



CITY OF BEND



December 8, 2023

Housing Production Advisory Council  
Office of the Governor  
900 Court Street, Suite 254  
Salem, OR 97301

**RE: Climate Friendly and Equitable Communities**

Co-Chairs Hall and Tovey and Council Members:

We write today jointly on behalf of the City of Bend and Central Oregon LandWatch. Our organizations share the same vision of ensuring that a historically ambitious set of climate and housing policies (Climate-Friendly and Equitable Communities and Oregon Housing Needs Analysis) are successfully implemented by local jurisdictions in partnership with their communities. To realize this vision, three issues need to be addressed via forthcoming CFEC refinements and during the OHNA rulemaking process:

- 1. Align Climate Friendly Area policies more closely with local market realities** rather than “paper” or zoned capacity. To achieve better and more realistic alignment of CFA policies with economic conditions, local market studies performed using a consistent methodology are needed. Via a grant from DLCD, the City commissioned a market study to inform a more realistic, durable, and responsive study of possible CFA locations and sizes. The market study helped build confidence in CFA implementation locally, while also highlighting the need to better align existing policy with market conditions. Addressing this issue now helps ensure housing opportunities and climate benefits are achieved sooner.
- 2. Provide transportation modeling and assumptions to cities ASAP:** DLCD and ODOT need to provide transparent, clear transportation modeling, assumptions, and targets to cities as soon as possible. The City commissioned a transportation study to help understand local VMT reduction potential. It highlighted the need for these agencies to work with cities now to ensure the models, assumptions, and targets are clear, ambitious, and grounded in reality. It is particularly important that cities be able to analyze how they can meet VMT reduction targets when UGB expansions occur. This is vital to the success of CFEC and OHNA.
- 3. Provide robust funding for implementation:** To ensure that CFEC and OHNA are implemented successfully, local jurisdictions need additional state funding to do the required work well, with strong community support and participation. This includes funding to build more mixed use, affordable and middle housing, and related infrastructure in CFAs.

The City of Bend and LandWatch will be working closely with the state to ensure these issues are addressed within the timeframe of the OHNA rulemaking process to meet our shared desire to confidently plan for and deliver ambitious climate and housing outcomes. Thank you for your service and the opportunity to provide comment.

Sincerely,

A handwritten signature in purple ink, appearing to read "Melanie Kebler".

Melanie Kebler  
Mayor of Bend

A handwritten signature in black ink, appearing to read "Ben Gordon".

Ben Gordon  
Executive Director, Central Oregon LandWatch

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Enhance the tree canopy in all areas of Oregon  
**Date:** Friday, December 8, 2023 9:42:36 AM

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**From:** Mary Hewitt <marylouisehewitt540@gmail.com>  
**Sent:** Wednesday, December 6, 2023 6:57 AM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Enhance the tree canopy in all areas of Oregon

You don't often get email from marylouisehewitt540@gmail.com. [Learn why this is important](#)

Hello Governor Kotek

I am greatly in favor of civil commitment for ill homeless people, providing residential medical care and assistance for housing.

At the same time the tree canopy is essential for many reasons across our state. We need to ask our citizens to work together across all political and social differences. We must prevent people from losing their homes and require civil cooperation and lawfulness.

Maintaining Oregon's tree canopy is essential for the health of our citizens and goes along with reducing carbon emissions in many ways, through innovation and focusing on our local communities and living simpler lives.

Corporate privileges and corporate welfare must give way to helping our communities thrive and be healthy. With all public policy these principles must be upheld.

Thank you for your leadership and care for Oregonians.

Mary Hewitt  
Hillsboro

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Executive Order 23-04 and wetlands  
**Date:** Friday, December 8, 2023 9:43:14 AM

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**From:** Jackson Chandler <jackson@arborascent.com>  
**Sent:** Saturday, December 2, 2023 4:41 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Executive Order 23-04 and wetlands

You don't often get email from jackson@arborascent.com. [Learn why this is important](#)

Dear Housing Production Advisory Council,

Thank you for taking the time to participate on this committee to improve the housing situation in our state, and for reading this email (although I am still skeptical public comments are read and considered...). As a professional arborist that provides environmental services professionally and has a bachelor's degree in environmental science, I appreciate the ambitious goals and intentions of this order, but also know that other goals, benefits, and resources can't be forgotten and thrown away just to make it easy to reach these housing goals. Specifically, the ecosystems and environmental assets that balance, maintain, and buffer human activity cannot be stripped of their protection to make room for more housing. We need to find a better solution to make room for more housing. Watersheds need wetlands now more than ever to mitigate the impacts of climate change, filter pollution, and keep natural resources in our communities. Please reject the 90% reduction of wetland buffers. This reduction would allow development within 5 feet of state-protected wetlands. The current regulations require a 50-foot buffer between development and state waters. A buffer reduction to this degree will increase the amount of soil runoff into wetlands, which would change their hydrology and topography, resulting in long term problems that will ultimately make this housing goal useless and counter-productive. But I know that political decisions are based exclusively on money, and I don't have a clear financial incentive to offer you, so I guess we're all just screwed.

Thanks for your consideration.

--

Jackson Chandler

[Arbor Ascent, LLC](#) | Oregon LCB #100272

ISA Certified Arborist #UT-4631A | ISA Tree Risk Assessment Qualified

ODA Pesticide Applicator AG-L1088884CPA

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Irony?  
**Date:** Friday, December 8, 2023 9:42:26 AM

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**From:** Robin Sherwin <rsshерwin@yahoo.com>  
**Sent:** Wednesday, December 6, 2023 12:40 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Irony?

You don't often get email from rsshерwin@yahoo.com. [Learn why this is important](#)

I find it ironic that the protection for trees, wetland and other environmental features that help deal with the changing climate being suspended to encourage increased housing. First off, housing is unaffordable due to labor and supply costs which this does not address. But even more upsetting is we see urban heat islands as a threat and thus have been giving air conditioning units to low income household which contribute to increased warming. Trees, wetlands and other natural areas help keep us cool, so protecting them is essential.

Robin Sherwin  
NW Portland



Virus-free. [www.avast.com](http://www.avast.com)

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Newberg UGB  
**Date:** Friday, December 8, 2023 9:45:13 AM

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**From:** Brian Bellairs <Brian@Bellairs-Gorman.com>  
**Sent:** Wednesday, November 29, 2023 1:39 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.Gov>; rep.Tinakotek@state.OR.US  
**Cc:** bill.rosacker@newbergoregon.gov; Will.Worthey@newbergoregon.gov; berschauerl@co.yamhill.or.us; johnstonk@co.yamhill.or.us; Kathy Bellairs <bellairskathy@comcast.net>  
**Subject:** Newberg UGB

You don't often get email from brian@bellairs-gorman.com. [Learn why this is important](#)

Dear Governor Kotek and Members of the Housing Production Advisory Council,

We are Kathy and Brian Bellairs-citizens of Newberg, Oregon. The purpose of this letter is to provide details of our first-hand experience regarding the difficulties Oregon landowners face in getting land approved for building. We were very encouraged to learn that Governor Kotek declared a housing emergency and that the Housing Production Advisory Committee was formed. The situation in Newberg could be Exhibit A as to the problems that plague Oregon's land use/development system.

Way back in 2003, the City of Newberg recognized it needed to expand the Urban Reserves. Newberg asked for, and received, State funding to address this issue. An Ad Hoc Committee on Newberg's future consisting of two former mayors, planners, and civic leaders was formed. The Oregon Department of Land Conservation and Development and 1,000 Friends of Oregon were also active participants. After a year, they concluded that Newberg needed to expand the Urban Reserves. Further the Committee concluded our land was a top priority for inclusion since it was very poor-quality resource land and it was more serviceable than other areas because it is adjacent to the existing services/UGB. So, in 2007, the City of Newberg and Yamhill County officially voted to expand the URA and forwarded this plan to the State for approval. As usual, the expansion was challenged by 1,000 Friends of Oregon (though they were active in the committee) and remanded by the State (which was active in the process and funded the Committee). The City of Newberg asked for and received multiple extensions and at the end of 2015 the City did not respond to the remand-largely because the State had promised a Simplified Method of Expansion which was found not to be beneficial. They simply gave up rather than fight an expensive battle with deep-pocketed opponents. As a result, the City of Newberg has not passed a wide scale expansion of the UGB/URA since 1995.

Much has changed in Newberg that makes the original 50-year-old Urban Growth Boundary obsolete. Newberg's newest and fastest growing employment area, the Providence Medical Complex, is only ¼ mile from our property. The CEO of Providence wrote a letter in support of inclusion of our property. Also, the next phase of the Highway 99 Newberg/Dundee Bypass is

scheduled to be built only ¼ mile from our property. Washington County hi-tech job growth has made this area more desirable than other areas that were included when the Urban Growth Boundary was initially developed in the 1970's. In short, Urban Growth Boundaries, developed in the 1970's, often don't make sense in 2023.

Two and a half years ago, my wife and I began the very expensive process of expanding the URA in our area to do what City/State process had failed to do. We had hearings with the County's NUAMC Committee, The Newberg City Council and Yamhill County. All three of these committees wholeheartedly endorsed the inclusion of our land. We have now had the last 3 Mayors officially support our inclusion! However, during the process, we experienced push-back from LCDC that you would likely find very upsetting. In short, the City of Newberg has not adopted the new population projections that are a couple of years old. Since there are newer projections available from Portland State we were required to use the newer (more conservative) projections. Using **even the more conservative projections**, our planners made the case that our land was needed. However, during the process, LCDC testified against us using the argument that we should have used the outdated statistics.

Our request for expansion was recently approved by the City and County and is now before the State. We hope the State will support us in this effort to increase Newberg housing as there is a deficit in every housing type.

Governor Kotek, we ask that action be taken to avoid situations like this in the future. Our land use system is dictated by old urban growth boundaries and inflexible ORS rules that often ignore the needs of Oregon Cities. Cities are in a much better position to know what is best for them. We urge you to give the Cities broad discretion over their urban growth boundaries, to get affordable housing more quickly to the market and to address their transportation and economic objectives.

Please feel free to reach out to us by email or by phone at 503 706-0554. We would be happy to meet with you.

Best Regards,

Brian and Kathy Bellairs  
31544 NE Corral Creek  
Newberg, Or. 97132  
[brian@bellairs-gorman.com](mailto:brian@bellairs-gorman.com)  
503-714-3266

c.c. Mayor Bill Rosacker  
Will Worthy City Manager  
Lindsay Berschauer, Chair of Yamhill County Commissioners  
Kit Johnson, County Commissioner and NUAMC Committee

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Newberg UGB  
**Date:** Friday, December 8, 2023 9:45:05 AM

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**From:** Brian Bellairs <Brian@Bellairs-Gorman.com>  
**Sent:** Wednesday, November 29, 2023 1:52 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.Gov>  
**Cc:** bill.rosacker@newbergoregon.gov; Will.Worthey@newbergoregon.gov; berschauerl@co.yamhill.or.us; johnstonk@co.yamhill.or.us; Kathy Bellairs <bellairskathy@comcast.net>  
**Subject:** Newberg UGB

You don't often get email from brian@bellairs-gorman.com. [Learn why this is important](#)

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Please feel free to reach out to us by email or by phone at 503 706-0554. We would be happy to meet with you.

Best Regards,

Brian and Kathy Bellairs

31544 NE Corral Creek



Newberg, Or. 97132

[brian@bellairs-gorman.com](mailto:brian@bellairs-gorman.com)

503-714-3266

c.c. Mayor Bill Rosacker

Will Worthy City Manager

Lindsay Berschauer, Chair of Yamhill County Commissioners

Kit Johnson, County Commissioner and NUAMC Committee

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Opposition to plan to override existing tree codes in favor of fast-tracking affordable housing  
**Date:** Friday, December 8, 2023 9:42:49 AM

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**From:** Terry Wagner <tawerwkgw@gmail.com>  
**Sent:** Tuesday, December 5, 2023 2:56 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Opposition to plan to override existing tree codes in favor of fast-tracking affordable housing

You don't often get email from tawerwkgw@gmail.com. [Learn why this is important](#)

I urge HPAC and Governor Kotek to reconsider their recommendations to override existing tree codes for the purpose of fast-tracking affordable housing. The current recommendations to override existing tree codes are ill advised when considering the health and welfare of our communities including the unhoused population.

**Consider these changes to the current recommendations:**

- 1.
- 2.
3. Consider using parameters other than
4. diameter to determine tree protections. If you do use diameter, decrease the threshold diameter of trees that will be protected to 12 inches.
- 5.
- 6.
- 7.
8. Consider blanket protections for
9. unincorporated areas of the state that do not have many tree protections
- 10.
- 11.
- 12.
13. Do not allow developers to pay to
14. take down trees or simply plant young trees to replace old trees they take down
- 15.
- 16.
- 17.
18. Better tree code enforcement
- 19.
- 20.
- 21.

22. Better advertisement/accessibility

23. of public comment before trees come down

24.

Terry Wagner

Resident of unincorporated urban Washington County

6765 SW 205th Ct

Aloha, OR 97078

[tawerwkgw@gmail.com](mailto:tawerwkgw@gmail.com)

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Oregon Tree codes vs fast tracking needed housing  
**Date:** Friday, December 8, 2023 9:42:58 AM

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**From:** Lindsay Galen <lindsaygalen@gmail.com>  
**Sent:** Tuesday, December 5, 2023 1:16 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Oregon Tree codes vs fast tracking needed housing

You don't often get email from lindsaygalen@gmail.com. [Learn why this is important](#)

Governor Kotek: I don't think there is ever an occasion to abandon protective tree codes. As an Oregon native, I can't imagine ignoring the protection of our trees in order to FAST TRACK anything but especially with new housing which totally disturbs irreplaceable environment. There was a reason we put in the UGB many years ago and have fought against big money developers to keep it. There is nothing "fast tract" about trees which take years to reach a size large enough to protect us from the climate changes we are already facing. Please rethink your stated agenda and modify your stance to allow for the needed protection. Thanks, Lindsay Galen

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: PROTECT OUR WETLANDS  
**Date:** Friday, December 8, 2023 9:46:14 AM

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**From:** Diane Feammelli <vlfeamm@gmail.com>  
**Sent:** Tuesday, November 21, 2023 2:15 AM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** PROTECT OUR WETLANDS

You don't often get email from vlfeamm@gmail.com. [Learn why this is important](#)

Dear Council, I write to ask that you strike down the proposal to decrease the wetland-development buffer requirement from 50 feet to 5 feet. Wetlands provide necessary floodplain and erosion management, pollution filtration, carbon sequestration, and fish and wildlife habitat. By decreasing a development buffer by 90%, there is an increased likelihood that higher sediment and pollutant loads would enter our state waters. As a result, wetlands would continue to be degraded rather than protected and restored. Affordable housing and natural resources are not at odds with each other. Wetlands are a mitigation and adaptation tool we desperately need to help combat the impacts of climate change. They reduce air pollution by capturing carbon and are a cooling source for surrounding communities. Wetland protection needs to be prioritized, and communities must be developed in coexistence with wetlands. Thank you.

Thanks,  
Vince Feammelli

Sent from my iPhone

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: PROTECT OUR WETLANDS  
**Date:** Friday, December 8, 2023 9:46:34 AM

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**From:** MacKenzie Isom <kenzielou313@gmail.com>  
**Sent:** Monday, November 20, 2023 11:11 AM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** PROTECT OUR WETLANDS

You don't often get email from kenzielou313@gmail.com. [Learn why this is important](#)

Dear Council, I write to ask that you strike down the proposal to decrease the wetland-development buffer requirement from 50 feet to 5 feet. Wetlands provide necessary floodplain and erosion management, pollution filtration, carbon sequestration, and fish and wildlife habitat. By decreasing a development buffer by 90%, there is an increased likelihood that higher sediment and pollutant loads would enter our state waters. As a result, wetlands would continue to be degraded rather than protected and restored. Affordable housing and natural resources are not at odds with each other. Wetlands are a mitigation and adaptation tool we desperately need to help combat the impacts of climate change. They reduce air pollution by capturing carbon and are a cooling source for surrounding communities. Wetland protection needs to be prioritized, and communities must be developed in coexistence with wetlands. Thank you.

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: PROTECT OUR WETLANDS  
**Date:** Friday, December 8, 2023 9:46:22 AM

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**From:** Comcast <vlfeamm@comcast.net>  
**Sent:** Tuesday, November 21, 2023 2:03 AM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** PROTECT OUR WETLANDS

You don't often get email from vlfeamm@comcast.net. [Learn why this is important](#)

Dear Council, I write to ask that you strike down the proposal to decrease the wetland-development buffer requirement from 50 feet to 5 feet. Wetlands provide necessary floodplain and erosion management, pollution filtration, carbon sequestration, and fish and wildlife habitat. By decreasing a development buffer by 90%, there is an increased likelihood that higher sediment and pollutant loads would enter our state waters. As a result, wetlands would continue to be degraded rather than protected and restored. Affordable housing and natural resources are not at odds with each other. Wetlands are a mitigation and adaptation tool we desperately need to help combat the impacts of climate change. They reduce air pollution by capturing carbon and are a cooling source for surrounding communities. Wetland protection needs to be prioritized, and communities must be developed in coexistence with wetlands. Thank you.

Thanks,  
Diane

Sent from my iPhone

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: PROTECT OUR WETLANDS  
**Date:** Friday, December 8, 2023 9:43:05 AM

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**From:** Jackson Chandler <jhbchandler@gmail.com>  
**Sent:** Saturday, December 2, 2023 4:43 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** PROTECT OUR WETLANDS

You don't often get email from jhbchandler@gmail.com. [Learn why this is important](#)

Dear Council, I write to ask that you strike down the proposal to decrease the wetland-development buffer requirement from 50 feet to 5 feet. Wetlands provide necessary floodplain and erosion management, pollution filtration, carbon sequestration, and fish and wildlife habitat. By decreasing a development buffer by 90%, there is an increased likelihood that higher sediment and pollutant loads would enter our state waters. As a result, wetlands would continue to be degraded rather than protected and restored. Affordable housing and natural resources are not at odds with each other. Wetlands are a mitigation and adaptation tool we desperately need to help combat the impacts of climate change. They reduce air pollution by capturing carbon and are a cooling source for surrounding communities. Wetland protection needs to be prioritized, and communities must be developed in coexistence with wetlands. Thank you.



**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Steinway baby grand from our fellow Church Members  
**Date:** Friday, December 8, 2023 9:44:56 AM

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**From:** Yousef Farouq Amir Alhajeri <202205368@uaeu.ac.ae>  
**Sent:** Friday, December 1, 2023 9:33 AM  
**Subject:** Steinway baby grand from our fellow Church Members

You don't often get email from 202205368@uaeu.ac.ae. [Learn why this is important](#)

One of our Church Members, Mrs. Victoria Ramirez, is downsizing and looking to give away her late husband's piano to a loving home. These items hold tremendous sentimental value and range from a Violin, a 2014 Steinway baby grand, Eric Clapton's 1939 Martin OOO-42 Guitar, to a Leica S (TyR 007) Digital SLR Camera..

Email her on ( [ramirezvictoria@myyahoo.com](mailto:ramirezvictoria@myyahoo.com) ) to indicate your interest to arrange inspection and delivery with a moving company.

N:B. It is on a first come first serve basis and you can also refer someone.

Regards

**From:** [GOV Hpac \\* GOV](#)  
**To:** [RICE-WHITLOW Kristina \\* GOV](#)  
**Subject:** FW: Wetland buffer sacrifice - a housing false choice  
**Date:** Friday, December 8, 2023 9:46:02 AM

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**From:** Jenny Davies <jzd.davies@gmail.com>  
**Sent:** Monday, November 27, 2023 3:33 PM  
**To:** GOV Hpac \* GOV <HPAC.GOV@oregon.gov>  
**Subject:** Wetland buffer sacrifice - a housing false choice

You don't often get email from jzd.davies@gmail.com. [Learn why this is important](#)

Dear Council,

I urge you to not sacrifice the invaluable wetland-development buffer for the ostensible purpose of building affordable housing. The environmental damage that would result from reducing the buffer can never be reversed, and it does nothing to address the affordable housing crisis.

Wetland buffers are essentially mini wetland flood plains that **protect** other surrounding land uses. They provide invaluable and irreplaceable ecosystem services such as preventing flooding and erosion by absorbing excess water, cleaning the air and water, providing productive habitat to fish and wildlife, and sequestering carbon. Because climate destruction has accelerated and extreme weather events such as drought, flooding and heat are increasing and because biodiversity is collapsing, wetland buffers are more valuable than ever.

Shrinking wetland buffers will increase the sediment and pollutants that flow into our waterways and will result in increased exceedances of Oregon's TMDLs and CWA violations.

Further, this is a false choice. We do not have to violate wetland protections and other essential environmental protections to increase affordable housing. The problem is not lack of housing, it is the lack of affordable housing. Jurisdictions across the country are addressing this problem, which is not unique to Oregon, by developing abandoned and neglected infill sites, restricting the amount of housing removed from the market by investors and by airbnb-type uses, and by applying rent and market controls where necessary.

The very developers that push to remove environmental protections are the same ones that are building not-at-all-affordable lot-line to lot-line McMansions in farmland, forestland, parkland and other environmentally-rich areas and buffers.

For these reasons, I urge you to vote no to this false choice and prevent the unnecessary and irreversible sacrifice of wetland development buffers for the short term financial gain of a handful of developers.

Regards,

Jennifer Davies MD MPH JD  
Public and Environmental Health Director  
Lake Oswego, Oregon



December 6, 2023

Dear HPAC Members:

Thank you for the opportunity to provide feedback on the proposed recommendation regarding the Climate Friendly and Equitable Community (CFEC) rules and the intersection with the Oregon Housing Needs Analysis (OHNA).

There are a few key points that I want to make on behalf of the League of Oregon Cities (LOC):

- The LOC and the cities we represent support the goals of CFEC. Any suggestion otherwise is false. Creating more equitable and livable communities for Oregon residents drives city leadership in every corner of this state and has done so long before CFEC.
- It is because we want CFEC to work that we bring these issues to your attention. We are concerned that meeting Oregon's housing production goals and needs will be compromised if CFEC and OHNA are not aligned and continue to proceed on parallel disconnected tracks.
- We do not expect this committee to resolve the outstanding conflicts. Still, it is relevant information for you as part of the comprehensive housing landscape that this committee should acknowledge in your recommendations for the Governor.

Attached is an updated issue brief that outlines the intersection of CFEC and OHNA. This material was provided to you earlier this year and is now updated to reflect the rule modifications adopted by the Land Conservation and Development Commission in November.

We appreciate that LCDC and DLCD staff have acknowledged through those rule amendments that there were issues with the rules as previously drafted. As you will see in the memo, despite these rule updates, there are still areas of ambiguity or direct conflict that we must address to provide certainty to cities and developers alike to advance the housing production goals for the state. We are hopeful that through the OHNA rulemaking process, we can collaboratively align the two rules and resolve the outstanding issues.

Also attached is a letter submitted to this committee in October from several cities and the LOC. This is not all-inclusive but intended to serve as an example of how some challenges impact housing production. While these challenges exist today, we also believe we can adapt the rules in coordination with OHNA so that all cities can meet the goals of CFEC while also accelerating housing production that is desperately needed in our communities.

In closing, our request of this committee is to acknowledge that there are outstanding issues to be resolved to align CFEC with OHNA and that those issues should be fixed to maximize the opportunities to promote housing development and support climate-friendly and equitable communities. How we specifically accomplish that is outside the responsibility of this committee. Yet identifying it as an issue is essential for the broader policy landscape related to Oregon housing production.

Thank you for your service on this committee and leadership on this issue.

Sincerely,

Ariel Nelson  
Lobbyist  
League of Oregon Cities

**Climate-friendly and Equitable Communities and Oregon Housing Needs Analysis  
Issue Overview and Background Briefing  
August 2023**

**Updated to reflect LCDC's November 7, 2023 rule amendments**

**Overview**

We prepared the following background to outline the conflicting provisions between certain Climate Friendly and Equitable Community (CFEC) rules and Sections 8 and 9 of House Bill 2001 (Oregon Housing Needs Analysis or OHNA), intended to support local governments in addressing the statewide housing crisis.

This document is only focused on the CFEC provisions that conflict with HB 2001/OHNA. Other concerns about CFEC continue to be discussed with DLCD. This background focuses only on the challenges of CFEC while advancing the statutory direction of HB 2001 to accelerate housing production to provide affordability and choice.

**Background**

**Climate-Friendly and Equitable Communities:** CFEC represents a set of rules adopted as a result of an executive order issued by Governor Kate Brown to reduce greenhouse gas emissions in Oregon's communities. DLCD created Climate Friendly and Equitable Community rules, which prioritize reducing vehicle miles traveled (VMT) as the primary strategy to accomplish that goal. This policy direction is evident throughout the rules in technical and complicated ways, but the ultimate goal is to reduce the number of cars on the roads and miles traveled by light passenger vehicles (individual cars as opposed to mass transit, bicycling, walking or other non-emission creating modes of transportation).

**House Bill 2001/OHNA:** The goal of HB 2001 is to prioritize and expedite responsible housing development to meet Oregon's housing crisis in a manner that also advances equity. The policy direction is to reduce burdens on local governments and provide flexibility and tools to local governments to reduce barriers and incentivize development, including middle housing development, promote affordable housing options and homeownership, and meet other short-term or transitional housing needs for Oregonians.

**Concern**

Land use, development, and transportation planning are complicated, interconnected technical systems. A change in policy or direction in one area can trigger other regulatory changes in another. This interconnection and lack of alignment between CFEC and OHNA are where the inherent conflicts collide, and without clear prioritization or alignment in the rules, several provisions of CFEC will delay and undermine the ability to accomplish the goals of HB 2001 and meet the housing needs of Oregonians.

*The CFEC amendments adopted by LCDC (effective November 7, 2023), are narrowly drafted, minor revisions and clarifications to the CFEC rules. The fundamental disconnects between the CFEC rules and HB 2001's mandates remain unresolved. Comments in favor of the current CFEC rules have stated that the HPAC recommendation is unnecessary because DLCD and ODOT will address the issues during implementation. However, as described in the paragraphs below, the specific language of the CFEC rules undermine HB 2001's purposes and these issues cannot be resolved without further rulemaking to bring the entire CFEC program into alignment with legislature's stated housing-first priorities.*

### **The Balance of Oregon's Statewide Land Use Planning Goals**

*This fundamental issue was not resolved by the November 7, 2023 rule amendments.*

“The foundation of the statewide program for land use planning in Oregon is a set of 19 Statewide Land Use Planning Goals. The goals express the state's policies on land use and related topics, like citizen involvement, housing, and natural resources. Most goals are accompanied by guidelines, which are suggestions about how a goal may be applied,” DLCD website.

These guidelines are not mandatory, but cities and local governments must get approval from DLCD on comprehensive plans to demonstrate that the plans meet the goals and programs are consistent and coordinated.

One challenge for local governments is that CFEC rules prioritize transportation planning over the other urban planning goals, including residential and employment land use planning, which disrupts the balance of the statewide planning system and is creating a situation where local governments cannot advance housing development targets or plans given the restrictions under these rules.

In particular, the CFEC rules are a challenge for Goal 10, the statewide housing goal. The prioritization of transportation planning above all other goals – including meeting housing needs – creates obstacles for local governments. The specific obstacles vary from community to community depending on public transportation infrastructure, the demographic of the population, economics, and workforce, and other considerations when creating livable, sustainable, and equitable communities.

As explained in more detail in the following examples, the CFEC rules in Division 12 require local governments to plan primarily around the concept of reducing vehicle miles traveled per capita (VMT) using hypothetical development assumptions divorced from market forces or actual housing needs. At the same time, state statute requires local governments to base housing planning on actual development patterns and trends (ORS 197.296). For some communities, development trends may lead to significantly more housing in walkable areas, but for others, the areas with the greatest opportunity to develop the highest density housing, including paths to home ownership and not just mixed-family rental units, would increase VMTs. This conflict between administrative rules and statutes is one example of the uncertainty for local governments created by these unaligned and parallel tracks.

More analysis is needed to fully understand how each community can work to reduce VMTs while meeting the housing needs as will be established through OHNA, which has yet to be established. The VMTs targets should be integrated after OHNA is complete, and with a more comprehensive evaluation of public transit and other transportation infrastructure that exists or is needed to meet those goals.

### **Climate-Friendly Area (CFA) -Planning and Implementation of CFAs & OHNA**

The CFA planning and housing analysis timelines are parallel instead of integrated. HB 2001 § 6(2)(a) establishes a deadline of January 1, 2025, for the Department of Administrative Services (DAS) to “conduct the initial statewide housing analysis and the initial estimates and allocation of housing need.” The deadline established in CFEC under OAR 660-012-0012 (4)(c) for cities and counties to “adopt land use requirements for climate-friendly areas and a climate-friendly comprehensive plan element” is December 31, 2024. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

Because this work will be occurring simultaneously but on separate tracks, the work by local governments to meet the CFEC deadlines could result in plans that do not meet the needs identified by the OHNA as directed through HB 2001. The expectation for local governments to continue the CFEC work to meet these deadlines without all the information needed from the OHNA is inefficient and wastes public resources. It needs to meet best practices in planning and development. Planning for this rule while the ongoing housing needs analysis is underway creates work for local governments that may or may not align with that community's needs or realistic market conditions. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*



There are other similar examples where CFEC rules and direction under HB 2001 have the potential to conflict. The Climate Friendly Area requirements in OAR 660-012-0320 place specific development requirements on CFAs, including minimum density requirements, detailed site design requirements in OAR 660-012-0330, and minimum bicycle parking requirements in OAR 660-012-0630. HB 2001 states that “[e]ach public body, as defined in ORS 174.109, shall use its authority to remove barriers to, and to create pathways for, the development of needed housing” and instructs LCDC to adopt rules that remove barriers to and promotes the production of, needed housing. Local governments and other stakeholders have repeatedly expressed concerns to DLCD that these requirements are a barrier to housing production in CFAs. Still, DLCD has responded that they will reevaluate the costs or impacts on housing production associated with CFEC as part of later rulemaking under HB 2001. *This issue was not resolved in the November 7, 2023 rule amendments. Bike parking requirements were partially addressed (the requirement was reduced to one covered space per two dwelling units), but still without meaningful analysis to demonstrate whether 0.5 spaces per dwelling would still pose a barrier to housing development in some communities.*

Another example is the disconnect between land use assumptions required for transportation system plan amendments under CFEC and land use assumptions required to plan for residential land and housing needs in ORS 197.296. OAR 660-012-0340 specifically requires transportation planning to use a different set of planning assumptions than used for housing planning when planning for “Climate Friendly Areas” or transportation system plan amendments. Population growth (e.g., planning for new housing units) must be allocated to CFAs according to *transportation* planning assumptions before it can be planned to be accommodated in other areas of an existing or expanded UGB. Because the transportation planning assumptions are not based on any assessment of housing needs or market conditions, it directly conflicts with the requirements under HB 2001 and the statewide housing goal 10.

To avoid conflicts between the CFEC mandates and HB 2001, housing and transportation planning rule-making must be coordinated and integrated, and timelines must be reconciled to produce the shared policy objectives. The current timelines and work plans are not aligned and create conflict, not progress. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

### **Designation of New CFAs & Placement of CFA Compliant Housing after a UGB Expansion**

The CFEC rules include new provisions in the Goal 10 housing regulations that require that, after June 30, 2027, new CFAs be implemented concurrently with the expansion of a UGB to maintain a sufficient supply of buildable lands for housing development. (See OAR 660-008-0010). As described by the DLCDC, these new CFAs may either be within the pre-expansion UGB or the new expansion area. However, because of the VMT reduction criteria under CFEC, cities can't add a CFA in an expansion area. Doing so would reallocate a higher proportion of the population further away from the urban center, requiring more travel and potentially increasing VMT per capita. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

For this reason, the most rational way to minimize VMT per capita while meeting housing needs would be only to allow the development of lower-density single-family housing in new expansion areas. The impact of this policy direction under CFEC could undermine the policy direction under HB 2001 because the rate and quantity of affordable housing production are often quicker and more efficient when new buildable lands are developed into housing than the redevelopment of existing lands.

Another critical issue with the CFEC rules is the need for alignment in housing assumptions made for CFAs versus the assumptions required to show compliance with the housing goal and UGB expansions. The CFEC rules in divisions 8 and 12 require cities to assign a certain level of development to a CFA regardless of the demonstrated housing need. This requirement assumes that all housing units are equally suited to meeting a community's housing needs. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

The CFA analysis does not require or allow local governments to consider the need for different housing types (e.g., four-story multiple-unit buildings are favored over middle housing types or single-unit dwellings) or what housing types may be developed by the market in a CFA. The result is that CFAs may be required in areas where dense urban development is unlikely, excluding other less-dense but more affordable housing (such as middle housing). *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

### **Transportation System Plans, VMT Modeling, and Urban Growth Boundaries**

Many provisions of the CFEC rules would cause local decisions to trigger a major Transportation System Plan (TSP) update due to urban growth boundary (UGB) expansions (OAR 660-012-0350(1)(a)) and associated transportation projects (OAR 660-012-0830(2)(b)) if the TSP is not compliant with the current CFEC rules. Additionally, under OAR 660-012-0160(4), a major TSP update may not be adopted if the projected VMT per capita of the final year of the planning period is not lower than the VMT per capita of the base year. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

These triggers are significant as they relate to local governments' ability to expand their UGBs into otherwise development-ready lands that would support affordable, workforce, and market-rate housing and new employment lands. Again, cities often closely coordinate their planning for land needs for housing and employment, which will be critical under CFEC to ensure housing is closer to the jobs and services new residents will need and to support access by walking, cycling, or taking transit.

For example, the Regional Statewide Transportation Strategy (RSTS) requires cities to reduce VMT per capita by 20% by 2040. The CFEC rules in Division 44 require metropolitan areas to use this target when conducting land use and transportation planning (See OAR 660-044-0020 for the Metro region and OAR 660-044-0025 for all other metropolitan planning areas). If local governments do not make progress toward this target, the CFEC rules would allow DLCD and LCDC to withhold federal funding for roads or to 'unacknowledge' the jurisdiction's comprehensive plans. These consequences would have a significant effect on a jurisdiction's ability to further *any* development, not just related to UGB expansions. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

The Division 44 greenhouse gas reduction targets are a problem for housing development because, while it may be possible to achieve a 20% reduction through land use planning, it is impossible to do so when UGB expansions are included. The City of Bend, for example, conducted a VMT per capita analysis related to its 2016 UGB expansion and implementation of CFA-like efficiency measures in its urban core. Greater than 600 acres of land were upzoned, designated as mixed-use, and had parking mandates removed – all of which are efficiency measures that would comply with the CFEC rules. This plan, now award-winning, is being implemented by the market but still increases VMT per capita by 5%. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

Bend recently completed a VMT reduction analysis by DKS and Associates, which concludes that although a 20% VMT reduction in Bend is theoretically possible, it would require the relocation and removal of thousands of existing housing units and jobs from both populated and entitled lands currently inside Bend's UGB to centrally-located Climate Friendly Areas. The purpose of this analysis was to evaluate whether any real-world scenario could succeed in achieving these standards. The answer is that achieving the proposed standards takes an unrealistic scenario.

These concerns regarding VMT per capita and major TSP triggers conflict with HB 2001 § 8(1)(f), which states that "Housing production should not be undermined by litigation, regulatory uncertainty or repetitive or unnecessary procedures." It also undermines the explicit goals of OHNA expressed in HB 2001 § 1(1): the production of housing to meet the need of Oregonians at all levels of affordability and the production of housing in a way that creates more housing choices by affirmatively furthering fair housing. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

### **Ambiguous Terms and Phrases Increasing Regulatory Uncertainty & Litigation**

This last issue is not a direct policy issue. Still, it is a concern that conflicts between CFEC and HB 2001 create legal liabilities for local governments, which could translate into increased costs and delays in housing development.

HB 2001 § 8(1)(f) states that “Housing production should not be undermined by litigation, regulatory uncertainty or repetitive or unnecessary procedures.” Terms and phrases that create regulatory uncertainty – like in OAR 660-012-0330 (6)(a), which states that “Ease of access to goods and services must be equivalent to or better than access for people driving a motor vehicle” – are highly subjective and therefore substantially increase the risk of litigation. This provision is worded broadly enough to create uncertainty regarding whether a local government’s decision demonstrates compliance with CFEC. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

Under CFEC rules, the only way for a jurisdiction to be even relatively certain that they would comply with this provision would be to rezone every existing residential zone as mixed-use and plan for the sporadic placement of various types of businesses throughout existing residential neighborhoods. This action would decrease the number of residential buildable lands within UGBs, as an unknown portion would be needed for commercial uses. Ultimately, this would necessitate even more UGB expansions to ensure sufficient lands to meet residential needs, which runs entirely counter to the explicit purpose of the CFEC rules.

Another example of this type of ambiguous language is OAR 660-012-0330(5), which states that “Cities and counties shall have land use regulations in residential neighborhoods that provide for slow neighborhood streets comfortable for families, efficient and sociable development patterns, and provide for connectivity within the neighborhood and to adjacent districts. Cities and counties must adopt land use regulations to meet these objectives, including but not limited to setbacks, lot size and coverage, building orientation, and access. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

“Comfortable for families” is not a legal standard but an entirely subjective one. However, the rules require cities and counties to adopt land use regulations to meet this standard, increasing regulatory uncertainty and the likelihood of litigation in contravention of HB 2001/OHNA. In addition to subjective and unclear terms and phrases, the complex interconnected relationships in the CFEC rules create confusion and legal uncertainty. For example, OAR 660-012-0340(5) refers to future land use assumptions for transportation that are divorced from assumptions required for residential land needs under ORS 197.296 (discussed previously in this memo). *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*

The transportation assumptions must assume existing acknowledged comprehensive plan designations and policies. This creates confusion if a city is considering a significant comprehensive plan update, e.g., to expand its UGB for housing, and transportation plan amendments will be needed to provide transportation facilities to serve the expansion areas. It needs to be clarified which set of assumptions is intended to take precedence. Uncertainty and confusion in the UGB expansion process is a well-known and longstanding cause of litigation and delays in the Oregon planning system. *This issue was not resolved or addressed in the November 7, 2023 rule amendments.*



October 27, 2023

Dear Oregon Housing Production Council:

We encourage your support for the recommendation to address conflicts between the Climate Friendly and Equitable Community Rules (CFEC) and the Oregon Housing Needs Analysis (OHNA) during the OHNA rule-making process.

Our cities have been and remain committed to mitigating the impacts of climate change and creating more equitable access to housing and home ownership. These values are already embedded in local planning for our communities' new residential and commercial developments. Yet the conflicts between CFEC and OHNA threaten our ability to meet Oregon's housing production needs while advancing these core values. We appreciate your engagement on this topic because aligning these two initiatives is imperative. The alternative is to continue with the current process, which will delay if not make meeting Oregon's housing development goals impossible.

Some examples of the conflict were outlined for the Council on October 13, 2023. Many cities are experiencing these challenges. Communities range in size, demographics, and geography. A few include:

- Hillsboro is completing the largest master-planned community in Oregon's history, with 9,000 housing units at full build-out. This project would not have been possible if CFEC were in place because it would have triggered a major Transportation System Plan update and likely would not have met the CFEC's vehicle miles traveled standard. In Springfield, a 1500-unit mixed-density development is at risk for the same reasons.
- Happy Valley has plans for more than 7,500 new housing units, and a new multi-modal transportation infrastructure is necessary to serve the residents of this development. At best, CFEC will create delays to this project. At worst, this development will be impossible, forcing the alternative to be one with serious safety concerns because of the need for more infrastructure, such as parking, bike lanes, and sidewalks. The City of Troutdale faces a similar challenge.
- In Medford, the rules are so restrictive that homeownership opportunities are less likely to be available in climate-friendly areas, forcing many families to choose between living in a walkable, mixed-use neighborhood or home ownership, which is not advancing equity.

Our cities care deeply about our residents. We want to be part of the solution and must be part of the solution to the growing housing crisis in our state. Our ask is not to abandon the goals of CFEC but the opposite. We endorse the goals of CFEC; however, unless those rules are aligned with OHNA, our objectives become harder to meet, longer to meet, and more costly.

Also, these rules can be aligned within the DLCD's existing authority and should not require an executive order or legislative direction. We encourage you to adopt this recommendation because it represents smart governance and will establish a better path for us to work together to achieve a more climate-friendly and equitable state where the path to homeownership is available, and housing is affordable.

Thank you for your time and leadership in addressing this critical issue.



November 30, 2023

RE: Testimony by City of Wilsonville on CFEC Recommendation

Dear Co-Chairs Tovey and Hall and Members of the Housing Production Advisory Council:

On behalf of the City of Wilsonville, I submit the following comment on the “CFEC [Climate-Friendly and Equitable Communities] Recommendation” submitted to the Governor’s Housing Production Advisory Council (HPAC) by the Codes and Design work group, which was introduced for 1<sup>st</sup> reading October 13, considered for 2<sup>nd</sup> reading on October 27, and scheduled for a vote on December 8.

Within the CFEC Recommendation document, I am quoted from a meeting that was held discussing broadly recent State mandates. I was acknowledging staffing constraints for managing what is already before us and that any additional mandates would be burdensome and potentially unmanageable. I also acknowledged there are complexities in the CFEC Rules that require additional time and work with State agency staff to resolve and implement to ensure they do not have the unintended consequence of creating a challenge or barrier to housing production. I further advocated that we resolve these complexities and implement existing State mandates before we add additional mandates thought could introduce additional discrepancies. This CFEC Recommendation was not put forth at that meeting as it is presented to the HPAC, and I was not asked for an opinion on it. Thus, my quote was not in response to this specific recommendation to repeal CFEC, and is taken out of context and does not represent an opinion or position of the City of Wilsonville on the CFEC Recommendation.

The City supports CFEC and related efforts to address climate change and equity concerns, and it is imperative this work is done in conjunction with future housing planning and production. Technical and timing concerns raised by the City are being addressed by the State, and I do not feel the CFEC Recommendation in front of the HPAC is prudent or necessary. The City concurs with the November 13 letter from DLCD staff to the HPAC regarding recent CFEC updates and supports the call to withdraw the recommendation. I further confirm the Wilsonville comments in the letter accurately portray our current view on the topic. As quoted in DLCD’s November 13 memo, Wilsonville’s September 14 letter reads:

“Wilsonville applauds DLCD and the Commission, as well as the RAC and TAC, for giving due consideration of concerns from us and others regarding OAR 660-012-0210 [related to

Vehicle Miles Travel (VMT)] and offering rule amendments that delay the implementation to December 2027 and, in doing so, allow for further clarifying rulemaking regarding a number of outstanding questions. The City looks forward to continuing to support the rulemaking process.”

The City of Wilsonville will continue to advocate for an urgent, innovative, but balanced and pragmatic approach to policies around housing, climate change, and equity. Housing is a priority, but it does not need to be, and should not be, at the expense of everything else. As a State we have always approached land use planning cohesively, focused on multiple goals. We have led the Country in comprehensive planning, and have accepted the call to action when faced with difficult challenges. CFEC is another step in that journey. Together we can achieve housing production in a sustainable, equitable urban form.

The City looks forward to continuing the partnership with DLCD, ODOT and others to implement important efforts related to CFEC. I respectfully request the HPAC withdraw the recommendation to repeal CFEC. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Miranda Bateschell", is written over a light gray rectangular background.

Miranda Bateschell  
Planning Director