



March 4, 2025

Senator Khanh Pham, Chair
Senator Dick Anderson, Vice-Chair
Senate Committee on Housing and Development
900 Court Street NE, Room 453
Salem, Oregon 97301

RE: City of Bend Testimony Opposing SB 49, -1 amendments

Chair Pham, Vice-Chair Anderson, and Members of the Committee,

The City of Bend provides this testimony on the -1 amendments to SB 49. Thank you for the opportunity to testify. The City of Bend opposes the -1 amendment to SB 49 as proposed and for the following reasons:

1. Section 2 of the amendment would require cities to zone one area for all types of housing allowed under model ordinances that are required to be developed by the Department of Land Conservation and Development (DLCDC) as options. SB 1564 (2024), now Chapter 111, Oregon Laws 2024, was passed so DLCDC could create model codes that could be, but were not required to be, adopted, and used by cities.
2. Sections 4 through 7 propose changes to existing state law passed in 2016 (SB 1533, Chapter 56 Oregon Laws 2016) that enabled one city to try inclusionary zoning. The proposed amendments would require all cities in Oregon that choose to use inclusionary zoning to provide financial incentives and conduct analyses that are beyond their means and expertise. The bill appears aimed at expanding the use of inclusionary zoning, but the required analyses and prescribed subsidies would make it administratively burdensome for cities to enact such policies, making it unlikely that the bill would result in the desired outcomes of increasing the supply of deed-restricted housing.
3. The proposed financial incentives in Section 5 are drains on a city's already limited finances due to property tax limitations passed in Measures 5 and 50. Cities are creatively responding to the unique financing needs of affordable housing development, including offering subsidies and financial assistance at the local level. State requirements for certain subsidies should be paired with financial assistance from the State.
4. The economic analysis required under Section 7 is convoluted and it is not clear to the reader what outcome is intended by doing this analysis. It is not clear whether the analysis is required to monitor costs or to give a local government information regarding whether to implement an inclusionary zoning program or not.

You will find the City's more detailed comments and questions below. These comments highlight the particularly problematic parts of the -1 amendments to SB 49 and show why the committee should not vote to adopt the -1 amendment SB 49 and move the bill to the Senate floor.



- Page 1, Section 2(2). The City uses minimum densities to ensure that housing is actually built to densities sufficient to meet our housing needs in both numbers of units and to demonstrate to DLCDC that we are efficiently using residential lands (See Statewide Goal 14 and OAR 660-024) to meet our Goal 10 housing needs. The City has had minimum densities in our residential zones since 2006. We have a history of housing not being built to minimum densities in a manner that was exclusive and purposeful in not providing enough housing that was affordable to all area residents.
- Page 1, Section 2(3). Cities such as Bend have already made all required changes to the City's Development Code to implement SB 1051 (2017), HB 2001 (2019), and subsequent rules adopted by the Land Conservation and Development Commission (LCDC). There is no public purpose that serves the public health, safety, and welfare to comply with this section, especially to comply with a document that was to be developed as a model, not a required ordinance, under SB 1564 (2024). The record and testimony on SB 1564 (See Chapter 111, 2024 Oregon Laws) are clear - the intent of SB 1564 was to direct DLCDC to develop model ordinances that cities could, but were not required, to adopt
- Page 4, Section 3, new (10). This is going to worsen the already existing gap that exists between changes to a city's development code to encourage the development of needed housing and the city's legal obligations to have an up-to-date comprehensive plan to ensure all housing is served with required transportation and public facilities. Cities are already self-funding changes to comprehensive plans, infrastructure master plans, and public facility plans. This bears repeating; cities have to fund updates to these documents, because any state funding is extremely limited (e.g., technical assistance, revolving loans). This situation is worsening an existing gap between the state's direction to update codes and plans to encourage the development of housing and a city's ability to maintain and update comprehensive plans, infrastructure master plans, transportation system plans, and public facility plans to ensure not only an adequate land supply for both housing and employment, but all required infrastructure to support it.
- Page 5, New 2(b) under Section 4. The addition of 2(b) makes no sense - no local government reviews applications "under" the clear & objective statute at 197A.400 - and whether density can be reduced for a particular application would be governed by the local zoning codes.
- Page 8, new changes to (c) that replaces (d). Cities are already financially strapped under Measures 5 and 50. The bill proponents have not proposed new funding for cities to use as incentives such as this. In addition to cities being limited to how they can raise revenue because of Measures 5 and 50, cities are also under constant political pressure to either reduce or eliminate system development charges, which are a statutorily supported mechanism by which cities can charge new development for system-wide improvements needed to support capacity for those new users. In the revenue-constrained system that exists for Oregon municipalities due to Measures 5 and 50, system development charges are a necessary piece of the funding landscape to provide essential public infrastructure services.

- Page 12, New Section 7. There is no guidance on what constitutes an economic analysis of an inclusionary zoning program. This is a questionable change to the statute because there exists no standard methodology for such an analysis and for interpreting the results in a manner that would inform a city's decision to either adopt or maintain an inclusionary zoning program. The proposed new (2)-(4) makes the case for not doing inclusionary zoning if this level of effort and work is required to evaluate it and adopt an economic analysis by ordinance. There is no clear benefit that more units will be produced if a city does this economic analysis.

The State already has a number of concurrent efforts to support housing production with legislation under consideration and through ongoing rulemaking by LCDC. The City recommends that the Senate Committee on Housing and Development not pass SB 49 -1.

Sincerely,



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