



June 11, 2019

Co-Chairs Manning & Gomberg, Members of the Transportation and Economic Development Subcommittee of the Joint Ways & Means Committee:

As you know the League of Oregon Cities represents all 241 incorporated cities in the state of Oregon. As an organization, we advocate for cities to be able to solve issues at the local level. This allows locally elected officials to hear how problems like housing shortages are impacting local residents, approach the issue with a collaborative and locally focused process, and be held directly accountable when they are not addressing the problems. Cities across the state have expressed significant concerns about the need for housing, and they are looking to increase partnership with the state in addressing the complex, multi-dimensional issue of increasing housing construction.

However, in conversations across the state, with cities of varying sizes, the solutions to the issues in each city looks different. Some areas are seeing a lot of interest in development, with large developments and experienced developers coming to the table. Others do not have enough labor force to see more than a few units develop each year, and the developers that are working are smaller scale with limited experience beyond single family unit development. Each city that is investing local resources into housing are balancing a variety of needs, interests, and goals for the city. None have found a single fix that will address either the supply or price issues, but many are working their way through the process to reduce local barriers, increase incentives, and leverage the development opportunities to get a variety of housing types. State mandates like that proposed in HB 2001 do not often lead to the best outcomes because they cannot address the circumstances that prevent the goals from being attained.

While the amendments to HB 2001A have improved the bill, it is not enough to eliminate the deep concerns of LOC and the cities that are impacted, particularly the smaller cities within the Metro region that are expected to do the same rezoning as their largest neighbors. We respectfully ask that you not pass HB 2001A for the following reasons.

#### Mandatory Zoning Changes

The Oregon statewide land use planning process is governed by statute, goals and rules, and is a changing process that cities and counties must follow when planning for future growth. The land use planning system requires an overall framework that guides and limits local decisions for growth patterns. This process is deliberate and time consuming. It does not encourage cities to work at market speed or be reactionary because it requires a comprehensive look at the impacts to a variety of systems and outcomes of any development. As market trends change and cities

see demands for new or different housing types, it can take time to do the proper work to provide for these units in long-term plans.

However, cities are looking to encourage development now, and they can and will adapt to new markets when they have the resources to do so. But, limited funding has been made available and city budgets are already stretched thin. Investments by the state recently have started the process for many cities to update their housing needs analyses and development codes. These efforts are steps to reducing barriers to housing development and are far more productive conversations than a city-wide rezoning effort.

#### Goals 11 & 12 and the price of infrastructure

Goals 11 and 12 require cities to go beyond making zoning decisions about where housing and economic development types of uses will go. There is a requirement that cities plan for and provide adequate services that are provided for the site. Services include water, sewer, stormwater, and roads. These are hard infrastructure systems that require significant work to ensure they will meet future needs. Changes in the amount of use an area is therefore not accounted for when the systems are originally planned. Infrastructure is placed in or on the ground to meet the needs that is planned for at the time. Redevelopment plans must also account for changes in need, and provide plans for accomplishing any upgrades needed to the system.

Not only must the capacity of the local infrastructure be constructed to the potential need if an area is completely developed, there must also be plans for financing the needed infrastructure under Goals 11 and 12. Because of the limited tools for paying for infrastructure improvement, many cities have adopted system development charges (SDCs) to determine how much new construction will pay for the capacity they require from each infrastructure system (water, sewer, stormwater, transportation, and/or parks). The methodology for SDCs requires cities to make capital improvement plans, determine what costs will be by project, and determine the capacity that is used by each development type. Then the city establishes a rate for each type of unit constructed. Each city can then set a policy of how much of these costs will be paid by developers and how much will not be charged, which means the funds are provided by the city's general fund or current user fees. These SDCs are set using complex methodologies and intentional conversations about what cities can afford to forego if they do not charge the total cost. They are also dependent on knowing the capacity needs for future development.

All of this means that if a city did not plan for a significantly higher capacity, it is unclear that new units added into older neighborhoods will be serviceable. There may be some capacity left in the infrastructure, but it is finite. The pipes are a certain size; the roads are built to an expected level of travel. Too much redevelopment may require upsizing this infrastructure and there are not

plans or funds to do this. SDCs are unlikely to account for this type of development and are based on area-wide projects set out in the capital improvement plan.

Many of our cities are currently struggling to find the funding from many sources to provide for maintenance and improvement of their current systems. The 2017 legislature opened up a large amount of funding for transportation projects, but that is only part of the infrastructure question. A 2016 survey by the LOC found that the 120 cities that responded to the survey identified \$7.6 billion in water related projects, including drinking and wastewater treatment plants, water storage, stormwater improvements, and water and wastewater line repair or replacement. And that was at 2016 levels of expected development and growth.

HB 2001, as amended does include a look at infrastructure development, but the cost to provide new infrastructure levels are going to be included in the cost of development moving forward. Because cities are revenue restricted and the state and federal governments have slowly diminished their investments in local infrastructure, there are limited means to pay for the increased capacity. In addition, new housing rarely creates a tax base sufficient to pay for the other services required by new residents, but expectations for service levels remains the same.

#### Impacts to cities already working on improving housing outcomes

In the last two years, cities have been required to allow accessory dwelling units (ADUs) for all detached houses that exist within their boundaries (SB 1051 (2017)). Many cities are trying to recover the planning time lost to making changes to the zoning and development codes required to ensure that the regulations around these units would be considered reasonable. Some cities are struggling with how they will permit these units based on undersized infrastructure in these neighborhoods. Anecdotally, cities have not seen a large increase in ADUs as a result, but further research is needed to see if this will change over time.

Other cities were required to examine the city's rental picture because they are "heavily rent burdened" under HB 4006 (2018). While city staff had to use time to finalize reports and conduct meetings, they are also using it as an opportunity to inform their policies to improve the rental market. They are focusing on policies identified by the work of local housing committees, research or the direction of council. These cities are at the beginning of these efforts and shifting focus to address another new mandate will be disruptive.

Cities in the Metro region are working to address the requirements of Metro's 2040 plan and finding ways to ensure that the newly passed Metro housing bond can be used in these cities to increase affordable housing. These planning efforts require planning staff and housing

specialists to focus on how to meet the needs of the hardest to house: very-low and low income residents.

#### No guarantee units will be built or affordable

Finally, if the purpose is to increase housing choice for moderate income families, there is no guarantee that any new units will be produced or that they will be sold or rented at prices affordable to moderate incomes. Nothing provides cities with the ability to control for these needs, only that they allow duplexes, triplexes, quadplexes and cottage clusters be built. Without any assurance that the market is going to produce these units at moderate prices, many officials question if the work is worth the result.

Cities that have recently adopted similar provisions within their code are still too early in the process to see if there is a change in developer behavior. One of the reasons to support local control of land use is that allows cities to experiment with these concepts and see what changes actually move the needle on housing type diversity. For example, it appears that zoning is not the only impediment to triplex and quadplex development. There are many proposed reasons that these units are not being developed where they are currently allows including: cost to build based on building code requirements; limited number of developers familiar with construction – particularly outside of the Metro area; and risk adverse financial markets limiting funding for construction of these units. More needs to be done to address the variety of issues around the difficulty to get these particular unit types developed.

#### Alternative Solutions

As stated at the beginning, cities are not opposed to increasing missing middle housing options, and the LOC is working to best determine what cities need to provide increased options in ways that are workable at the local level. Here are some options that will improve outcomes:

##### *Change the definition of “Needed Housing”*

Currently, ORS 197.303 outlines the housing types that must be included in housing plans. The “middle housing” options are not listed explicitly as types that are “needed”. If the state wants to see more of this housing allowed in single family zones, it would best to include it as a needed housing type. The land use system, and the statutes that support it, have traditionally set the goals and expectations, but the local process determined how a community arrives at the goal. By resetting requirements through an update to the “needed housing” statute, the new goals are clear and compliance with them must be undertaken by cities. But the process is local, deliberate and creates a diverse set of solutions to address the issue. It also encourages cities to think with more flexibility as to how to achieve the solution to the underlying problem.

### *Increase Assistance to Cities*

Cities number one request for changing housing development outcomes is increased technical assistance. They are looking for assistance in a number of ways: 1) funding for planning processes; 2) continued investment in updating housing needs analysis and development codes for housing; 3) model codes for newer housing configurations like cottage clusters that can be adapted to meet local needs; 4) increased capacity for local projects through investment by the state; 5) assistance with determining what incentives will have the biggest impact in increasing development; and 6) assistance with moving from long-term planning to implementation of development plans. As the state is investing more in housing, including this type of assistance to local governments will create the opportunity for better outcomes for developers because the cities will be ready to work on the project.

### *Infrastructure Investment*

Second to technical assistance, investment by the state in infrastructure is vital to development of new, different units. Historically, there were resources from the federal and state government that could be used to increase development of infrastructure and to make sure it has the capacity to service increased density in all areas of the city. This is a vital component to successful development. Investment by the state in programs like the Special Public Works Fund or creating a program for SDC payment by the state would have a significant impact on housing development and housing prices.

### *Enforcement of Current Standards*

Many cities that are working on updating their housing planning do not want to be facing mandates based on cities that are failing to meet current standards. If cities are not meeting the requirements of the land use system, there are tools for enforcement. The LOC recognizes that DLCDC works primarily as a partner in development and has spent a number of years improving relationships with cities and work as a partner. Therefore, the enforcement tools are less likely to be used. However, all cities are being impacted by mandates proposed but only some cities are failing to act. If the enforcement tools are not sufficiently diverse to allow for a gentle push before significant enforcement mechanism, then there is room for improvement in the system.

I appreciate your consideration of this information and the proposed solutions that will let cities work to find local solutions.

Sincerely,

Erin Doyle ([edoyle@orcities.org](mailto:edoyle@orcities.org))

League of Oregon Cities, Intergovernmental Relations Associate