Testimony by City of Wilsonville Mayor Shawn O'Neil Opposing SB 974 A-4:

Proposed Legislation's Unintended Consequences Will Further Slow the Pace of Housing Production and Increase Costs to Home Buyers

Scheduled for public hearing on May 12, 2025, before
the House Committee On Housing and Homelessness

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

I am testifying on behalf of the City of Wilsonville in strong opposition to SB 974 A and the -4 amendment that **seek to reduce the timeframe for engineering permit approvals, but as we have seen from similar past regulations, the unintended result will be the opposite:** ***more rigid completeness requirements that results in an increase in permit denials, which in turn leads to a reduced pace of permit issuance, thereby slowing housing production.***

Wilsonville is one of Oregon's fastest-growing cities for the past 20 years, contributing an estimated 20% of all new housing to the Portland metro area during that time with the largest percentage (50%) of middle-housing and multifamily residential units.

More time is needed for a deliberative review of the contributing factors to housing approval timelines as directed in SB 1537 (2024). While the city is pleased with the positive direction in the -A4 amendment, we continue to have deep concerns about A-Engrossed SB 974 and the -A4 amendment that leads us to request that the bill not move forward this session without significant further amendments. **Better yet would be to form a work group during the interim to better understand the core issues around permit issuance.**

Considering the -A4 amendment, the city is concerned that the definition of final engineering plans is problematic because it includes infrastructure plans that may not be under the authority of a local government. Final engineering plans may include infrastructure plans under the approval authority of other agencies such as a local district, or a state agency such as the Division of State Lands or the Oregon Department of Transportation. Placing the shot clock burden only on local governments is unreasonable when only local governments will be subject to a writ of mandamus and an award of attorney fees and engineering costs.

The bill prescribes engineering review within an arbitrary artificial timeline, with needlessly punitive consequences for local jurisdictions that are unable to comply. It also includes provisions that are not implementable as drafted. The city believes these provisions will lead to problematic and unintended consequences for jurisdictions and

developers around the state. In the event this bill moves forward, our specific requests and rationale/concerns are described below in more detail.

- **Sec. 1(2)(a): The city requests that the 14-day completeness review for engineering plans be eliminated. If a mandatory timeline is retained, we request it be extended to 30 days, consistent with the land use requirement.**

- **Sec. 1(2)(b): The city requests that the 90-day jurisdiction review timeline for engineering plans be eliminated. If a mandatory timeline is retained, we request it be extended to 120 days, consistent with the land use requirement.**

  - Even with the -A4 amendment's new clock-tolling provision in Sec. 1(3) when engineering plans are out of the local jurisdiction's hands, the proposed 14- and 90-day timelines are simply too short to be consistently met for all projects.

  - The 14-day "completeness review" provision for engineering plans is modeled after the provisions for land use applications, which provide for a 30-day completeness review, which is more realistic.

  - The city has several full-time staff members dedicated to these plan reviews, and average about 120-150 days per project. Some can be completed in less time; some take longer due to complex site conditions and the varying quality of submissions by the consulting engineers that prepare the plans for jurisdiction review. The rigid timelines in this bill do not account for these factors.

  - Infrastructure engineering reviews are complex and vary widely due to variations in project scope and scale, as well as topography, soil and other unique site conditions. The rigid, uniform and artificial review timelines in proposed A-Engrossed SB 974 - A4 do not lend themselves to the collaborative and iterative process that has enabled successful development of challenging sites. These reviews often require an ongoing series of conversations between the reviewing agency, the developer and their consultants to ensure infrastructure is adequately planned, appropriately sized, and connects to the greater community system.

  - Failing to adequately review infrastructure plans can have catastrophic life-safety and financial consequences to the residents of the housing units, neighbors, and communities. Local governments and the communities we serve cannot accept or afford the transference of the risks of infrastructure failure or substandard infrastructure from developers to the community solely because we are unable to ensure consistent compliance with local standards within a rigid and arbitrary timeline.

- Consistently meeting a 90-day deadline will require additional staffing and result in increased review fees. The city is already challenged to find enough qualified plan review staff and will need more revenue in order to do so. Cost-recovery fees are already high, and additional increases may reduce the willingness of property owners and small developers to develop their properties to their highest and best use.

- Earlier versions of the bill included problematic provisions regarding platting and surveying that have been removed. The city has similar concerns with the engineering provisions, and they should also be removed.

- **Sec. 1(4): If the above timeline provisions are retained, the ability to extend the deadline "by one or more 30-day periods" should be changed to provide more flexibility to respond to the unique challenges of a particular development proposal.**

- **Sec. 2(3)(b)(A) and (B): The city requests that the vague and punitive provisions regarding award of attorney fees and engineering costs be removed in their entirety.**

  - Including "the costs of preparing and processing the application and supporting the application in local land use hearings or proceedings" in the definition of "attorney fees" is vague and is an unnecessarily punitive overreach for jurisdictions who are generally acting in good faith to complete timely reviews.

  - Further, "attorney fees" as defined in the -A4 amendment appears to provide the ability for a developer to recoup all costs associated with processing a prior related land use review application. If so, that is unprecedented and seems to be another unnecessarily punitive measure that will only cost jurisdictions more.

  - The provision allowing a developer to recoup "engineering costs" is also vaguely written, unnecessarily punitive and unprecedented.

  - These punitive provisions will also result in higher fees for all applications as agencies will need to build up an "insurance" pool of funds to cover agency costs in the event of a failure to comply (even if unintentional) and a successful writ.

  - If this bill is passed, the city will do its best to meet its requirements. However, these provisions may result in frequent jurisdiction denials of plans nearing the end of the arbitrary 90-day review period solely to ensure we are not held liable for delays and subjected to these punitive cost-recovery provisions. This may result in longer overall review timelines, not shorter. This does not sound like progress toward meeting housing needs more quickly.

The city is also opposed to language in the definition of "urban housing application" that includes amendments to a Comprehensive Plan and planned unit developments. The city alone is responsible for its Comprehensive Plan policies and their adherence to statewide planning goals and this type of action should not be available to a developer of housing.

- **Section 3 (21)(a): The city requests that this new definition of "urban housing application" be modified to remove subsections (A) and (B).**
    - Lumping comprehensive plan/zoning and map changes into the definition of "urban housing applications" subject to limited land use decisions is not workable because these types of applications cannot be processed as limited land use decisions under current statute.
    - Cities must be able to review zoning proposals against adopted policies and infrastructure plans to ensure infrastructure systems remain functional and future development supports current and projected needs.
    - Similarly, with the requirement for clear and objective housing standards, a planned unit development application is a discretionary option available to, but not required of, a developer of housing. Because this is an application type that the developer is opting for in lieu of a clear and objective pathway, it should not be included in the definition of urban housing application.

The city is also opposed to further pre-emption of local review of housing, given the already limited processes in place as a result of clear and objective requirements and the mandatory adjustments process adopted with SB 1537 in the last session. It is not clear what problem the pre-emption of design review on 20 or more residential units is attempting to solve.

Waiving standards does not change process or timeline, nor reduce the cost to the homebuyer, which is the stated intent of the bill. But it will impact the livelihood of our community members who are left to live in and pay the extra costs of poorly designed neighborhoods.

Waiving design standards for developments with 20 or more units appears to be a bait-and-switch from the work the State did just five short years ago for Middle Housing siting and design standards and SB 1537 mandatory adjustments, which were carefully drafted, provide an incentive for dense housing types, and the result of compromise by all stakeholders. The design language in SB 974 was added last minute, lacking transparency and undermining prior collective work. The fact is, in many cases subdivisions will get more waivers than the priority housing types in SB 1537 and permanently.

Across Oregon, city planning departments have been in a nonstop cycle of code revisions since passage of the original middle housing bill, House Bill (HB) 2001, in 2019. The five or six mandates issued since 2019 have been an enormous drain on staff time, city resources, and public outreach capacity. In a city with only a few planners, other work falls by the wayside when such serial unfunded mandates come out of the legislature.

There is a significant lack of clarity in the language of this bill, meaning there is a high likelihood of litigation to follow to resolve this lack of clarity. Further, we offer to the Committee that this lack of clarity can also mean that there are unintended consequences that may follow. While the design standards section states its purpose and target is aesthetics, the specific provisions listed go beyond that and will impact cities abilities to:

- Meet climate, habitat, and stormwater management goals through tree preservation and landscaping standards.
- Achieve weatherization, protection from elements, and reduced housing costs for residents (with design elements like eaves and covered porches).
- Properly delineate and protect natural areas and public open spaces with appropriate fencing.
- Require various house plans, including to meet accessibility needs.

As a result, these waivers to design standards make it more difficult to meet Statewide Planning Goals, such as Goals 5 and 10, including new OHNA requirements.

Please amend the bill by removing Section 5. Alternatively, address the process, which is the intent of the SB 974, by requiring design review to be concurrent with land use review. Simultaneous review would actually help to reduce process and costs. If you do keep Section 5, the city respectfully requests that the committee address the technical issues raised in this testimony, and to have it expire at the same time SB 1537 is set to sunset, so we aren't undermining good development and rewarding large subdivisions over other types of housing in perpetuity. Please address the technical issues the city's testimony has raised by incorporating the proposed language below:

"(c)(A)(ii) Roof decoration, form ~~or eave overhang~~;

"(iv) Window elements including trim~~, recesses~~, shutters or grids, **excluding window material and bird safe glazing**;

"(v) Fence type, design or finishes, **unless adjacent to and separating a natural area**;

"(vii) **Aesthetics of** ~~Covered~~ porches or balconies;

"(viii) Variety of design or floorplan, **excluding accessibility and other OHNA housing requirements**; or

"(ix) The specific landscaping materials in front or back yards, **unless the vegetation serves a functional purpose of managing stormwater or meeting urban tree canopy requirements**.

Section 5 of SB 1537 (2024) directed by Housing Accountability and Production Office (HAPO) to study the housing permit process and make recommendations for improvements by September 15, 2026. Rather than implement new regulations at this time, the State should allow for HAPO to complete this study to identify and make recommendations for process improvements.

The City of Wilsonville agrees with the recommendation of the League of Oregon Cities and the Cities of Beaverton, Bend, Eugene, Hillsboro, Portland and others to form a legislative work group that includes planning and building staff from cities of a variety of sizes, especially those where the staff may consist of one planner and one building official. Collecting data on different processing times to identify those cities that are meeting the bill drafter's expectations on processing time and those that are not, and then determine if there are common factors impacting permit issuance timing. This may be an area where the newly formed HAPO can help with funding, staff recruitment, and evaluation of existing processes.

If any part of the bill proceeds, the City supports extending the effective date for at least 12 months, preferably 24 months. It takes over 100 days just to get through the required noticing, public hearings, and appeals period, which does not provide any time for code revisions and work sessions. The requested implementation timeline will allow jurisdictions to recruit staff, develop new policies and procedures, and update codes. As jurisdictions work on implementation and discuss details with development partners, we anticipate opportunities for technical amendments to address unintended consequences of this hastily drafted bill. The later implementation date will provide time for these technical fixes during next year's short session before the final implementation deadline.

The City of Wilsonville appreciates your consideration and urges opposing SB 974 A-4 as presented and urges amendments as outlined in this testimony. Thank you.

Sincerely,

Shawn O'Neil, Mayor
City of Wilsonville