



Bureau of Planning and Sustainability
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March 8, 2019

Senator Shemia Fagan, Chair
Senate Committee on Housing
900 Court Street NE
Salem, OR 97301

RE: SB 534

Dear Chair Fagan and Members of the Committee:

The City of Portland appreciates the opportunity to comment on SB 534. The City of Portland respectfully opposes this bill because of its broad one-size fits all application to different situations that have been the subject of deliberate planning and zoning decisions by the City Council. The bill has a number of issues that make it difficult to implement and will be the subject of legal challenges:

Definition of a lot

The term “lot” is not defined. The definition should be inclusive of the term “lot” which refer to lots that are created as part of a recorded land division and “parcels” that are created through partitions. The definition should not include lots of record that were not created through a land division process; were created and recorded before the local jurisdiction adopted a land division code (July 26, 1979 for the City of Portland); or were created by a deed or other instrument dividing the land. The definition of a lot should not include lot remnants that have a lot area with 50 percent or less of the original platted lot.

Jurisdictions

Section 2 only applies to “a city”. Not all areas inside a UGB are in a city. For instance, the Metro UGB includes large swaths of urban areas that are under unincorporated county jurisdiction in Multnomah, Clackamas and Washington counties.

Infrastructure

Section 2 (1) lists infrastructure services that must be in place. Stormwater drainage is a critical public service that needs to be added to the list of services

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Vague terms

Existing state law allows only the application of clear and objective standards to the housing allowed by this bill. Terms like "adequately," "too small," and "too steep" fail this test. That language is vague – what is "too steep" or "too small"? With modern engineering, almost any lot could be made buildable. The term "small" should be replaced with a reference to established minimum lot size requirements. Otherwise, local jurisdictions will be faced with approving houses on remnant slivers of property and substandard lot sizes. The term "too steep" should be replaced with a more inclusive reference that goes beyond slope/grade, but also recognizes the geology and landslide risk.

The reference to lots in areas "zoned to allow for single-family dwellings" is too broad and vague. The term "single-family dwelling" is undefined. Does it include duplexes as is included in the building code? Does it include attached rowhouses on individual lots? In Portland, many of our multi-dwelling zones allow for single-dwellings, especially attached rowhouses and townhouses – does that mean these zones are subject to the provisions of this bill as well? If those multi-dwelling zones are subject to this bill, how should the City of Portland reconcile this mandate to allow "a" single family dwelling on a lot, no matter its size, with Metro's minimum density requirements?

Natural hazards

Section 2 (3) gives local jurisdictions the ability to regulate based on significant Goal 5 natural resources, except historic resources. Not all steep slopes or floodplains are significant Goal 5 natural resources. Goal 7 (natural hazards) also addresses steep slopes, floodplains, and liquefaction zones.

Conclusion

The City of Portland has serious concerns about the provisions in the bill. We appreciate the opportunity to comment and respectfully urge the committee to not move SB 534 forward. Thank you for your consideration.

Sincerely,



Joe Zehnder
Interim Director

