

LEGISLATIVE CONCEPT

Agency No./Concept No. 660/1

Date 4/4/2008

Agency DLCD and OHCD

Division/Program Planning Services

Concept Subject/Title Sites Dedicated to Affordable Housing (Placeholder)

Contact Person Bob Rindy, DLCD

Phone No. 503-373-0050 Ext 229

John Fletcher, OHCS

Phone No. (503) 986-6721

◆ **BRIEF DESCRIPTION OF THIS CONCEPT:**

The Land Conservation and Development Commission (LCDC) is considering new administrative rules – scheduled for adoption in the Fall of 2008 - to encourage local governments to plan and zone “sites dedicated to affordable housing.” This concept is a placeholder in anticipation that some statute changes may be needed to authorize certain incentives and other elements being considered as part of these new rules. While it is too early to know which statutes may need revision to accomplish the goal of this project, the department and the advisory committee may consider proposing minor changes to statutes under ORS 197 regarding prohibitions on local government regulation of housing prices and regarding UGB amendment requirements. The LCDC rulemaking is being designed as a “pilot project” limited to a few cities.

◆ **PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):**

Affordable housing advocates agree there is a shortage of land available for affordable housing statewide, in part due to land costs. The new land use rules under consideration by LCDC are intended to encourage local governments to add land to dedicate sites for “affordable housing,” including manufactured dwellings and manufactured dwelling parks. This concept also responds to 2007 legislation – House Bill 2096 (2007) – which requires DLCD to report to the 2009 legislature regarding the provision of sites for affordable housing development statewide, including sites for manufactured dwelling parks or mobile home parks, and also requires the department to report “regarding LCDC measures, if any, adopted to streamline land use requirements relating to the expansion of urban growth boundaries (UGBs) so as to provide affordable housing, manufactured dwelling parks and mobile home parks.” While the department and the advisory committee will be examining ways to encourage local governments to designate affordable housing sites without changing by changing UGB rules, or other land use requirements, the department will also consider whether changes to statutes may provide opportunities for additional incentives toward this goal.

◆ **POLICY IMPLICATIONS:**

The concept would be proposed in conjunction with rules scheduled for LCDC adoption in the Fall of 2008 intended to encourage affordable housing through new and amended land use policies and programs. Housing advocates, local governments and many other interests are concerned about the affordable housing statewide, and about closures of manufactured dwelling parks and mobile home parks. While the policy implications of this concept primarily concern affordable housing, other land use policies could be affected, depending on the various ideas under discussion for improving affordable housing policies. Other policies that may be affected, depending on the choices made in the current rulemaking project, include UGB policy and inclusionary zoning policy in state law.

◆ **PARTNERS OR OTHER AGENCIES AFFECTED:**

This “placeholder” is a joint concept with the Department of Housing and Community Services.

Agency:
OHCD. (joint concept)

Person you talked to about concept:
John Fletcher, OHCD

Phone: **RECEIVED**
(503) 986-6721 APR 04 2008

BUDGET AND MGMT.

◆ KNOWN SUPPORT

Housing advocacy groups and developers; Oregon Homebuilders; Some cities have expressed interest.

◆ KNOWN OPPOSITION:

Possibly farmland preservation advocates, depending on whether the proposal affects UGB requirements

◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises or repeals ORS 197

Adds new sections to ORS Chapter NA

Check one: Major program change Minor program change Technical correction/housekeeping only

Was previously proposed in: Year 2007 as Bill No. SB 187

Why are you proposing it again (what changed)? This concept would probably be considerably more narrow than previously proposed bill and would be proposed in conjunction with new administrative rules that would flesh-out provisions that were unclear in last session's concept. Most importantly, the new affordable housing land use policies would begin as a "pilot project", applying to a small number of cities, probably with a sunset provision. There may be other differences that distinguish this from the previous proposal that may emerge as the rulemaking proceeds (this concept is a placeholder for now because the advisory committee drafting the administrative rules has not yet determined which statutes need amendment, if any).

Is a PLACEHOLDER? No Yes Expected date of completion: August 08

Reason not completed: Work in progress by rulemaking advisory committee; ongoing discussions with affordable housing advocacy groups and other interests about the nature of the concept.

Is due to legal decision: NA Case cite: NA or AGO No./date NA (attach copy)

Raises fees or assessments? No Yes (attach Fiscal Impact Estimate)

Imposes or adds to unfunded mandate on local governments? No Yes (attach Fiscal Impact Estimate)

Has other fiscal or position impacts? No Yes (attach Fiscal Impact Estimate)

Have you discussed this Concept with your Attorney General liaison? No Yes

APPROVED FOR DRAFTING

Department of Administrative Services

Date

Governor's Office

Date

LCDC Legislative Concept Regarding Sites Dedicated to Affordable Housing

Authorizes the Land Conservation and Development Commission to amend rules to allow certain local governments to provide sites dedicated to affordable housing through an expedited process for urban growth boundary amendments.

A BILL FOR AN ACT

Relating to sites dedicated to affordable housing; creating new provisions; and amending ORS 197.298 and 197.309.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 197.295 to 197.314.

SECTION 2. The Legislative Assembly finds that a supply of land dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, and planned and zoned to protect the land's use for affordable housing over the long term is necessary for the economic prosperity of Oregon communities.

SECTION 3. (1) The Land Conservation and Development Commission is authorized and encouraged to adopt or amend applicable administrative rules and, if necessary, statewide planning goals related to housing and urbanization, in order to authorize the Pilot Project specified in this legislation intended to provide sites dedicated to affordable housing, manufacture dwelling parks or mobile home parks, in ~~(x-number)~~ if cities.

SECTION 4. (1) The rules or goals specified in Section 3 of this Act, for the Pilot Cities described in that Section, shall:

(a) Expedite proposed amendments to the urban growth boundary to include up to two sites dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, pursuant to Section 3 of this legislation, regardless of whether the urban growth boundary already contains a 20-year supply of buildable lands for housing needs at the time of the amendment,

(b) Require that sites included within an urban growth boundary and dedicated to affordable housing pursuant to this section:

(A) Remain planned and zoned exclusively for the development of affordable housing, which may include manufacture dwelling parks or mobile home parks, except as provided in subsection (3) of this paragraph; and

(B) Be planned and zoned to prohibit conversion of affordable housing developed on such sites to other uses, and

(C) Be subject to new or amended development regulations as necessary to ensure that development of housing on sites dedicated to affordable housing meets definitions and other requirements for such housing pursuant to the goal or rule amendments described in this section.

(2) A local government that amends its urban growth boundary pursuant to rules or goals specified in this section to facilitate the development of sites dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, shall:

(a) Protect sites dedicated to affordable housing pursuant to this section from conversion to other uses, both before and after the development of affordable housing, except as provided in Paragraph (3) of this section.

(b) Ensure that housing developed on these sites continues to be used to provide affordable housing in perpetuity through:

(A) Zoning restrictions;

(B) Guaranteed rental rates or sales prices;

(C) Regulations, provisions or conditions such as those described in ORS 197.309 (2); or
(D) Other regulations, provisions or conditions determined by the local government to be effective in maintaining the affordability of housing on land dedicated to that purpose pursuant to this section, and

(b) May authorize a mix of affordable housing and other housing types on a site, provided the percentage of affordable housing units developed on the site meets or exceeds ~~8~~ percent of all housing units developed on the site.

(3) If a local government specified in section 3 of this 2009 Act designates a site for affordable housing pursuant to this section, the local government may not rezone such sites to allow a use other than the uses allowed pursuant to this section, except by first removing the site from the UGB and rezoning the site pursuant to all applicable laws pertaining to allowable uses outside UGBs.

(4) The commission rules or goals described in paragraph 1 of this section shall define "affordable housing" that would be authorized on sites dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, and specify related requirements that may include price ranges for such housing, as necessary, taking into consideration housing prices within the region compared to the income of residents of the region, the availability of government assisted housing in the region, and the need for sites to accommodate manufactured dwellings due to the conversion of manufactured dwelling parks in the region to other uses.

(4) The commission shall limit the size of a site dedicated to affordable housing, not to exceed ~~5~~ acres.

(5) The inclusion of sites dedicated to affordable housing, including manufacture dwelling parks or mobile home parks, pursuant to this section shall not provide a basis to authorize a local government to convert other land within an urban growth boundary that is planned for needed housing specified in ORS 197.303 to other uses due to the inclusion of sites dedicated to affordable housing pursuant to this section.

(6) Notwithstanding ORS 197.298, a local government may not amend an urban growth boundary to provide a site dedicated to affordable housing if the site consists of high value farmland as defined by commission rules.

SECTION 5. ORS 197.298 is amended to read:

197.298. (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

- (a) Specific types of identified land needs, including sites dedicated to affordable housing, cannot be reasonably accommodated on higher priority lands;
- (b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or
- (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

(4) Subsections (1) to (3) of this section do not apply to limit inclusion in an urban growth boundary of land dedicated to affordable housing under this 2009 Act.

SECTION 4. ORS 197.309 is amended to read:

197.309. (1) Except as provided in [subsection (2)] **subsections (2) and (3)** of this section, a [city, county or metropolitan service district] **local government** may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178, a requirement that has the effect of establishing the sales price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale to any particular class or group of purchasers.

(2) [Nothing in this section is intended to] **Subsection (1) of this section does not** limit the authority of a [city, county or metropolitan service district] **local government** to adopt or enforce a land use regulation, functional plan provision or condition of approval creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or condition designed to increase the supply of moderate or lower cost housing units.

(3) **Subsection (1) of this section does not apply to regulations, provisions or conditions adopted by a local government that are intended to establish and maintain affordable housing, including manufacture dwelling parks or mobile home parks, pursuant to section 2 of this 2007 Act.**

SECTION 5. (1) This act shall apply to no more than three? Pilot Cities specified in new or amended administrative rules or statewide planning rules intended to authorize and expedite the designation and planning of sites dedicated to affordable housing in (x number) of cities in accordance with this 2009 Act.