

## Ideas for Proposed Pilot Project Regarding Sites Dedicated to Affordable Housing

### Alternative 1:

The original proposal outlined in SB 187 (2007) and described in the staff report would authorize a “pilot city” to add a site to the UGB under some sort of "easier" process for UGB amendment provided the site is completely or partially dedicated to affordable housing, and provided it cannot ever change to any other zoning unless it is removed from the boundary (We also indicate that we would discuss an option to “trade” an added site for a more centrally-located site already in the UGB, but that could be considered as a separate issue to discuss since there might be special caveats for this procedure).

Certain UGB amendment requirements might be altered to achieve an “easier UGB process.” For example, we might declare that a site dedicated to affordable housing is a “need” either under Goal 10 or 14 or both (for pilot cities only). A related idea (from SB 187) was to allow a UGB addition for a dedicated site regardless of whether the city already has a 20 year supply. However, this might be more controversial and we may not need to do this if we pre-address “sites dedicated to affordable housing” as a “special need” for pilot cities; it is likely cities would not have already designated such a site. As such, a UGB amendment to meet this “need” would not technically be adding land beyond a 20-year need. Another way to offer the “easier UGB process” discussed above would be to provide a “safe harbor” rule that sets a “short cut” through the need and location factors for potential “dedicated” sites.

We would have to discuss with legal counsel to determine whether these ideas runs afoul of state law under ORS 197.296 (if so, this pilot would not work in a city over 25,000, or alternatively, we would use the department’s “placeholder” legislative concept to alter that statute).

Finally, to achieve maximum benefit for the pilot cities trying this out, this propose rule should be crafted with the expectation that a city would add such a site without the necessity of going through a full blown UGB analysis. In other words, it should be set up to a plan amendment for adding a single site, rather than require that the city analyze all its housing needs and amend the UGB to meet them.

**Pros:** This would clearly be “voluntary” rather than “mandatory” inclusionary zoning.

**Cons:** Some interests would be concerned that this “weakens” current UGB requirements, especially regarding farm land protection, without enough safeguards and without sufficient guarantees that we will actually gain affordable housing. Thus, this needs to be addressed with adequate guarantees and safeguards. Some have raised a concern that this proposal would provide sites that are not accessible to services and

needs for those who typically want affordable housing. (NOTE: This will not necessarily occur; First, the “trade” concept above will address this. Second, whether this is valid will depend on the particulars of the land that might be added, such as whether transit or other services may or may not be available to the site. Third, it may be far better to have affordable housing in particular communities rather than have workers commute longer distances from outlying communities that have affordable housing. Finally, this argument is invalid if we define affordable housing to include “workforce housing”, because there may be no particular “special services” that requires centralized locations for workforce populations that are any different than those needed by the general public.

### **Alternative 2:**

Set this up using transfer or purchase of development rights programs to achieve the same purpose described above. For example, the concept under (1) above could be written so that a property could be added to the UGB under an expedited process options above, but only provided the owner has purchased development rights from rural properties, eg, existing rights to build houses on farm or forest land, including rights granted under Measure 49. DLCD has a legislative concept in the works to create a TDR or PDR program for farm and forest land, so this is just one more permutation of that idea.

**Pros:** This possibly removes some of the reservations that agriculture and other interests might express regarding alternative 1. It would counterbalance any perceived weakening of farmland protection under alternative 1.

**Cons:** There is no current PDR or TDR system statewide, and thus we cannot predict whether this would work. Furthermore, it would be hard to predict whether the cost of such development rights would be so high that they make it impossible to add sites that could reasonably provide “affordable housing.”

### **Alternative 3:**

Require that a site, or perhaps a certain percentage of land, be designated as dedicated to affordable housing” at any time a city conducts a major UGB amendment to include residential land (either during or outside of periodic review).

**Pros:** This would be more robust than any proposal above, and arguably would be a major improvement to Goal 10. Many sites would result, statewide.

**Cons:** This may require an amendment to Goal 10 or one of its implementing rules, as well as a Goal 14 change. Also, it is hard to conceive of a “pilot program” to test this. More important, many cities and other interests would view this as "making the process harder" rather than streamlining the UGB process. Some interests may argue it is "mandatory inclusionary zoning". However, on the mandatory point, I note that at any time a city amends its UGB there are multiple "choices" as to WHICH land to put in the boundary – usually more choices than need. As such, under this idea certain property owners may voluntarily agree to the inclusionary requirement in order to increase the

chances that their property is selected out of the “pool” of properties that meet the qualifications for need and hierarchy. If so, it could be argued that this idea would not be "mandatory inclusionary zoning", at least for that particular property owner.