



**Home Builders Association**  
of Metropolitan Portland

August 8, 2020

Michael Stuhr, Director  
Portland Water Bureau  
1900 SW 4th Avenue  
Portland, OR 97201

**Re: Concern Regarding Section 21.12.070 of the Title 21 Code Update**

Dear Mr. Stuhr,

The Home Builders Association of Metropolitan Portland (“HBA”) represents over 800 businesses and thousands of women and men who work in the residential building and remodeling industries throughout the greater Portland area. We are dedicated to maximizing housing choice for all who reside in the region while promoting housing access and availability for everyone.

The COVID-19 pandemic is causing severe economic disruption throughout the Portland region. Home building, like many industries, is facing an uncertain future. Across the metropolitan region, new home starts were down over 50 percent year-over-year in the months of April, May, and June. This downturn in construction is attributed to many factors including, but not limited to, supply chain interruptions for materials coming from East Asia, reductions in available capital, and an uncertain economic outlook.

The City of Portland (the “City”) is approaching a Great Recession level decline in new home construction at a time when we remain gripped in a severe housing crisis. Indeed, despite the economic downturn, Oregonians continue to desperately need new housing. A recent report showed the state underbuilt 155,000 units of housing since the Great Recession. This failure forces Oregon families to compete for ever scarce housing, which in turn drives up costs, delays family formations, and inhibits economic growth.

Given the trying combination of the current economic outlook and the pressing need for new housing to meet Oregon’s needs, the City of Portland should refrain from increasing the regulatory costs associated with construction. As an ever greater number of our neighbors find it difficult to secure their housing needs, the timing is truly ill-suited to add thousands of dollars to the cost of building each new home.

Unfortunately, that is exactly what the Title 21 Draft Proposal would accomplish. Specifically, the revisions to Section 21.12.070 (Separate Service) would needlessly add tens of thousands of dollars

to the cost of new, small scale, middle housing such as accessory dwelling units, townhomes, duplexes, triplexes, and quadplexes.

This is particularly disappointing given the clear state direction to advance these housing types – encompassed in House Bill 2001 – as well as the City’s recent efforts to pass the Residential Infill Project. As written, revised Section 21.12.070 would likely violate state law and cause “unreasonable cost” in the construction of middle housing. The Oregon Legislature was very clear and wrote House Bill 2001 in a manner that explicitly prohibited cities from enacting regulations that disproportionately impact the cost of building middle housing.

While the City’s desire to support low-income residents through water bill assistances is sincere and well placed, revised Section 21.12.070 will actually harm the creation of Affordable Housing. Under the City’s Homebuyer Opportunity Limited Tax Exemption (HOLTE) program, developers build covenanted Affordable Housing in return for a modest reduction in fees. This program is a tremendous success and up to one hundred Affordable Housing units are created through the HOLTE program each year. However, builders only enter the HOLTE program when they are able to keep costs low. Dramatic fee increases, such as those contained in Section 21.12.070, would discourage participation in the HOLTE program and lead to a reduction in the amount of Affordable Housing built in the City.

The City can achieve its goal of supporting low-income residents with water bill subsidies through much more effective means. The Water Bureau could analyze water consumption and develop a standard subsidy. Alternatively, it could prorate subsidies depending on the number of units that share a water meter. Either option – or others – when coupled with appropriate findings would easily pass legal muster.

Portland should speak with one voice, and not seek to decrease opportunities for middle housing, particularly Affordable Housing, while at the same time claiming to support it. The City has many options for supporting residents with water bill subsidies and should remove the revisions to Section 21.12.070 so that it does not flagrantly violates state law and discourages the development of much needed middle housing.

Sincerely,

Ezra Hammer  
Vice President, Policy and Government Affairs