



City of Sweet Home
3225 Main Street
Sweet Home, OR 97386
541-367-8969
Fax 541-367-5113
www.sweethomeor.gov

August 6, 2020

Rulemaking Advisory Committee
Department of Consumer and Business Services
Building Codes Division
Re: Program Delegation

Dear Members of the Committee,

The City of Sweet Home appreciates the opportunity to provide further testimony on the draft rules for the Building Codes Division. In our previous testimony, we described the positive experiences we've had using a third-party inspection service, and the flexibility that such an arrangement provides. If it were not for the ability to contract with such a service, the City of Sweet Home would not be able to maintain a building department, and our citizens would experience a far lower level of service. The City maintains extensive oversight over its third-party inspection service—oversight that is written in to our contract and daily procedures.

We've evaluated the latest draft rules, and are disappointed at the lack of common-sense solutions that could easily meet the concerns brought up by the Department of Justice, while allowing small communities such as ours the ability to engage in flexible arrangements like our current contract.

1. **Building Official Employment**—the latest draft requires that each municipality must directly employ a building official or combine with other municipalities in the employment of a building official. For a rural city like Sweet Home, it is financially impossible to directly employ a building official on our own. Even cooperating with other neighboring jurisdictions is infeasible, due to the limited number of communities in our area that would be able to engage in such an arrangement, and the complexity that would result from an agreement with the large numbers of cities that would be required to make such an arrangement pencil out. Even if we were able to come to such an agreement, we would still need to contract out for many inspection services.
2. **Administrative Building Official**—there is no concept of an Administrative Building Official in the draft rules, and it appears that the RAC has not even considered this option. This concept has been proven across the Northwest, and is an easy solution to the concerns that the Department of Justice has brought up in their memo. It is deeply troubling that despite the testimony in favor of an ABO from many cities, the League of Cities, the Association of Oregon Counties, and many others, this concept has not been included, even as a draft to be considered. This is a solution that our community could easily implement.
3. **Certification Requirements**—the draft rules' certification requirements are quite stringent, but at the same time could allow for inspectors with little or no actual experience. In an increasingly specialized world, the required level of certification will be impossible for smaller communities to find. Even larger cities have a hard time finding certified personnel for this work. Has the committee investigated how these requirements would affect existing, directly hired municipal building inspectors? Has the committee investigated the available pool of potential inspectors in Oregon who could meet these

requirements? Such individuals are not evenly spread throughout the State, and these rules will hit rural communities the hardest.

4. **Fiscal Impact**—Has the committee examined the fiscal impact of these rules, and the decrease in service and negative consequences for the economy statewide that would result? In the midst of a housing crunch and a global pandemic, these rules would result in a massive decrease in building activity in communities such as ours. Under our current funding limits, we cannot afford to attract the certified personnel that these rules would require, and the size and complexity of the intergovernmental agreement that would be necessary to do so, would result in a substantial decrease from the current level of service.
5. **Billing Structure**—the draft rules include regulations regarding cost and billing for contracted services. Why is the committee even contemplating this area? This goes beyond the Attorney General's opinion and infringes on cities' rights to home rule.
6. **Process and Timing**—the current draft stipulates that all municipalities will need to renew their programs and comply with these rules by January 1, 2021. We are in the midst of a global pandemic. Our current staff already wear multiple hats, and these rules would add yet another. Even without a pandemic, this timeline is not only infeasible, but insulting to small communities that struggle to attract skilled employees.

The huge impact of these rules demands further evaluation and study. We have no reason to rush, but we have every reason to be careful. The City of Sweet Home can meet reasonable requirements that bring our program in line with the DOJ's opinion, utilizing existing City staff, and our current contract for building inspection services. However, the current draft rules do not contain the provisions that would allow us to do so. Rather, they would set us back significantly.

We hope that the BCD is open to hearing about the reality of construction activity in our community, and cities like us, rather than focus on theoretical infractions. We encourage you to look at other ways to hold any potential violators accountable, instead of burdensome rules that would slow down inspections, decrease the inspection expertise available in our community, and increase unpermitted activity.

We appreciate your consideration of our testimony.

Sincerely,



Blair Larsen
Community & Economic Development Director