



Testimony by City of Wilsonville Mayor Julie Fitzgerald Opposing HB 3414:

Proposed Legislation Has Unintended Effect of Reducing Housing Production, Undermining Housing, Equity, and Climate Goals and Other Statewide Goals

Scheduled for public hearing on March 23, 2023, before the
House Committee On Housing and Homelessness

Chair Dexter, Vice-Chairs Gamba and Helfrich, and Members of the Committee:

On behalf of the City of Wilsonville, I am testifying in opposition to HB 3414.

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. For the last several years, we have worked with other jurisdictions, DLCD, and the State legislature to improve Goal 10 and make it easier to meet housing needs in every City across the State. **HB 3414, while well-intentioned, will not address the real barriers to housing production and will actually undermine our unified efforts for providing equitable housing.**

The proposed legislation does not define “land use regulation” and as historically used in Oregon, application of this term would be broad, leaving the vast majority of land use regulations that, if a variance is requested, *must* be approved. The impacts could be sweeping and detrimental to providing livable communities with housing opportunities for all.

HB 3141 Slows Housing Production

The text provides exclusions for health, safety, and habitability issues, but it shifts the burden to local city staff to provide substantial evidence of this against the variance request. The impact of local governments carrying the burden of proof would be a significant effort and additional red-tape to housing production. Effort and staff time would necessarily shift away from the ability to approve land use applications for housing and associated construction permits in a timely manner.

This wide sweeping variance language in HB 3414, creates an increasingly ambiguous and discretionary review process for housing projects and undermines the importance of clear and objective standards (a clear path for developers). **This will shift the focus of local planners, slow the development review process, and make it difficult for cities to hit housing production targets.**

HB 3141 Undermines Housing, Equity, and Climate Goals

Not all development code standards are barriers. Many of them actually create opportunity for meeting our housing needs. HB 3414 creates an avenue by which developers can skirt around Statewide policies important to the Governor/Legislature, and local jurisdictions cannot or would have a difficult time enforcing them, including: housing production (HB 2003 and OHNA), middle housing (HB 2001), equity and climate resilience (CFEC OARs). Examples of how that could happen:

- **Housing Targets and Production Strategies (HB 2003 and HB 2001 (2023))** require cities to seek out innovative solutions to achieve a mix of housing, including middle housing, at various price points. To do this, cities, like Wilsonville, are creating unit type variety standards. HB 3414 would allow a developer to request a variance, impacting the City's ability to achieve the construction of needed housing types where they are needed.
- Since land use regulations regarding accessibility and/or visitability would not be subject to the exemptions in the proposed legislation, a city will not be able to take proactive measures by having Development Code requirements that ensure the development of residential units with **accessibility and/or visitability features, equity indicators in HB 2001 (2023)**.
- Developers can ignore siting and design standards for middle housing developed by DLCD and adopted by cities consistent with **HB 2001 (2019)** Rulemaking.
- Middle housing land divisions, enabled via **SB 458 (2021)**, could result in serial divisions impacting the ability for cities to build adequate infrastructure and apply regulations consistently.
- **Climate-Friendly and Equitable Communities Rules (2022)**, are land use regulations that would have to receive a variance, if requested, under HB 3414, making it impossible for cities to enforce requirements around electrical vehicle charging, parking regulations (including maximums), tree canopy and solar requirements, and any standards to implement climate-friendly areas (CFAs). If we cannot count on land use regulations that create a place supportive of pedestrian-oriented, mixed-use, multi-modal, multifamily development, these CFAs will not be successful.
- Inclusionary Zoning, a key **Housing Production Strategy**, is a land use regulation, meaning cities would not be able to require a developer to construct the affordable units. This is true of any strategy that takes the form of a land use regulation, significantly reducing the tools in a local jurisdiction's toolbox to produce housing, particularly affordable housing.

HB 3414 will not result in the housing production, equity or climate goals of the State. It undermines local and regional authority in meeting these goals and serving the public in creating housing opportunities for all in livable communities.

HB 3141 Undermines Other Statewide Planning Goals

Because the language elevates housing density and height above all other land use regulations, it requires cities to approve housing at the expense of all other land use planning goals (like natural resources) rather than balancing the various goals to get to a development that achieves more.

It is important to note that in Wilsonville, variances have not been used as a basis to deny proposed housing projects or reduce housing density – for-profit or non-profit – it has only impacted the final site design. For example, if natural resources or other constraints impact design, the density is transferred and the developer is still able to produce the same amount of housing in close proximity to natural resources and protected open space, increasing the livability for those residents and our resilience to climate change.

Under HB 3414 the following regulations would be subject to required variance approvals:

- Natural resource requirements, including impacts to Goal 5 areas, wetlands, and floodplain regulations
- Willamette River Greenway regulations
- All residential design standards, even if clear and objective
- Active ground floor requirements for mixed-use residential buildings
- Minimum open space requirements
- Tree preservation and mitigation requirements, including protections for Heritage Trees
- Utility undergrounding requirements
- Minimum landscaping requirements
- Right-of-way dedications, including those for planned streets and street improvements consistent with the city's adopted TSP
- Land division requirements, including limitations on serial partitions
- Provision of adequate public facilities to serve development, including utilities and transportation facilities
- Where mix of uses is allowed, could take away from lands that have been analyzed and planned for under a city's Goal 9 Economic Opportunity Analysis.

- If an area has been brought into an urban growth boundary but has not been otherwise annexed and/or master planned, this could require a local government to approve residential development at low densities with substandard infrastructure.

HB 3141 Does Not Address Real Barriers

Wilsonville has worked hard over the past decade to reduce barriers to develop, refine and simplify our design standards, and streamline the review process for housing, while maintaining standards and regulations for other important land use goals. If specific standards are problematic, then let's work together to find solutions that are specific to those issues rather than create a multitude of unintended consequences as HB 3414 does.

It is refreshing and essential that we are recognizing and discussing that planning and zoning practices can create systemic and generational inequity. But lack of policies, which HB 3414 would create, can also enable the free market to do the same thing.

Good planning and zoning practices create communities where everybody has an opportunity to live in a great place. We should not be entertaining a housing at all costs mentality at the expense of good policies that create equitable housing in livable communities. **Our focus should instead be on the real barriers to producing needed housing, specifically affordable housing — recognizing that the cost and timeline to construct infrastructure is the biggest obstacle to producing housing.** In order for the State to meet its goals for housing production, we need to meaningfully fund infrastructure and improve how it can be financed.

We have all been working together to move policies forward that support the production of needed housing. HB 3414 does not support our effort in doing so, and therefore, should not be among the Bills that move forward this session.

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

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The City of Wilsonville respectfully urges the committee to table HB 3414. Affordable housing is a critical issue but this bill takes an unreasonable approach. Thank you.

Sincerely,



Julie Fitzgerald, Mayor
City of Wilsonville