



**Testimony by City of Wilsonville Mayor Julie Fitzgerald
Opposing SB 1537-4 As Proposed and Supporting Amendments:**

***Amended Wide-Ranging Legislative Proposal Provides Benefits for
Housing Production, But Carries High Risk of Negative, Unintended
Consequences Detrimental 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 1537-4 as presented and supporting amendments to improve the proposed legislation. This testimony follows-up on prior testimony regarding SB 1537 as introduced, and comments on the amended SB 1537-4, which does show some improvement.

The City of Wilsonville has demonstrated over time a strong commitment to effectively and strategically practical addressing middle- and lower-income “missing middle housing.” As one of the fastest-growing cities in Oregon for the past 20 years, 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 can actually harm housing production if the objective is to incentivize the private-sector to build affordable housing.

While there are a number of technical issues in SB 1537-4 that need addressing, the UGB expansion section promises housing production, but the infrastructure funding component of bill won't fund key infrastructure to those new areas — which we know is biggest barrier to housing production. **You can add all the land you want to new UGB areas, but without infrastructure, nothing gets built; and because the cost of infrastructure**

is so great and the private-sector loathe to pay for it, UGB expansions often produce nothing for a long period of time, other than rewarding land speculators.

For example, Wilsonville has had hundreds of acres of UGB expansion lands—Frog Pond (West) UGB and Coffee Creek UGB Areas—added by Metro in 2002 and only in the past few years have we been able to muster the capital to fund costly infrastructure extensions that can serve new development—both residential and industrial respectively.

The UGB Sections of SB 1537-4 promise affordable housing, but despite what many will state, it doesn't actually promise that housing will get constructed. The City has offered suggestions to make that promise a commitment with accountability measures, but they have not been integrated. A developer could obtain 100% of occupancy for the market-ready units while none of the affordable units are constructed. Accountability is not fully articulated, forcing cities to take legal action without clear remedy. Does anyone really think that the State has the ability to monitor and enforce UGB affordable-housing provisions over time? I think not.

The UGB expansion scheme sets a terrible precedent to not consider UGB expansions as a land-use decision. This will be repeated and modified in the future undermining our entire Statewide Land Use Planning program.

Improvements to UGB process are already underway and Oregon Housing Needs Analysis (OHNA) participants should continue to do their important work – to fully vet and to involve all qualified and necessary stakeholders. UGB expansion Sections 48-60 are flawed, inappropriate for short session and needs to be struck from the bill.

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 the 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, as well as SB 1517 as introduced. City Planning staff Technical Comments for proposed amendments are appended to this testimony. 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 and one concern*

Generally, the City still does not see the proposed HAPO clearly benefiting housing production 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, resolving technical concerns. One suggestion would be to language that 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 12-23: Financial Assistance Supporting Housing Production: *Wilsonville supports*

The City is pleased to see additional infrastructure projects qualifying for funding opportunities in the -4 amendment. The City continues to encourage 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) while the land costs substantially less, to ensure a future pipeline of land ready for moderate- to low-income housing development.

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*

While some of our technical recommendations were resolved in the -4 amendment, the City has grave concerns regarding Mandatory Adjustments. 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 intent of the legislated adjustments is certainty and speed for housing development. 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 or what the bullet point really meant.

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

At least one unresolved issue in the -4 amendment pertains to approval of expansion of non-conforming uses that should be removed or clarified, in that 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: *Wilsonville opposes; remove section*

Wilsonville, along with 1000 Friends of Oregon and OLCV, is most concerned with this poorly crafted section that appears primarily of benefit to 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 63(2) should also be amended to increase the appropriation for Site Acquisition. Substantially more funds are needed if the state is serious about actually providing affordable housing on a statewide basis.

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 amend SB 1537-4 as recommended in this testimony. 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 on SB 1537-4,” Feb. 8, 2024

EXHIBIT



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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 1537-4

February 8, 2024

An updated version of SB 1537 (the “dash 4” amendments) was heard today by the Senate Committee On Housing and Development. The following technical comments update the City’s prior comments of Feb. 7 on SB 1572 as introduced.

While a number of the City’s issues of concerns were address in SB 1537-4, several significant problems remain unaddressed.

Sections 1-7: Housing Accountability and Production Office - Neutral

Generally, the City does not see the HAPO clearly benefiting housing production and sees more value in redirecting funding to the development of affordable housing projects. If HAPO is created, it should support cities, not create more government red tape, and fund affordable housing projects and infrastructure that will stimulate housing production.

- **Amend** Page 7, Lines 15-18: Add language that 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.
No change in -4 amendment.

Sections 12-23: Financial Assistance Supporting Housing Production

The City is pleased to see additional infrastructure projects qualifying for funding opportunities in the -4 amendment.

- **Amend:** The City continues to encourage 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). No change in -4 amendment.

Sections 37-43: Housing Land Use Adjustments – Oppose moderately

While some of our technical recommendations were resolved in the -4 amendment, the City has grave concerns regarding Mandatory Adjustments and recommends amending the following:

- **Amend** Page 49, Line 26: Please define a limit for articulation adjustments as these should not be waived entirely; No change in -4 amendment.
- **Amend** Page 49, Lines 29-30: 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); partially resolved in -4 amendment. Adjustment language is still there but language added to exempt safety-related standards from adjustments. No change in -4 amendment.
- **Amend** Page 50, Lines 2-4: 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; the minimum percent in climate-friendly areas should be 24% of the total façade. No change in -4 amendment.
- **Amend** Page 50, Line 7-8: Modify “transit street orientation requirements” to “transit-oriented street requirements.” No change in -4 amendment.
- **Amend** Page 51, Line 14: Modifications are 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:

- o **Amend** with bold text (c)(A) "Within the previous 5 years **the city has not denied more than 10% of received adjustment requests;**" or No change in -4 amendment.
- o (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.** No change in -4 amendment.

Sections 44-47: Limited Land Use Decisions - Neutral

While some recommendations are resolved in the -4 amendment, the City proposes more time to vet and improve the language in these sections and recommends the following amendment (at minimum):

- **Amend** Page 54, Line 11: Approval of expansion of non-conforming uses should be removed or clarified that it only applies for residential uses where additional units are being created by approval of the expansion. No change in -4 amendment.

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

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

- **Amend** Page 56, Line 22-33: 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. No change in -4 amendment.

- **Amend** Page 56, between Lines unknown: Add language in bold 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.**" No change in -4 amendment.
- **Amend** Page 58, Line 4: 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". No change in -4 amendment.
- **Amend** Page 58, Line 19: 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. No change in -4 amendment.
- **Amend** Page 58 Line 29 to Page 61 Line 9, 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? No change in -4 amendment.
- **Amend** Page 62, Lines 15-16: 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.**" Not resolved in -4 amendment

- **Amend** Page 63, Lines 11-13: 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 50%**, 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;**" No change in -4 amendment = no commitment to affordability.
- **Amend** Page 63, Line 19: Financial penalties for noncompliance with the affordability provisions needs to be spelled out, otherwise there will be no accountability. No change in -4 amendment = no commitment to affordability
- **Amend** Page 64, between Lines 11-12: Section 56 needs to add a clarifying statement that "**(3) This Section can only be used once under this Act.**" No change in -4 amendment.
- **Amend** Section 58: Page 65 Line 29 to Page 66 Line 7 appears to be a Takings and is problematic to remain included. Needs to be amended or stricken. No change in -4 amendment.

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