CENTRAL OREGON LANDWATCH
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October 21, 2025

Land Conservation and Development Commission
Oregon Department of Land Conservation and Development

RE: Agenda Item #5, October 23, 2025 | Oregon Housing Needs Analysis Rulemaking

Land Conservation and Development Commission members,

On behalf of Central Oregon LandWatch (LandWatch), thank you for the opportunity to submit **testimony on the Oregon Housing Needs Analysis (OHNA) Rulemaking.** This comment focuses on rules that were in the Capacity and Urbanization Technical Advisory Committee's (CAUTAC) purview: **Draft Administrative Rules – OAR Chapter 660, Divisions 008, 021, 024.**

For over 35 years, LandWatch has been working to ensure Central Oregon's livable future by creating well-planned and well-built cities with Complete Communities, preserving farmland, and protecting wild, open spaces.

LandWatch has been actively engaged throughout the multi-year OHNA rulemaking process, serving as a member of the Rulemaking Advisory Committee (RAC) and CAUTAC. LandWatch also worked directly with legislators and local stakeholders to shape the purpose and intent of SB 1129 (2025). LandWatch is also a part of a state-wide housing advocate coalition that submitted testimony focused on the work of the Housing Actions Work Group (HAWG).

SUMMARY

Overall, LandWatch appreciates and strongly supports the draft OHNA rules and the important provisions described below. With some key additional adjustments, these rules deliver significant, profound changes to how cities and the state effectively implement Goals 10 (Housing) and 14 (Urbanization). These rules shift the focus from inventorying available land for housing to implementing proactive actions that actually produce more equitable housing outcomes in all of Oregon's communities.

From the beginning OHNA has centered equity, which is grounded in the statutory inclusion of Affirmatively Furthering Fair Housing (AFFH). OHNA's policy objectives have emphasized producing more homes in high-opportunity areas while advancing affordability, accessibility, and anti-displacement — and this draft delivers on these priorities.

The OHNA rules fulfill the legislative direction of HB 2001(2023) to propose rules that facilitate and encourage housing production, add clarity, create certainty and reduce analytical burden in housing and growth related processes consistent with the appropriate protection of resource lands, and facilitate the development of land brought into urban growth boundaries. (ORS 197A.025, Sec. 9 (2))

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Seven key provisions that require adjustments:

- Housing Capacity Analysis: Discounting Capacity of Development Ready Lands
  OAR 660-008-0100 (8) & (9): Clarify and adjust as highlighted below

- Determination of Urban Reserves
  OAR 660-021-0030 (4) & (5): Clarify and adjust as highlighted below

- Establishment of Study Area to Evaluate Land for Inclusion in the UGB
  OAR 660-024-065(8)(d): Delete, rationale highlighted below

- Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities
  OAR 660-024-0067(2)(a-g): Clarify and adjust as highlighted below
  OAR 660-024-0067(9)(d): Clarify and adjust as highlighted below

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DETAILED COMMENTS

DIVISION 8

660-008-0005 Definitions

- **(9) - Land Use Efficiency Measure -** Support definition of LUEM

660-008-0100 Housing Capacity Analysis

- **(4) - Land Market Supply Factor (LMSF)** - Support this reasonable, optional LMSF safe harbor of 10% for partially vacant land, as this reflects the reality that all parcels of PV land are unlikely to develop in a 20 year planning period. This is a significant change in how buildable lands are inventoried and is right sized, given its impact to a BLI and a lack of data on what constitutes an accurate and effective LMSF. Rules also provide an option for cities to use a reasonable land market supply factor to account for land that will not develop over the 20-year planning period with quantifiable validation and documentation of methodology used consistent with Goal 2 requirements. Thus, this section of the rule provides both certainty and flexibility.

- **(8) & (9) - Discounting Capacity of Development Ready Lands**
  Clarify and adjust: Require the city and DLCD to analyze why lands have not developed and then take appropriate action to either discount the capacity or to solve the barrier via another tool, incentive, or approach. Then, based on facts

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related to the specific lot or parcel, discounting capacity or removal from the Development Ready Inventory can occur if that is the most appropriate tool/approach.

These two proposed rules allow or require local governments to significantly discount both vacant and partially vacant lots or parcels previously identified as "Development Ready" if those lots or parcels have not developed after each HCA cycle.

As written, these sections are too prescriptive, inflexible and 'broad-brush,' especially applied to vacant lots and parcels. As currently drafted, these rules do not take into account that non-land use related forces - such as high interest rates, costs of materials, and insufficient work force - might be having an impact on overall development. We know these are significant challenges and barriers impacting housing development today.

If land has been determined to be development ready, it has to meet a number of specific criteria laid out in these rules. If for some reason that land is still undeveloped after an HCA cycle, it is important to understand the specific barrier and address it with the most effective tool. The focus should be on catalyzing the development via financial and other incentives, rezonings, and other actions in the HPS. Discounting may be a viable option, but it should not be the first, required action.

It is also unclear what happens to the lots or parcels that are moved out of or discounted in the Development Ready Inventory. Do these automatically become part of the Buildable Land Inventory (BLI)? Are there additional HPS or other actions this discounting would or should trigger? Also, it is unclear what qualifies as "not yet developed or experienced infill" - does this mean permits? Infrastructure in place?

- (10) & (11) - Strong support for CFEC integration

660-008-0120 Specific Plan Designations required

- (1) - Strong support for including neighborhood-serving commercial and open space

660-008-0150 Land Use Efficiency Measures

- (2) - Support safe harbor: 20% increase in densities over a 20 year period seems reasonable and achievable

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660-008-0180 Development Ready Lands Inventory

- (1) through (4) - Support the process and criteria outlined pertaining to assessing parcels and creating DRL inventories. It is particularly important (4) remain in this section to ensure non-DRLs are still included in a jurisdiction's BLI.

660-008-0185 Sufficiency of Development Ready Lands

- (2) - Support this provision, as it is an important connection between DRLs and a jurisdiction's Housing Production Strategies and helps ensure DRL quantity and capacity deficiencies are remedied.

DIVISION 21

660-021-0010 Definitions

- Support the proposed changes, including the addition of "as provided in OAR 660-0240065(4)" to the definition of "developable land." This definition of designated natural resources includes local county, state and federal inventories.

660-021-0030 Determination of Urban Reserves

- (3)(a-f) - Inclusion of state statute language ORS 197A.245(6) is unnecessary and redundant but understand why it has been included and won't oppose it

- (4)(a-f) - Strongly support the changes in this section that provide clarity and certainty to the priority of land considered for inclusion in a URA and to the Urban Reserves process

- (4)(a)(B) - Support this provision, as it aligns with SB 1129 legislative intent. *"First priority land may be given lower priority compared to other nonresource land or land within an exception area if the land contains planned developments or subdivisions with a subdivision plat, as defined in ORS 92.010(18), and the lots are smaller than five acres."*

- **(4)(f) - Clarify and adjust:** For consistency with other sections of this rule, this part of the rule needs to specify that a city must use the agricultural land capability classification system *"as defined by the United States Department of Agriculture Natural Resources Conservation Services (USDA NRCS)."*

- **Section (5) - Clarify and adjust:** This section is a key part of SB 1129 implementation. DLCD staff confirmed there is a scrivener's error in Sec. (5).

  Having worked closely with the City of Bend, Senator Broadman, and other legislators and stakeholders on the purpose and intent of SB 1129, prior to

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adoption by LCDC **we expect forthcoming corrections to Sec. (5) will make this intent clear:**

This part of the rule provides a test that a city can choose to apply to individual pieces of property during the Urban Reserves process. If a given piece of property is not reasonable or cost effective to serve due to topographical or other physical constraints it can be deprioritized. But once a city has done that it must return immediately to the prioritization scheme for all other properties and continue evaluating as it otherwise would.

We also recommend striking (5)(a)(B) from the next iteration of this section of the rule to ensure alignment with SB 1129.

660-021-0060 UGB Expansions

- (2) - Strong support for this provision and it is important it remains in rule. It directly limits 'skipping over' land in a URA before another URA is established. This is a critical part of these rules that is directly aimed at furthering annexation, a key part of HB 2001 that set up the OHNA rulemaking.

DIVISION 24

660-024-0040 Land Need

- (8)(a-b) - Support the employment need safe harbors

- (8)(c) - Support the reasonable neighborhood commercial safe harbor (5%)

660-024-0065 Establishment of Study Areas to Evaluate Land for Inclusion in the UGB

- (4)(b)(D) - While we supported the inclusion of additional data sets for hazards and wildlife, this should be sufficient for addressing wildfire threats/hazards in Central Oregon communities

- (H) - Strong support for Tribal consultation

- **(8)(d) - Delete:** *"A city may determine land impracticable to serve when the cost-per-unit calculation exceeds four times the median cost-per-unit of all sub areas"*

  We recommend this provision be deleted because it is premature to make this calculation at this stage of the process when determining which areas to study for possible inclusion in a UGB. Even if lands are somewhat more expensive to

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serve, they should still be included in a study area for comparison to alternative lands. Inclusion in a study area is only the first step in the process and exception lands should only be excluded from that step in the rarest of circumstances. Further, such a finding would need to require a neutral third-party analysis that demonstrates it would be exponentially more expensive to serve exception lands compared to other lands.

There is also no factual or experiential basis for picking four (or any other number) as the measure of "impracticability." And, this provision ignores the many other reasons a city would consider for urbanizing land, including governance, failing water/septic/sewer infrastructure, integration and provision of emergency services, and more.

Further, while subsection (9) states that land may not be excluded from the preliminary study area based on impracticability alone, subsection (8)(d) provides a confusing and potentially conflicting direction for cities.

660-024-0067 Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities

- **(2)(a-g)** - Strongly support the changes in this section that impart more clarity and certainty to the UGB process and the prioritization of land considered and evaluated for inclusion in a UGB study area
    - **Clarify and Adjust:**
        - For consistency with (2)(e), (2)(b) should be amended to ensure nonresource land determinations are *"as determined by the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS)."*
        - Again for consistency, (2)(g) should also be amended to ensure the agricultural land capability classification or the cubic foot site class determinations are *"as determined by the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS)."*

- (6)(b) - *"Existing lots or parcels smaller than 5 acres in size shall project half (50%) the assumed residential capacity due to existing development patterns…"* This is a significant and substantive change to current rules. While we don't agree that a 50% reduction in capacity for all parcelized rural exception land under 5 acres is warranted, the provisions at 0067(2) that a city is still obligated to include parcelized land in the existing priority order make this provision acceptable. Should that change, we would reconsider our position on this significant change in the rules. We also encourage revising the existing language to make this 50%

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discount a "may," rather than a requirement.

- **(9)(d) - Clarify and adjust:** *"In the context of residential development, the cost to serve a sub-area relative to potential yield of housing units."*
  This rule needs to be clarified and more clear sideboards need to be provided. "Potential yield of housing units" is too broad, as costs can and do change depending on public facilities planning choices, as well as housing mix choices in a certain area. Further, it is not clear what a sub-area is and no time period is given for assessing "cost" or housing "yield". "Cost" also needs to be defined, as it is unclear if this is for capital infrastructure costs alone, or if it includes other costs like operation and maintenance. To be consistent with Goal 14, relative costs may only be used for comparing among lands in the same priority level for bringing into a UGB, not for comparing lands of different priority levels.

- (10) - Strong support for this provision that advances critical public facilities and services planning and annexation by setting a 5 year timeline from acknowledgement of a UGB expansion. It is important that it remains in rule.

- (12) - Current wording seems to allow a city to prioritize for UGB inclusion "areas including but not limited to areas that have been conceptually planned to include regulated affordable housing…" While the priority scheme would still apply, and the prioritization of areas with conceptual affordable housing plans is discretionary for cities, we're concerned this will lead to unfulfilled promises from landowners to build affordable housing when there's no guarantee that it will actually be built. We suggest something stronger than a "conceptual plan," like a signed commitment from an affordable housing developer to build 'x' number of affordable units.

660-024-0070 UGB adjustments

- (3) - Support the provisions that allow constrained land to be swapped out for buildable land and allow for swap at the same or higher density

- (4)(a) - We understand 10% in lieu of "substantially equivalent" is putting in rule what is current practice at DLCD. 10% is more clear and objective to enforce

Throughout this process, we have appreciated DLCD's staff's ongoing responsiveness to issues raised by CAUTAC members and other stakeholders. Overall, these proposed rules greatly strengthen OHNA's potential to advance housing production that centers equity and affirmatively furthering fair housing across Oregon.

Thank you for your service and consideration of this testimony.

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