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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

01/27/2026 8:21 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amendment to Affordable Housing Pilot Project Rules Regarding Affordable and Market-Rate Housing Units Phasing

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/26/2026 9:05 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:
Matthew Hampton
Rules Coordinator

HEARING(S)

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

DATE: 02/26/2026

TIME: 9:00 AM

OFFICER: LCDC

IN-PERSON HEARING DETAILS

ADDRESS: 635 Capitol St. NE, Basement Hearing Room, Salem, OR 97301

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 669-444-9171

CONFERENCE ID: 93063215007

SPECIAL INSTRUCTIONS:

Passcode: 562278

NEED FOR THE RULE(S)

OAR 660-039-0070 is part of the rules in OAR chapter 660, division 39 which set forth a comprehensive set of requirements for housing within affordable housing pilot projects. The current rules include a requirement for phasing of affordable and market-rate housing units within these pilot projects. The City of Redmond believes this requirement would result in a significant delay in constructing a vitally needed housing project, totaling more than 400 total housing units. The change to the phasing requirements would also reflect the opinion of the Oregon Legislature as to the appropriate timing for construction of affordable vs. market-rate housing units within these types of housing development projects. The change will also apply to the City of Bend's affordable housing pilot project, although the project is already under construction, and a future project from the City of Pendleton.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Documents relied upon are 1) OAR chapter 660, division 39; and 2) the petition for rulemaking received from the City of Redmond. The relied upon documents are located at DLCD, 635 Capitol St., Ste. 150, Salem, Oregon, 97301. The relied upon documents are also available online 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 rule amendments are not expected to negatively impact racial equity and equitable outcomes. The amended rules would allow the City of Redmond to proceed with a needed housing project that includes 30% of all units reserved for households earning no more than 80% of the area household median income.

The proposed rule amendments 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. The rule amendments would allow the City of Redmond to move forward expeditiously with a city-initiated housing development that will provide more than 400 units of needed housing, 30% of these units dedicated to affordable housing, and to promote the city’s community development and economic development goals. The rule amendments may also positively affect similar projects in Bend and Pendleton. The rule amendments do not create any additional requirements for any of these cities, any other units of local government, state agencies, or the public. Therefore, no direct fiscal and economic impacts are anticipated. Should Redmond, Bend, or Pendleton implement projects approved under this 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).

(1) The rule amendments would authorize Redmond, Bend, and Pendleton to move forward with affordable housing pilot projects with less stringent phasing requirements for affordable vs. market-rate housing units. The rule amendments do not establish new requirements. Therefore, state agencies, units of local governments, and members of the public are not considered likely to be economically affected by the rule amendments.

(2) Effect on Small Businesses:

(a) The rule amendments are specific to residential development within affordable housing pilot project sites within the cities of Redmond, Bend, and Pendleton. They will not affect commercial businesses. Therefore, no small businesses are estimated to be subject to the rules.

(b) There are no requirements to comply with the rule amendments, since Redmond, Bend, and Pendleton are not mandated by these rules to proceed with an affordable housing pilot project. Therefore, no additional reporting, record keeping, and administrative activities and costs are expected to be required to comply with the rules.

(c) The rule amendments would change the phasing requirements for affordable vs. market-rate housing units in affordable housing pilot projects in Redmond, Bend, and Pendleton. The rules do not establish new requirements. 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 rules.

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

The rule amendments are specific to affordable housing pilot projects in Redmond, Bend, and Pendleton. Businesses were not involved in the development of the proposed rule amendments.

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

An Administrative Rule Advisory Committee was not consulted on the development of the proposed rule amendments. The proposed rule amendments are simple, proposing to change phasing requirements for housing vs. market-rate housing units in affordable housing pilot projects in Redmond, Bend, and Pendleton. DLCD staff received positive comments on the proposed change during the notice and comment period for Redmond's rulemaking petition, and did not receive any negative comments during a public webinar on the petition held on January 6, 2026.

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 amendments have no impact on such development.

AMEND: 660-039-0070

RULE SUMMARY: Current rules in OAR 660-039-0070 (3)(a) and (b) require phasing of affordable and market-rate housing units within an affordable housing pilot project that either 1) ensure all affordable housing units have been issued permanent certificates of occupancy prior to issuance of permanent certificates of occupancy to the last 50 percent of any market rate housing units included as part of the pilot project; or phase development so that affordable housing units and market-rate housing units are issued permanent certificates of occupancy over time in a ratio similar to the ratio of affordable and market-rate housing units within the pilot project as a whole. The amended rules would ensure the construction of all affordable units has commenced before the city issues certificates of occupancy to the last 15 percent of market rate units. This change is consistent with the phasing requirements for affordable vs. market-rate housing units required by the Oregon Legislature in Section 55 of Chapter 110 Oregon Laws 2024 (Senate Bill 1537).

CHANGES TO RULE:

660-039-0070

Housing Requirements ¶¶

(1) The following types of affordable housing are allowed on pilot project sites:¶¶

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;¶¶

(b) Government assisted housing;¶¶

(c) Manufactured dwelling parks as provided in ORS 197.475 to 197.490; and¶¶

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions.¶¶

(2) At least 30 percent of the total housing units proposed and developed on a pilot project site must be affordable housing units. In addition:¶¶

(a) At least 10 affordable housing units must be proposed and developed on a pilot project site from a qualifying city with a population of 25,000 or less; and¶¶

(b) At least 20 affordable housing units must be proposed and developed on a pilot project site from a qualifying city with a population greater than 25,000.¶¶

(3) Pilot project development phasing shall:¶¶

~~(a) Ensure all affordable housing units have been issued permanent certificates of occupancy prior to issuance of permanent certificates of occupancy to the last 50 percent of any market rate housing units included as part of the pilot project; or¶¶~~

~~(b) Phase development so that ensure the construction of all affordable housing units and market-rate housing units are issued permanent certificates of occupancy over time in a ratio similar to the ratio of affordable and units has commenced before the city issues certificates of occupancy to the last 15 percent of market-rate housing units within the pilot project as a whole units.¶¶~~

(4) All common areas and amenities accessible to residents of market-rate housing units within the pilot project site shall be equally accessible to residents of affordable housing units;¶¶

(5) The qualifying city must ensure all affordable housing units within the pilot project site are rented or sold exclusively to households described in OAR 660-039-0010(1) or, if the pilot project includes dedicated affordable housing units proposed under subsection (7)(b), to those households described, at the time of sale or rental during a period of at least 50 years after the selection of the pilot project site;¶¶

(6) The qualifying city must ensure that all housing units within the pilot project site are not used as vacation or short term rentals for any significant period during any calendar year.¶¶

(7) The commission shall consider the following when reviewing a final application pursuant to OAR 660-039-0080(2)(b)(A):¶¶

(a) Percentages or numbers of affordable housing units greater than the minimum percentages and numbers required in section (2);¶¶

(b) Dedication of affordable housing units for households with lower maximum incomes than described in the definition of affordable housing in OAR 660-039-0010(1); and¶¶

(c) In the case of a mixed income project, the total number and overall percentage of market rate housing units dedicated for households making 80 to 120 percent of the area median income.¶¶

(d) Other considerations that, in the determination of the commission, will advance affordable housing and knowledge about affordable housing in Oregon.

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

Statutes/Other Implemented: OL 2016; Ch. 52