

HB 4079 Webinar Questions and Answers

Webinar held December 19, 2016

Q: Why did you choose the particular statutory reference for the definition of high value farmland and not one of the other statutory definitions?

A: We convened a subgroup of outside experts to advise us on how to address the bill's requirement to avoid or minimize impacts to farm and forestland. Our Farm and Forest Land Specialist Tim Murphy recommended the statute we included, in part because it more accurately reflects the agricultural values of lands in 2017. A memo and notes from the Discussion Group are part of the RAC materials for Meeting 3, available here:

http://www.oregon.gov/LCD/docs/rulemaking/affordable_housing/HB4079RACMaterials_2016-08-18.pdf

Q: Will you, or are you interested in including non-state or local agency people on the application review committee?

A: We have not yet decided on our application review process, but appreciate this suggestion. Some of the process will depend on the number of applications.

Q: What about a provision for open space?

A: We convened a subgroup of outside experts to advise us on which of the "public facilities and services" required by the bill should be included in the rule. Different parts of Oregon law refer to different sets of services. We decided that open space should not be required, both because these developments are only up to 50 acres and because the amount and quality of open space provided would be a difficult matter to measure objectively. The Commission may choose to consider the amount of open space provided as a qualitative measure when selecting the pilot projects.

Q: Please confirm that just the city has to apply, and county only has to approve a resolution supporting the application. With UGB amendments, both city and county have to jointly submit.

A: Only the city is the applicant under the rules implementing HB 4079, and the county only has to assent to the application with a resolution of support. If the application is selected by the Commission, implementation requires UGB amendment by the city and county. See Section 0090(1)(a) of the bill.

Q: What does the City get out of this? What's the benefit to the City?

A: The goal of the program is to let cities get additional affordable and market rate housing. It is up to each city to decide whether the program benefits them.

Q: Where in the draft rules are the "extra credit" items you described, beyond the basic requirements? I couldn't find that list.

A: The items that receive additional consideration are referenced in Section 0080(2)(b) of the draft rule. That Section references back to specifics of each issue, noting Sections 0070(7), 0040(4), 0050(3), and 0060, as well as the purposes of the program in Section 0000.

Q: Will the pilot project evaluation compare costs to develop housing at the edge compared to other locations? For example, will it quantify the transportation costs for residents at the edge as opposed to more centrally located places? What about the cost for the city to serve with infrastructure?

A: As drafted, the pilot project selection criteria allow the Commission to consider the proximity and quality of public facilities and services, as well as the cost. See Section 0080(2)(b)(B) and Section 0040(4). They also allow the Commission to include “other considerations that... will advance affordable housing.” See Section 0070(7)(d). The issue of where to locate affordable housing within a city is a policy matter that is beyond the scope of this process – a city will need to make a policy decision in this matter before deciding to submit an application.

Q: Will you be making this presentation available after the webinar?

A: Yes, it is on-line at: https://www.oregon.gov/LCD/docs/HB4079_PilotProgram_Webinar.pdf

Q: It would be a good idea to have a health professional on the review committee given the poorer health outcomes of low income populations. Just a thought.

A: We will take that under advisement.

Q: Has there been any consideration of the Regional Problem Solving Agreement in Southern Oregon? If a city didn't have an area identified as Urban Reserves, could it still be brought in through this program with only County support (i.e. not amending the RPS agreement). Assuming we'll need to work that out with participants, but wondered if it has been discussed at the state level already...

A: The draft rules require a city to apply; a county may not apply on its own. See Section 0020. Department staff will look into the issue of the relationship of the pilot project program with the Regional Problem Solving Agreement in Jackson County.

Q: Question on deadlines: when will firm deadlines be established? After the rules become effective?

A: Once we have received additional information on what deadlines would work best for our partners we will create deadlines. We expect to adopt them early in 2017. The draft rules also allow the Director of the Department to modify the established deadlines if necessary.

Q: How did you arrive at the housing requirements and the percent or number of affordable units required?

A: The housing requirements were a central topic of discussion for several of the rulemaking advisory committee meetings. We looked at data collected by the University of Oregon about the housing challenges across the state, and considered various numbers. After considering other numbers, the rulemaking advisory committee reached consensus that projects should have at least 10 units for smaller cities and 20 units for larger cities. Regarding the minimum percentage, the requirement that at least 30% of the units in the pilot project be affordable was a compromise that all members of the rulemaking advisory committee could live with. The draft rules also include provisions allowing the Commission to look favorably upon projects that provide greater amounts of affordable housing when making a selection from among pilot project nominations.

The rulemaking advisory committee looked at how to define affordable housing, and found the 80% of area median income (AMI) was the most commonly used definition among housing agencies such as

HUD and the Oregon Housing and Community Services division; although some assistance programs are aimed at lower income levels. We also found the limit of 30% of household income was a generally accepted standard for what was appropriate for housing costs. See memos from the University of Oregon in the rulemaking background. Finally, the University of Oregon data found 76% of renters under 80% of AMI pay more than 30% of their income for housing, while only 13% of those above 80% do. It also found 58% of home owners under 80% of AMI pay more than 30% of their income for housing, whereas 19% of those above 80% AMI pay that much.

Given the target audience for affordable housing: those earning under 80% AMI, and the target price point of under 30% of their income, we then had to decide how many of the units should be required to be affordable. Suggestions varied from a majority to a minimal amount. After discussing with experts in affordable housing development, developers, cities, and affordable housing advocates, we decided 30% was a reasonable requirement.

Q: Did you consider proximity to a school or employment opportunities as an extra credit in the evaluation process?

A: We considered it and decided against it. The department is interested in encouraging applications, and heard many times through the rulemaking process that we should strive for simplicity. However, the draft rules allow the Commission to include “other considerations that... will advance affordable housing.” See Section 0070(7)(d).

Q: In many small communities there is no public transit, will that make these locations ineligible?

A: *Pre-existing* public transit is not required, but the bill requires projects to be “near... an identified transit corridor...” and public facilities and services to be “planned and reasonably likely to be provided at a reasonable cost in the near future.” (Section (4)(4)(d) of HB 4079). Section 0040(2)(a) of the draft rules describes what the department proposes being required; we can talk about this directly should you need further guidance.

Q: Question on proposed 660-039-0040(3) - regarding mass transit, lines 25 through 38 - how would a city show that mass transit will be provided concurrently with the development of affordable housing units?

A: The draft rules require a resolution or other action. We will provide additional guidance for specific applicants on this once the rules are adopted.

Q: Have you considered a way to trade land that is more centrally located to services for affordable housing for UGB amendment land that can be brought in for market housing. Redevelopment of land with existing services may be cheaper than greenfield development.

A: We have heard this idea and find it interesting. However, the legislation does not allow it.

Q: I am not sure I understand the assumption that land which is not in the UGB but is eventually amended into the UGB is cheaper to develop than land already in the UGB.

A: The concept behind the bill is that the parcel of land that would be brought into the UGB under the provisions of HB 4079 and these rules would not, under “normal” circumstances, be eligible for inclusion into the UGB. Thus the base land price of this parcel could be lower than lands already within the UGB,

and this differential will allow for the development of some measure of affordable housing. Once brought into the UGB, the land must be developed as proposed in the pilot project, and if the pilot project development plan proves to be infeasible the land must be removed from the UGB – it cannot be developed with other urban uses. The pilot projects will help determine the concept's validity.

Q: Since it appears that a main premise is that land outside a UGB has less value than land inside UGB, will there be a requirement to cap the residual land value of a project (such as via appraisal), or some other means to ensure land value doesn't inflate when the property is annexed or brought into the UGB?

A: There is no particular requirement in the draft rules for this. Since the nominated pilot project site can only be used for the proposed pilot project, and the city is required to remove the land from the UGB if the pilot project is not built, the premise behind this concept is that the land value should not inflate to levels normally associated with inclusion into a UGB. These pilot projects will help to determine the validity of the premise.

Q: How was the 25,000 population threshold decided? There are many more cities less than 25k than more than 25k.

A: The threshold was decided by the legislature; the rules cannot alter it. We would note there are other instances in Oregon land use law that use the 25,000 population threshold. We would also note that while more than 90% of cities have fewer than 25,000 residents, two-thirds of Oregonians who live in cities are in cities with over 25,000 population.

Q: 30% is too low.

A: This appears to be a comment. Comments on the draft rule can be sent to amie.abbott@state.or.us, or be made at the January LCDC meeting.