

OFFICE OF THE SECRETARY OF STATE
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

09/30/2025 8:14 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Pendleton Affordable Housing Pilot Project Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/23/2025 8:05 AM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Casaria Taylor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/22/2025

TIME: 6:00 PM

OFFICER: Dawn Hert

IN-PERSON HEARING DETAILS

ADDRESS: Pendleton Fire Station, 1455 SE Court Ave., Pendleton, OR 97801

REMOTE HEARING DETAILS

MEETING URL: Click here to join the meeting

PHONE NUMBER: 253-215-8782

CONFERENCE ID: 6644773978

SPECIAL INSTRUCTIONS:

Passcode: 8675309

DATE: 10/23/2025

TIME: 8:00 AM

OFFICER: LCDC

REMOTE HEARING DETAILS

MEETING URL: Click here to join the meeting

PHONE NUMBER: 253-215-8782

CONFERENCE ID: 93469079516

SPECIAL INSTRUCTIONS:

Passcode: 346534

Sign up for Public Comment: <https://www.oregon.gov/LCD/Commission/Pages/Public-Comment.aspx>

NEED FOR THE RULE(S)

The new rule is needed to enable the City of Pendleton's application to expand the city's urban growth boundary (UGB) for the purpose of approving affordable housing on lands outside but adjacent to the city's UGB as part of a pilot program authorized by House Bill 2160 revised by HB 2127 (2023). The UGB expansion post-acknowledgement plan amendment would be submitted to, and approved by, the commission on or before January 2, 2028.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Documents relied upon are ORS 197.040 and OAR chapter 660, division 39. The relied upon documents are located at DLCD, 635 Capitol St., Ste. 150, Salem, Oregon 97301. The relied upon documents are also available on-line at <https://www.oregon.gov/lcd/Pages/index.aspx>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The State of Oregon requires that a rulemaking notice include "a statement identifying how adoption of the rule will affect racial equity in this state" (ORS 183.335(2)(a) (HB 2993). For the purposes of this statement, racial equity has been defined as treating people of all races fairly, justly, and without bias. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities.

The proposed rules are not expected to negatively impact racial equity and equitable outcomes. The new rule would enable the City of Pendleton to increase its residential land supply for the purpose of approving affordable housing. Expanding this opportunity is not linked to racial equity and equitable outcomes.

The proposed rule modifications would be expected to maintain or improve the status quo on racial equity.

FISCAL AND ECONOMIC IMPACT:

The State of Oregon requires a statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public.(ORS 183.335(2)(b)(E)) The rule would create an improved opportunity to approve affordable housing in the City of Pendleton. The rule does not create any additional requirements for the city, any other units of local government, state agencies, or the public. Therefore, no direct fiscal and economic impacts are anticipated. Should the city choose to implement the rule, any fiscal and economic impacts are expected to be positive.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The rule is specific to the City of Pendleton and would create an improved opportunity to approve affordable housing. The rule does not establish new requirements. Therefore, state agencies, units of local government aside from the City of Pendleton, and members of the public are not considered likely to be economically affected by the rule.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

The rule is specific to the City of Pendleton and would create an improved opportunity to approve affordable housing. Therefore, no small businesses are estimated to be subject to the rule.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The new rule creates an improved opportunity for the City of Pendleton. There are no requirements to comply with the new rule. Therefore, no reporting, recordkeeping and administrative activities and cost are expected to be required to comply with the rule.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The rule is specific to the City of Pendleton and would create an improved opportunity to approve affordable housing development. The rule does not establish new requirements beyond regular city planning conducted by the City of Pendleton, in coordination with Umatilla County. Therefore, it is estimated that there will be no additional cost of professional services, equipment supplies, labor and increased administration required to comply with the rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Businesses were not involved in the development of this new proposed rule because the rule is specific to the City of Pendleton at the city's request and would create an improved opportunity to approve affordable housing.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The rule is specific to the City of Pendleton and would create an improved opportunity to approve affordable housing. The limited focus of the rule did not necessitate assistance from an Administrative Rule Advisory Committee.

HOUSING IMPACT STATEMENT:

A housing cost impact statement is an estimate of the effect of a proposed rule on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single- family dwelling on that parcel (ORS 183.534). The proposed rule has no impact on such development.

DESCRIPTION OF PROPOSED CHANGE: (Please attach any draft or permanent rule or ordinance) Draft Rule: OAR 660-039-0110 - Notwithstanding any other provision of this division relating to proposed projects on high-value farmland, the City of Pendleton may propose, and the commission may approve, a project under this division that is located adjacent to the Pendleton Urban Growth Boundary on a tract of land that does not qualify as high-value farmland as defined by ORS 195.300(10), except that land defined as high-value farmland under ORS 195.300(10)(f) shall not be considered high-value farmland for the purpose of this rule.

Description of the need for, and objectives of the rule: In 2016, the Oregon Legislative Assembly passed House Bill 4079, which established a pilot program for the construction of affordable housing. The program allowed two cities, one with a population over 25,000 and one with a population less than 25,000, to approve affordable housing on land outside but adjacent to their urban growth boundary (UGB). The affordable housing opportunities contemplated by HB 4079 were to be carried out through a UGB expansion of up to 50-acres.

In 2021, the Legislative Assembly enacted House Bill 2160, which allowed LCDC to consider an application from the City of Pendleton under the pilot program. Furthermore, House Bill 2160 specified that the city's application must be submitted to, and approved by, the commission on or before June 30, 2023.

A variety of reasons compromised the City's ability to provide an application to LCDC within the timeframe specified in HB 2160. The HB 2160 timeframe was then revised in 2023 when the Oregon Legislative Assembly passed House Bill 2127, which removed the deadline for the City of Pendleton to submit an application to a pilot project program for affordable housing and established a new program sunset date of January 2, 2028.

The pilot program for the construction of affordable housing established by the Legislature is implemented through administrative rules located at OAR chapter 660, division 39. Subsequent review of lands adjacent to the City of Pendleton Urban Growth Boundary has revealed that the current language contained in the administrative rules unnecessarily limits application of the affordable housing pilot program. More specifically, lands that are technically, but not practically, considered high-value farmland under the existing definitions at OAR chapter 660, division 39 are present in locations that would otherwise be available for consideration.

The new rule is necessary to enable the City of Pendleton's application to expand their UGB for the purpose of approving affordable housing on lands outside but adjacent to their UGB as part of a pilot program to be submitted to, and approved by, the commission on or before January 2, 2028.

List of rules adopted or amended: New Draft Rule: OAR 660-039-0110

Materials and labor costs increase or savings: The proposed rule is not expected to affect housing materials or labor costs.

Estimated administrative construction or other costs increase or savings: The proposal is intended to reduce housing land costs. It is not possible to estimate the amount of such reduction, since the new rule involves a pilot project that is exclusive to the city of Pendleton.

Land costs increase or savings: The proposed new rule is intended to reduce housing land costs for new sites "dedicated to affordable housing". However, it is not possible to estimate the amount of this reduction. The rule may also generally reduce housing costs within city of Pendleton. Again, it is not possible to estimate the amount of this reduction.

Other costs increase or savings: None expected

ADOPT: 660-039-0110

RULE SUMMARY: In response to the state's request for construction of Affordable Housing, the legislature adopted a pilot program in House Bill 4079, In 2021 the legislature enacted HB 2160, authorizing the City of Pendleton to submit a proposal under the auspices of the pilot program. In the 2023 regular session, House Bill 2127 amended the deadline for the submittal of Pendleton's application to January 2, 2028. Further review of potential properties in Umatilla County found that the definition of high-value farm included properties located within the American Viticulture Area (AVA). This proposed new rule will allow for property with the AVA classification to be considered for Pendleton's Affordable Housing Program's application to LCDC.

CHANGES TO RULE:

660-039-0110

Pendleton Affordable Housing Pilot Project Program

Notwithstanding any other provision of this division relating to proposed projects on high-value farmland, the City of Pendleton may propose, and the commission may approve, a project under this division that is located adjacent to the Pendleton Urban Growth Boundary on a tract of land that does not qualify as high-value farmland as defined by ORS 195.300(10), except that land defined as high-value farmland under ORS 195.300(10)(f) shall not be considered high-value farmland for the purpose of this rule.

Statutory/Other Authority: ORS 197.040, OL 2016, Ch. 52

Statutes/Other Implemented: OL 2016, Ch. 52