many years to build, will not result in many homes, and will not provide the housing Oregonians need. It puts more people farther away from the services, stores, and jobs they need, and makes affordable *living* even more unattainable. Trickle down housing doesn't work.

Lands inside current UGBs should not have to compete with UGB expansions for scarce infrastructure dollars

Adding more land, when so many cities need investments in the lands they already have, exacerbates existing infrastructure funding gaps and fails to make the most of the land we have. It is not a responsible use of Oregon's resources.

Building at the edge increases climate change and wildfire risks to lives, livelihoods, and homes

Homes at the edge are farther away from schools, stores, and jobs and therefore require more roads and driving, resulting in more greenhouse gas emissions, heat islands, and stormwater runoff that ends up in rivers and streams. It paves over carbon sequestering farm lands and natural areas.

In many areas of Oregon, expanding the urban footprint means developing into the wildland urban interface. This puts more lives, livelihoods, and homes at risk of wildfire – and it increases the likelihood that more catastrophic wildfires will occur.

Building at the edge exacerbates inequality and racial and economic injustice

Housing policies and investments should open up existing neighborhoods to those who have been racially redlined and economically excluded from areas of opportunity: those of lower incomes, people of color, Black people, indigenous people, and those on fixed incomes. Those who cannot or choose not to drive a car also deserve well-located housing choices inside UGBs with active transportation options.



City of Wilsonville Community Development Department, Planning Division

Technical Comments to Amend SB 1537

February 7, 2024

Sections 1-7: Housing Accountability and Production Office

Generally, the City does not see the HAPO clearly benefiting housing production in Wilsonville and sees more value in redirecting funding to the development of affordable housing projects. If HAPO is created, the City continues to encourage an Office that is proactive and supportive to cities in its efforts, while minimizing new bureaucratic process, government red tape, and costs for these activities, in order to maximize funding for affordable housing projects and infrastructure that will stimulate housing production.

- Page 5, Lines 10-12: Add language to ensure the hearings officers and administrative law judges be versed in land use and housing policy to ensure accurate and effective handling of complaints under this statute.

Sections 8-9: Opting Into Amended Housing Regulations

The City recommends amending the following:

- Page 7, Lines 16-17: Section 8 and 9: (3)(a)(B) For an application to establish a residential use, upon the request of the applicant, those standards and criteria that became operative during the pendency of the application, **if the applicant request is made before a notice of a public hearing has been issued.**
- Page 7, Lines 20-21: Section 8 and 9: (3)(b)(A) For the purposes of this section, the date of the application's submission or receipt is the date of the request **and the timelines in ORS 215.427(1) and (2) restart as if a new application has been submitted;**

- Page 7, Lines 16-17: Limit the use of (3)(a)(B) to one time per application. Planning departments are funded through permit fees and need reimbursement for time spent reviewing applications. If the merits and criteria of the application change multiple times, requiring multiple reviews, cities should be reimbursed for that additional time. Most cities communicate with applicants that upcoming code modifications are coming and this is a non-issue. Allowing this to be utilized one time can cover the rare occasion when this communication does not occur. Utilizing it more than once undermines the land use system and underfunds the staff needed to complete housing reviews.

Sections 12-23: Financial Assistance Supporting Housing Production

The City recommends amending the following:

- An item that remains unclear is if infrastructure installed in support of a specific low or moderate income development can subsequently be used/accessed for separate market-rate development. For example, if a sewer line was expanded .25 miles to serve a low income apartment could other properties subsequently access the sewer line to serve market rate apartments and/or detached homes.
- We understand the initial focus and funding is immediate projects. As we have previously commented on, the City encourages continued exploration of options to fund larger, long-term infrastructure projects and site acquisition for affordable housing in future urban growth boundary expansion areas (urban reserves), to ensure a future pipeline of land ready for moderate to low income housing development (while the land costs substantially less). The language and proposed funding levels does not support these investments.

Sections 37-43: Housing Land Use Adjustments

The City has grave concerns regarding Mandatory Adjustments and recommends amending the following:

- Page 24, Line15: The City applauds the clear inclusion of the criteria for justifying adjustments in Subsection (2)(f). However, we request the word "that" be changed to "how" so it would read, "*The application states that how at least one of the following criteria apply.*"

- Page 23, Line 37: Deviation has two definitions, and Section (1)(a) could benefit from clarifying language. Since the Bill is intending to allow modest adjustments, not a complete departure from any standard, it is important to clarify the use of deviation means "to allow a single measurement to differ from the fixed value" rather than "a departure from the standard" which could be interpreted as a complete, wholesale departure. Section (1)(b)(C) may be attempting to clarify this by including the statement, "*A complete waiver of land use regulations;*" within the list of Adjustment exclusions. However, this makes regulations plural, which could be read to mean whatever adjustment is given, it is not a waiver of **all** applicable land use regulations, not just the ones in which the applicant is seeking adjustments. One could then argue that an adjustment could be a complete waiver of that specific design or development standard. Since that is not what this legislation is seeking to do, amend Section (1)(b)(C) to read, "*A complete waiver of land use regulations, including those for which an Adjustment is sought;*"
- Page 24, Line 40-41: The City has repeatedly raised concerns about the adjustment of landscape area or common area or open space in (4)(b). It has been expressed in meetings that this is intended to apply to individual projects like a cottage cluster or apartment complex, and not large master-planned areas covering hundreds of acres. The text still does not reflect this intent. We suggest adding language such as "**This adjustment applies to individual development projects, particularly where the landscape area, common area, or open space is being provided on the same lot or parcel as the proposed housing. This adjustment specifically does not apply where the adjustment would lead to loss of 0.25 acre or more of open space or parkland.**"
- Page 25, Line 29: The City suggests the final language in Subsections (4)(g)(A) and (B) be audited against other residential vertical mixed use language in statute and rules to ensure consistency. An example is the Vertical Housing Development Zone statute in ORS 307.841 to 307.867.

In addition, none of the following requested edits to the list of design adjustments have been addressed and should be amended:

- Page 25, Line 28: Please define a limit for articulation adjustments as these should not be waived entirely;
- Page 25, Lines 31-32: Please reconsider deleting garage door orientation from this list as it creates significant design and safety implications for the entire streetscape and neighborhood (particularly when the project is not infill);
- Page 25, Line 34: Please consider reducing the 30% adjustment to window area to a 15-20% adjustment (at least on front facades). This is the highest adjustment in the list (by far), and in an urban or town center environment, reducing window glazing by 30% will be substantial and degrade the activity and feelings of safety of the mixed-use environment;
- Page 25, Line 37-38: Consider modifying "*transit street orientation requirements*" to "transit-oriented street requirements."
- Page 26, Lines 33-37: Modifications are also needed to the Mandatory adjustments exception process. The current language assumes adjustments have been requested, developers are still available to comment, and is far too subjective to make a determination under.

Proposed amendments include:

- (c)(A) Within the previous 5 years **the city has not denied more than 10% of received adjustment requests**; or
- (B) The adjustment process is flexible and accommodates project needs as demonstrated by testimonials of housing developers who have utilized the adjustment process within the previous five years. **If a local government has had no adjustment applications in the previous five years, this shall be considered met. If a local government has contacted all housing developers who have utilized the adjustment process within the previous five years and received no responses, this shall be considered met. Rather than testimonials, local governments may submit information regarding significant housing production within the city during the previous five years without the necessity of adjustments.**

Sections 44-47: Limited Land Use Decisions

The City has several issues of concern regarding the proposed Land Use Review Process and recommends the following amendments:

- Page 27, Lines 32-35: The City has concern about county approval of land divisions in urban reserves with less process. The concern is land divisions being approved, without all the stakeholders aware, that creates a valuable enough development that substantially delays the timeline for land from annexing to a City and redeveloping at urban densities. For example, a 10-acre parcel with a 1950's farm house in the urban reserve is primed for new urban-level housing once annexed. If this parcel is partitioned and two or more large homes with values in the millions are built, the redevelopment at the hoped-for urban levels becomes unlikely for decades. **Clarify this entire section does not apply for Metro urbanizable unincorporated land.**
- Page 27, Line 39: It is unclear why approval of expansion of non-conforming uses is on this list. It should be removed or clarified it only applies for residential uses where additional units are being created by approval of the expansion.

Sections 48-60: One-Time Site Additions To Urban Growth Boundaries

The City has several issues of concern regarding the proposed additions to UGB and recommends the following amendments:

- Page 29, Line 6-8: The most notable gaffe is the ridiculous notion that a UGB expansion is not a land use decision. Inclusion of this language begs the question that if a UGB expansion, allowing the conversion of rural land to urban uses, is not a land use decision, what is? This is a dangerous precedence.
- Page 29, between Lines 13 and 14: Add language preventing a nearby jurisdiction from expanding into another jurisdiction's urban reserve areas. The City recommends this language, **"(c) Has written support from neighboring cities that are also adjacent to the site or only separated by a road."**
- Page 29, Lines 38-39: The City does not support the language "*Metro may not conduct a hearing to review or select petitions or adopt*

amendments to its urban growth boundary under this section." A process like this means there is no ability for a local city to make their case to the Metro Council or have an opportunity to appeal a decision if they are denied yet need that land to meet housing production targets and do not agree with Metro's discretionary decision around which applications "best comply" and "maximize development of needed housing".

- Page 30, Line 2: Development-ready is not defined and needs to be in order to document qualifications under Section 52 in a manner that can be applied through this objective process.
- Page 30, Lines 3-5: The City recommends modifying Section 52(2), because the current language would allow various and potentially outdated assessments of cost-burdened households. Given the State assesses and publishes cost burden rates annually, this should reference the State's most recent report, rather than HUD.
- Page 30, Lines 6-45: Sections 53 and 54 should only be required where a City does not already have a Concept Plan already adopted for the applicable UGB proposal area that went through a public process. This Section involves more process, hearings, and input than the actual UGB expansion decision at a disproportionate level. This would make sense where a City does not know where it has willing property owners or does not have a long-range plan for growth. However, many cities know which area or urban reserve they will seek to grow in, and would seemingly already have a concept plan. In this scenario, is the work necessary to consider all these "other areas or sites" when they don't make the most sense for growth and lag behind other areas that already have a concept plan?
- Page 31, Line 16: Section 55 states, "*a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan.*" Will these concept plans still need to meet State and Regional requirements as well? The statement should have a clarifying clause at the end that states "**that satisfies State and Regional statutory requirements for concept planning.**"
- Page 32, Lines 19-20: Enforcement mechanisms requiring the agreed upon amount of low and moderate income housing need to be strengthened. 15% of market rate units is likely not substantial enough to

ensure development of the low and moderate income housing. Affordable housing development should commence at 50% of occupancy of market rate units. As written, a grading permit would qualify for "commenced," and a developer could grade the land, get their final 15% market rate COOs and then they walk away with zero units of affordable housing constructed and ready for occupancy. In addition to **changing 15 percent to 49%**, we also suggest adding the following text to the end of that line, **"and 50 percent of the affordable housing units have obtained certificates of occupancy prior to the city issuing certificates of occupancy for the last 15 percent of market rate units;"**

- Page 32, Line 12: Financial penalties for noncompliance with the affordability provisions needs to be spelled out, otherwise there will be no accountability.
- Page 32, Line 37: Section 56 need to add a clarifying statement that this Section can only be used once under this Act.
- Section 58: combination of Page 33 Line 32 and Lines 38-39 appears to be a Takings and is problematic to remain included. Needs to be amended or stricken.

For more information, contact Community Development Dept, Planning Div:

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