Oregon
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October 8, 2026

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director
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Subject: **Agenda Item #3, October 22-23, 2026, LCDC Meeting**

Oregon Homes Rulemaking: House Bill 2258

I. Agenda Item Summary

Department of Land Conservation and Development (DLCD or department) staff will present the recommended administrative rules related to the Oregon Homes program. These rules create a new division 47 in Oregon Administrative Rule (OAR) chapter 660. Staff will summarize changes to the recommended rules from the August commission meeting. Oregon Homes rules were scheduled to be voted on in August, but the adoption was postponed until October. Public comment period was extended to October 2. Department staff request that the Land Conservation and Development Commission (LCDC or commission) consider adopting the recommended rules.

a. Purpose

Department staff will summarize the recommended rules in OAR chapter 660, division 47. The purpose of the recommended rules is to implement the Oregon Homes program and provide definitions.

b. Objective

Commissioners are up to date on the recommended rules implementing the Oregon Homes Program as required by HB 2258. Staff summarize written comments received during the public comment period from August 27- October 2. The commission considers adopting the new recommended rules recommended by the department.

For further information about this report, please contact Ethan Stuckmayer, Housing Division Manager, at 503-302-0937 or ethan.stuckmayer@dlcd.oregon.gov.

II. Background

The legislature passed - HB 2258 that directed the department to conduct rulemaking in the 2025- 2027 biennium, codified in ORS 197A.408. See below a short summary of the bill.

a. HB 2258

HB 2258 establishes a program, referred to as "Oregon Homes." The intent of this program is to provide a suite of housing developments that local governments must permit on eligible lots based on building code and land use standards established by the state. This program intends to significantly reduce the time and variability of the permitting and review processes for common residential developments on low barrier sites. DLCD and the Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS) are directed to coordinate on rulemaking to implement this program. Under this bill, the commission has a legislative deadline of January 1, 2027, to adopt rules.

Oregon statute and LCDC rules establish qualifying lots and the state established land use and building code standards for Oregon Homes developments.

In practice, after the commission adopts rules, the Oregon Homes program enables a developer to determine if they have an Oregon Homes lot and if their land use and building plans meet the state established standards. If so, a developer submits their Oregon Homes plans to the local government. The local government reviews for lot and development eligibility based on the state standards, and issues approvals if state standards are met. A local government does not need to change either its code or existing review process and can apply local public facilities standards and traffic impact analysis.

The housing types that qualify as an Oregon Home are identified in HB 2258 Section 2(4), codified as ORS 197A.408(4). Statute states [bracketed language added to clarify statutory references]:

A. *Attached or detached housing, including accessory dwelling units or prefabricated or modular housing;*
B. *Types with a buildable are of:*
    a. *Not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, duplex, triplex, quadplex, or townhome*
    b. *An average per-unit size of not more than 1,4000 square feet for cottage clusters or a multiunit dwelling.*
C. *A multiunit dwelling with more than six and fewer than 12 units*
D. *Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel;*
E. *Housing types whose building plan have been approved by the [Building Codes Division as directed in HB 2258]*

HB 2258 Section 2(3), codified as ORS 197A.408(3) provides the base criteria of what constitutes an Oregon Homes Lot. Oregon Homes Lots are [bracketed language added to clarify statutory references]:

A. *Lawfully established units of land,*
B. *Within an urban growth boundary,*
C. *Zoned to allow residential use,*
D. *At least 1,500 square feet,*
E. *Not larger than 20,000 square feet, and*
F. *Not covered by slopes averaging more than 15 percent*

G. *Not within an area identified in an inventory or map that is part of the local government's comprehensive plan as:*
    a. *Environmentally sensitive or containing significant natural resources;*
    b. *Open space or scenic areas; or*
    c. *Natural hazard areas, including floodplains, river greenways, landslide zones or wildfire risk areas; and*
H. *Vacant, including a lot or parcel:*
    a. *Created by a lawful division of land, regardless of when the division occurred*
    b. *On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use*
    c. *For which residential units were demolished more than five years prior*
    d. *For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction approved by [Building Codes Division as directed in HB 2258]*

HB 2258 Section 2(5), codified as ORS 197A.408(5) authorizes the commission to adopt Oregon Administrative Rules related to five elements of the state-provided land use standards regulating the Oregon Homes Program [bracketed language added to clarify statutory references]:

A. *Processes that the local governments may apply to the development, except for public facilities or traffic impact analysis processes, which the local government may establish and implement.*
B. *Applicable design standards and the scope of the design review, which may include requiring the approval of the use of any material, design or method of construction that is approved under the applicable building code or approved by [Building Codes Division as directed in HB 2258]*
C. *Allowable variations or adjustments, or variation or adjustment types, from the specific approval. A local government is not required to grant a request for adjustment under [SB 1537 Mandatory Adjustments] to development authorized under this section except as specified by the commission.*
D. *Limits on land use, including establishing appropriate minimum or maximum setbacks, parking requirements, floor-to-area ratios or minimum dwelling units per acre.*
E. *Standards for tree removal, replacement or planting. The standards for tree removal must include:*
    a. *Prohibiting the removal of heritage trees or trees with a [Diameter at Breast Height] of 20 inches or more.*
    b. *Requiring the replacement of or replanting on or adjacent to the developed lot or parcel for every removed tree that is:*
        i. *Locally designated as a protected species;*
        ii. *Not deemed unhealthy by a certified arborist; and*
        iii. *Has a [Diameter at Breast Height] of 12 inches or more.*

III. Public Comment

The commission held a public hearing on draft rules on July 29, 2026. The public comment period had been scheduled to end on August 2, 2026; however, the commission extended the

deadline to the close of the next LCDC hearing on August 27. Written comments received by 5 p.m. on Friday August 7 were considered in the next draft of rules and addressed in the August staff report. The department received 45 written comments by Friday August 7. No comments were received by the department between August 7 and August 27.

Instead of considering the rules for adoption at the August LCDC meeting, the commission decided to move the potential adoption for Oregon Homes to the October LCDC meeting. This was done to respond to public comments and to allow staff to continue working with all interested parties to refine proposed rules. The commission further extended the public comment period to October 2. DLCD staff met with several interested parties to draft an interim version of rules, shared publicly on September 22, 2026.

Staff considered comments received by 11:55 p.m. on Friday October 2 in the recommended rules, Attachment A, and summarized in this staff report. Between August 27 and Oct 2, twelve comments were received. All comments received are included in Attachment B. An overview of comments received by topic is below.

a. Natural Hazards, Resources, and Fire Safety

Comment	Response
Commenters emphasized that streamlined review should not override wildfire safety, emergency access, adequate infrastructure, or the ability of small cities to protect residents. They requested that local governments retain the ability to request information and conduct the review necessary to determine whether protected resources, natural hazards, coastal provisions, and other applicable requirements apply. Commenters noted that these constraints cannot always be appropriately evaluated through a simple ministerial map check and requested that the rules clarify that the Oregon Homes process does not eliminate applicable resource and hazard review needed to determine whether a property qualifies as an Oregon Homes Lot. Commenters expressed support for removing partial lot eligibility, adding details regarding the mapping sources used to identify hazards, and updating the definition of “Environmentally Sensitive Area.” Comments suggests that Division 47 expressly address tribal notification and cultural resource requirements, particularly with implementation of the new Goal 5 Cultural Areas rules. Local governments should not be placed in a position where one state rule requires expedited ministerial approval without notice while another requires tribal notification or consultation for the development activity. They also appreciated the proposed changes to the fire code provisions and supported making clear applicable fire code reviews are part of an Oregon Homes Development review. Commenters also supported the inclusion of aerial firefighting equipment access requirements.	The proposed rules do not eliminate applicable resource, natural hazard, infrastructure, or coastal review. Oregon Homes Lots must continue to meet the applicable eligibility requirements, including requirements related to environmentally sensitive areas and natural hazards. The rules are intended to streamline the development review process while maintaining applicable health and safety requirements. The proposed rules preserve the applicability of the Oregon Fire Code and clarify that applicable fire code review is part of an Oregon Homes Development review. The addition of the building height limitation for aerial firefighting equipment access addresses concerns raised by several commentors. These provisions are intended to ensure that streamlining the development review process does not remove applicable fire and life-safety requirements.

b. Local Authority

Comment	Response
Concern that division 47 creates a one-size-fits-all process that does not adequately account for the complexity of land use review in coastal and rural jurisdictions. They also noted that the additional standards could increase complexity in the housing review process without providing sufficient flexibility to address the needs of diverse communities and development contexts. Commenters raised concerns about the treatment of overlay district standards, noting that overlay district standards are not allowed to be applied to Oregon Homes. They requested clarification regarding the circumstances under which these standards may or may not apply. Commenters also requested that the rules clearly state that local governments may apply applicable standards and review an Oregon Homes application in any order. More broadly, commenters expressed concern about the rollout and implementation of the Oregon Homes program. Commenter concerned that Oregon Homes would allow developers to bypass almost all rules of local jurisdictions as part of the land development process.	The statutory Oregon Homes standards are intended to establish a consistent statewide framework while allowing local governments to apply applicable local standards and requirements where allowed by rule. The rules are designed to streamline review while still recognizing that development contexts may vary among jurisdictions. Oregon Homes Developments would not be required to meet the standards of a local government's overlay and other special zones. The Oregon Homes program rollout will not require any code updates by local governments. DLCD will be creating guidance documents that local government staff can use for internal training and broader community noticing of the program.

c. Definitions, Design, and Siting Standards

Comment	Response
Comments appreciated the update to the definition of "buildable area" but others highlighted that it doesn't fully solve the issue of permitting large units. Suggestion being to also include a floor area ratio (FAR) requirement for Oregon Homes Developments. Comments received expressly thanking for updating the definition of environmentally sensitive areas and for removing carve out of allowing Oregon Homes Developments on lots with these areas so long as the buildable area was outside of the sensitive area. Other commenter suggested rules include a slope calculation methodology. Commenters raised concerns regarding pedestrian access and parking lot functionality. They requested that, at a minimum, the rules address pedestrian connections between public streets and building entrances, active ground-floor frontages in appropriate commercial contexts, and safe parking lot circulation and maneuvering. Several comments requested that the minimum front setback for all Oregon Homes Developments be at least 10 feet along the street frontage. Comments appreciate the inclusion and allowance for applicants to opt into local setbacks.	The updated definition of buildable area addressed the size-cap ambiguity for Oregon Homes Developments. Adding a FAR requirement was discussed during the RAC process but enough local government representatives said this was a standard they were not comfortable administering. Clarifying the environmentally sensitive areas was done in an effort to ensure these areas are protected. While a slope methodology has not been included in rule, this may be part of the guidance DLCD provides. During the rulemaking process, RAC members raised a concern that rules often have too many standards. This direction led to including the least amount of standards while still ensuring a quality housing product. Local governments may advise applicants on site circulation best practices or specific site consideration. Throughout the rulemaking process the importance of right sizing and considering local conditions when setting setback requirements was stressed. Resulting from those conversations, was the addition of allowances for utility easements, defensible space easements, and traffic easements. Rules now include

Comment	Response
Ten percent variance in siting standards should be updated, as there should be no variance for safety or local siting standards.	the option for Oregon Homes applicants to opt into the local setback standards outright. Several interested parties have repeatedly asked for the five-foot setback to increase to 10 feet. The proposed rules as written are intended to allow greater than five-foot setbacks where warranted. The 10 percent variance for numerical siting standards has been updated to exclude setbacks for utilities, defensible space, and traffic easements. If an applicant opts into local setback standards, the 10 percent variance does not apply either.

d. Applicable Oregon Homes Lot Estimations

Comment	Response
Included in the August LCDC staff report was analysis of Geographic Information System data for two communities of different sizes to calculate the estimated number of lots eligible for the Oregon Homes program. Eugene was one of these communities, DLCD staff estimating 250 lots would be eligible. The City of Eugene submitted public testimony raised several concerns with the methodology used by DLCD to make this conclusion. The State's analysis did not include properties larger than 20,000 square feet that could be divided prior to application for an Oregon Homes Development. The analysis did not include commercial, mixed use, and other zones that allow residential uses outright. The state analysis also used data from 2021 and did not have the latest 2026 data. The City of Eugene did not cite an alternative estimate of the number of applicable Oregon Homes Lots, instead states, "the DLCD analysis appears to result in an underrepresentation of the actual scope of applicability." The City of Independence testified that every single lot within the jurisdiction would qualify for the Oregon Homes program.	The differences between the estimates for Eugene and Independence illustrate that the potential applicability of the Oregon Homes program will vary significantly based on local zoning, lot patterns, and other local conditions. Actual eligibility will ultimately be determined based on the criteria established in the adopted rules and the characteristics of individual lots. DLCD will continue to clarify the eligibility criteria and provide implementation guidance to assist local governments and applicants in determining whether a particular property qualifies as an Oregon Homes Lot.

e. Programmatic Interpretation

Comment	Response
Continue to see comments stating that the approval of Oregon Homes Development through local building official review was not originally contemplated by the legislature and is not in line with legislative intent. A local pathway can therefore be consistent with the statute, but its authority runs through DCBS designation. Remove any rule language that describes the local building review pathway.	Language in rule referencing local building plan review has been removed. LCDC's authority to implement the Oregon Homes Program is set out in ORS 197A.408(2), and it does not encompass establishing building plan approval processes. DCBS has the authority related to building plan approvals under the Oregon Homes Program. HB 2258 includes pre-approval pathways for building plan approval, through the BCD permit ready plans program

Comment	Response
	or BCD master plan review program. During the rulemaking process, DCBS noted that there are legal limitations as to what building plans can be developed under the permit-ready plan program. Accordingly, DCBS is currently developing permit-ready plans for single-unit detached and ADUs only. Under the Master Plan Review Program, builders may get pre-approval of other housing types for use in the Oregon Homes Program. In addition to these pre-approval options, DCBS will authorize builders to utilize local building plan review as part of the Oregon Homes program.

f. Oregon Homes Interplay with Other Housing Legislation

Comment	Response
Comments expressed concern about how the Oregon Homes program will overlap with other housing initiatives and laws. They requested guidance to help applicants navigate the interaction between Oregon Homes standards, underlying zoning requirements, HB 1537 mandatory adjustments, SB 974 design-standard exemptions, and other applicable regulations. Commenters also requested clarification regarding how the Oregon Homes standards interact with existing state and local requirements and noted that the program adds another set of standards applicable to a distinct subset of housing applications. Another comment stated that Oregon Homes lacks the scaling by population size standards that other recent housing legislation adopted.	Recent significant changes approved by legislature, such as HB 2001, SB 974, and HB 4037, expanded where middle housing can be allowed, expedited permitting review, and narrow the application of design standards. Oregon Homes echoes the direction legislature has taken and focuses on implementation by providing tools that can help reduce the cost, complexity, and time required to actually build those housing types.

IV. Rule Changes

This rulemaking would require the addition of a new division 47 in Oregon Administrative Rules (OAR) Chapter 660. The recommended rules, Attachment A, include the following sections: purpose, definitions, local government review, design standards, siting standards, and tree standards.

The following sections describe changes to the rule sections since the August LCDC meeting.

a. Interim Rules

The interim version of rules included several changes resulting from conversations with RAC members, local partners, interested parties, and other state departments. The department shared the Interim version of rules publicly on September 22, 2026. Significant changes in the interim version of rules from the August LCDC version include the addition of a parking requirement for all Oregon Homes Developments. If no on-street parking is available adjacent to the development, then one parking space per dwelling unit is required, unless the local standards is less. Rules now include separate setback requirements for areas that are incorporated into a city and urban unincorporated lands. The definition of urban unincorporated

lands (UULs) matches that in ORS 197A.015(12). Within UULs, Oregon Homes must be setback fifteen feet along the street frontage and ten feet along all other sides. Areas that are incorporated into a city retain the five-feet setback. The allowance for increasing the setback due to utility easement remains in both cases. Applicants for an Oregon Homes Development may also now opt into the local government setback standards.

The interim rules clarified what other statues and standards would supersede Oregon Homes rules including air navigations hazards, Oregon State fire code, and building height limits established due to the limitations of local aerial firefighting equipment. The definition of buildable areas was updated to be more clear and objective. Within the definition of Oregon Homes Lot, the requirement of a lot to be not within an inventoried or mapped area as part of a local governments comprehensive plan was expanded to also include areas adopted by local ordinance or resolution. This was done to address the reality that not all local governments have these environmentally sensitive, open space, or natural hazardous areas adopted within their comprehensive plan.

b. Recommended Rules

Changes from the interim version of rules include general clean up, expansion of the definition for utility easement to include a reference to publicly owned utilities referring to the definition of "public body" provided in ORS 174.109, and clarification of which standards within the Siting Standards section are eligible for a variance.

660-047-0040(10) allows builders to request an up to ten percent variance to Oregon Home siting standards. However, changes to the setback standard in this version of the rules creates a situation where variances to this particular standard would impinge on otherwise required public utility easements. To avoid confusion and misrepresented expectations, the rules clarify that setbacks are ineligible for variances allowed under OAR 660-047-0040(10).

The most significant change is the removal of language in rule referencing local building plan review. It is important to note while this language has been removed from division 47, local building plan review is still a viable pathway for Oregon Homes Development approval.

LCDC's authority to implement the Oregon Homes program is provided in ORS 197A.408(2), and it does not encompass establishing building plan approval processes. DCBS has the authority related to building plan approvals under the Oregon Homes Program. HB 2258 includes pre-approval pathways for building plan approval, through the BCD permit ready plans program or BCD master plan review program. During the rulemaking process, DCBS noted that there are legal limitations as to what building plans can be developed under the permit-ready plan program. Accordingly, DCBS is currently developing permit-ready plans for single-unit detached and ADUs only. Under the Master Plan Review Program, builders may get pre-approval of other housing types for use in the Oregon Homes Program. In addition to these pre-approval options, DCBS will authorize builders to utilize local building plan review as part of the Oregon Homes program.

V. Recommended Action

The Department of Land Conservation and Development recommends the commission adopt the recommended rules to OAR chapter 600 as a new division 47.

Recommended motion: “I move the commission adopt Oregon Administrative Rules chapter 660, division 47 as recommended by the department and shown in Attachment A”

Alternative approval motion: “I move the commission adopt Oregon Administrative Rules chapter 660, division 47 as recommended by the department in Attachment A with the following changes: [identify changes].”

VI. Attachments

a. Recommended rules for Division 47

b. Public comments from August 8 through October 2

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Oregon Administrative Rules Chapter 660, Division 047 – Oregon Homes program

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660-047-0000 Purpose

The purpose of this division is to establish standards under which local governments shall approve development that meets specified residential development types, Oregon Homes Developments, on lots or parcels under specified conditions.

STATUTORY/OTHER AUTHORITY: ORS 197A.408

STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply.

In addition, the following definitions apply:

(1) "Buildable area" means the floor area of an accessory dwelling unit, single unit dwelling; floor area of each unit in a duplex, triplex, quadplex or townhouse; or the average floor area of dwelling units in a cottage cluster or multiunit dwelling. Buildable area excludes the area of a carport or garage, or other non-habitable floor area of a structure.

(2) "Building height" as defined in the Oregon Residential Specialty Code or Oregon Structural Specialty Code, whichever is applicable, including the applicable code's definition of "Grade Plane" used to measure height.

(3) "DBH" means the diameter of a standing tree at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side, as defined in ORS 90.100.

(4) "Design standard" means a standard related to the arrangement, orientation, materials, appearance, articulation, or aesthetic of features on a dwelling unit or accessory elements on a site. Design standards include, but are not limited to, standards that regulate entry and dwelling orientation, façade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.

(5) "Environmentally sensitive area" means lands protected or designated pursuant to any one of the following statewide planning goals:

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces.

(b) Goal 6 Air, Water and Land Resource Quality;

(c) Goal 15 Willamette River Greenway;

(d) Goal 16 Estuarine Resources;

(e) Goal 17 Coastal Shorelands; and

(f) Goal 18 Beaches and Dunes.

(6) “Final engineering plans” means the detailed engineering plans and reports for the design or construction of public and private infrastructure improvements that require review and approval following tentative plat approval by a local government before issuing site development permits, including plans and reports for the construction of public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.

(7) “Oregon Homes Development” means a residential development type approved to be placed on an Oregon Homes Lot including:

(a) Allowed housing types:

(A) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing; or

(B) A multiunit dwelling with more than six and fewer than twelve units;

(b) Types with a buildable area of:

(A) A size of not more than 2,200 square feet per dwelling unit for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse; and

(B) An average per-unit size of not more than 1,400 square feet for cottage clusters or a multiunit dwelling;

(c) Housing that complies with the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel; and

(d) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.063.

(8) “Oregon Homes Lot” means a lot or parcel that is:

(a) A lawfully established unit of land;

(b) Within an urban growth boundary;

(c) Zoned to allow residential use;

(d) At least 1,500 square feet;

(e) Not larger than 20,000 square feet;

(f) Not covered by slopes averaging more than 15 percent;

(g) Not within an area identified in an inventory or map that is part of the local government’s comprehensive plan or locally adopted ordinance or resolution as:

(A) Environmentally sensitive or containing significant natural resources;

(B) Open space or scenic areas; or

(C) Natural hazard areas, including floodplains, river greenways, landslide zones, coastal erosion, or wildfire risk areas, including areas identified as one or more of the above referenced areas in

DOGAMI Interpretive Map Series (IMS), Open-File Reports (OFR) and Statewide Landslide Information Database (SLIDO) and mapped Areas of Special Flood Hazard identified on adopted FEMA Flood Insurance Rate Maps; and

(h) Vacant, including a lot or parcel:

(A) Created by any lawful division of land, regardless of when the division occurred, in accordance with ORS chapter 92.

(B) On which is sited a nonresidential structure that is nonconforming or not suitable for any lawful use.

(C) For which residential units were demolished more than five years prior; or

(D) For which residential units were demolished within the previous five years, provided that the approved development would create net additional units and would use a building construction plan approved under Department of Consumer and Business Services pursuant to ORS 445.063.

(9) “Public facilities plan or engineering master plan” means a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500.

(10) “Public Facilities Requirements” refers to the development requirements applicable to public and private infrastructure improvements such as grading, water, sewer, stormwater, transportation systems, and utilities.

(11) “Site plan” means a site or development plan that is drawn accurately to scale and includes the following existing and proposed information at a minimum:

(a) All property lines with dimensions and total lot or parcel area;

(b) North arrow and scale of drawing;

(c) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;

(d) Existing goal protected resources, if any are present on the site;

(e) Existing and proposed easements and on-site utilities;

(f) Existing and proposed development with all dimensions, including floor area and building footprint;

(g) Distances of all existing and proposed development to property lines;

(h) Types and location of outdoor area(s) and usable open space (if required);

(i) Percentage of the site proposed for outdoor area coverage;

(j) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and

(k) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

(12) “Siting standards” means a standard related to the position, bulk, scale, or form of a structure.

Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, lot coverage, parking requirements, utilities, and public facilities.
(13) “Traffic impact analysis” means a report prepared by a professional engineer that analyzes existing and future roadway conditions.
(14) “Urban unincorporated lands” has the same meaning as provided in ORS 197A.015(12).
(15) “Utility easements” means an existing or proposed easement that grants a public utility as defined in ORS 757.005, a telecommunications utility or provider, a cable operator, or a public body as defined in ORS 174.109 the right to use and access specific areas of another’s property for constructing or maintaining gas, electric, telecommunication, fiberoptic, water, stormwater, and sewer lines.

STATUTORY/OTHER AUTHORITY: ORS 197A.408
STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

660-047-0020 Local Government Review Process

A local government must follow the review process as provided below for an Oregon Homes Development proposed on an Oregon Homes Lot.

(1) Local governments must issue a decision notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of an Oregon Homes Development on an Oregon Homes Lot if the development proposal meets the applicable standards provided in OAR 660-047-0030 through OAR 660-047-0050.
(2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot through a completeness and compliance check and shall be no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in this division and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.
(3) Nothing in this division prohibits an applicant from submitting an application for development on an eligible Oregon Home Lot that utilizes otherwise applicable standards and processes.
(4) A local government shall deem an application complete when the applicant provides the following information to the local government:
(a) Site plan and exhibits that address definitions and requirements provided in OAR 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are approved by the Building Codes Division as meeting requirements of ORS 445.063; and

(c) A tree mitigation plan that meets the standards provided in OAR 660-047-0050, as applicable.

(5) A local government shall deem an application submission that does not include information required in this division incomplete.

(6) Applicants shall bear the burden of proof to provide information necessary to determine compliance with the applicable provisions of this division.

(7) In reviewing or approving an application for Oregon Homes Development, a local government shall not provide public notice or hold a public hearing.

(8) Nothing in this rule precludes a local government from applying locally administered public facilities requirements, including, but not limited to public works design standards, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application. The local government has discretion to determine the order in which it applies these locally administered standards or plans during the application or review period.

(9) A local government shall not require public facilities requirements, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process or requirements applied to all other residential development of the same type.

(10) Nothing in this rule limits or supersedes the authority of the State Fire Marshal or fire code official to administer and enforce the Oregon Fire Code.

(11) Local governments that have adopted the Oregon State Fire Marshal's defensible space model code where applicable according to ORS 476.392, can use defensible space code standards to review an Oregon Homes Development.

(12) A local government may charge applications a review fee comparable to similar development applications.

(13) If the application submitted under the Oregon Homes program does not meet the definitions of an Oregon Homes Lot and Oregon Homes Development provided in OAR 660-047-0010 and does not meet the requirements provided in OAR 660-047-0020 through OAR 660-047-0050, the local government may deem the application as incomplete or reject the application.

(14) A local government is not required to grant a request for adjustment under Oregon Laws 2024, chapter 110, sections 38 to 41, *compiled as a note after* ORS 197A.395 in approving an application for an Oregon Homes Development.

(15) An approved Oregon Homes Development is a conforming development for the purposes of local land use regulations. Nothing in this section prohibits a local government from regulating subsequent

alterations, remodels, additions, or changes of use or occupancy in conformance with local regulations, unless a subsequent application for development on that lot is for an Oregon Homes Development.

STATUTORY/OTHER AUTHORITY: ORS 197A.408
STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

660-047-0030 Design Standards

The following design standards required for the placement of an Oregon Homes Development on an Oregon Homes Lot address essential safety and functional aspects for residents and people that interact with the right-of-way.
A local government shall apply the following design standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot.

(1) All units within the development, unless an attached or detached accessory dwelling unit, must have their pedestrian entry orientation meet at least one of the following:
(a) Face the street;
(b) Be at an angle of up to 45 degrees from the street;
(c) Face a common open space that is adjacent to the street; or
(d) Open onto a covered porch or covered patio that is at least 25 square feet in area and have at least one entrance facing the street.
(2) If there is on-street parking on the street frontage adjacent to an Oregon Homes Development, then no parking is required. If there is no on-street parking on the street frontage adjacent to an Oregon Homes Development, then the Oregon Homes Development is required to meet either the local government parking requirement or one garage, carport, or onsite parking space per dwelling unit, whichever is less.
(3) If proposed as part of an Oregon Home Development, the combined width of all garages and outdoor on-site parking and vehicle maneuvering areas, as measured at their widest dimension, shall not exceed a total of 50 percent of the street frontage. The following Oregon Homes Development scenarios are excluded from this standard:
(a) Accessible and adaptable units;
(b) Lots or parcels that receive vehicular access from an alley; and
(c) Off-street parking areas that are separated from the street lot line by a dwelling.

(4) Storage facilities for trash and recycling receptacles are not required. For developments over four units with common storage areas that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:
(a) The storage facility shall be screened from street lot lines and abutting residential properties by a wall, solid fence, or evergreen hedge. The screen must be at least four feet in height and located no more than three feet from the storage facility; and
(b) The storage facility must be separated from the street lot line by at least five feet.
(5) A local government shall approve an Oregon Homes Development application if the proposal varies not more than 10 percent from the numerical standards described in this rule.

STATUTORY/OTHER AUTHORITY: ORS 197A.408
STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

660-047-0040 Siting Standards

A local government shall apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot.

(1) Within areas incorporated into a city, Oregon Homes Developments must provide a minimum setback of five feet on all sides of the building, the distance of an existing or proposed utility easement, the minimum defensible space requirements as detailed in Oregon State Fire Marshal's model code for defensible space in ORS 476.392, or the distance of an easement required in traffic impact analyses, whichever is greater. Oregon Homes Developments within urban unincorporated lands must provide a minimum setback of fifteen feet along the street frontage and a minimum of ten feet on all other sides of the building not along the street frontage, the distance of an existing or proposed utility easement, the minimum defensible space requirements as detailed in Oregon State Fire Marshal's model code for defensible space in ORS 476.392, or the distance of an easement required in traffic impact analyses, whichever is greater.
(2) For buildings greater than thirty-five feet in building height and within areas incorporated into a city, the setbacks must be a minimum of ten feet along the street frontage and a minimum of five feet on the sides and rear, the distance of an existing or proposed utility easement, the minimum defensible space requirements as detailed in Oregon State Fire Marshal's model code for defensible space in ORS 476.392, or the distance of an easement required in traffic impact analyses, whichever is greater. Building height is defined in OAR 660-047-0010(2). The setback standards for buildings

within urban unincorporated lands over thirty-five feet in building height remain the same as in OAR 660-047-0040(1).

(3) If an Oregon Homes Development includes a garage, the face of the garage must be setback at least twenty feet from the street frontage.

(4) An Oregon Homes Development applicant may opt into the local government setback at the discretion of the applicant.

(5) Nothing in this division exempts an Oregon Homes Development from requirements related to hazards to air navigation prohibitions as provided in ORS 836.608(8) and OAR 660-013-0070.

(6) To the extent that a local government has an established height limit for residential development due to limits of local aerial firefighting equipment, adopted by ordinance or resolution, an Oregon Homes Development is subject to the established limit.

(7) Meet the minimum density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel.

(8) Provide outdoor area that is comprised of at least 15 percent of the gross site area, excluding the setback area. The outdoor area must be at least a contiguous 10-foot by 10-foot square or greater, and containing one or more of the following features:

(a) Areas planted with vegetation (including natural areas and existing trees);

(b) Private open space, including balconies and terraces attached to individual dwelling units;

(c) Pedestrian hardscape;

(d) Usable open space being one of the following:

(A) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be at least a contiguous 10-foot by 10-foot square;

(B) Balconies, terraces, and rooftop decks with seating areas that are available for use by all residents;

(C) Tree groves of existing mature trees;

(D)Turf or grass play fields;

(E) Children’s play structure or play area;

(F) Sports courts;

(G) Swimming or wading pool or hot tub;

(H) Walking fitness course;

(I) Natural area with benches; or

(J) Gardening area with at least 50 square feet of planting area.

(9) For multi-unit buildings, the required 15 percent outdoor space area may alternatively be met with balconies attached to individual units and is not required to be a 10-foot by 10--foot square.

(10) A local government shall approve an Oregon Homes Development application if the proposal varies not more than 10 percent from the numerical standards described in this rule; however, this section does not apply to standards in sections (1) and (4).

STATUTORY/OTHER AUTHORITY: ORS 197A.408
STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

660-047-0050 Tree Standards

A local government must require the applicant to adhere to the following standards to guide the preservation or replacement of trees on an Oregon Homes Lot.

(1) Approval of an Oregon Home Development may not result in the removal of trees that are:
(a) Designated by the local government as a heritage tree, or
(b) 20 inches or greater DBH.
(2) An applicant for an Oregon Homes Development on an Oregon Homes Lot may propose to remove eligible tree(s) as part of the development application. The applicant shall take mitigating measures provided in section (3) for each tree proposed to be removed that is:
(a) Designated by the local government through an adopted program, regulations, or ordinances as a protected species;
(b) Not deemed unhealthy by a certified arborist; and
(c) Twelve inches or more DBH.
(3) If all of the criteria listed in section (2) are met, the applicant must conduct one of the following mitigation measures for tree removal:
(a) The replanting of the removed tree on or adjacent to the Oregon Homes Lot;
(b) The replacement of the removed tree with a tree of the same protected species on or adjacent to the Oregon Homes Lot; or
(c) A payment of a fee-in-lieu as established by local ordinance.

STATUTORY/OTHER AUTHORITY: ORS 197A.408
STATUTES/OTHER IMPLEMENTED: ORS 197A.400, ORS 197A.408, ORS 197A.420

MHOR Homes Div 47 Public Comments Received

August 8, 2026, to October 2, 2026

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City of Eugene

City of Portland

City of Rogue River

League of Oregon Cities, Association of Oregon Counties

Type text h

From:	CARPENTER Mina * DLCD
To:	CAUDEL Ingrid * DLCD
Subject:	Comment Submission: MHOR Homes Phase One
Date:	Tuesday, September 22, 2026 1:52:23 PM

To view the PDF of this rulemaking comment, please visit the SharePoint Library here.

Name: Wilma Ingram
Email: wilmaingrami@yahoo.com
Rule: MHOR Homes Phase One
Organization or affiliation (optional): NA
Comment: To try to make homeownership easier, faster and less hectic

From:	Jamin Giersbach
To:	DLCD Housing * DLCD
Subject:	Comment on proposed OAR chapter 660, Division 47 (Middle Housing Oregon Homes, permit-ready plans)
Date:	Monday, September 7, 2026 12:13:56 PM

Re: Proposed OAR chapter 660, Division 47, Middle Housing Oregon Homes, permit-ready plans

Rogue Advocates is a land use watchdog working in Jackson and Josephine Counties. We have one question about Division 47, and we ask that the rule text answer it rather than leave it to be argued lot by lot.

Can a state-approved permit-ready plan override a locally adopted wildfire, hillside, riparian, or floodplain standard?

In southern Oregon those standards do real work. The Almeda Fire started inside Ashland's city limits in September 2020 and burned through Talent and Phoenix. Ashland's hillside lots sit in the wildland-urban interface, and the city has spent this entire summer on one question, how steep a driveway can be before a fire engine cannot climb it. Jackson County's riparian and floodplain rules keep houses out of creek corridors that flood in winter and burn in summer. A permit-ready plan is a set of building drawings. It does not change the slope, the setback from the creek, or the grade of the driveway.

We ask that Division 47 say plainly that a permit-ready plan is a building design and not a site approval, and that local siting, access, and hazard-overlay standards adopted under Goals 5 and 7 continue to apply to the lot where the plan is placed. We ask that a city or county be allowed to require site-specific engineering, fire access review, or geotechnical review where those overlays apply, without that being treated as a barrier to the plan. And we ask that the division state that no jurisdiction is required to accept a permit-ready plan on a lot where those standards cannot be met.

If DLCD's answer is that permit-ready plans already leave those standards intact, please put that sentence in the rule. If the answer is that they do not, that is a decision the Commission should make with its eyes open, and we ask that the staff report say so.

Thank you for extending the comment period.

Jamin Giersbach
Executive Director, Rogue Advocates
PO Box 624, Ashland, OR 97520
458-763-0188

OREGON CITY

Community Development

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789

September 29, 2026

Land Conservation and Development Commission
Attn: Ingrid Caudel, Rulemaking Coordinator
635 Capitol St., Ste. 150
Salem, OR 97301
Submitted via email: housing.dlcd@dlcd.oregon.gov

Re: Comments on Revised Proposed Rules – OAR Chapter 660, Division 47 (Oregon Homes Program), Interim Version 5 dated September 22, 2026

Dear Chair Lazo and Members of the Commission:

The City of Oregon City appreciates the opportunity to comment on Version 5 of the proposed Division 47 rules implementing House Bill 2258 (Oregon Laws 2025, chapter 479), codified at ORS 197A.408. These comments supplement our letter of July 22, 2026. Oregon City supports the Oregon Homes program and wants it to succeed. Our position is straightforward: we support the effort to open opportunities for more housing, and we offer specific technical fixes to make it work (Section II).

I. Revisions Oregon City Supports

Version 5 responds to several concerns raised by local governments, including ours. We support, as drafted:

- Removal of the partial-lot eligibility carve-out, so that OAR 660-047-0010(8)(g) now tracks Section 2(3)(g) of HB 2258.
- Recognition in subsection (8)(g) of inventories in locally adopted ordinances and resolutions, and of objective mapping sources (DOGAMI IMS and Open-File Reports, SLIDO, and FEMA Flood Insurance Rate Maps). For a city built on the bluffs above Willamette Falls, with significant mapped landslide areas, this matters.
- The definition of "environmentally sensitive area" in OAR 660-047-0010(5).
- The new definition of "buildable area" (0010(1)), which resolves the size-cap ambiguity we identified in July.
- The applicant's option to use otherwise applicable processes (0020(3)) and local setbacks (0040(4)); parity for public facilities requirements (0020(9)); preservation

of fire code, air navigation, and aerial-firefighting height authority (0020(10)–(11), 0040(5)–(6)); and the tree standards in 0050.

II. Technical Issues

A. The "no discretion" standard (0020(2))

Version 5 still states that review shall not require "discretion, interpretation, or the exercise of policy or legal judgment," yet several standards cannot be applied without some interpretation: average slope in 0010(8)(f) has no calculation method; "not suitable for any lawful use" in 0010(8)(h)(B) has no test; and 0030(1)(c) requires deciding whether open space is "adjacent to the street."

Recommendation: Replace the final sentence of 0020(2) with: "Review under this division shall be administered through the same completeness and compliance review the local government uses for other ministerial permits, applying only the objective standards in this division." In 0010(8)(f), require average slope to be calculated using the local government's adopted method or, if none, a method specified by the department. In 0010(8)(h)(B), define a structure as not suitable for any lawful use if the building official has declared it unsafe or dangerous under the state building code or a local dangerous building ordinance.

B. Public facilities sequencing (0020(8)) and "final engineering plans" (0010(6))

The last sentence of 0020(8) is garbled and does not say whether building permits may await approval of final engineering plans. The definition in 0010(6) refers to review "following tentative plat approval," though most Oregon Homes Developments will not involve a plat.

Recommendation: Revise the last sentence of 0020(8) to: "The local government may determine the order in which it applies these requirements and may require approval of final engineering plans before issuance of building permits, subject to section (9)." In 0010(6), replace "following tentative plat approval" with "following approval of a land use application, including an application under this division or a tentative plat."

C. Building plan approval pathway (0010(7)(e))

We refine our July comment. Section 5 of HB 2258 authorizes the Department of Consumer and Business Services (DCBS) to designate a process for plan approval "from the municipality," including through typical drawings (ORS 455.062) or DCBS-approved plans (ORS 455.685). A local pathway can therefore be consistent with the statute, but its authority runs through DCBS designation. As drafted, 0010(7)(e) instead ties local review to land use criteria in subsections (a) to (d), and 0020(4)(b)(B) is circular.

Recommendation: Revise 0010(7)(e) to read: "Housing types whose building construction plans have been approved through a process designated by the Department of Consumer and Business Services under section 5, chapter 479, Oregon Laws 2025, including typical drawings and specifications under ORS 455.062 or plans and specifications approved under ORS 455.685." Conform 0010(8)(h)(D) and 0020(4)(b) to reference subsection (7)(e).

D. Utility easement definition (0010(15))

The definition relies on a public utility "as defined in ORS 757.005," then lists telecommunication, fiber optic, water, stormwater, and sewer lines. ORS 757.005 excludes plants owned or operated by a municipality; telecommunications utilities are defined in ORS 759.005; and sewer and stormwater are not covered at all. Easements for municipal water, sewer, and stormwater facilities, including Oregon City's, would fall outside the definition, as would the franchise utility easements noted in July. Because 0040(1) keys setbacks to easement width, a building could be sited over a public sewer or water easement.

Recommendation: Revise to: "'Utility easement' means an existing or proposed easement that grants a public utility as defined in ORS 757.005, a telecommunications utility or provider, a cable operator, or a public body as defined in ORS 174.109 the right to use and access specific areas of another's property for constructing or maintaining gas, electric, telecommunication, fiber optic, water, stormwater, or sanitary sewer facilities."

E. The 10 percent variance (0040(10))

Oregon City supports a tolerance for dimensional standards, which Section 2(5)(c) authorizes. As written, however, 0040(10) reaches every numerical standard in 0040, including the 20-foot garage setback that keeps parked vehicles out of the sidewalk, the aerial-firefighting height limit, minimum density, and easement and defensible-space distances set by other authorities.

Recommendation: Limit 0040(10) to the setbacks in sections (1) and (2) and the outdoor area requirement in section (8), and state that it does not apply to local setbacks elected under section (4).

F. Other clarifications

- **Drafting errors.** Subsection 0010(7) skips (c), so the reference in (7)(e) to "subsections (a) to (d)" includes a subsection that does not exist. Subsection (8)(h)(D) refers to "the criteria in section (5)," which carried over the statute's reference to Section 5 of HB 2258 but now points to the environmentally sensitive area definition; it should reference subsection (7)(e). The text also alternates between the defined terms and "Oregon Home Lot" or "Oregon Home

Development." Please circulate a clean, proofread text, and confirm that the final Division 46 text corrects the defects noted in July, including the "Medium City" population threshold.

- **Outdoor area (0040(8)).** "15 percent of the gross site area, excluding the setback area" can mean setbacks are excluded from the base or cannot count toward the requirement. The rule should say which.
- **Hazard buffers (0010(8)(g)(C)).** Oregon City's geologic hazards code (OCMC 17.44) applies a buffer measured from mapped landslide areas. The rule should state a buffer adopted in the same ordinance is part of the identified natural hazard area.
- **Election between Divisions 46 and 47 (0020(3)).** Add: "An applicant proceeding under this division shall do so for the entire application, except that the applicant may elect local setbacks under OAR 660-047-0040(4)."

III. Requested Actions

Oregon City respectfully requests that the Commission:

1. Revise the discretion standard in 0020(2) and add objective tests for average slope and "not suitable for any lawful use."
2. Clarify public facilities sequencing in 0020(8) and the definition of final engineering plans in 0010(6).
3. Tie the building plan pathway in 0010(7)(e) to DCBS designation under Section 5 of HB 2258.
4. Revise the utility easement definition, limit the 10 percent variance, and make the clarifications in Section II.F.

Oregon City wants the Oregon Homes program to succeed. The way to get there is to make the technical fixes above.

Thank you for your consideration and for the substantial work reflected in Version 5. Please contact our office with any questions.

Sincerely,

Kelly Hart
Community Development Director
City of Oregon City

cc: Kelly Reid, AICP, Portland Metro Area Regional Representative, DLCD

INDEPENDENCE
Oregon's Story Begins Here

Chair Allan Lazo,
Land Conservation and Development Commission
635 Capitol St Ste 150
Salem, Oregon 97301

COMMENTS ON RULES FOR OREGON HOMES PROGRAM

Dear Chair Lazo,

Thank you for the opportunity to comment on the rules for OAR Chapter 660, Division 047.

The City of Independence is a community of just over 10,000 people that recognizes the importance of housing development and has used a simple set of relatively permissive regulations to promote housing development in a way that supports the character of our rural community.

As such, we generally support the concept behind the Oregon Homes rules. However, we do not believe the draft rules reflect the nuance and care of other recent State and local housing policy decisions, and we believe the rules as drafted could allow individuals to circumvent nearly all our local land use regulations. Given the potential unintended consequences of the draft, we believe additional work is needed before adopting the rules.

1. **The proposed rules seek to further the State's housing efforts but are much less nuanced than recent landmark legislation such as HB 2001.**

Over the past several years, the State of Oregon has pursued a series of efforts to promote new housing development. Among these, HB 2001 (2019) was particularly important legislation intended to offer Oregonians more housing choices. Key to the legislation was a breakdown of the cities to which the legislation applied: cities between 10,000 and 25,000 people in size were required to allow a duplex on every lot that allowed a single-family home, and cities over 25,000 people in size and in the Portland metro were required to allow duplexes, triplexes, fourplexes, cottage clusters, and townhomes. No requirements apply to cities with less than 10,000 people.

The draft Oregon Homes rules contain no similar population breakdown. Under the draft, small communities, which are not required to comply with HB 2001; medium-sized communities, which are required to allow duplexes; and large communities, which are required to allow fourplexes on any lot zoned for a single-family home, are required to allow up to 12 units on any Oregon Home lot. This blanket approach ignores size and nuance between cities and ultimately increases the underlying densities allowed in some communities by up to 12 times.

Nuances in parking requirements are also not considered. Under the Climate-Friendly and Equitable Communities (CFEC) program, communities larger than 50,000 in population must eliminate parking requirements. No similar limitation applies to smaller communities. The Oregon Homes rules, however, contain no similar distinction. Under the draft, communities may not require parking for an Oregon Homes development when on-street parking exists on the street frontage adjacent to the Oregon Homes Development. As OAR 660-047-0030(2) states, "If there is on-street parking on the street frontage adjacent to an Oregon Homes Development, then no parking is required..." As written, this language implies that no parking is required on site, regardless of how many housing units are proposed, if a single parking space is provided along a street. Like the requirements for allowed unit size, this proposed change would constitute a significant expansion of requirements related to parking for many communities – increasing the potential to limit parking requirements in every city and county in the state.

2. **The rules apply to a significant number of lots and have the potential to strip nearly all local decision-making from development.**

While some individuals have expressed skepticism about how much the program will be used, we see a high possibility of both use and abuse of the rules.

The Oregon Homes program allows an Oregon Home (i.e., up to a 12-unit development) on any lot from 1,500 to 20,000 square feet in size, so long as the site is not covered by slopes averaging more than 15 percent and is not within an area mapped as an environmentally sensitive or natural hazard area (among other items). In Independence, nearly every lot in town would qualify for the program.

Given the high number of lots that would qualify, and the wide variety of housing types that may be permitted, the program would allow:

- Uses that are not allowed in some of our existing zones.
- Densities that are greater than our existing densities.
- Heights that are not allowed under our existing zoning.
- Home designs that do not match our relatively basic design standards.

If a developer only seeks to maximize development on their site, they will propose an Oregon Homes development.

Maximizing development on all sites that qualify for an Oregon Home, however, is not the only thing that matters. In Independence, we have crafted the standards that apply to new development incrementally over the course of 50 years to promote development that respects the character of our unique community. In 2010, we adopted a simple set of Residential Design Standards intended to promote basic design features important to the community, such as garages recessed behind the main façade of a home. The overall cost of these standards on development is minimal. Through our local decision-making process, we also adopted an infill ordinance in 2026 that exceeded the requirements of HB 2001. Both regulatory changes were intended to be simple and allow dense development on sites, but to do so in a way that positively impacts the community. The draft Oregon Home rules should not allow developers to bypass these carefully created requirements so quickly.

3. **Based on these considerations, we believe that the rules as drafted fail in two fundamental ways.**

As drafted, the rules:

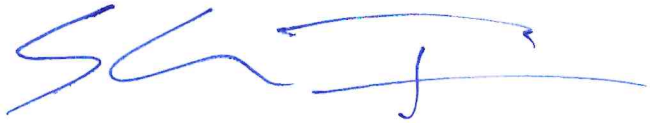
- Would use an administratively led rulemaking process to significantly exceed the more nuanced deliberations that occurred and are reflected in HB 2001 and the CFEC process.
- Would allow developers to bypass almost all rules of local jurisdictions as part of the land development process.

Given these findings, we encourage you not to pass the rules as drafted. Two relatively simple changes that we would suggest to help you address some of the limitations of the proposal are to:

1. Refer to local jurisdiction standards, crafted in response to HB 2001, to determine Site Design Requirements, such as allowed densities, housing types, setbacks, height, etc., for Oregon Home lots.
2. Strike the first sentence from OAR 660-047-0030 and require Oregon Homes Development to meet local government parking requirements or to have one space per dwelling unit on site, whichever is less.

We sincerely hope these comments assist in your review and that you do not pass these rules as written.

Sincerely,



Shawn Irvine
Assistant City Manager

ANNIKA ERIKSSON

PHASE ONE MHOR HOMES RAC MEMBER • LIVED EXPERIENCE

Middle Housing and Oregon Homes Rulemaking Advisory Committee • Oregon City, Clackamas County, Oregon
Address: 12054 Chapin Ct., Oregon City, OR 97045 | Email: annika.eriksson@gmail.com

TO:	Chair Allan Lazo and Members of the Land Conservation and Development Commission (LCDC)
FROM:	Annika Eriksson, Phase One MHOR Homes RAC Member (Lived Experience)
DATE:	September 28, 2026 (Updated September 30, 2026)
RE:	**Public Comment on OAR Chapter 660, Division 047 Interim Draft (V5, September 2026)** — Closing the Involuntary Vacancy Gap, Preserving Naturally Occurring Affordable Housing, and Addressing Rulemaking Advisory Committee Record Deficiencies
SUBMISSION EMAIL:	housing.dlcd@dlcd.oregon.gov
PROGRAM PORTAL:	DLCD Middle Housing and Oregon Homes (MHOR) Rulemaking

EXECUTIVE SUMMARY

I serve as a lived-experience committee member on the Phase One Middle Housing and Oregon Homes Rulemaking Advisory Committee (MHOR RAC) and reside in Oregon City. I submit this formal public comment on the interim Version 5 draft of OAR Chapter 660, Division 047, promulgated pursuant to **ORS 197A.300–197A.325**.

I strongly support the statutory mandate of the Oregon Homes program to expand diverse, accessible, and attainable housing options across Oregon. However, this comment addresses a critical structural defect running throughout the interim draft:

> **THE INVOLUNTARY VACANCY PARADOX**
>
> While Division 047 establishes clear and objective standards to approve new middle housing construction on "vacant" parcels, it contains **zero safeguards** to prevent municipal code enforcement, franchised utility shutoffs, and institutional loan-servicer inertia from systematically stripping occupied homes of habitability and manufacturing "vacant" land through administrative displacement.

Under **Statewide Planning Goal 10 (Housing)** and the **Oregon Housing Needs Analysis (OHNA)**, housing preservation is an indispensable component of housing supply. When municipal code enforcement operates punitively—levying $300/day nuisance fines, cutting off domestic water, refusing disability accommodations, and attaching property liens rather than assisting with structural compliance—it actively destroys Naturally Occurring Affordable Housing (NOAH). Treating land cleared through municipal pressure and clouded title as "vacant" infill land manufactures a paper gain in housing production while masking a severe, unrecorded net loss in actual shelter.

> *As the Center for Community Progress observed in From Fines to Fixes, when a homeowner on a fixed income facing an unexpected $850 citation remarks that **"it might be easier just to walk away,"** that precise moment marks the irreversible loss of viable housing stock. Division 047 currently provides no barrier to prevent local jurisdictions from converting that abandonment into an expedited infill redevelopment site.*

SECTION 1: REGIONAL EVIDENCE — CLOUDED TITLE, SERVICER INERTIA, AND INFRASTRUCTURE COLLAPSE

The loss of housing through administrative pressure, clouded title, and uncoordinated municipal codes is not theoretical. Across Clackamas and Multnomah Counties, empirical court records and physical events

demonstrate how the absence of proactive protections creates acute life-safety hazards and destroys shelter:

1.1 The Servicer Limbo and Patchwork Municipal Code Trap

Municipal property maintenance and vacant-property registration ordinances enacted across Oregon around 2022 (e.g., Oregon City Municipal Code Title 8 & 17) were ostensibly adopted to prevent neighborhood blight and force financial institutions to maintain homes during foreclosure. In practice, they create a destructive Catch-22:

1. When institutional loan servicers or debt buyers encounter procedural defects, uncollectible debts, or standing challenges in judicial foreclosure dockets, they routinely refuse to invest in basic structural upkeep or habitability repairs, yet aggressively maintain encumbrances that cloud title.
2. Successor owners, low-income purchasers, or bona fide occupants seeking to maintain the residence are stripped of clear record title. Consequently, they are disqualified from obtaining standard municipal building permits, cannot secure licensed contractor financing, and are barred from accessing state weatherization and repair assistance programs.
3. Municipal code enforcement, operating under rigid complaint-based models, does not distinguish between an absent, noncompliant institutional servicer and an occupant attempting to preserve the home. Instead, municipalities levy escalating nuisance fines ($300/day), administrative liens, and utility shutoffs directly against the property.

1.2 Case Record: Title Cloud and Infrastructure Collapse on SE Pipeline Road (Gresham)

> On SE Pipeline Road in Gresham, two adjacent residential properties have been subjected to foreclosure proceedings. One of the properties passed to the current occupant through an informal, undocumented transfer from an elderly neighbor. Such informal arrangements are common among low-income and aging households, but they leave title unrecorded and legally clouded.
>
> When title is clouded, the occupant cannot obtain standard repair permits, cannot access licensed contractor financing, and is disqualified from state and federal repair assistance programs. In Multnomah County Circuit Court Case No. 24CV02984 (*The Bank of New York Mellon v. Janice Dysinger et al.*), the lender prosecuted a judicial foreclosure action naming the occupant as a defendant. On the adjacent property, an on-site septic system failed, causing severe structural settling; however, the wastewater failure could not be permitted or repaired because municipal and county environmental permits strictly require clear, unclouded title.
>
> The structure became uninhabitable. When the vacant structure predictably attracted trespassers, the municipal response defaulted to police scrutiny and nuisance enforcement directed at the occupant rather than infrastructure assistance or title resolution. Under the interim V5 draft of Division 047, if either property is ultimately demolished or condemned, the resulting parcel becomes “vacant” under OAR 660-047-0010(8)(h) and eligible for expedited middle housing redevelopment. The state would record that redevelopment as a housing production success, while the community experiences it as preventable housing destruction.

1.3 Case Record: Life-Safety Failure Under Contested Title at 635 Fairfield (Gladstone)

> At 635 Fairfield Street in Gladstone, an entire family required emergency hospitalization and hyperbaric treatment for acute carbon monoxide poisoning resulting from an ad hoc furnace repair and unvented gas appliance usage. The property had been the subject of protracted foreclosure litigation and procedural conveyance anomalies (*Fitch v. Turning Leaf Homes*, Clackamas County Circuit Court) mirroring title defects present across the region.
>
> When residents are locked out of conventional contractor permitting and proactive municipal repair assistance due to title limbo, desperate occupants turn to unpermitted, makeshift heating. Reactive code enforcement and title displacement transformed an otherwise viable single-family dwelling into an acute life-safety emergency.

1.4 The Institutional Safety Net Failure: Structural Exclusion from Legal Defense and Repair

A fatal assumption underlying Division 047's vacant-land model is that low-income homeowners facing code enforcement, servicer neglect, or structural decay have access to remedial legal and financial off-ramps. In practice, the administrative safety net is structurally closed:

1. **The Economic Impossibility of Complex Real Property Defense:** While state policy assumes low-income Oregonians can contest wrongful liens or title clouds through legal aid or public-interest foreclosure defense programs, the economics of civil representation prevent these programs from taking complex, high-merit title cases. Legal aid housing resources are almost exclusively triaged to high-volume, short-turnaround residential eviction defense (FED court under ORS Chapter 90). Specialized foreclosure defense initiatives are structurally driven toward formulaic outcomes—such as loan modifications or deeds-in-lieu—where predictable fee recovery or quick settlements justify operational costs. When an Oregon homeowner faces an egregious, multi-year title defect or predatory servicer inaction, specialized defense attorneys routinely decline representation because they cannot absorb hundreds of uncompensated litigation hours against institutional foreclosure mills. Vulnerable homeowners are left entirely unrepresented to navigate opaque court rules and municipal hearings alone.
2. **The Exclusionary Criteria of Public Repair and Weatherization Programs:** Simultaneously, publicly funded home repair, weatherization, and emergency mechanical programs (administered through Oregon Housing and Community Services (OHCS), local counties, and Community Action Agencies) strictly require clear, unencumbered record title. They explicitly disqualify properties with active notices of default, pending foreclosure dockets, or accrued municipal liens. Major structural repair grants additionally require homeowners to sign junior promissory notes or restrictive covenants—instruments that cannot legally attach to a property trapped in clouded-title limbo.

The resulting systemic failure is absolute: the homeowner cannot access legal counsel to clear title because their case is too complex for legal aid, and they cannot access state repair grants to maintain basic habitability because their title remains clouded. When municipal code enforcement subsequently issues nuisance citations, shuts off water, or condemns the structure, the municipality is penalizing the occupant for a structural paralysis created by institutional failures. Treating the resulting cleared parcel as "vacant" infill land under OAR 660-047-0010(8)(h) rewards this breakdown and incentivizes the cannibalization of naturally occurring housing.

1.5 Institutional Alignment: Washington County Record Corroboration

This analysis is directly corroborated by local government testimony already in the Commission's record. In its formal submission (DLCD Public Comment Compilation, pp. 193–197), Washington County expressly cautioned that Division 047's *"vacant-lot requirement can discourage retention of existing, typically more affordable homes."* When county planning departments and lived-experience RAC members identify the identical perverse incentive, the Commission must recognize that the interim definition of "vacant" actively undermines housing preservation across Oregon jurisdictions.

1.6 The DLCD Record Clash: Oregon City Public Comments vs. Lived Experience

A direct comparison of public comments submitted during Phase One reveals a stark divergence between municipal lobbying priorities and lived-experience housing realities:

- **The July 7, 2026 Lived-Experience Submission (Compilation pp. 5–8):** My formal submission documented how municipal administrative actions—specifically utility shutoffs, $300/day nuisance fines, and the absence of clear title resolution pathways—force vulnerable, disabled, and fixed-income residents out of viable housing. The comment cautioned that unless Division 047 includes explicit anti-displacement safeguards, expedited middle housing development will accelerate gentrification and speculative clearance of distressed parcels.
- **The July 31, 2026 City of Oregon City Submission (Compilation pp. 80–84):** In contrast, the City of Oregon City advocated for broad municipal discretion over "public facility adequacy," preservation of franchised utility monopolies and service gatekeeping, and unchecked authority to restrict development based on localized capacity determinations without requiring protections for existing residential occupants on those same utility corridors.

This contrast is critical: while municipalities lobby the Commission for expanded authority to gatekeep public infrastructure and enforce local codes, they simultaneously use utility shutoffs and code liens to displace low-income residents from the very parcels they seek to redevelop. Division 047 must reconcile this contradiction by conditioning middle housing eligibility on infrastructure continuity and proactive code compliance.

SECTION 2: PROACTIVE CODE COMPLIANCE AS AN ESSENTIAL SUPPLY STRATEGY

2.1 The National Scale of Preventable Housing Loss

The Center for Community Progress (CCP) estimates that the United States loses between 350,000 and 400,000 housing units each year to physical deterioration, demolition, and severe weather. New construction alone cannot close Oregon's housing deficit if the state's land use and planning rules ignore preventable attrition. As CCP's *Code Enforcement Training Guide* (November 2025) emphasizes:

> *"The traditional approach to code enforcement is due for urgent review and reevaluation… a shift to strategic code compliance yields outcomes that are more equitable, effective, and efficient [supporting] resiliency, housing security, neighborhood safety, and racial and economic justice."*

Proactive code compliance builds relationships with residents before issuing formal citations, connects low-income and fixed-income occupants to structural repair resources, uses data to identify at-risk homes early, and offers compliance incentives rather than escalating fines and liens.

2.2 Documented Municipal Success Models

Documented outcomes from jurisdictions across the country that shifted from reactive to proactive enforcement confirm that strategic compliance preserves housing:

- **Los Angeles Systematic Code Enforcement Program (SCEP):** Inspects approximately 880,000 multifamily units every four years. Over its history, SCEP has resolved more than 1.5 million habitability violations and catalyzed $1.3 billion in private reinvestment into existing housing stock.
- **Boston Proactive Rental Inspection Ordinance (City Code CBC 9-1.3):** Brought over 133,000 rental units onto a formal registry, shifting routine oversight from 98% complaint-driven to systematic habitability prevention.
- **San José Proactive Rental Inspection (Project Hope):** Closed 2,121 code violations in 2024 (over 90% within 150 days) under an explicit statutory mandate to *"prevent the decline and deterioration of aging rental stock, reduce blight conditions, and reduce likelihood of complaint-based evictions."*
- **City of South Fulton Code Cares Program:** Provides direct physical assistance to seniors (aged 65+) and residents with disabilities facing maintenance hurdles, deliberately prioritizing physical solutions over fines, fees, and liens. Awarded the International Code Council's (ICC) 2025 Community Service Award.
- **Louisville, KY & Providence, RI Initiatives:** Restructured municipal enforcement in partnership with CCP technical assistance to replace rapid financial penalties with pre-citation warnings, repair navigation, and proactive habitability grants.

SECTION 3: SPECIFIC RECOMMENDED AMENDMENTS TO OAR CHAPTER 660, DIVISION 047

To align Division 047 with Statewide Planning Goal 10 and ensure municipal administrative actions do not manufacture redevelopment land through displacement, I urge the Commission to adopt the following redline amendments:

3.1 Amend Definition of "Vacant" — OAR 660-047-0010(8)(h)

Purpose: Ensure parcels emptied through utility termination, punitive code liens, unpermitted life-safety hazards arising during title disputes, or infrastructure failures are not treated as "vacant" infill land.

> **PROPOSED REDLINE FOR OAR 660-047-0010(8)(H):**
>
> *(h) "Vacant" means a parcel or lot that has no developed residential structure, or meets the criteria of (A) through (D) below.* ***However, a parcel or lot shall not be deemed vacant if a residential dwelling on the parcel was condemned, demolished, rendered uninhabitable, or removed within the preceding ten (10) years as a result of municipal utility termination, municipal code enforcement liens, administrative tax or lien foreclosures, an on-site septic or wastewater failure where repair permits or hardship assistance were withheld due to title defects, or unpermitted life-safety hazards arising during contested title proceedings, unless the displaced household vacated voluntarily with documented, verified relocation assistance and fair replacement housing. A parcel subject to active title litigation, disputed foreclosure proceedings, or municipal code appeals shall not be deemed vacant during the pendency of those proceedings.***

3.2 Ensure Public Facility Continuity — OAR 660-047-0020(8) & 0010(10)

Purpose: Prevent a municipality or franchised utility from cutting off essential services to an existing resident while simultaneously declaring public infrastructure capacity exists to support new middle housing on that same parcel.

PROPOSED ADDITION — OAR 660-047-0020(8)(E):

(e) A local government shall not determine that public facility capacity is available or adequate to support an Oregon Homes development if the local government, special district, or franchised service provider has disconnected, terminated, or withheld essential water, sewer, or access services from a residential occupant of the subject property or parent parcel within the preceding twenty-four (24) months, absent an administrative record demonstrating access to an equitable hardship review, structured payment alternatives, and clear criteria for nondiscriminatory service restoration.

3.3 Protect Residents from Displaced Solid Waste Storage Citations — OAR 660-047-0030(4)

Purpose: Protect low-income occupants from municipal nuisance citations and liens when franchised waste collection has been denied due to financial hardship.

PROPOSED ADDITION — OAR 660-047-0030(4)(C):

(c) A local government administering standards under this division shall not impose a site development penalty, nuisance citation, or code-compliance lien related to solid waste storage on an occupant or parcel where franchised collection services have been suspended or denied due to financial hardship, provided the occupant is engaged in an active hardship process, mediation, or alternative collection plan.

3.4 Establish an Affirmative Housing Preservation Standard — OAR 660-047-0015

Purpose: Place an affirmative obligation on local governments to prioritize compliance and repair over punitive code escalation within the general administration of Division 047.

PROPOSED SECTION — OAR 660-047-0015 [HOUSING PRESERVATION STANDARD]:

Local governments implementing the provisions of this division shall prioritize strategic, compliance-oriented code enforcement over punitive citations, fees, and lien generation. Prior to initiating enforcement actions that could culminate in condemnation, demolition, or displacement, local jurisdictions must establish pre-citation outreach protocols, provide referrals to state and local home repair assistance programs, and implement compliance incentives aimed at preserving existing residential structures.

SECTION 4: THE FISCAL AND SUPPLY REALITY OF REACTIVE ENFORCEMENT

The fiscal impact analysis accompanying Division 047 fails to account for the substantial public costs of displacement:

- **Compounded Public Expenditure:** Administrative evictions and code-driven demolitions trigger direct municipal costs for law enforcement dispatch, judicial resources, emergency shelter placements, and physical blight remediation.
- **Depletion of Naturally Occurring Affordable Housing (NOAH):** For seniors, individuals with disabilities, and low-income families, existing modest single-family and manufactured homes represent irreplaceable shelter and financial stability.
- **The Net Production Illusion:** Demolishing one naturally occurring affordable home to build two or three market-rate middle housing units yields a net addition of only one or two units, achieved at severe financial, social, and municipal expense.

Division 047 must not serve as an administrative mechanism that allows a municipality to cite an occupant for conditions caused by utility termination or clouded title, attach property liens, facilitate condemnation, and subsequently celebrate the cleared parcel as an expedited housing production milestone.

SECTION 5: ADA TITLE II COORDINATION & DUE PROCESS SAFEGUARDS

Administrative records and public records disclosures demonstrate that local jurisdictions frequently fail to provide mandatory disability accommodation pathways prior to initiating code enforcement and utility cutoffs:

5.1 Mandates of ADA Title II (28 C.F.R. § 35.107 & § 35.130(b)(7))

Under Title II of the Americans with Disabilities Act (28 C.F.R. Part 35) and 28 C.F.R. § 35.107, public entities employing 50 or more persons are federally mandated to designate at least one employee to coordinate ADA Title II compliance (the "ADA Coordinator"), adopt and publish grievance procedures providing for prompt and equitable resolution of disability complaints, and provide reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability (28 C.F.R. § 35.130(b)(7)).

5.2 The Municipal Single-Point-of-Contact Gap (Record Evidence)

Recent public records disclosures from the City of Oregon City (Public Records Request Reference # R001464-092926, September 29, 2026) establish that when residents specifically request to speak with a single point of contact (an ADA Coordinator) regarding disability accommodations and safety violations, the City has no responsive policy. Instead of providing an accessible, coordinated administrative channel, municipal practice deflects residents across multiple disconnected departments or directs them to static website URLs.

When disabled occupants facing chronic medical conditions request reasonable accommodations—such as a continuance of a municipal code hearing, assistance with physical debris cleanup, or maintenance of essential domestic water service—the absence of an operational ADA single point of contact leads to immediate administrative default, crippling fines, and water shutoffs. Division 047 must require local governments administering middle housing programs to certify compliance with basic ADA Title II coordination obligations before exercising administrative land-use and facility authority.

If regulating local code enforcement procedures exceeds LCDC's direct statutory purview under ORS Chapter 197, the Commission should formally refer these displacement vectors to **Oregon Housing and Community Services (OHCS)** and the **Housing Accountability and Production Office (HAPO)** to condition state infrastructure grants and middle housing subsidies on compliance-based preservation models.

SECTION 6: RULEMAKING ADVISORY COMMITTEE RECORD AND PROCEDURAL DEFICIENCIES

Administrative consistency and statutory legitimacy require the Commission to address substantial omissions in the rulemaking process:

1. **Failure to Address Lived Experience in the Committee Record:** Throughout Phase One MHOR RAC meetings, members repeatedly raised concerns regarding disability access, fixed-income vulnerability, and housing instability. The RAC meeting summary of July 9, 2026, explicitly concedes that the lived experience of housing instability received insufficient attention during policy deliberations. The interim V5 draft continues to reflect this omission.
2. **Absence of a Socioeconomic, ADA, and Legal-Vulnerability Impact Statement:** The May 20, 2026, RAC proceedings recorded explicit requests for equity and Americans with Disabilities Act

(ADA) analyses within the fiscal and racial equity impact statements. Despite these formal requests, the interim draft lacks a dedicated analysis examining how expedited middle housing infill standards interact with municipal code enforcement, tax and municipal liens, utility cutoffs, and clouded title foreclosures.

3. **Required Commission Action Prior to Promulgation:** Before final adoption of Division 047, the Commission should direct DLCD staff to prepare and publish a *Supplemental Equity, Due-Process, and Lived-Experience Impact Analysis* evaluating the displacement risks identified in this comment, and produce a formal *RAC Comment Response Matrix* documenting precisely how comments, lived-experience testimony, and equity proposals submitted during Phase One were considered, incorporated, rejected, or referred.

CONCLUSION

A sound state housing policy cannot focus solely on the ribbon-cutting of new units while ignoring the administrative machinery dismantling existing homes. The national models from Los Angeles, Boston, San José, South Fulton, Louisville, and Providence—coupled with the direct evidentiary record from Gladstone, Gresham, and Oregon City—demonstrate that proactive compliance preserves communities, while reactive enforcement creates involuntary vacancy.

I urge the Land Conservation and Development Commission to incorporate the redline amendments to OAR 660-047-0010(8)(h), 0015, 0020(8), and 0030(4), and to complete the necessary supplemental impact analyses prior to final promulgation.

Respectfully submitted,

/s/ Annika Eriksson

Annika Eriksson
Phase One MHOR Homes RAC Member (Lived Experience)
12054 Chapin Ct., Oregon City, OR 97045
Email: annika.eriksson@gmail.com

REFERENCED EXTERNAL DOCUMENTS & STATUTORY AUTHORITIES

- DLCD Middle Housing and Oregon Homes (MHOR) Rulemaking Portal
- ORS 197A.300–197A.325 (Oregon Homes Legislation)
- Oregon Housing Needs Analysis (OHNA)
- Center for Community Progress: From Fines to Fixes
- 28 C.F.R. § 35.107 (Designation of Responsible Employee)
- City of Boston Rental Inspection Ordinance (CBC 9-1.3)
- City of Oregon City Municipal Code (Municode)
- OAR Chapter 660, Division 047 Rules (Secretary of State)
- Statewide Planning Goal 10 (Housing)
- Center for Community Progress: Code Enforcement Training Guide (Nov 2025)
- Title II of the Americans with Disabilities Act (28 C.F.R. Part 35)
- Los Angeles Systematic Code Enforcement Program (SCEP)
- City of San José Proactive Rental Housing Program
- City of Oregon City ADA Information Page

From: CARPENTER Mina * DLCD
To: JOHNSON Denise * DLCD; CAUDEL Ingrid * DLCD
Subject: Comment Submission: MHOR Homes Div 47
Date: Thursday, October 1, 2026 1:30:11 PM

To view the PDF of this rulemaking comment, please visit the SharePoint Library here.

Name: Jill Rolfe
Email: jrolfe@co.coos.or.us
Rule: MHOR Homes Div 47
Organization or affiliation (optional): Coos County Community Development
Comment: I support efforts to increase housing opportunities and create a predictable development process; however, I am concerned that proposed Division 47 creates a one-size-fits-all process that does not adequately account for the complexity of land use review in coastal and rural jurisdictions. Coastal properties may be subject to overlapping requirements under Goals 5, 7, 16, 17, and 18, acknowledged estuary management plans, natural hazard provisions, resource inventories, and local comprehensive plans. Determining whether these requirements apply is not always a simple GIS or checklist exercise. Boundaries and applicability may require review of inventories, management units, maps, surveys, topography, or site-specific information. The proposed ministerial review process therefore creates concern. The rules should distinguish between streamlined review of an Oregon Homes development after eligibility has been established and the review necessary to determine whether a property is eligible in the first place. Local governments must retain the ability to request information and conduct the review necessary to determine whether protected resources, hazards, coastal provisions, or other requirements apply. Division 47 should also expressly address tribal notification and cultural resource requirements, particularly with implementation of the new Goal 5 Cultural Areas rules. Local governments should not be placed in a position where one state rule requires expedited ministerial approval without notice while another requires tribal notification or consultation for the development activity. I recommend adding a savings provision stating that nothing in Division 47 supersedes or limits otherwise applicable review, notice, consultation, coordination, or substantive requirements under Statewide Planning Goals 5, 7, 16, 17, 18, or 19; acknowledged comprehensive plans or estuary management plans; or other applicable state or federal requirements. I am also concerned about the unfunded cost of implementation. Amending a local land use program can cost thousands of dollars and requires staff analysis, legal review, ordinance drafting, public notice, Planning Commission and governing body hearings, findings, GIS and mapping changes, application and software modifications, staff training, and public education. For smaller and rural jurisdictions, these costs are significant. Yet not completing the amendments is not a realistic option because local governments remain responsible for compliance and bear the consequences of having regulations that do not conform to state requirements. The State should provide implementation funding, model ordinance language, clear guidance regarding interaction with other statewide planning goals, adequate implementation time, and a safe harbor for jurisdictions making good-faith progress toward compliance. The State should also consider allowing a state model-code or alternative compliance pathway rather than requiring every jurisdiction to immediately undertake potentially expensive legislative amendments regardless of the local demand for Oregon Homes development. Streamlining housing approval is a worthwhile objective, but efficiency should not come at the expense of required resource, hazard, cultural, tribal, or coastal review, nor should implementation costs simply be transferred to local governments without adequate funding.

From: CARPENTER Mina * DLCD
To: JOHNSON Denise * DLCD; CAUDEL Ingrid * DLCD
Subject: Comment Submission: MHOR Homes Div 47
Date: Thursday, October 1, 2026 2:06:00 PM

To view the PDF of this rulemaking comment, please visit the SharePoint Library here.

Name: Jill Rolfe
Email:
Rule: MHOR Homes Div 47
Organization or affiliation (optional): Coos County Community Development
Comment: Coos County's primary concern is OAR 660-047-0020, which requires approval of an Oregon Homes Development "notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals" and limits review to a ministerial process without public notice or hearing. While the definition of an Oregon Homes Lot excludes certain environmentally sensitive, resource, and hazard areas, this approach places substantial importance on whether every protected resource and hazard has already been completely identified and mapped. This is particularly problematic for coastal jurisdictions. Goals 5, 16, 17, and 18 involve resources and hazards that may require site-specific review or information that is not fully represented on an existing map. Estuarine resources, coastal shorelands, wetlands, archaeological or cultural resources, geologic hazards, coastal erosion, and other constraints cannot always be appropriately evaluated through a simple ministerial map check. The rules should clarify that the Oregon Homes process does not eliminate applicable resource and hazard review necessary to determine whether a property qualifies as an Oregon Homes Lot. Coos County is also concerned that the proposed no-notice provision does not address tribal notice or coordination. A ministerial process should not inadvertently eliminate otherwise applicable requirements involving tribal governments, archaeological resources, cultural resources, or areas of tribal interest. The final rules should expressly preserve applicable tribal notification, consultation, and coordination requirements. The rules also directly contemplate Oregon Homes Developments on "urban unincorporated lands." Counties need clear direction regarding exactly where Division 47 applies and how the program interacts with acknowledged county comprehensive plans, zoning regulations, urban growth management agreements, special districts, and infrastructure limitations. Infrastructure is particularly important in unincorporated areas. Sewer, water, stormwater, roads, and fire protection may be provided by separate districts with different service boundaries and capacity limitations. Although the draft allows locally administered public facilities requirements, the rules should clearly preserve a county's ability to require necessary infrastructure and safety standards before development is approved. Finally, implementation will have a significant fiscal impact. Counties will need to identify eligible lands; review Goal 5, 7, 16, 17, and 18 inventories and maps; evaluate hazards and infrastructure; coordinate with cities, service districts, and tribes; develop application procedures; train staff; update GIS systems; and potentially amend comprehensive plans and development codes. For smaller jurisdictions, these costs can total thousands of dollars and compete directly with existing planning services. State-mandated implementation should include adequate time, technical assistance, and funding. Coos County recommends that the final rules clearly preserve applicable Goal protections and tribal coordination requirements; clarify the geographic scope of "urban unincorporated lands"; ensure resource, hazard, and infrastructure eligibility can be adequately verified; and provide funding and sufficient implementation time for affected local governments. With both of these bills there will be financial impacts to our budgets as it requires a comprehensive plan update that has not been budgeted for and as a non-general

fund department there are no discretionary funds to use for these updates. Notices are required to be provided to land owners and postage is expensive not to mention staff time, planning commission time and board time. There is also a chance of an appeal to LUBA.

10/2/2026

Oregon Department of Land Conservation and Development
635 Capitol St. Ste 150
Salem, OR 97301

Re: Comments on the Oregon Homes Rulemaking

Dear DLCD Rulemaking Staff:

Thank you for the opportunity to comment on the proposed Oregon Homes rules. We appreciate the progress made since the last public comment period. The rules have addressed some of the serious concerns raised by local governments, including addressing the lack of alignment with the fire code. However, we remain concerned that the proposed standards will add complexity to the housing review process without providing sufficient flexibility to address the needs of diverse communities and development contexts.

The proposal would add another set of standards applicable to a distinct subset of housing applications. This would increase the complexity and difficulty of housing review and design and could make the permitting process more difficult, not easier. Applicants and local jurisdictions may face substantial confusion and repeated back-and-forth over which standards apply and under what circumstances. This is not a trivial concern. It would create a real burden for already overworked local jurisdiction staff who must help applicants navigate the interaction among the Oregon Homes standards, underlying zoning requirements, the HB 1537 mandatory adjustments, the SB 974 design-standard exemptions, and other applicable regulations.

We are also concerned that the proposal does not include provisions addressing regional centers, town centers, commercial and mixed-use areas, or transit-oriented development. Without such provisions, jurisdictions may be unable to apply design and siting standards that are essential to creating pedestrian-friendly areas, supporting thriving retail districts, developing walkable neighborhoods, and increasing transit use. For example, development along a retail main street could be permitted with completely blank walls at the ground-floor level, undermining the active, inviting storefront environment that supports a successful commercial area.

In addition, the proposed standards do not appear to include requirements for adequate pedestrian access between the street and building entrances. Nor do they provide standards to ensure that parking lots are laid out to support safe and functional vehicle maneuvering. These omissions could result in developments that technically meet the

applicable housing standards but fail to provide safe, convenient, or cohesive connections for pedestrians and drivers. It's been mentioned that the parking lot issue will be addressed in a traffic impact analysis. However, a traffic analysis is intended to address traffic flow to, from, and around a proposed development; it does not address parking capacity or design requirements on site. The traffic analysis may show increased capacity in the area due to the development, but the proposed design standards will not allow the parking lot to accommodate that capacity.

We respectfully request that DLCD revise the proposal to reduce regulatory overlap and clarify how the Oregon Homes standards interact with existing state and local requirements. The rules should also preserve local flexibility to apply context-sensitive design and siting standards in regional centers, town centers, commercial and mixed-use areas, and transit-oriented developments. At a minimum, the rules should address pedestrian connections between public streets and building entrances, active ground-floor frontages in appropriate commercial contexts, and safe parking-lot circulation and maneuvering.

Thank you for considering these comments.

Sincerely,

Elizabeth Coffey

Interim City Manager

City of Beaverton

Date: October 2, 2026

Chair Lazo and Commissioners:

Thank you for the opportunity to comment on the draft Oregon Homes rules.

We greatly appreciate the time, work, and attention by Department of Land Conservation and Development (DLCD) to revise the draft rules in response to Eugene and other cities' comments. After reviewing draft rules Version 5, we believe the proposed rules remain problematic and still contain technical issues, as outlined below and in the enclosed technical issues list.

1. Urbanization of Unincorporated Lands

Of the issues that Eugene has identified with the draft rules, first and foremost is the effect of Oregon Homes Rules on unincorporated lands within the urban growth boundary (UGB). This issue needs to be more thoroughly addressed in this rulemaking effort. Eugene understands that applicability of the draft rules to "within UGBs" stems from HB 2258; however, implementing the rules as drafted within unincorporated lands raises significant questions and could result in negative outcomes.

This issue is of particular importance to the City of Eugene as our city's UGB includes a large amount of unannexed properties zoned for residential use. Generally, in Eugene, development of new dwellings (except ADUs) requires annexation, which in turn requires demonstration of sufficient available infrastructure. This annexation criterion ensures availability of urban utilities for future development, which is a fundamental aspect of orderly urbanization. Further compounding the consideration of how the draft rules will apply to unincorporated lands in Eugene, annexation was historically available to only properties contiguous to city limits. Beginning on January 1, 2027, noncontiguous annexation provisions will apply (HB 4108 (2026)). HB 4108 requires an existing connection to and service by utilities, unlike the draft rules at issue here. The draft rules could result in service by a well or septic tank, if permitted by regulating agencies. Moreover, the draft rules may create questions when implementing Eugene's extraterritorial extension procedure and amendments to Eugene's Land Use Code may be required.

Additional time for rulemaking would allow for full investigation and careful consideration of the implications of allowing Oregon Homes on unincorporated lands. City of Eugene

would like to better understand whether the Commission has the option to clarify the applicability of the Oregon Homes rules for unincorporated lands and/or adopt rules specific to unincorporated lands to ensure orderly urbanization. A preferred outcome would be to provide clarity in the rules that jurisdictions' requirements for annexation remain applicable or, alternatively, add requirements for an Oregon Homes Development to be served by urban utilities.

2. Clear and Objective Requirement Applies

ORS 197A.400 "clear and objective" requirements are required for housing in UGBs and the draft rules also provide that the process shall not be discretionary. Based on these directives, currently unclear terms and standards in the draft rules should be made clear and objective. To the extent that discretionary terms are included in Oregon Homes rules, lack of public notice when implementing such terms could invite costly appeals of a local jurisdiction's decisions to the Land Use Board of Appeals. The enclosed list of technical issues identifies terms Eugene has identified as needing clarity. We respectfully request that DLCD respond to these issues or amend the draft rules so that lack of clarity does not create uncertainty for developers and unnecessary appeal risk for Eugene and other jurisdictions.

3. Estimate of Eligible Tax Lots

In the July 29 and August 18, 2026 Land Conservation and Development Commission meeting materials, DLCD staff analyzed GIS data for Eugene and concluded that *"the anticipated proportion of lots eligible or Oregon Homes is very small …less than 0.5 percent in a large city."* To test this assumption, Eugene conducted an analysis of our local data and compared that with DLCD's conclusion. Our finding is that DLCD's methodology focused on residential zones and did not include commercial, mixed use, and other zones that allow residential uses outright and therefore should have been counted. DLCD states that it used 2021 data; this data is not available to download, so it is unclear where it was obtained, and it is older data than the 2026 data used for the City's analysis.

Finally, the State's analysis did not include properties larger than 20,000 square feet that could be divided prior to application for an Oregon Homes Development. DLCD points to the 0.5% figure to illustrate that Oregon Homes rules will have a low impact to large cities such as Eugene, but this is based on incomplete/inaccurate methodology, which appears to result in an underrepresentation of the actual scope of applicability. Moreover, it is important to note that there will always be potential for redevelopment pursuant to OAR 660-047-0010(h)(D), so data analysis should not focus on vacant lands. Accordingly, City of Eugene finds that additional consideration and time should be given to understanding the scope of applicability of the proposed rules.

4. Other - City Efforts

As previously mentioned, while the intent of this rulemaking aligns with Eugene's housing production priority, it occurs at a time when cities like Eugene are already working diligently to implement many other substantial changes to state housing rules over the past few years, including Climate-Friendly and Equitable Communities, the Oregon Housing Needs Analysis (OHNA) and required urban growth boundary planning, new Middle Housing requirements (including HB 2138), a new model housing code, SB 974, and SB 1537 (among others). Eugene is in the middle of a City Council adoption process to make changes to several sections of Eugene's land use code, focused on implementing actions that reduce barriers to housing and job production, most of which are in response to state legislation. This is the first package of a multi-year urban growth planning project, Urban Growth Strategies, which includes the City's 20-year housing planning and production work under the new OHNA rules.

More new rules added to a mix of other new rules and laws currently being interpreted and implemented by local governments adds complexity rather than clarity, and risks undoing state-directed work already underway. Further, Eugene's City Council and community members continue to push for local solutions to address key housing needs and reduce barriers to development. Many of these local priorities, which include reducing process requirements for housing development, are being sidelined to address an increasing number of state requirements and legislative mandates with short-term deadlines.

Conclusion

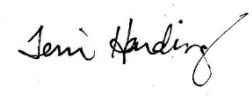
Improving processes to increase housing production is a critical priority for our community and the City of Eugene's housing planning work. This is especially important as Eugene needs nearly 26,000 new dwelling units over the next 20 years, per the 2026 Oregon Housing Needs Analysis. It is to this end that we want to ensure adopted rules are functional, do not lead to appeals, and ensure orderly urbanization.

We still encourage the Commission to not adopt the Oregon Homes rules as currently drafted, and to direct DLCD staff to take additional time[2] to further refine this draft so that the rules are clear and implementable, with positive local outcomes. Refining the rules and ensuring functionality would better support cities in their efforts to improve processes for increasing housing production.

[2] HB 2258 only requires the Commission to adopt *initial* rules implementing section 2 of the 2025 Act *on or before January 1, 2027*.

We appreciate the work of the Commission, DLCD, and RAC. Again, thank you for the opportunity to provide comments.

Sincerely,



Terri Harding, AICP
Planning Director

<u>Enclosures</u>

- Technical Issue List

Technical Issues List

This document identifies terms and provisions that, based on City of Eugene's review, should be defined or clarified.

<u>OAR 660-047-0010 Definitions:</u>

- (1) "Buildable area." This definition does not define non-habitable or floor area.
- (5) "Environmentally sensitive area." This definition explicitly includes Statewide Planning Goal 5, 6, 15, 16, 17, and 18. (8)(g)(B): "Open space or scenic areas" remains undefined. It appears that both terms originate from HB 2258 and while the draft rules clarify the meaning of "environmentally sensitive," the meaning of open space or scenic areas is not further defined or clarified and can be interpreted in different ways.

  (8)(a): "Lot or parcel" that is a "Lawfully established units of land" should be clarified as "lawfully established unit of land" is often a discretionary term/process. The definition of Oregon Homes Lot at (h) also includes "Vacant, including a lot or parcel: (A) Created by any lawful division of land, regardless of when the division occurred, in accordance with ORS chapter 92." To the extent this is intended to reference the definition of lot and/or parcel at ORS 92.010, that reference should be made more specifically. If that is the intended reference, "regardless of when the division occurred" need not be stated as a lawful division regardless of when the division occurred is implicit in the partition and subdivision process. However, if by referring to *any* lawful land division and ORS Chapter 92 as a whole, a broader definition is intended, then a clearer and more specific definition should be provided.

  *Eugene offers a simple, well-established process for evaluating legal lot status based on the Eugene Code definition of "legal lot." For purposes of consistency, it would be preferable to allow applicability of local definitions and established process for legal lot verifications.
- (8)(f) "Not covered by slopes averaging more than 15%." This continues to be undefined and presents questions for implementation. For example, how does one calculate "coverage" of a lot or parcel, as well as an "average slope" given varying topography, property shape, and data sources for example? If not more specifically defined, this is likely to result in differing methodologies.
- (11) Site Plan. This includes reference to "Existing goal protected resources, if any are present on the site." Should the definition of Site Plan include Oregon Homes

Development and Oregon Homes Lot terms like environmentally sensitive and scenic/open space areas?

660-047-0020 Local Government Review Process:

- (1) and (2). The change of terms from “land use decision” to “decision” is appreciated. (2) states “Administration of this review shall only be to ensure compliance with standards provided in this division and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.” It would add clarity to state that a “decision” on an Oregon Homes application is “not a land use decision” and to further specify that a decision is not appealable.
- Through (8), it is unclear whether public infrastructure requirements typically conditioned/required only after constitutionality findings are made in a noticed land use decision can be required. This raises questions regarding the provision of infrastructure in the long term if local governments cannot effectively condition improvements necessary and commensurate for development that have historically been required. The impacts of this issue could extend to future UGB expansion areas with compounding impacts on future neighborhoods.

OAR 660-047-0030 Design Standards:

- (1) and (2): “adjacent” should be defined.
- (3)(a): “Accessible and adaptable” should be specifically defined and for consistency, it would be helpful if the definition matches that within the OHNA rules and Model Housing Code. HB 2258 does indicate that ORS 197a.420 definitions apply to the bill language and it seems this could be easily clarified.
- (3)(c) “Off-street parking areas that are separated from the street lot line by a dwelling.” This could be further specified.

OAR 660-047-0050 Tree Standards:

- (2)(b) The proposed language related to removal of trees "not deemed unhealthy by a certified arborist" is problematic, as "unhealthy" is undefined.
- (3)(a): “adjacent” should be defined.

THE BUREAU OF
PLANNING & SUSTAINABILITY

October 2, 2026

Chair Allan Lazo
Land Conservation and Development Commission
635 Capitol St., Ste 150
Salem, OR 97301

Delivered via email: denise.johnson@dlcd.oregon.gov

RE: City of Portland Comments on Proposed Rules for Middle Housing Oregon Homes (MHOR) Phase One.

Dear Chair Lazo and Members of the Land Conservation and Development Commission:

Portland continues to support the State and LCDC efforts to streamline production of needed housing. We have a vested and shared interest in ensuring the rules as drafted to implement the Oregon Homes program are effective at achieving positive and equitable housing outcomes for all Oregonians, that they work as intended, and that they complement our locally adopted housing production strategies, including several projects currently underway.

We appreciate DLCD staff's many improvements to the draft rules from the July 29th version to increase clarity, add necessary fire and life safety reviews, and respond to several concerning legal issues. However, we continue to be concerned about the potential development outcomes from those policies that encourage large, expensive housing, add more uncertainty for builders in the development process, undermine bonuses intended to produce affordable and accessible housing, promote parking and garages, contradict climate friendly and walkable neighborhood best practices published by DLCD, and fail to adhere to the principles of sound infrastructure planning (Goal 11).

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1. Improper delegation - Eligible Oregon Home plans.

The problem: We raised this issue previously and understand that there may be changes to rescind this language from the draft rules. However, as comments are due on October 2, and the current draft of the rules (September 22, 2026) still includes this language, we feel compelled to reiterate our concern.

While there does not appear to be any reference to the state delegating master plan building permit review to local governments, the rules interpret the bill to mean just that. HB2258 SEC5(1) states: The Department of Consumer and Business Services may designate a process by which an applicant for a building permit for a residential structure of a type described in section 2 (4)(a) to (c) of this 2025 Act may receive building construction plan approval from the municipality, including through the use of: (a) Typical drawings and specifications created by the department under ORS 455.062. (b) Review of plans and specifications approved by the department under ORS 455.685.

However, the rules (OAR 660-047-0010(7)9e)) add a definition to "Oregon Homes Development" to mean building plans that have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685

The solution: Delete references to Oregon Homes that include housing types that are "approved through local building code review" (see 660-047-0010(7)(e) and (8)(h)(D)).

2. Enables very large, and thus expensive units.

The problem: The rules replace most local development regulations but provide no limits on building height, very minimal setbacks, excessive lot coverage allowances, and provide for very large dwelling units. The revised rules have clarified maximum "buildable area" which is an improvement, but they continue to allow 8,800 square foot fourplexes (See figure 1), or 15,400 square foot 11-unit apartments (see figure 2), regardless of lot size. On more typical 5,000 square foot lots, these building sizes approach the city's highest intensity multi dwelling zone outside central city. And notably, they would be allowed on over 100,000 lots regardless of zone.

One reason these size limits are critical is that from our RIP monitoring analysis[1] we found that by comparison, smaller middle housing units were sold for $250,000- $300,000 less than sales prices for new houses. Using a simplified average sales price of $300 per square foot, the difference between a 1,000 square foot unit ($300,000) and a 2,200 square foot unit ($660,000) is 220% more expensive.

[1] Middle Housing in the Single-Dwelling Zones, Progress Report 2018-2024, City of Portland https://efiles.portlandoregon.gov/record/17159748

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Fig 1: Two duplexes, 8,000 sq ft $675K ea on zillow

Fig 2: 11 units, 8,400 sq ft, $1,300/mo rent (~55% of max allowed per MHOR rules)

The solution: HB2258, Section 2(5)(b) provides that "the commission may specify …limits on land use, including establishing …floor-to-area ratios". The Commission is authorized to specify floor area ratios by housing type and could continue to rely on "buildable area" to provide the upper limit maximum. For example, a fourplex with a maximum FAR of 1 to 1 on a 5,000 sq ft lot would allow 1,250 sq ft units. But as the lots get larger than 8,800 sq ft, the fourplex would max out at 8,800 sq ft. An 11-unit apartment with a 1.5 to 1 FAR could be 7,500 sq ft on a 5,000 sq ft lot, and would top out at 15,400 sq ft on any lot larger than 10,300 sq ft.

Consistent with the city's floor area standards for middle housing and smaller scale apartment zones, we recommend the following addition to the design standards:

Housing Type	Floor area ratio	Maximum buildable area
House	0.7 to 1	2,200 sq ft
Duplex	0.8 to 1	4,400 sq ft
Triplex	0.9 to 1	6,600 sq ft
Fourplex	1 to 1	8,800 sq ft
Cluster	N/A	1,400 sq ft average/unit
7-11 unit apartment	1.5 to 1	1,400 sq ft average/unit

3. <u>Lack of local siting standards creates *greater* uncertainty for builders.</u>

The problem: While the rules attempt to clear as big a landing pad for potential Oregon Homes Development by removing nearly all local siting standards, this introduces new challenges to the development review process. Setbacks, building coverage, access and driveway requirements have been crafted in close coordination with each jurisdiction's' public works, emergency service and franchise utility providers. They create a predictable platform for builders and local service providers alike. Once those well-established sideboards are removed, each development must instead be closely reviewed on a case-by-case basis by public works reviewers and service providers to ensure that their requirements can be met and continue to work together with other public works and

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franchise utilities in more constrained space. Since those public works requirements are determined during the permit review, it is not until well after plans have been drawn and submitted that the need for revisions, resubmittal, or complete redesign is discovered.

The solution: We strongly recommend allowing local jurisdictions to continue applying their normal setbacks, building coverage, outdoor area, and access/driveway standards which have been contextualized to reflect the different systems employed by municipalities and ensure public infrastructure is sufficient, efficient, feasible, and responds to the demands of development. At the very minimum, the front setback should be increased to 10 feet to reduce the potential for these conflicts to emerge late within the review process.

4. Undermines bonuses for affordable and accessible housing

The problem: Zoning bonuses largely operate on three levers; FAR/density, height, and building coverage. The principle is simple. By providing a certain public benefit like more affordable housing, family sized units, or greater levels of accessibility, a development project is awarded more building entitlement in exchange. Specific implementation is more nuanced. Too little bonus or too strict the requirement, the less attractive the bonus is. Too much base entitlement leaves little room to offer meaningful extra bonus.

The lack of height limits, high amounts of building coverage, and large building envelopes envisioned by the rules essentially remove any meaningful incentive for middle housing and smaller scale apartments to provide affordable or accessible units.

The solution: The Commission is prevented from prescribing requirements for bonuses; however, this underscores the previously mentioned need to maintain reasonable limits on FAR, establish a building height limit, and set a more reasonable building coverage limit of 50 to 60%. This helps provide a benchmark with which bonuses can be added in order to achieve the types of units Portland and the state at large needs.

5. Promotes parking and garages

The problem: Oregon is suffering a housing for people crisis, not housing for vehicles crisis. While we do not object to the rules that allow cities to apply their parking requirements, the rules give preference to garages (and carports) by excluding those areas from the maximum buildable area limits: "Buildable area excludes the area of a carport or garage, or other non-habitable floor area of a structure." In addition to increasing the size and bulk (and price) of the associated housing, there are no limits on how much parking may be proposed. Space that is used for this parking comes at the expense of space on a lot that could have been used for additional units. From the city's report on middle housing production, fourplexes included parking just 10% of the time, where duplexes provided parking 74% of the time.

The solution: Don't subsidize garages. Instead, include that area within the buildable area/floor area limits. This creates a choice for builders but prioritizes housing for people. Alternatively, specify an upper limit on "free" garage space of 200 square feet.

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6. Doesn't align with DLCDs own model codes (CFEC Walkable Design Standards. Housing Model Code)

The problem: These rules create yet another system of zoning standards that local governments are responsible for applying. In addition to locally adopted zoning regulations, DLCD also has recently adopted model codes that set benchmarks for cities to strive toward (CFEC Walkable Design Standards) or they can be required as part of a housing acceleration action (Housing Model Code).

While the CFEC guidelines and Housing Model Codes are generally consistent, there are a significant number of items lacking in the Oregon Homes proposed rules that were included in the model codes. For example, cottage cluster requirements (unit orientation, courtyard design standards, community buildings, pedestrian connections, windows and doors, parking location height limits, etc). In addition to adding to the confusion for applicants, neighbors, and staff trying to understand and administer three sets of regulations for the same properties, we question the underlying premise for why these model regulations have been summarily dismissed by the same agency that crafted them.

The solution: We do not see why the Commission could not adopt the housing model codes as applicable standards for the Oregon Homes program. While we have some reservations about how those rules align or don't align with our local standards, we will concede that they are a notable improvement from the proposed rules which do not include a number of these basic requirements.

7. Upends comprehensive infrastructure planning

The problem: State Land Use Goal 11 requires each city with a population greater than 2,500 to create a public facilities plan that meets its current and long-range needs. This includes identifying projected areas of growth (typically done through zoning designations and buildable lands inventories), assessing the current public facilities systems (water, sewer, storm, and transportation) and noting capacity or condition issues and necessary investments and upgrades required to support the projected growth. The Oregon Homes program is a blunt tool that largely ignores zoning. For example, the same 11-unit apartment that can be built in our highest density zone can be built in a zone that we have designated very low density "where public services are extremely limited or absent". Conversely, while minimum densities help to protect investments in high density areas; even here the Oregon Homes program provides significant latitude to underbuild on well-located transit-served opportunity sites where investments are planned, or capacity already exists.

Since the rules do not differentiate housing types by planned intensity of zones, they completely hamper our ability to properly and efficiently plan for and provide infrastructure to support our current and long-range needs.

The solution: Differentiate houses and middle housing from multi-unit buildings in terms of the areas where they are allowed. Restrict single unit and middle housing types from high density

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corridors, to ensure more efficient transit supportive densities are realized in these areas. And limit multi-unit buildings in zones planned for fewer than 16 units per acre.

We appreciate the Commission's willingness to take additional time to allow staff to solicit additional feedback, and incorporate refinements. As mentioned, the revisions in the September 22 draft rules have greatly improved clarity and responded to many of the items and concerns we raised in our July 29th testimony. We hope that the 7 solutions we offer above will help put the finishing touches on these rules.

Sincerely,

Patricia Diefenderfer
Chief Planner

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From: CARPENTER Mina * DLCD
To: JOHNSON Denise * DLCD; CAUDEL Ingrid * DLCD
Subject: Comment Submission: MHOR Homes Div 47
Date: Friday, October 2, 2026 9:51:51 AM

To view the PDF of this rulemaking comment, please visit the SharePoint Library here.

Name: Pam VanArsdale
Email: mayor@cityofrogueriver.org
Rule: MHOR Homes Div 47
Organization or affiliation (optional): City of Rogue River, LOAC member
Comment: On behalf of the City of Rogue River, thank you for the opportunity to comment on the proposed Oregon Homes rules in OAR Chapter 660, Division 047. The City supports efforts to increase housing supply and make review more efficient. However, streamlined review must not override wildfire safety, emergency access, adequate infrastructure, or the ability of small cities to protect residents. Based on the September 2026 Version 5 draft, Rogue River respectfully requests revisions in three areas. 1. Setbacks and Wildfire Safety The draft generally allows five-foot setbacks . Rogue River recommends a minimum ten-foot setback in incorporated cities and their UGBs, or at least clear authority for cities to retain locally adopted setbacks of ten feet or greater when reasonably related to wildfire protection, emergency access, topography, evacuation, utilities, defensible space, or other public-safety concerns. The rules should also exclude safety-related setbacks from the proposed ten-percent numerical variation. Fire-safety, emergency-access, defensible-space, and utility-related separation should not be automatically reduced through a streamlined tolerance provision. 2. Wildland-Urban Interface Map Proposed OAR 660-047-0010(8)(g)(C) excludes certain natural-hazard areas, including wildfire-risk areas, when identified in a comprehensive plan or locally adopted ordinance or resolution. The rule should also expressly recognize the official statewide Wildland-Urban Interface map. Small cities may not have recently incorporated every statewide hazard dataset into local plans, but statewide WUI information should not be ignored. Rogue River recommends that lots or parcels identified within the wildland-urban interface on the official statewide WUI map developed by Oregon State University and published by the State of Oregon be excluded from Oregon Homes Lot eligibility, regardless of whether the city has separately incorporated the map into its comprehensive plan, code, ordinance, or resolution. 3. Infrastructure Authority Oregon Homes Developments may include multiunit dwellings of up to eleven units. Projects of that size can create meaningful impacts on streets, sidewalks, water, sewer, stormwater, fire flow, parking, and emergency access. The rules should clearly preserve local authority to require proportionate public improvements necessary to serve the development. This clarification is especially important for legacy subdivisions and unimproved parcels that may have been lawfully created before modern infrastructure standards. Eligibility as an Oregon Homes Lot should not establish that adequate public facilities already exist or require existing utility customers or taxpayers to finance development-specific improvements. Required improvements should have an essential nexus to, and be roughly proportional to, the impacts of the proposed development. Cities should be able to require needed facilities before occupancy or utility connection, or secure them through an enforceable improvement or financing agreement where authorized by law. Conclusion 4. Address Legacy Subdivisions and Unimproved Parcels Rogue River supports additional housing, but housing production and public safety must advance together. The City respectfully asks the Commission to: require or preserve authority for ten-foot safety setbacks in incorporated cities; prevent the ten-percent variation from reducing safety-related setbacks; expressly exclude official statewide WUI-mapped properties from Oregon Homes Lot

eligibility; preserve local authority to require proportionate infrastructure improvements; and clarify that legacy subdivision lots may still require modern public facilities before development proceeds. Thank you for considering the concerns of small communities working to support housing while protecting residents.

October 2, 2026

Land Conservation & Development Commission
635 Capitol St., Ste. 150
Salem, Oregon 97301

Re: Oregon Homes Draft Rules – Division 47

Chair Lazo, Members of the Commission

The Association of Oregon Counties (AOC) is a non-partisan member organization that advocates on issues that unite all county governing bodies and have an impact on county functions, governance, budgets, and services.

The League of Oregon Cities (LOC) is a non-partisan member organization that advocates on issues that unite and impact Oregon's 241 cities.

First, AOC and LOC would like to give a huge thank you to Department of Land Conservation and Development staff and the Governor's Office for all the improvements in this new version of the rules. The changes surrounding natural hazards, parking and fire code are vast improvements and will make the program not only easier on implementation but safer for the Oregonians that will use this program.

We appreciate many of the changes regarding setbacks made; however there remain challenges in the front setbacks for cities. A setback of 5 feet is too small in most cities across Oregon. In most jurisdictions a setback in any given zone, inclusive of utilities and fire department needs, is going to be more than 5 feet. Setbacks of 5 feet and under are only found in highly urbanized areas or areas where utilities or fire access are maintained through other means. Because of this, in the majority of cases a developer will expect a 5 foot setback only to arrive at the counter in the local jurisdiction and be told 10 feet is needed. They will then be required to redo their site plan. A front set back of 10 feet is far more reflective of actual needs on the ground and will address this challenge of mismatched expectations.

Furthermore, one oddity in the current draft shows a greater setback for urban unincorporated lands, but other unincorporated lands (inside a UGB but urban zoning/urban services do not yet exist) will have the same setbacks that apply to cities.

AOC and LOC propose the following alteration to the rules:

(1) Within areas incorporated into a city, Oregon Homes Developments must

provide a minimum setback of **ten feet in the front** and five feet on ~~**all**~~ **the** sides of the building, the distance of an existing or proposed utility easement, the minimum defensible space requirements as detailed in Oregon State Fire Marshal's model code for defensible space in ORS 476.392, or the distance of an easement required in traffic impact analyses, whichever is greater.

Our members have identified that there is another gap the proposed standards in these rules. They do not appear to include requirements for adequate pedestrian access between the street and building entrances. Nor do they provide standards to ensure that parking lots are laid out to support safe and functional vehicle maneuvering. These omissions could result in developments that technically meet the applicable housing standards but fail to provide safe, convenient, or cohesive connections for pedestrians and drivers. A traffic analysis is intended to address traffic flow to, from, and around a proposed development; it does not address parking capacity or design requirements on site. The traffic analysis may show increased capacity in the area due to the development, but the proposed design standards will not allow the parking lot to accommodate that capacity. At a minimum, the rules should address pedestrian connections between public streets and building entrances, active ground-floor frontages in appropriate commercial contexts, and safe parking-lot circulation and maneuvering.

We remain concerned that the "third path" was not originally contemplated by the legislature and is not in line with legislative intent but acknowledge that this body does not have the rule making authority to address that.

Thank you for your consideration.

Alexandra Ring
Housing and Land Use Lobbyist
League of Oregon Cities

Branden Pursinger
Legislative Affairs Manager for Natural Resources and Land Use
Association of Oregon Counties