



CITY OF BEND

March 17, 2025

Rep. Pam Marsh, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Vikki Breeze-Iverson, Vice-Chair
House Committee on Housing and Homelessness
900 Court Street NE, Room 453
Salem, OR 97301

RE: City of Bend Testimony on HB 2258 -1

Chair Marsh, Vice Chairs Andersen and Breese Iverson, Members of the Committee,

The City of Bend provides this testimony on the -1 amendments to HB 2258. Thank you for the opportunity to testify. The City opposes the -1 amendments to HB 2258.

Oregon is facing a housing crisis, with a need to build over 100,000 homes to meet Oregonian's needs. Cities agree that we need to address our housing shortage and addressing the underlying issues in housing underproduction, like lack of infrastructure funding and market economics.

Due to the reasonable and necessary restrictions that this measure places on what lots this can apply to in many of our localities there are few lots that this measure will impact. HB 2258 will not generate large scale housing production and will only serve to undermine local control and remove local governments' abilities to tailor housing production to meet their local communities' needs.

You will find below the elements of the -1 amendment that the City opposes.

Section 2. Two new definitions are proposed for "minimum dwelling units per acre" and "minimum floor area ratio." For the new definition for "minimum dwelling units per acre," please consider adding text that this definition is also intended to capture "residential density" or similar terms in the development codes of local governments.

Section 2. Proposed (2) - why is this written as a "may" rather than a "shall"? There is no text outlining the purpose of this rulemaking and why LCDC should undertake it. From our reading it looks like it could be enabling legislation to support cities and counties in allowing housing in areas where they might also face push back.

However, making approval of these types of dwellings "land use decisions" would subject them to notice and appeal provisions some of these may not presently be subject to. For example, approval of the construction of some of these housing types, where no other land use decision is needed, is presently a building permit. This bill would make those approvals land use decisions. A building permit is considered a ministerial decision under the statute today (ORS 197.015 (10)(b)(A)). Nobody wants a building permit to be a limited land use decision – not cities, not developers. It will add cost and delay

to a building permit. A building permit today cannot be appealed by a neighbor who is opposed to the project. Under this bill, it could.

A project opponent could appeal a land use decision for a development to LUBA and lose, which today that is the end of legal challenges for a development project. Under this bill, an opponent could lose at LUBA and then appeal the subsequent building permit for the dwelling, which, under the limited land use rules, would give them another bite at the apple at LUBA and delay the project. It typically takes three to six months to get a decision out of LUBA, not to mention the added cost to the applicant trying to build the housing unit. If LUBA's decision is a remand, it starts another 120-day process at the local level (ORS 227.181).

Further, is the direction for the rules to require local governments to approve development of the listed housing types intended to require approval, regardless of any infrastructure or other deficiencies that may exist at the site. It is not clear that the city could impose any conditions of approval to require sufficient infrastructure. We have concern with the mandate to approve multi-unit dwellings with up to 12 units, without the ability to require the construction of sidewalks to serve the development, for example.

Section 2, Proposed (3). How will "lawfully established units of land" be defined? Is there an existing definition that can be referred to here? For (3)(a) through (3)(i) - is the intent to ensure local governments allow for new housing on any and all potential properties? For (3)(c), does this refer to 1,500 square feet in size? Area? We have the same question for (3)(d). With respect to (i)(A) through (C) - here, refer to statewide planning Goals 5 and 7

Section 2, Proposed (4). With respect to (4)(a) through (4)(d), why are these housing types of the only ones that may be allowed under (4)? Regarding (4)(d)(A) through (F), is this intended to require higher densities of housing statewide?

Section 2, Proposed (5). As written, it would give LCDC the authority to review proposed conditions of an approval that are submitted by a residential developer? What is the purpose of this? To create a potential library of acceptable conditions? If the commission disapproves of a condition, the housing subject to the condition may already be built or under construction. Unclear what LCDC review would accomplish for a specific application, or if LCDC "disapproval" would be binding on the city that imposed the condition.

City is opposed to (5)(a) - the fees charged for land use permit fees are intended to and required by law to cover actual or average costs of service, see ORS 197.380, 227.175. What is the purpose of (5)(b)? If there is an interest in more standard forms of analysis, then that is beyond the scope of what this bill can address. There is no purpose for (5)(c) and city opposes – any code requirements such as these are already addressed in the Building Code. Are (5)(d) and (5)(e) intended to be enabling legislation or limitations on what cities can and cannot require through land use regulations? City opposes the attempt to use this bill to direct cities what tree codes, setbacks, lot coverage, and height limits can apply to the included types of housing. These all depend significantly on local conditions. No definition of an "urban heat island" - not aware of an existing process that requires a city to designate such areas. Reference an existing defined term if one exists for this concept.

Section 5. The city is not opposed to the State developing sets of pre-approved plans that can be approved by a city. We request that if such plans are developed, that their scope is limited to the building itself and does not over-ride a city's local zoning requirements for standards such as building setbacks and solar access.

Oregon is a vast and diverse state, local governments tailor their local codes and zoning to their communities' needs and concerns, some communities need to address wind and flooding in their building codes while others may need to think more about wildfire. Some have an aging population and may need to think about age in place, while others may need more homes for growing families or young professionals. A home that may work well for one region may be unsafe or not fit for the community needs in another. This bill creates a one-size fits all model for housing.

Oregon needs more housing, we need bills that significantly move the needle and work with our communities, HB 2258, as drafted, is not one of them.

Thank you for opportunity to provide testimony and please let us know if you have any questions.

Sincerely,



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City of Bend



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